

TWINPLAST LIMITED - CONDITIONS OF SALE

1. QUOTATIONS

Any order resulting from a quotation or the submission of a current price list shall be subject to these conditions. The Seller shall not be bound until the Customer has received written acceptance of the Customer's order ("date of acceptance"). These conditions shall prevail to the exclusion of any conditions of the Customer, and these conditions may only be varied in writing by a director of the Seller. Compliance with or implementation of orders does not imply acceptance of the Customer's terms and conditions.

2. PRICES

Prices invoiced will be those ruling at the date of delivery ("completion of order"). Quoted prices are subject to revision between date of acceptance and completion of order in the event of the Seller's costs being increased except through any happening or event within the Seller's direct control.

3. MATERIALS

The Seller shall not be bound by any implied or express warranty condition, guarantee or representation given or made on his behalf unless confirmed in writing, nor by any implied term, condition or warranty whether arising by implication of law or to be implied from circumstances.

The use to which materials supplied are put by the Customer being outside the Seller's control, the Seller accepts no responsibility for any consequential or other loss of any kind.

4. PAYMENT

In the event of default in payment by the 30th day of the month following the date of the invoice, all monies owing (whether due or not) by the Customer to the Seller shall become due and the Seller reserves the right to charge interest on all monies overdue at 2% per month from the date of the invoice on the balance outstanding to accrue on a daily basis until the date of actual payment, after as well as before any judgement. In the case of orders involving more than one delivery, payment shall be made within the specified period after receipt of goods forming each delivery. All payments are to be made on or before the due date as a condition precedent to future deliveries and where the goods are delivered in instalments payment for each instalment shall be a condition of delivery of subsequent instalments.

5. DELIVERY

All dates quoted for delivery are approximate and the Seller shall be under no liability for failure to deliver on the quoted date, nor shall late delivery be sufficient cause for cancellation. Where delivery is by instalment, delay in delivering one or more instalments shall not entitle the Customer to refuse to accept any remaining instalments.

Delivery shall take place when the goods are delivered to the Customer's premises unless the Customer has given the Seller special instructions and in which case, delivery shall take place when the goods are delivered to the order of the Customer.

Any complaint of short delivery, excess, or incorrect goods must be notified within 48 hours of receipt of the goods and confirmed in writing at that time by the Customer to the Seller. If not so notified any shortage, excess or incorrect goods shall be deemed to have been accepted by the Customer and paid for accordingly. The Seller shall not incur any liability or obligation to the customer in respect of any failure to deliver or delay in delivery, or inability to complete an order.

6. TERMINATION

The Seller shall have the option to determine contract forthwith without prejudice to its own rights accrued at the date of termination and to recover damages in the event of any breach by the Customer of its obligations here under or it is the subject of an administration order, enters into liquidation or suffers a receiver or administrative receiver or administrator to be appointed or if the Customer is an individual, suffers a bankruptcy order, or in either case causes a meeting or makes any arrangement or composition with creditors, or allows execution or distress to be levied against its goods, then the Seller may give notice to the Customer terminating the contract whereupon the Customer shall at its own expense re-deliver such goods to the Seller. In such cases the Seller may (subject to any contrary statutory provision) with or without previous notice take possession of and sell the goods and is in such circumstances irrevocably authorised by the Customer to enter the premises on which the goods are situated and remove the same at the Customer's expense.

7. DAMAGE IN TRANSIT AND DEFECTS

Except where the Customer has given special instructions as to carriage or delivery and delivery has been made to the order of the Customer the Seller will either repair or replace free of charge goods damaged in transit or allow credit therefor provided the Customer shall give the Company notice in writing of the extent and nature of the damage together with the relevant advice note and the date and number of the relevant invoice within 48 hours of delivery. The Customer shall pay the balance of any delivery not in dispute. In the absence of such notification the Customer shall be deemed to have accepted the goods. Goods supplied by the Seller and which are defective by reason solely of defective materials or workmanship shall, if the defect is notified to the Seller within 6 months of delivery, be repaired or replaced at the Seller's option provided that the Seller is immediately notified in writing of the defect and, (if required) the goods are returned to the Seller. If the Seller does not repair or replace such defective goods the Customer shall be given full credit for the cost of the same as quoted but shall have no other remedy. In assessing whether there is any defect, shortage or excess of the goods the following shall apply:

