

ADTECH POLYMER ENGINEERING LIMITED – TERMS AND CONDITIONS OF SALE

Definitions

- Business Day – a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
- Conditions – the terms and conditions set out in this document (as amended from time to time in accordance with clause 20).
- Contract – the contract between us for the sale and purchase of the Goods in accordance with these Conditions.
- Force Majeure Event – an event or circumstance beyond a person’s reasonable control.
- Goods – the goods or services (or any part of them) set out in the Order.
- Order – your order for the Goods as set out in your purchase order form or your written acceptance of our quotation.
- Price or Contract Price – is the price for the Goods set out in our quotation.
- Specification – any specification for the Goods, (including any related plans and drawings) that is agreed in writing by us.

1. BASIS OF CONTRACT

1.1 These Conditions apply to the Contract between us to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. (even if the terms of your order varies from these Conditions), unless we agree otherwise in writing.

1.2 If subsequent to the Contract in which these Conditions are incorporated any contract of sale is concluded with you in writing or orally or by a combination of these without express reference to these Conditions it shall, unless otherwise agreed, be a term of such contract that these Conditions of Sale apply to such a contract.

1.3 The Order constitutes an offer by you to purchase the Goods in accordance with these Conditions. You are responsible for ensuring that the terms of the Order and any applicable Specification submitted by you are complete and accurate and do not infringe any intellectual property rights of a third party or breach any applicable law or regulation.

1.4 The Order shall only be deemed to be accepted when we issue a written acceptance of the Order, at which point the Contract shall come into existence.

1.5 A quotation for the Goods provided by us shall not constitute an offer.

2. GENERAL DESCRIPTIVE MATTER

All samples, specifications, drawings, descriptive matter and particulars of weights and dimensions submitted by us are subject to change and descriptions and illustrations contained in our catalogue, brochures, price lists or other advertising matter shall not form any part of the Contract.

3. PRICE

3.1 The Price for the Goods quoted is exclusive of value added tax (VAT) and shall only be valid for a period of 20 Business Days from its date of issue, (unless otherwise quoted in writing), after which the Price is subject to confirmation.

3.2 Rates of tax (and duties, where applicable) on the Goods will be those applying at the time of delivery.

3.3 At any time before delivery we may adjust the Price of our Goods to reflect any increase in our costs of supplying the Goods where such increase is beyond our reasonable control.

4. PAYMENT

4.1 Payment of our invoices on the Due Date is a condition of the Contract.

4.2 Payment is due to us as from the tax point date notified on our invoice (“the Due Date”). However, 30 days from end of invoice month are allowed for receipt of payment. If any sums remain unpaid after 30 days from the end of invoice month, then, without prejudice to any other rights we may have, you shall, if so requested by us, pay interest thereon calculated on a daily basis from the Due Date until payment at an annual rate of 3% above the base rate of HSBC Plc prevailing at the date of payment.

4.3 We may withhold deliveries or cancel the Contract if at the time of such delivery any sums due to us from you are outstanding.

4.4 In addition if you fail to pay any amount due to us in full on the due date we may:

- 4.4.1 suspend or cancel future deliveries.
- 4.4.2 cancel any discount offered to you
- 4.4.3 suspend performance of the services.
- 4.4.4 recover the cost of taking legal action to make you pay.

4.5 If you have an approved credit account, we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may take any of these actions at any time and without notice.

4.6 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly) and including finance costs and legal costs on a full indemnity basis) resulting (directly or indirectly) from any breach by you of any of your obligations under these terms.

5. DELIVERY

5.1 Unless otherwise specified in our quotation (or tender) the Price stated is “ex-works”. If Price includes delivery, it shall be by any method of transport at our option. Unless otherwise specified we shall not be responsible for off-loading. In every case delivery is subject to suitable access being available.

5.2 Where we have agreed to deliver the Goods the Goods shall be delivered to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Goods are ready.

5.3 Where we have agreed collection of the Goods by you, you shall collect the Goods from our premises within three Business Days of us notifying you that the Goods are ready.

5.4 We shall ensure that each delivery or collection of Goods is accompanied by a delivery note that shows the date of the Order, all relevant Customer reference numbers, the type and quantity of the Goods, special storage instructions (if any) and if the Goods are being delivered or collected by instalments, the outstanding balance of Goods remaining to be delivered or collected.

5.5 . If instructions sufficient to enable us to despatch the Goods are not received by us within 10 Business Days after notification by us that they are ready for despatch, we shall be entitled to arrange storage either at our premises or at our option elsewhere on your behalf and all charges for storage, insurance or demurrage shall be payable by you.

5.6 Any dates quoted for delivery are approximate only and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or by your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5.7 If ten Business Days after the day on which we notified you that the Goods were ready for collection, you have not taken collection of them, we may resell or otherwise dispose of part or all of the Goods, and after deducting reasonable storage and selling costs, account to you for any excess over the proceeds of the Goods or charge you for any shortfall below the Price of the Goods.

