

MONGOOSE PLASTICS LIMITED  
STANDARD TERMS AND CONDITIONS OF SALE

## 1.0 GENERAL

1.1 Any contract between Mongoose Plastics Ltd (“Seller”) and any of its customers (“Buyers”) for the supply of goods and services shall automatically incorporate these conditions which shall prevail over any other terms or conditions attached to the Buyers order, or contained in any other written or oral intimation and any such other terms shall not form part of the contract between the Seller and the Buyer except that any special conditions specified by the Seller in writing shall prevail over these conditions in so far as such special conditions may be incorporated herewith.

1.2 The waiver of any of any conditions herein at any time by the Buyer shall not be effective unless if specifically agreed in writing by the Seller and shall constitute a waiver for the purpose of that particular transaction only and all other conditions herein shall remain in full force and effect.

1.3 Any contract between the Seller and the Buyer shall only arise upon the written acceptance by the Seller of the Buyers order.

1.4 These conditions and the contract shall be governed in all respects by Scottish Law.

## 2.0 PRICES AND PAYMENT

2.1 Prices quoted do not include Value Added Tax or any other taxes, duties or levies on the goods or their sale all of which taxes, duties or levies shall be borne by the Buyer.

2.2 Save as otherwise expressly agreed in writing by the Seller the price of the goods may be increased by the Seller to take into account any change of market conditions between the date of quotation and the date of actual supply and the buyer shall pay such increased price. The expression “market conditions” includes (but is not limited to) the costs of labour, materials, operation and transport or any of them.

2.3 Unless otherwise specifically state by the Seller the price agreed for the goods or services (including any additions to such prices) is nett and is due for payment by the last day of each month following the month of the Sellers invoice.

## 3.0 DEFAULT BY BUYER

3.1 If the Buyer shall fail to pay the price for the goods or services by the due date for payment then (without prejudice to any other rights of the Seller arising from such failure) the Buyer shall (if so required by the Seller) pay the Seller interest thereon at the rate of 2% per month or part thereof on the outstanding amounts from time to time.

3.2 If the Buyer shall commit default in or commit any breach of its obligations to the Seller, or if any distress or execution shall be levied upon the Buyer, its property or assets, or if the Buyer shall make or offer to make any arrangements or compositions with is creditors or commit any act of bankruptcy or if the Buyer shall be an individual and any petition or receiving order in bankruptcy shall be presented or made against him, or if the Buyer shall be a company and any resolution or petition to wind up such company's business shall be passed or presented otherwise than for the purpose of amalgamation or reconstruction whilst solvent, or if a receiver of such company's undertaking property or assets or of any part thereof shall be appointed, or if the Buyer shall be insolvent then without prejudice to any other rights available to the Seller it may forthwith cancel

any contract then subsisting with the Buyer or alternatively may suspend or cancel delivery of any of the goods to be supplied thereunder.

#### 4.0 DELIVERY

4.1 Although the Seller shall attempt to effect delivery in accordance with pre-arranged dates or delivery schedules such dates or schedules are estimates only and time shall not be of the essence. The seller shall not be liable for any loss or damage whether arising directly or indirectly out of delay and whether in respect of the whole or any part of the goods ordered nor for any consequential loss however arising. Where a contract requires more than one delivery these conditions apply to each and every delivery.

4.2 Where the Seller arranges carriage of goods he does so as agent for the Buyer (whether or not a separate charge for carriage is made) and its sole responsibility in relation to carriage shall be to arrange (in the absence of specific instructions from the Buyer) for carriage to be effected by carrier or forwarder which it reasonably considers to suitable.

4.3 Delivery of the goods shall be taken by the Buyer when the same are ready and due for delivery and the Buyer shall supply the Seller with such details as may be necessary or as may be required by the Seller to enable the Seller to effect delivery.

4.4 If for any reason the Buyer shall indicate that it will not take delivery of the goods when the same are due and ready for delivery the Seller shall, if its storage facilities permit, store the goods and take reasonable steps to prevent their deterioration until actual delivery and the Buyer shall pay the Seller the reasonable costs (including insurance) of its so doing. This provision is without prejudice to any other rights of the Seller arising from or in connection with any failure of the Buyer to take delivery of the goods at the appropriate time.

4.6 In the event that the Seller does act as carrier or engages as principal or employs an outside carrier then it shall not be liable in respect of damage in transit or shortage in delivery unless thereof in writing given at the time of delivery by or on behalf of the Buyer followed by a full claim in writing within five days thereafter. In the event of non-delivery of the goods the Buyer shall give written notice thereof to the Seller within 10 days after the date of the Sellers invoice failing which the Seller shall not be liable for such non-delivery. Where goods are received by or on behalf of the Buyer but without being checked the Seller shall not be liable for any damage or shortage. Nothing in this paragraph shall impose any liability on the Seller in respect of damage in transit, shortage in delivery or non-delivery which would not arise (or which would not arise apart from the provisions of this paragraph) under the general law.

#### 5.0 TECHNICAL SPECIFICATIONS

5.1 All copyright and other intellectual property rights of whatever nature in relation to the goods belong (as between the Seller and the Buyer) exclusively to the Seller.

