

WEENER PLASTICS NORWICH LTD GENERAL TERMS AND CONDITIONS

Terms and conditions of Sale and Delivery

1. Definitions

The Goods shall include all items supplied to the Buyer under this Contract and the services provided by the Company in the supply of those items.

2. Applicability

These terms govern the Contract to the exclusion of all other terms (whether inconsistent with these terms or not) sought to be imposed on the Contract by the Buyer. A quotation of the Company does not constitute an offer by the Company to supply Goods. An order by the Buyer shall be deemed to be an offer by the Buyer to the Company to purchase the Goods on those terms.

3. General

- No variation to these terms or waiver of the Company's rights hereunder shall be binding on the Company unless recorded in writing and signed by a Director of the Company
- No delay in the exercise of its rights under their terms shall prejudice the Company's rights or remedies in anyway.

4. Representations

The Company's employees and agents are not authorised to make any representations concerning the Goods unless recorded in writing and signed by a Director of the Company. In entering into the Contract the Buyer acknowledges that it does not rely on any representations and waives claim for the inaccuracy of any representation which may have been made and not so recorded.

5. Quality of Goods

- Where the Goods have been ordered by the Buyer by reference to a sample supplied to the Buyer or by reference to a specification design or drawing made available to the Company the Company warrants that the Goods will correspond at the time of delivery with the specification, design, drawing or sample, as the case may be.
- The above Warranty is given subject to the following conditions: The Company shall be under no liability in respect of any defect of the Goods arising from any drawing, design or specification supplied by the Buyer. No warranty is given to the effect that the Goods will be suitable for the Buyer's purposes and the Buyer should satisfy itself in this respect. Any claim by the Buyer based on either damage in transit or a failure by the Company or its transporter to deliver or if appropriate make available for collection the correct quantity of Goods shall be notified to the Company within 3 working days of delivery of collection as appropriate. The Company shall have no liability to the Buyer if in the reasonable opinion of the Company the defect complained of has arisen by reason of the conditions in which the Goods have been stored by the Buyer or Buyer's agent. Where a claim is notified to the Company the Buyer shall allow the Company and any persons appointed by it free access to the Goods for inspection thereof and the Buyer shall not apply any process to any of the Goods whereby inspection of any Goods which are the subject of the claim may no longer be possible. If such a process is applied to any of the Goods the Company shall have no liability for the claim in respect of those Goods to which a process has been applied. Any claim by the Buyer which is based on the failure of the Goods to correspond with a specification, design, drawing or sample shall (whether or not delivery is refused by the Buyer) be notified to the Company within 28 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If such notification is not given, the Buyer shall be deemed to have accepted the Goods and acknowledged that they correspond with the specification or sample.
- Where any valid claim is notified to the Company in accordance with these terms, the Company shall be entitled to replace the Goods (or any part of the Goods in question) free of charge or, at the Company's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price) but the Company shall have no further liability to the Buyer. The Company shall not be liable in any event for any consequential loss or damage, whether for loss of profits or otherwise, costs, expenses or other claims for consequential compensation whatsoever whether caused by the negligence of the Company, its employees or agents or otherwise.
- Subject as expressly provided in these terms, and except where the Goods are sold to a person dealing as a consumer (within the meaning of Unfair Contract Terms Act 1977), all terms implied by status law and all other warranties and conditions as to quality, fitness for the Buyer's purpose and compliance with description are excluded to the fullest extent permitted by law.
- The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform, any of the Company's obligations in relation to the Goods if the delay or failure was due to any cause beyond the Company's reasonable control.

6. Quantities

The Company shall be deemed to have complied with its obligations to deliver a specific quantity of items if the quantity it actually delivers is no less than 90% and no more than 110% of the quantity ordered.

7. Cancellation Rights of the Buyer

- The Buyer may cancel this Contract at any time before the Company completes manufacture of the Goods by giving written notice of a cancellation to the Company and paying on demand: i) The Company's cost incurred up to the date of receipt by the Company of the Cancellation Notice;
- An amount to compensate the Company for its loss of profits as a result of such cancellation to be calculated by the Company as being a 'proportion' of the difference between the Contract Price and the costs which would have been incurred by the Company in performing its obligation under the Contract without such a cancellation. The amount of costs and loss of profit will be certified by the Company which certificate shall, in the absence of manifest error or on the fact of the certificate, be binding upon the parties. The 'proportion' referred to in 7.1 (ii) shall be:
 - If the Company has not at the time of cancellation commenced manufacture of the Goods – 25%
 - If the Company has at that time commenced but not completed the manufacture – 70%

8. Contract Price

- The Company reserves the right to increase the Contract Price of the Goods to reflect any increase in the cost to the Company of supplying the Goods to the Buyer which is due to:
 - A factor beyond the control of the Company
 - Increase in the costs of materials used by the Company in the production of the Goods.
 - The price is deemed exclusive of VAT
- Pallets and containers will be provided on an exchange basis. The Company reserves the right to make a reasonable charge for any pallets and containers which have not been returned or exchanged within three months of their being supplied to the Buyer.

