

OPALION PLASTICS LIMITED

TERMS AND CONDITIONS OF SALE

These are our Terms and Conditions of Sale (these "terms"). "We" are Opalion Plastics Limited, a company registered in England under Registration Number 1574983 whose registered office is at Unit 1 Ashville Trading Estate, Royston Road, Baldock, Hertfordshire, SG7 6NN. "You" are the customer with whom we agree to supply the goods ("goods"). The "contract" is a contract in which you place an order of goods for delivery from us and which we agree to supply (as confirmed in our written order confirmation form); each separate delivery which you order from us constitutes a separate contract, so there may be more than one contract at the same time.

1 Price

- 1.1 The price quoted excludes VAT and other sales and import and export taxes, customs and duties (unless we state otherwise), which shall be chargeable in addition (if applicable) at the same time as the price. These will be charged at the rate applicable at the time of delivery.
- 1.2 Our quotations lapse after 15 days (unless we state otherwise).
- 1.3 The price quoted includes standard UK delivery for orders over £ 800 (unless we state otherwise).
- 1.4 For expedited delivery, an additional delivery charge may be incurred at the price we charge (and which we may set in writing).
- 1.5 The price is as set out in our quotation. We may adjust the price at any time until delivery (including to reflect increase in our costs), in which case we will bring the updated price to your attention on or before delivery. Your decision to continue with delivery amounts to agreement at the updated price.

2 Delivery

- 2.1 All delivery times quoted are estimates only.
- 2.2 If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract. However:
 - 2.2.1 You shall not cancel if we receive your notice after the goods have been dispatched; and
 - 2.2.2 If you cancel the contract, except if we are in breach of contract, you can have no further claim against us under the contract.
- 2.3 We shall inform you when the goods are ready for delivery or collection and you shall not delay being ready for receipt or collection. You shall be responsible for paying any costs caused by your unreasonable delay, and we may charge a storage fee and further transport costs, which you shall pay to us before delivery.
- 2.4 If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay or loss (including increased price of the goods).
- 2.5 We may deliver the goods in instalments. Any issue in relation to one instalment shall not affect any other instalment.

- 2.6 For delivery, we may use a carrier selected by us and arrange for carriage to the delivery point. Unless we agree otherwise in writing, we may charge you for carriage and insurance costs at the same time as invoicing for the goods, and you shall pay at the same time as the price of the goods.
- 2.7 We may decline to deliver if:
- 2.7.1 We believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
- 2.7.2 The premises (or the access to them) are unsuitable for our or our haulier's vehicle.
- 2.8 We may delay delivery if we have not yet received payment from you (under the contract or another agreement).
- 2.9 We may deliver in quantities of up to 10% more or less than the quantity ordered and charge you for the quantity actually delivered. You shall not be entitled to reject the whole of the consignment if there is a variation in quantity.

3 Risk

- 3.1 The goods are at your risk from the time of delivery or the time when we attempt to deliver.
- 3.2 We shall tell you where the agreed place of delivery is. Unless otherwise in writing, delivery takes place either:
- 3.2.1 At our premises (if you are collecting them or arranging carriage); or
- 3.2.2 At your premises or address specified by you (if we are arranging carriage).
- 3.3 If we require, you must sign a delivery note upon collection or delivery. This shall be evidence of delivery and in the quantities stated, so you must inspect the goods and their packaging carefully before signing, and make a note of any obvious damage. If any goods are clearly damaged on delivery or not delivered or in the quantity required by the contract, you must notify us within seven days of delivery or the expected delivery time, specifying with full detail what is wrong with delivery and providing any information that we reasonably require. You must give us (and any carrier) a fair chance to inspect the goods. To the extent permitted by law, this is your sole right and remedy for late or damaged or wrong delivery.

4 Payment Terms

- 4.1 You must pay us in cleared funds by the payment method reasonably required by us, on or before delivery, unless we have given you an approved credit account.
- 4.2 If you have an approved credit account, payment is due no later than 30 days after the date of our invoice unless otherwise agreed by us in writing.
- 4.3 If you fail to pay us in full on the due date, we may do any or all of the following:
- 4.3.1 Suspend or cancel the current or any future delivery (whether under the contract or another agreement);
- 4.3.2 Cancel any discount offered to you;

4.3.3 Charge you interest at the rate set under Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998:

- a. Calculated (on a daily basis) from the date of our invoice until payment;
- b. Compounded on the first day of each month; and
- c. Before and after any judgement (unless a court orders otherwise);

4.3.4 Claim fixed sum compensation from you under Section 5A of that Act to cover our credit control overhead costs; and

4.3.5 Recover (under clause 4.7) the cost of taking legal action to make you pay.

4.4 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 do any of those at any time without notice.

4.5 You do not have the right to set off, withhold or deduct any money you may claim from us against anything you may owe us (whether at law or in equity and whether under the contract or another agreement).