5.2 All dimensions, specifications in capacity, weight and colour are approximate only.

5.3 The Seller reserves the right to alter the specifications and if necessary or desirable to substitute modifications in relation to the goods without prior notice in furtherance of its general policy of continuous improvement in design and manufacture.

5.4 Any specified materials requested by the Buyer shall be reimbursed at cost to the Seller should these become obsolete due to product line discontinuance.

#### 6.0 WARRANTY

- 6.1 In the event that any of the goods are found to be defective within 6 months after the date of delivery the Seller shall repair or replace the same free of charge provided that :-
- (a) notification in writing of any claim hereunder is received by the Seller within 6 months after the date of delivery.
  - (b) the goods alleged to be defective are returned carriage paid to the Sellers warehouse or if the goods are locally situated outside the United Kingdom the Buyer shall have (at its own expense) arranged for an independent survey of the goods by a professional authority acceptable to the Seller which authority has confirmed the alleged defect.
  - (c) the Buyer shall be responsible for the payment of all deliveries and ancillary costs.
  - (d) the Seller shall not be liable in respect of any defect which is the result of misuse of the goods or fair wear and tear.
  - (e) goods supplied by the Seller but not manufactured by them are subject to the Conditions of Sale of the actual manufacturers, but the Buyer shall be entitled to such benefits as the Seller may receive under any guarantee given by the manufacturers in respect thereof.

## 7.0 EXCLUSIONS, INDEMNITIES, ETC

7.1 Subject as provided in Clause 6 above the Seller shall not be liable for any direct loss attributable to any defect in the goods however arising.

7.2 All express warranties and conditions (other than those specifically set out in these conditions) and all warranties and conditions implied in law, custom or otherwise as to the quality of the goods, their fitness for a particular purpose or their correspondence with description or sample are hereby excluded.

7.3 The Seller shall not be liable for any consequential or indirect economic loss or damage arising from the breach of any of its obligations hereunder or otherwise in connection with the contract or the goods to be supplied thereunder whether express or implied or however arising.

7.4 The Buyer shall indemnify the keep indemnified the Seller against all claims, cost and expenses however arising in respect of the death, personal injury or any economic or other loss or damage suffered by any person other than the Buyer arising from or in connection with any defect in the goods (whether arising through the Sellers negligence or otherwise) or otherwise in connection with the contract.

7.5 The Seller shall not be liable in respect of any representation made to the Buyer unless such representation is expressly confirmed by the seller in writing and accordingly in the event that the Buyer reports on a representation or is induced to enter into a contract by reason thereof he should notify the Seller in writing so that the Seller may confirm or deny such representation.

## 8.0 PASSING OF RISK AND TITLE

8.1 The goods shall be at the risk of the Buyer as soon as they are delivered by the Seller to the Buyer or its carrier or otherwise to the Buyers order.

8.2 The goods shall remain the sole and absolute property of the Seller as legal and equitable owner until such time as the full price therefore is paid to the Seller.

8.3 The Buyer acknowledges that he is in possession of the goods solely as bailee for the Seller until such time as the full price therefore is paid to the Seller.

8.4 Until such time as the Buyer becomes the owner of the goods, he will store them on his

premises separately from his own goods or those of any other person and in a manner which makes them readily identifiable as the goods of the Seller.

8.5 In the event that the Buyer shall sell on the goods or shall otherwise dispose of the goods in such a manner as to pass title to a third party the Buyer shall hold the proceeds of sale or other disposition on trust for the Seller and ensure that the same are not mingled with any other monies and shall at all times be identifiable as the Sellers monies provided that in no event shall the Seller be liable for any defect in the goods so sold on.

8.6 the Buyers right to possession of the goods shall cease if he, not being a company, commits an available act of bankruptcy or if it, being a company does anything or fails to do anything which would entitle a receiver to take possession of assets or which would entitle any person to present a petition for winding up or passes a resolution to wind itself up and in such circumstances the Seller may for the purposes of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

## 9.0 FORCE MAJEURE

9.1 If the performance of the contract shall be delayed by any circumstances beyond the control of the Seller including (but without prejudice to the generality of the foregoing) war, hostilities (whether war shall be declared or not), insurrection, industrial disputes, strikes, lock-outs, riots, storm, act of God, accidents, unavailability or shortage of materials or labour, interruptions of supply, any statute, rule, law, bye-law, order or request made by or issued by any government department or local or other duly constituted authority, then the Seller shall have the right to suspend further performance of the contract until such time as the cause of the delay shall no longer be present and for a reasonable time thereafter.

9.2 If the performance of the contract by the Seller shall be prevented by any such circumstances beyond the control of the Seller then the Seller shall have the right to be discharged from the further performance of any liability under the contract. If the Seller exercises such a right the Buyer shall thereupon pay the contract price less a reasonable allowance for what has not been performed by the Seller.

## 10.0 CANCELLATION

No order or contract can be cancelled by the Buyer after the Seller has issued a written acceptance or acknowledgement of the order or has delivered the goods.