9. Payment Terms

- The Company shall be entitled to invoice the Buyer for the Contract Price on or at any time after the earlier of delivery of the Goods, collection of the Goods from the Company's premises, delivery or collection of a particular installment or, in the case where the Contract provides that the Goods are to be collected from the Company's premises, the Company having notified the Buyer that the Goods are ready for collection.
- The Buyer shall pay the invoice price in full without deduction within 30 days of the invoice being delivered.
- If the Buyer fails to pay any sum in full on the due date then without prejudice to any other rights the Company may have: Interest shall run on the amount overdue on a day-to-day basis of 4% above the base rate of Lloyd's Bank plc from time to time applying. The Company shall have the rights provided in clause 12 hereof.

10. Collection from the Company's premises

- Where the Contract provides for delivery to take place at the Company's premises risk in the Goods will pass to the Buyer on the earlier of either delivery or the expiration of 21 days from the Company giving the Buyer notice that the Goods are available for collection.
- If the Buyer fails to collect the Goods from the Company's Premises within 21 days of notice from the Company to the effect that the Goods are available for collection then the Company may, without prejudice to any other rights it may have, invoke the rights provided by clause 12 of the terms.

11. Delivery

- Any dates quoted for delivery are approximate only and the Company shall not be liable for any delay in delivery of the Goods whether caused by the negligence of the Company or otherwise.
- If the Buyer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions before the time stated for delivery then without prejudice to any other rights the Company may have, it may invoke the rights provided by clause 12 of these terms.
- Risk in the Goods will pass on delivery or:
 - In the case where the Buyer fails to accept delivery at the time of that failure or
 - In the case where adequate delivery instructions are not given to the Company on the expiration of seven days from the Company giving the Buyer notice that the Goods are available to be delivered.

12. Miscellaneous Rights on Breach

- In either of the situations referred to above the Company may exercise any of the rights it has at law and may also do any of the following:

Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage at a commercial rate;

Sell the Goods for the best price reasonable obtainable and then either,

 - Appropriate the amount by which the sale price exceeded the Contract Price by way of set off to the amount due from the Buyer and then account for any excess to the Buyer or;
 - Pursue the Buyer for the amount by which the sale price fell short of the Contract Price by way of an additional debt due from the Buyer to the Company;
 - Cancel the Contract;
 - Suspend any further deliveries until the overdue payments are made or delivery or collection takes place as the case may be.

13. Retention of Title

- Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these terms, the property in the Goods shall not pass to the Buyer until the Company has received in cash or cleared funds payment the full Contract Price and all other sums then due from the Buyer to the Company.
- Until such times as when property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Company's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected, insured and identified as the Company's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business but shall account to the seller for the proceeds of sale or otherwise of the Goods whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- Until such time as the property and the Goods passes to the Buyer the Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer where the Goods are stored and repossess the Goods.
- The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods, which remain the property of the seller.
- The Buyer shall not factor or discount any debt owing to it as a result of the disposal of the Goods.

14. Indemnities

- If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with a specification design or drawing submitted by the Buyer, the Buyer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from the Company's use of the Buyer's specifications.
- The Buyer shall indemnify the Company against any liability which the Company may incur whether by court proceedings or by bone fide out of court settlement as a result of a claim against the Company under Part 1 of the Consumer Protection Act 1987 or any Statutory modification thereof in respect of any alleged defect in the Goods which defect is attributable to a specification design drawing sample or moulding provided or amended by the Buyer.

15. Storage of the Buyer's Property

The Company shall have a lien over all items of the Buyer's property stored on the Company's premises for any sums due to the Company, whether under the Contract or otherwise.

16. Notices

Any notice required to be given hereunder may be served by prepaid first class post letter or telex addressed to the last known place of business of the party on whom it is served and any notice other than a Cancellation Notice for the purposes of clause 7 shall be deemed to have been received 48 hours after dispatch. In proving service of any notice other than a notice to cancel under clause 7 hereof it will be sufficient to prove that the envelope in which the letter was posted was properly addressed and stamped. A cancellation notice will only be deemed to have effect if received by the Company.

17. Construction

The headings of these terms are for conveniences only and shall not affect their construction.