4.6 While you owe money to us, we have a lien on any of your property in our possession.

4.7 You shall indemnify us and keep us indemnified in full and hold us harmless from all costs, expenses, demands, damages, claims, losses and liabilities we may incur (directly or indirectly including (without limitation) financing costs and legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms.

5 Title

5.1 Until you pay all debts you may owe us (whether for the goods supplied under the contract or on any account):

5.1.1 All goods supplied by us remain our property;

5.1.2 You must store the goods in good condition and so that they are clearly identifiable as our property (and store them separately from other products if necessary);

5.1.3 You must keep an up-to-date list of the location of the goods and supply this to us upon our request;

5.1.4 You must insure the goods from when risk passes to you, against all risks of loss or damage (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;

5.1.5 You may use those goods and sell them in the ordinary course of your business, but not if:

- a. We revoke that right (by informing you in writing); or
- b. You become subject to an insolvency event. An "insolvency event" is where you give notice to any of your creditors that you have suspended or are about to suspend payment or if you shall be unable to pay any debts (within the meaning of Section 123 of the Insolvency Act 1986), or an order is made or a resolution is passed for your winding-up or an administration order is made or an administrator is appointed to manage your affairs, business and property or a receiver or manager or administrative receiver is appointed in respect of any of your assets

or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or you take or suffer any similar or analogous action in any jurisdiction in consequence of debt.

- 5.2 You must inform us (in writing) immediately if you become subject to an insolvency event.
- 5.3 If your right to use and sell the goods ends, you must allow us or our representatives to remove the goods.
- 5.4 You irrevocably give your permission to us for us or our representatives to enter any premises where the goods may be stored:
 - 5.4.1 At any time, to inspect them; and
 - 5.4.2 After your right to use and sell them has ended, to remove them, using reasonable force if necessary.
- 5.5 While we have title to the goods, you agree to deliver up the goods to us upon our request.
- 5.6 Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us for any goods by the due date. We may require you to authorise any third party purchaser of the goods to pay us directly for the amount that they would otherwise pay to you for the goods, and you agree to assign your debt to us.
- 5.7 You are not our agent. You have no authority to make any contract on our behalf or in our name.

6 Warranties

- 6.1 We warrant that the goods:
 - 6.1.1 Comply with their description on our written order confirmation form; and
 - 6.1.2 Are free from material defects in design, workmanship and materials at the time of delivery (as long as you comply with clause 6.3). The specification for the goods is as described in our written order confirmation or as otherwise in writing by us or the manufacturer of the goods. No other specification applies except to the extent that we expressly agree in writing.
- 6.2 Except as set out in these terms or in the written order confirmation form, we exclude and give no other warranty, term, condition or obligation that may otherwise be express or implied (by statute, law or otherwise) in respect of the goods (including (without limitation) as to description, quality of the goods or their fitness for any purpose).
- 6.3 If you believe that the goods do not comply with the warranty standard set out in clause 6.1, you must:
 - 6.3.1 Inform us (in writing), with full details and samples if necessary, within seven days of becoming aware and in any event within 6 months of delivery;
 - 6.3.2 Provide us with all information we reasonably require;

6.3.3 Show to our reasonable satisfaction that the issues is solely attributable to our or our supplier's defective design, workmanship or materials and not any act by anyone after we have delivered the goods (including misuse, use other than according to reasonable use or our or the manufacturer's instructions, or attempted repair or inspection);

6.3.4 Allow us to investigate and inspect (and we may need access to your premises and product samples, or we may require you to send the goods back to us, and we shall pay your reasonable cost of returns if your warranty claim is valid);

6.3.5 Keep the goods secure.

6.4 If the goods do not comply with the warranty standard set out in clause 6.1 (following our investigations), and you have complied with those conditions (in clause 6.3) in full, we will (at our option) either repair or replace the affected goods or refund the sums paid to us by you for them.

6.5 Our warranty is only to you and is not transferable, except to the extent that we expressly agree in writing.

6.6 If you make an invalid warranty claim, we may charge you for our reasonable costs in dealing with your claim and removing and delivering the goods, which you must pay upon demand.

7 Liability

7.1 Our only liability under or in connection with the contract is as described in these terms.

7.2 Subject to clause 7.4, we do not have any liability for any of the following (whether or not the losses were reasonably foreseeable or we had been advised of the possibility of the losses being incurred): (a) indirect or consequential losses, damages, costs or expenses; (b) loss of actual or anticipated profits; (c) loss of contracts; (d) loss of use of money; (e) loss of anticipated savings; (f) loss of revenue; (g) loss of goodwill; (h) loss of reputation; (i) ex gratia payments; (j) loss of business; (k) loss of operation time; (l) loss of opportunity; or (m) loss of, damage to or corruption of, data. The losses in (b) to (m) apply whether they are direct, indirect, consequential or otherwise.