5.8 If we deliver up to and including 20% more or less than the quantity of Goods ordered you may not reject them.

5.9 We may deliver the Goods by instalments which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.

6. TIME FOR DESPATCH

The suitable time for despatch or delivery shall run from the acceptance of your Order provided your Order is accompanied in either case by all necessary information and drawings to enable us to proceed with your order. The time for despatch or delivery shall be extended by a reasonable period if delay in despatch or delivery is caused by instructions or lack of instructions from you. Unless otherwise agreed in writing time of despatch or delivery shall not be of the essence of the Contract unless and until reasonable notice in writing has been given to us after default on our part making time of the essence.

7. LOSS OR DAMAGE IN TRANSIT

7.1 You must inspect the Goods on delivery. If any Goods are damaged or not delivered, you must write and tell us within three working days of delivery or the expected delivery time. You must give us (and any carrier) a fair chance to inspect the damaged Goods, without which no repair or replacement will be given.

7.2 Provided you comply with 7.1 and where the Price includes delivery we will repair or at our option replace free of charge within a reasonable time all Goods lost or damaged in transit,

7.3 Other than as set out in clause 7.1 risk in the Goods shall pass to you on completion of delivery of the Goods by us to you or collection of the Goods by you from us.

7.4 Completion of delivery takes place either:

7.4.1 on completion of loading of the Goods at our premises (if you are collecting the Goods or arranging carriage) or

7.4.2 once the Goods arrive at the Delivery Location.

8. PERFORMANCE

Unless any performance figures which have been estimated by us, have been confirmed by us in writing we shall be under no liability for failure to attain such figures. All estimated figures shall be subject to any tolerances specified or agreed to by us or, if none, to tolerances customary in the industry. If performance figures obtained on any test provided for in the Contract are outside the acceptance limits you will be entitled to reject the Goods but only after you have given us reasonable time and opportunity to rectify their performance. It is your responsibility to ensure that Goods stipulated by you are sufficient and suitable for your purposes.

9. TESTS

Bespoke fabrications are inspected and submitted to our standard tests at our premises before despatch. We shall be under no obligation to carry out any special tests not specified in our quotation or tender and where we agreed to carry out tests we reserve the right to make a reasonable charge for them. If tests are to be carried out in the presence of you or your representative and you delay in attending such tests after having been given fourteen days' notice that we are ready we reserve the right to proceed with such tests in your absence and they will be deemed to have been carried out in your presence. You agree to accept the results of and pay for such tests as if they had been performed in your presence.

10. DEFECTS

10.1 Any defects which under proper use appear in the Goods within a period of twelve calendar months after delivery and are due to fault materials, workmanship or design (other than a design provided or specified by you) shall be made good by us either by repair or at our option, by replacement, provided we are notified in writing immediately such defects appear and the Goods or the effective parts thereof are returned to us carriage paid or where this is not practicable are made available for inspection by us. The repair or replacement parts will be delivered by us free of charge as provided in Condition 5.

10.2 If we choose to discharge our obligations in this clause without the return of Goods, for example any repair or remedial work is carried out by you, the cost of such work must be agreed in writing by us before the commencement of any such repair or remedial work.

10.3 Our liability under the Contract shall be solely set out in this Condition 10 and shall be in lieu of any obligation implied by law as to the quality or fitness for any purposes of the Goods and, save as provided in this Condition, we shall be under no liability, whether in contract, tort or otherwise, in respect of any defects in the Goods or for any loss or damage resulting from such defects or from any work done in connection therewith except for death or personal injury arising from our negligence and except in such other circumstances where such exclusion would be absolutely prohibited by the Unfair Contract Terms Act 1977. Without prejudice to the generality of the foregoing exclusion we shall not in any circumstances be liable for any consequential loss or

damage suffered by you including any loss of use, loss of contracts or loss of profits.

10.4 Subject to Condition 10.3, our total liability to you in respect of all other losses arising under or in connection with the Goods, whether in contract, tort (including negligence) breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of the price of the Goods in relation to which the relevant claim is made.

10.5 Except as expressly stated in these terms we do not give any representation, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these terms by statute, common law or otherwise is excluded to the fullest extent permitted by law.

11. INDEMNITY

You will indemnify us in respect of any liability, loss, claim or proceeding whatsoever arising in respect of the death of or injury to any person or in respect of any damage to property caused by or arising from any of the Goods or the use of any of the Goods sold by us to you unless, in the case of death or personal injury only, such death or personal injury was caused by our negligence or that of our employees.

12. YOUR PROPERTY

We will take every reasonable precaution to safeguard the property entrusted to our care and in the absence of negligence by us we will not be responsible for the loss, damage or unauthorised use of the property.

13. TERMINATION

13.1 Without limiting our other rights or remedies we may terminate this Contract with immediate effect by giving written notice to you if:

13.1.1 you commit a material breach of any term of the Contract;

13.1.2 you take any step or action in connection with entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business (or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction);

13.1.3 you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or

13.1.4 your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract have been placed in jeopardy.