18. Governing Law

All Contracts shall be governed by English Law and the parties agree to submit to the jurisdiction of the English Courts of Law to determine any matter arising out of the Contract or in any way connected therewith

1.

Terms and Conditions of Purchase

Clause 1

Applicability and General Provisions

- (1) These General Terms and Conditions of Purchase ("General Terms") apply to, and form an integral part of, all (future) requests for quotations, the formation, the content and the compliance with any agreement, however named, of and entered into with Weener Plastics Norwich Ltd. ("Weener") to order and buy goods from its suppliers.
- (2) Where these General Terms refer to 'supplier', this means every natural or legal person in a contractual relationship with Weener pursuant to a purchase or other agreement entered into with Weener as well as every natural or legal person wishing to enter into a purchase or other agreement with Weener. The term 'supplier' in particular includes those who deliver goods to Weener.
- (3) The provisions in these General Terms may exclusively and only be departed from if and insofar as this has been expressly agreed in writing.
- (4) The applicability of other general terms and conditions is expressly excluded. Even if the supplier refers to (its) general terms and conditions, the general terms and conditions of the supplier do not apply. This is only different if and insofar as the applicability of the general terms and conditions of the supplier is expressly accepted by Weener in writing and insofar as the general terms and conditions of the supplier are not in conflict with the provisions in these General Terms. Any stipulation to the contrary in the general terms and conditions of the supplier does not affect the foregoing.
- (5) Where these General Terms refer to the 'supply (of goods)', this also includes the rendering of services and work of whatever nature.
- (6) If any provision in these General Terms is void, is voided or is declared not applicable in any other way, the remaining provisions of these General Terms shall remain in full force and the parties shall agree a replacement for the void, voided or inapplicable declared provision whereby the objective and purport of the void, voided or inapplicable-declared provision(s) shall be taken into account as far as possible.

Clause 2

Conclusion of Contract

- (1) To be valid, orders do not require a specific form, but to be valid orders placed verbally or by phone shall require a subsequent confirmation by a letter of confirmation of Weener. Verbal subsidiary agreements and amendments of the contract also require confirmation in writing.
- (2) Prior to the written confirmation of the order by the supplier, Weener shall have the right to cancel any order.
- (3) Furthermore, Weener shall have the right to terminate the contract at any time by giving notice in writing and stating the reason, when it is no longer in a position to use the ordered products in its business operation as a result of circumstances intervening after conclusion of the contract. In such an event, it shall remunerate the supplier for the partial delivery rendered.
- (4) In terms of quantity, quality and design of the goods, the supplier shall comply in its offers with the orders, invitations to tender and potential drawings specified or approved by Weener. Weener shall be explicitly notified in writing by the supplier of any planned or existing deviations.
- (5) Deviations require the written agreement of Weener. With respect to granule deliveries, a quantitative deviation of up to 10% shall be deemed to have been accepted by Weener.

Clause 3

Prices, Shipment, Packaging

- (1) The agreed prices are fixed prices and exclude subsequent claims of any kind. Unless explicitly agreed otherwise, all costs of packaging, transport and customs, including all customs formalities shall be included in these prices.
- (2) In so far as the production cost of the supplier changes by more than 10% without this fact being foreseeable for the parties, each party shall have the right to demand the renegotiation of prices. Weener shall not be obligated, however, to accept modified and especially higher prices.
- (3) Shipment notes, consignment notes, invoices and all correspondence shall contain the order number of Weener. The supplier shall quote the name of the ordering person and, if known, the requisitioning party on consignment notes and invoices.
- (4) Unless agreed otherwise, shipment shall be made at the expense and risk of the supplier to the freely agreed place of delivery (Delivered Duty Paid).

Clause 4

Invoices and Payments

- (1) Invoices shall be submitted with all agreed data and documents following the completed delivery or, in the absence of any agreement, with the customary documents. Invoices which have not been properly drawn up shall be deemed to have been received by Weener only when corrected.
- (2) Payment shall be made by normal commercial methods with a cash discount of 3% within 14 days following the delivery/service and receipt of the invoice or net within 60 days. The date of determining the commencement of the payment term shall be the later of these dates.
- (3) In case of a default in payment, Weener shall owe the statutory commercial interest rate of 8% under the laws of England and Wales.
- (4) Payment of the invoice of the supplier shall never be interpreted as a recognition of the correct performance of the supplier of its obligations under an agreement with Weener.
- (5) Weener is entitled to set off against payments due to the supplier any and all obligations of supplier to Weener however and whenever arising.

Clause 5

Delivery dates, Delays, Force majeure

Agreed delivery dates are binding and shall be correctly adhered to by the supplier. The receipt of goods at the agreed place of delivery shall determine compliance.