- i) No responsibility is accepted for minor deviation in colour or finish, and shall not entitle the Customer to reject the goods or cancel the remainder of a contract order.
- ii) Product tolerances are specified in the Seller's current Technical Specifications (available on request) and will be permissible without being considered as a defect nor the subject of a price adjustment.
- iii) Quotation in respect of items which are specially manufactured to the Customer's specification shall be deemed to have been executed if an amount within 15% of the ordered quantity shall have been delivered.
- iv) Whilst every endeavour will be made to supply material in accordance with the quality of samples submitted or previously supplied, the Seller does not guarantee it.

8. A) TITLE AND RISK

- i) Goods shall remain the property of the Seller until unconditional payment in full has been received by the Seller for the goods and for all other goods which have been delivered by the Seller to the Customer at the time of full payment for such former goods.
- ii) Until such unconditional payment the Customer shall:
 - (a) keep such goods in its capacity as bailee for the Seller; and
 - (b) store the goods separately and clearly identify the goods so that they can be clearly recognised as property of the Seller.
- iii) The Customer may dispose of the goods in respect of which property has not passed hereunder in the ordinary course of its business as principal. The principle of "first in, first out" shall apply (or be deemed to apply, if not so applied) so that goods the subject of earlier invoices shall be disposed of (or deemed to be disposed of as the case may be) before goods the subject of later invoices.
- iv) If the Customer incorporates the goods into other products before property passes (with the addition of its goods or those of others) or uses such goods as material for other products (with or without such additions) the property in those products including the final product is upon such incorporation or use and by that event transferred to the Seller and the Customer shall maintain records sufficient to enable the manufactured products and the goods incorporated therein to be identified measured or otherwise quantified.

- v) If the goods or any part thereof whether or not incorporated into other products or used as material for other products are re-sold by the Customer before he has made unconditional payment to the Seller as aforesaid the Customer shall in its fiduciary capacity as agent for the Seller hold all proceeds of sale in respect thereof in trust for the Seller and in a separate account to be opened by the Customer for the purposes of receiving only the proceeds of such sales and be accountable to the Seller in respect thereof.
- vi) The Customer hereby assigns to the Seller all rights and claims which the Customer may have against its own customers arising from sales to its own customers referred to in sub-clause (v) above until unconditional payment has been made to the Seller in full as aforesaid.
- vii) The Seller may appropriate payments by the Customer to such goods and accounts as it thinks fit, notwithstanding any purported appropriation by the Customer to the contrary, and may make such appropriation at any time.
- viii) If before property in the goods has passed to the Customer the Customer is in breach of any payment obligation hereunder or is entitled to terminate the contract under Clause 6. (Termination) hereof the Seller may give notice to the Customer terminating the contract whereupon the Customer shall at his own expense re-deliver such goods to the Seller. In such cases the Seller may with or without previous notice take possession of and sell the goods and is in such circumstances irrevocably authorised by the Customer to enter the premises on which the goods are situated and remove the same at the Customer's expense.
- ix) Notwithstanding the provisions of this clause risk in all goods supplied shall pass to the Customer on delivery whereupon the Customer shall be liable for the insurance of such goods.