7.3 Subject to clause 7.4, our total aggregate liability shall be limited to the greater of £ 5,000 or 125% of the total sums paid and total other sums payable, in aggregate, under the contract.

7.4 Nothing in these terms restricts or limits our liability for: (a) death or personal injury resulting from negligence; (b) fraud; (c) fraudulent misrepresentation; (d) any breach of the non-excludable obligations implied by law as to having the right to supply goods; or (e) any liability which cannot be excluded or limited by law.

7.5 In these terms, "liability" means liability in or for breach of contract, negligence or breach of duty, deliberate tort, misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with the contract, including (without limitation) liability expressly provided for under the contract or arising by reason of the invalidity or unenforceability of any term of the contract.

8 Specification

8.1 If we prepare the goods in accordance with your specifications or instructions, you shall be entirely responsible and have liability to the extent that we comply with your requirements, and you must ensure that:

8.1.1 The specifications or instructions are accurate;

8.1.2 Goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and

8.1.3 Your specifications or instructions will not result in the infringement of any intellectual property rights or other rights of a third party, or be in the breach of any applicable law or regulation.

8.2 We reserve the right:

8.2.1 To make any changes to the specifications of the goods that are necessary to ensure they conform to any applicable safety or statutory requirements, or as we see fit in order to avoid liability (but without removing your responsibility for ensuring that the goods made to your specifications or instructions do not incur any liability); and

8.2.2 To make without notice any minor modifications in our specifications we think necessary or desirable.

9 Tolerances

9.1 Except where specific measurable tolerances are set down and agreed in the contract (in the written order confirmation form), whilst we will endeavour to produce goods to the agreed specifications, we reserve the right to be able to abide by the tolerances for size, thickness, print quality and bag measurements in either direction as laid down by the Packaging and Industrial Film Association and / or BS 7344 1990 or subsequent revisions of that standard.

9.2 Inks used will be of good commercial quality and unless otherwise agreed in writing by us, must be specified by Pantone or recognised alternative references. We cannot guarantee that an exact match can be made, especially when printed on other than white substrates.

10 Machine Readable Codes

10.1 In the case of machine readable codes or symbols which you specify and which we agree in writing to provide, we shall print the same as specified by you in accordance with generally accepted standards and procedures. You will be responsible for satisfying yourself that the codes or symbols printed are correct and will read correctly on the end user's equipment.

11 Return of Goods

11.1 We will accept the return of goods from you only:

11.1.1 By prior arrangement (confirmed by us in writing);

11.1.2 On our receipt of your payment of an agreed handling charge (unless the goods did not conform to the requirements of the contract when delivered); and

11.1.3 Where the goods are as fit for sale on their return as they were on delivery (subject to fair wear and tear).

12 Export Terms

- 12.1 This clause 12 applies (except to the extent that it is inconsistent with any written agreement between you and us) where we supply the goods over an international border or overseas.
- 12.2 The latest version of the 'Incoterms' of the International Chamber of Commerce which are in force at the time when the contract is made apply to exports, but these terms prevail to the extent that there is any inconsistency.
- 12.3 Unless otherwise agreed in writing with us, the goods are supplied ex works our place of storage and distribution and we do not have any liability for any loss or damage during transit.
- 12.4 Where the goods are to be sent by us to you by a route including sea transport, we are under no obligation to give a notice under Section 32 (3) of the Sale of Goods Act 1979.
- 12.5 You are responsible for arranging testing and inspection of the goods at our premises before shipment (unless otherwise agreed with us in writing). Subject to clause 7.4, and to the extent permitted by law, we do not have any liability for any defect in the goods which would be apparent on inspection unless a claim is made before shipment.
- 12.6 Where we require payment by letter of credit, you shall conform to such requirements for the letter of credit as we reasonably require. The letter of credit shall be confirmed, irrevocable and without recourse, providing for payment at sight, allowing partial deliveries and collections, and issued and confirmed by first class banks to our satisfaction. The costs for the letter of credit shall be payable by you. If you fail to provide the required letter of credit, we may exercise the rights in clause 4.3.
- 12.7 You are responsible for complying with any applicable government export control laws and regulations.

13 Cancellations

- 13.1 You shall not cancel the contract unless the circumstances under clause 16.5 apply or we agree in writing (and clauses 2.2.2 and 13.2 then apply).
- 13.2 If the contract is cancelled (other than for our material breach of contract) you must pay us upon demand for all stock or artwork (finished or in progress) that we may then hold (or to which we are committed) for the contract.
- 13.3 We may suspend or cancel (or terminate) the contract, by written notice to you if:
- 13.3.1 You fail to pay us any money when due (under the contract or otherwise);
 - 13.3.2 You become subject to an insolvency event; or
 - 13.3.3 You are in material breach of any of your obligations under the contract (or another agreement with us).