- (1) When it is foreseeable that a delivery date shall be exceeded, the supplier shall immediately notify Weener in writing of the reason and the expected duration. Irrespective of such notification, exceeding a deadline shall trigger the statutory consequences of default. In urgent cases, especially to avoid loss of production or in view of its own delivery obligations, Weener shall have the right to otherwise procure the goods at the supplier's expense and without further intermediate steps.
- (2) In case of a default in delivery, Weener shall have the unrestricted right to its statutory claims including the right of rescission and the right to damages in lieu of performance upon fruitless expiration of an appropriate period of grace.
- (3) In case of a delay in delivery, Weener shall have the right, in addition to all other remedies herein, after prior written notification of the supplier, to demand a default penalty amounting to 0.5% but no more than 5% of the respective value of the order for every commenced week of the delay in delivery. The contractual penalty shall be offset against the default damages to be compensated by the supplier.
- (4) In case of delivery before the agreed date of delivery, Weener shall reserve the right to return the delivery at the supplier's expense and risk. When it accepts the goods, it shall store them until the agreed date of delivery on the premises of Weener at the supplier's expense and risk. Only the agreed date of delivery shall be valid in terms of payment.
- (5) Partial deliveries shall only be accepted following an explicit agreement.
- (6) Even when the shipment has been agreed, the risk shall be transferred to Weener when the goods have been handed over at their agreed destination.
- (7) Neither party will be liable for any delay or failure in performing its obligations under the agreement (including delay in delivery acceptance) to the extent that such delay or failure is caused, without such party's fault or negligence, by a Force Majeure Event. For purposes of these terms, a "Force Majeure Event" refers to the occurrence of unforeseeable and/or unavoidable circumstances beyond a party's control that, by their nature, make such party's performance commercially impractical, including, but not limited to, fires, floods, acts of war, riots, mobs, earthquakes, lockouts, strikes, embargoes, or due to regulation or industrial disputes. Supplier will use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the agreement. If a Force Majeure Event prevents the supplier from carrying out its obligations under the agreement for a continuous period of more than fourteen (14) days, Weener may terminate the agreement immediately by giving written notice to Supplier and without incurring a liability towards supplier.

Clause 6

Warranty

- (1) Obvious defects of the delivery and especially deviating quantities exceeding the amount specified under clause 2 as well as obvious transportation defects shall be notified by Weener as soon as they have been detected in the circumstances of its normal course of business. The defect notification shall be deemed to be on time, when it is made within seven working days following the receipt of the delivery. Other defects shall be notified within seven working days following their detection.
- (2) Supplier warrants to Weener that the goods delivered will (i) be merchantable, (ii) free from any defects in workmanship, materials and design, (iii) be manufactured, packaged, labelled, handled, shipped and stored by supplier or its agent in a good and workman-like manner at quality levels consistent with industry standards and in accordance with all applicable specifications, drawings, designs, samples and other requirements specified by Weener, (iv) be fit, safe and effective for their intended uses and purposes, and operate as intended, (v) comply with any national, international and supranational laws, legal rules, regulations, directives and other governmental provisions, (vi) be free and clear of all liens, security interests or other encumbrances; and (vii) are free from any right (including but not limited to intellectual property rights), lien or claim of third party.
- (3) All warranties set forth in these Terms will remain in effect for a period of three (3) years from the date of acceptance of the goods by Weener, and will not be deemed waived by reason of Weener's receipt, inspection, or acceptance of, or by payment for, the goods. The warranties expressed in these Terms will be in addition to and construed as consistent and cumulative with each other and with all warranties provided, express or implied, by law.
- (4) All warranties will run to Weener, its customers and subsequent owners of the goods to which they relate. There are no exclusions, limitations, or disclaimers of warranty other than those that may be expressly recited in these terms.
- (5) Weener shall be entitled to its full statutory claims with respect to defects including the right to damages and expenses.
- (6) When the supplier does not comply with the demand for a correction of defects or replacement delivery within 10 working days, or immediately in case of deliveries of granules and dyes, the subsequent improvement shall be deemed to have failed; in this case the ordering party is entitled to a rescission of contract without further delay, and may demand compensation for damages in lieu of performance.