13.2 Without limiting our other rights or remedies we may suspend provision of the Goods under the Contract or any other contract between us and you if you become subject to any of the events listed in clause 13.1 above or we reasonably believe that you are about to become subject to any of them, or if you fail to pay any amount due under the Contract on the Due Date for payment.

13.3 Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving written

notice to you if you fail to pay any amount due under the Contract on the Due Date for payment.

13.4 On termination of the Contract for any reason you shall immediately pay to us all of our outstanding unpaid invoices and interest.

13.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

13.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

13.7 In addition to any right of lien which we have by law we shall also have a general lien in the event of your insolvency over all goods belonging to you then in our possession for the unpaid Price of goods sold and delivered by us to you on the same or any other contract.

14. TITLE

14.1 The title to Goods shall not pass to you until payment has been made of the full Contract Price for the Goods and any other goods that we have supplied to you.

14.2 Pending such payment you shall store the Goods and any other goods supplied by us to you separately from any other goods and clearly identifiable as belonging to us

14.3 you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;

14.4 you may use those Goods and sell them in the ordinary course of your business, but not if;

14.4.1 we revoke that right (by informing you in writing) any time after the Due Date for payment has passed; or

14.4.2 you become subject to one of the events in clause 13.

14.5 You must inform us (in writing) immediately if you become insolvent.

14.6 If your right to use and sell the Goods ends you must allow us to remove the Goods and any other goods that we have supplied to you.

14.7 We have your permission to enter any premises where the goods may be stored:

14.7.1 at any time, to inspect them; and

14.7.2 after your right to use and sell them has ended, to remove them, using reasonable force if necessary.

14.8 Despite our retention of title to the Goods and any other goods we have supplied to you, we have the right to take legal proceedings to recover the proceeds of the Goods and other goods supplied by us to you, in the event you do not pay us in accordance with Condition 4.

14.9 In the event that the Goods and any other goods supplied by us to you are sold prior to payment in full you shall pay the proceeds of sale into a separate, unencumbered bank account and hold the proceeds of sale on trust for us, pending payment to us.

15. FORCE MAJEURE

We shall not be liable for any delay or failure which is caused by any act, default, omission, or event which is unavoidable or beyond our control or that of our servants or agents including but without limitation any Act of God, transport delay, labour dispute, fire, flood, war, pandemic, extreme weather event, accident, any action or requirement of governmental authority, inability to obtain adequate labour, materials, manufacturing facilities or energy and if the delay or failure has continued for a period of 6 months then we may give notice in writing to you determining the Contract and we shall then refund to you any payment made on account of the Price of the Goods after deduction of any amount due to us.

16. UNNAMED PRINCIPAL

You shall not contract for a named or unnamed principal without previously disclosing the fact and contracted accordingly.

17. ASSIGNMENT AND OTHER DEALINGS

17.1 We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of our rights or obligations under the Contract.

17.2 You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of your rights or obligations under the Contract without our prior written consent.

18. CONFIDENTIALITY

18.1 Each party undertakes that it shall not at any time during this agreement and for a period of two years after termination of the agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, or of any member of the group to which the other party belongs, except as permitted by clause 18.2. For the purposes of this clause, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party and any subsidiary from time to time of a holding company of that party.

18.2 Each party may disclose the other party's confidential information:

18.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 18.2; and

18.2.2 as may be required by law, a court of competent jurisdiction or any governmental or other regulatory authority.

18.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

19. ENTIRE AGREEMENT

19.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the subject matter.

19.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation (or negligent misstatement) based on any statement in this agreement.

20. VARIATIONS

You shall not be permitted without our consent in writing (signed by us or our duly authorised representatives) to make any variation of the Contract. The Contract Price shall be adjusted to take account of any loss incurred by us as a result of any permitted variation or from any suspension of work due to lack of instructions from you. Agreed delivery schedules shall not be varied by either party without the written consent of the other and if varied the Contract Price shall be adjusted accordingly unless otherwise agreed.

21. COPYRIGHT MATERIAL

All estimates, specifications, designs, drawings, plans or models are prepared by us for your information and the copyright therein remains our property. They must not in whole or in part be submitted to or copied or otherwise made use of by any other party without our prior written consent. You shall acquire no copyright in the design of the Goods packaging and literature and no right or licence (except as to the use for which the Goods are supplied in each instance) shall be granted hereby whether express or implied.

22. WAIVER

No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

23. SEVERANCE

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

24. NOTICES

24.1 Where a notice or other communication is required to be served on us by you or on you by us, such notice must be served in writing. Any notice to us shall be addressed FAO The Managing Director and sent to Unit 40, Aston Down East, Stroud, Glos, GL6 8HX, and any notice to you shall be sent to the address given by you in your order or acceptance of our offer.

24.2 A notice or other communication shall be deemed to have been received if delivered personally, when left at the address referred to in clause 24.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00am on the second Business Day after posting. If delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

25. THIRD PARTY RIGHTS

No one other than a party to this Contract shall have any right to enforce any of its terms.

26. GOVERNING LAW

This Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

27. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.