14 Entire Agreement

- 14.1 Our written order confirmation form and these terms represent the entire agreement between you and us in respect of the subject matter of the contract, and to the exclusion of any terms and conditions submitted, proposed or stipulated by you. These terms apply to our supply of all goods to you. You giving any delivery instruction or acceptance by you of delivery of goods constitutes your unqualified acceptance of these terms.
- 14.2 The contract applies to the entire exclusion of any other agreement, understanding or arrangement of any kind between you and us preceding the date of contract and in any way relating to the subject matter of the contract, and to the exclusion of any representations not expressly stated in the contract (except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter). You acknowledge that you have not entered into the contract based on any representation that is not expressly incorporated into the contract.
- 14.3 The contract (together with any documents referred to in it) constitutes the whole agreement and understanding of you and us as to its subject matter and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to in the contract.
- 14.4 All brochures, catalogues and other promotional material are to be treated as illustrative only. Their contents form no part of the contract and you should not rely on them in entering into the contract.

15 Waiver and variations

- 15.1 Any waiver or variations of these terms is binding on us only if we agree to it in writing, signed by an authorised representative and it is stated as an intention to waive or vary these terms. Any waiver in any particular instance shall not extend to or affect any other or subsequent event.

16 Force Majeure

- 16.1 We shall not have any liability for any breach, hindrance or delay in performing any obligation under the contract caused by any event beyond our reasonable control regardless of whether the event could have been foreseen. A non-exhaustive list of examples of such an event is: any act of God, actions or omissions of third parties (including hackers, suppliers, couriers, governments, quasi-governmental, supra-national or local authorities), insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, seizure or forfeiture, breaking off of diplomatic relations or similar actions, national emergencies, actual or threatened or suspected terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detentions of any competent authority, blockade, strikes or combinations or lock-out of workmen, unusual traffic volumes, unusual travel restrictions, transport delays, epidemic, fire, explosion, storm, flood, drought, adverse weather conditions (including cold, heat, wind, rain, snow, ice or fog), loss at sea, earthquake, volcano, ash cloud, natural disaster, accident, mechanical breakdown, third party software, collapse of building structures, failure of machinery (other than used by the relevant party) or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), and shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation.

- 16.2 We shall inform you in writing upon becoming aware of such an event, giving details of the circumstances giving rise to the event.
- 16.3 Performance of obligations shall be suspended during that period and we shall have an extension of time for performance equal to the period of the delay.
- 16.4 As and when we can re-commence performance, you agree to accept performance.
- 16.5 If the event continues without a break for more than one month, either you or we may cancel (or terminate) the contract immediately by notice to the other, and neither you nor we shall have any liability by reason of such cancellation (or termination).
- 16.6 If we have contracted to provide identical or similar goods to another customer, we may decide at its absolute discretion which agreements we will perform and to what extent.

17 Notices

- 17.1 Any notice required or authorised to be given under the contract shall be in writing, signed by an authorised officer of the sender and served by personal delivery or by recorded delivery or overnight courier or by facsimile addressed to the other party at its address stated in the contract or at such other address or facsimile number as is notified by the relevant party to the other for this purpose from time to time or at the address or facsimile number of the relevant party last known to the other. Any notice given shall be deemed to have been served when there is proof that it is delivered to the recipient.

18 General

- 18.1 The contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including (without limitation) any non-contractual disputes or claims) shall be governed by and construed in accordance with English Law. All dealings, correspondence and contacts between you and us shall be made or conducted in the English language. In respect of any disputes:
- 18.1.1 If you are domiciled in the European Union, the exclusive forum for settling any disputes which may arise out of or in connection with the contract are English courts.
- 18.1.2 If you are not domiciled in the European Union, any dispute which may arise out of or in connection with the contract shall be exclusively referred to and finally resolved by arbitration under the LCIA Rules. Those Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English.
- 18.2 If you are more than one person, each of you has joint and several obligations under these terms.
- 18.3 If any clause or other provision in the contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall in no way affect any other clause or provision or part of any clause or provision, all of which shall remain in full force and effect.
- 18.4 Nothing in the contract shall create or be deemed to create a partnership, an agency or a relationship of employer and employee between you and us.

- 18.5 No person other than you or us has any right under any law to enforce any term of the contract.
- 18.6 If we supply a sample to you, it is on the express understanding that any subsequent sale will not be a sale by sample (as described in Section 15 Sale of Goods Act 1979), unless we expressly agree otherwise in writing.
- 18.7 In the event of any conflict between our written order confirmation form and these terms, then the written order confirmation form prevails.
- 18.8 You shall be fully responsible for ensuring that the goods meet your particular requirements.

Version last updated: June 2017