Clause 7

Product liability (insurance), Indemnity

- (1) The supplier shall be responsible for all claims brought by third parties for personal injury or property damage, when they are attributable to a defective product supplied and shall be obligated to indemnify and hold Weener harmless from and against all direct and indirect damages arising out of or resulting in any way from the defective product supplied to Weener under the agreement with the supplier. When Weener shall be obligated to recall products from third parties due to a defect of a product delivered by the supplier, the supplier shall bear all costs associated with the product recall.
- (2) Weener and the supplier shall mutually inform and support each other in their legal defence. The supplier shall conclude and maintain adequate insurance cover against such liability claims. Supplier is obliged to provide evidence of this insurance upon Weener's first request.
- (3) Supplier shall indemnify and hold harmless Weener and affiliates and its employees, directors, officers, authorized representatives, customers and subcontractors from any and all claims, damages, costs, demands suits and judgments whatsoever arising out of, caused by, relating to, resulting from, or in connection with the negligence, willful misconduct, errors, or omissions of supplier, its subcontractors, or their respective employees relating to, resulting from, or in connection with the performance or non-performance of the agreement with Weener.

Clause 8

Protection of ownership

- (1) Weener shall retain its proprietary right or intellectual property rights with respect to the purchase orders, orders as well as drawings, images, calculations, descriptions and other documents made available to the supplier. The supplier shall neither make them available to third parties without Weener's explicit agreement nor use them for its own purposes or grant their use to third parties or replicate them. Upon request of Weener, the supplier shall return such documents in their entirety, when they are no longer used in the normal course of business, or when negotiations do not lead to the conclusion of a contract. In this case, copies made of such documents by the supplier shall be destroyed; the only exception being a storage pursuant to statutory record-keeping obligations as well as the storage of data for backup purposes in the course of customary data backups.
- (2) Tools, devices and design models made available to the supplier by Weener or manufactured for contractual purposes and separately invoiced by the supplier, shall remain or be transferred to the property of Weener. They shall be duly marked by the supplier as a property of Weener, stored carefully, secured against damage of any kind, and they shall be used only for contractual purposes. The cost of their maintenance and repair shall be borne equally by the contractual parties - in the absence of an agreement to the contrary. In so far as such costs shall be attributable to defects of objects manufactured by the supplier or their improper use by the supplier, its employees or other agents, they shall be borne exclusively by the supplier. The supplier shall notify Weener immediately of all damage to such objects with the exception of insignificant damage. Upon request, it shall be obligated to hand over such objects to Weener in proper condition, when it no longer uses them to perform the contracts concluded with Weener.
- (3) The supplier's property rights shall apply only in so far as they pertain to the payment obligations of Weener for the respective products, for which the supplier reserves the right of ownership. In particular, extended or protracted reservations of property rights shall not be permitted.

Clause 9

Nondisclosure

- (1) The contracting parties agree to maintain confidentiality regarding all information they become aware of in the course of their transactions. They agree in particular to maintain strict confidentiality regarding all images, drawings, calculations, design sketches, design models, CAD data and other documents and information. Their content may only be disclosed to third parties, when this has been explicitly permitted in writing.
- (2) This nondisclosure obligation shall continue to apply indefinitely after the fulfillment of this contract and also in the event that a contract shall not be concluded. Documents received shall be returned unsolicited to the other contractual party in their entirety and including all copies; files shall be returned or otherwise permanently destroyed, unless statutory provisions stipulate an obligation to store records.

Clause 10

Closing provisions (assignment, termination, sub-contracting, privacy, code of conduct, governing law, jurisdiction, etc.)

- (1) The supplier shall not assign, subcontract or otherwise transfer all or any part of its rights and/or obligations under the agreement with Weener to any third party without the prior written consent of Weener.

- (2) When the supplier ceases to supply goods to Weener or ceases to make payments to its suppliers, when insolvency proceedings are filed or initiated against the supplier's assets, or when an out-of-court debt settlement procedure is initiated against the supplier's assets, Weener shall have the right to terminate the contract without notice.
- (3) In so far as the confirmation of the order does not provide otherwise, the registered offices of Weener shall be the place of performance/delivery.
- (4) The Supplier shall ensure that it has in place appropriate measures to ensure the security of Weener personal data and shall ensure to use Weener personal data in compliance with the General Data Protection Regulation and the Data Protection Legislation of the concerned member state. Supplier shall use personal data provided by Weener only as strictly necessary to deliver the goods and shall not transfer personal data outside the European Economic Area without the prior written consent of Weener.
- (5) Supplier acknowledges that it has read the Code of Conduct for WP Business Partners (<http://www.wppg.com/downloads/#code-of-conduct>) and agrees that all entities of the supplier will comply with the mentioned Code of Conduct as well as its subcontractors, agents or other third parties, subject to its control or determining influence.
- (6) All agreements between Weener and the supplier shall exclusively be governed by the Laws of England and Wales. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- (7) All disputes, of whatever nature, relating to/arising from any agreement between Weener and the supplier are exclusively resolved by the English Courts of Law .