8. B) TITLE AND RISK

TO APPLY WHERE GOODS ARE DELIVERED TO PERSONS DOMICILED IN, OR COMPANIES INCORPORATED IN OR SUBJECT TO THE LAWS OF, SCOTLAND

- i) Property and title in the Goods shall not pass to the Customer until the price due in terms of the contract has been received by the Seller. Where the items to be supplied in terms of the contract are delivered in instalments this clause will apply to each instalment as if it formed the subject matter of a separate and independent contract.
- ii) Until the price of the goods has been paid the Customer will hold and store the goods as agent for the Seller and in a manner which clearly distinguishes them from other goods and products of the Customer and indicates that they are in fact owned by the Seller and not by the Customer.
- iii) The Customer shall not sell or dispose of any individual consignment of or delivery of the goods save as agent for the Seller until the price due in terms of the contract has been received by the Seller.
- iv) The Seller may recover the goods at any time if still in the Customer's possession if the Seller goes into liquidation or suffers a receiver to be appointed and the Seller, its agents or servants, will be entitled to remove any goods for which the price has not been paid.
- v) Notwithstanding the provisions of this clause risk in all goods supplied shall pass to the Customer on delivery whereupon the Customer shall be liable to the insurance of such goods.
- vi) Sub-Clauses i), ii), iii) and (iv) of this clause 8 shall each be construed and receive effect as a separate clause of these Conditions.

9. LIMITATION OF THE SELLER'S LIABILITY

Except where expressly mentioned in these Conditions the Seller shall have no liability whatsoever to the Customer in respect of any loss or damage, expense or injury (whether direct, indirect or consequential) in respect of any goods supplied or work done by the Seller whether resulting from the negligence of the Seller or its servants. The Customer shall indemnify the Seller against any claim made against the Seller by a third party arising out of any goods supplied to or work done for the Customer.

All goods are sold by the Seller and shall be accepted by the Customer upon the terms that no guarantee is given by the Seller as to their quality and suitability or fitness for any particular purpose (even though the purpose may be known to the Seller).

- i) The Seller does not exclude its liability for death or personal injury and accepts liability for any breach on the part of the Seller of any undertaking as to title, quiet possession and freedom from encumbrance which may be implied by Section 12 of the Sale of Goods Act 1979.
- ii) This clause shall not deprive a Customer dealing as a consumer pursuant to Section 12 of the Unfair Contract Terms Act 1977 of his statutory rights.
- iii) Without prejudice to sub-clauses i) and ii) above the amount of any damages recoverable by the Customer from the Seller for breach of contract or negligence shall be limited to the invoice price of the goods.

10. TESTING OF INKS

Customers must (a) test inks supplied by the Seller for suitability (on a substrata or otherwise) and (b) test substrates supplied by the Seller for suitability for use with inks supplied from other sources before use for any purpose whatsoever and accordingly (without prejudice to any other provisions hereof) the Seller shall not be liable for any loss, cost, damage or expense (consequential, direct, indirect or otherwise) arising from the breach of this provision or use of any substituted ink substrate or other substance.

11. INTELLECTUAL PROPERTY RIGHTS

All work is accepted on the understanding that the Customer either has or has obtained the appropriate authority to permit the work to be produced and any infringement of any patent or of any other rights is the responsibility of the Customer. Accordingly the Customer agrees to indemnify the Company on a full indemnity basis in respect of any such infringement.

12. FORCE MAJEURE

- i) Without prejudice to any other condition hereof should the manufacture, supply or despatch of the whole or any part of the goods contracted for be interrupted, prevented or hindered by any cause or causes whatsoever beyond the Seller's control the Seller shall be entitled to postpone or suspend any delivery or deliveries under the contract until (in the Seller's judgement) any such cause has ceased to operate. The Seller shall be under no liability whatsoever in respect of such postponement or suspension.
- ii) If delivery is delayed for more than three months the Seller has the option (without incurring any liability for loss or damage arising therefrom) of cancelling the contract and refunding any payment made by the Customer.
- iii) Without limiting the generality of the cause or causes referred to above the same shall include war, fire, accident, breakdown of plant or machinery, industrial action, disputes (including strikes and lockouts) unavailability of and restrictions on supply, non-delivery or delay in delivery of any materials or any other circumstances (of whatsoever nature and not limited to the foregoing) which directly or indirectly interrupt or hinder the due performance of the contract.

13. DEFINITION

In these Conditions "the Seller" means Twinplast Limited or its successors in title. These Conditions and the contract shall be governed by and construed in accordance with English Law and the Customer submits to the non-exclusive jurisdiction of the English Courts.