

ARTEL RUBBER HOLDINGS LIMITED

STANDARD TERMS & CONDITIONS FOR THE SALE OF GOODS

1. DEFINITIONS

"Agreed Payment Date" -means the date scheduled for payment in accordance with Clause 3 hereof.

"Buyer" -means the person purchasing from the Seller.

"Conditions" -means the terms and conditions of sale set out herein.

"Contract Price" -means the price for the Goods net ex works excluding carriage, packing, insurance and VAT (and where applicable costs of installation) unless otherwise stated.

"Goods" -means the goods described which the Buyer agrees to buy from the Seller pursuant to these Conditions and the Seller's quotation shall act as an invitation to treat only.

"Seller" -means Artel Rubber Holdings Limited, Unit 11 Waterloo Park, Wellington Road, Bidford on Avon, B50 4JH.

2. CONDITIONS APPLICABLE

2.1 These Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document

2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions and the Seller's quotation shall act as an invitation to treat only

2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions

2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller

2.5 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time

2.6 The headings in these Conditions are for convenience only and shall not affect their interpretation

3. PRICE AND PAYMENT

3.1 The Contract Price shall be as per the Seller's written quotation and shall be payable together with the relating VAT (and where the Seller agrees to effect delivery to the Buyer's premises all costs of carriage and other associated costs) on the Agreed Payment Date

3.2 The Agreed Payment Date shall in the case where the Seller has specified overleaf that:-

(a) The Goods are sold "Cash on Delivery" or "COD" mean immediately delivery has taken place in accordance with these Conditions;

(b) Payment is "due 30 days" means within 30 days of delivery;

(c) If payment is not made within the 30 days of delivery then the Buyer will automatically lose the benefit of any discount that had been agreed on that particular order;

3.3 Time for payment of the Contract Price shall be of the essence and interest on overdue payments shall accrue from the Agreed Payment Date from day to day until the date of payment at the rate of 4% above Barclays Bank p.l.c. base rate from time to time in force and shall accrue at such a rate after as well as before any judgment

3.4 The Seller reserves the right at any time prior to delivery of the Goods to adjust the Contract Price to take account of any increase in costs of the Goods to it including currency fluctuations

3.5 Any increase in the Contract Price shall be notified to the Buyer in writing at least 7 days before delivery and shall entitle the Buyer to cancel the contract by notice in writing (a "Cancellation Notice") at any time prior to delivery in which case neither party shall be deemed to be in breach of its obligations to the other and the contract will be discharged

3.6 In the event that no "Cancellation Notice" is received the Buyer shall be deemed to have affirmed the contract upon delivery at the new Contract Price

3.7 The Buyer waives all and any existing or future claims and set-offs against any payment of the agreed price due on an invoice of the Seller and agrees to pay the same regardless of any equivalent set-off or counterclaim on the part of the Buyer against the Seller.

4. THE GOODS

4.1 The quantity and description of the Goods shall be as set out overleaf

4.2 The Buyer is responsible for inspecting the Goods at the time of delivery and ensuring that the quantities and description of the Goods match the quantities and description set out overleaf

4.3 The Seller shall be under no liability for any shortages discovered after the Buyer has accepted delivery, such acceptance to be deemed to have taken place on signing of the delivery note or otherwise through conduct of the Buyer

5. DELIVERY

5.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the goods to that place which shall be stated overleaf

- 5.2 Where the Seller agrees that delivery shall be made otherwise than by the Buyer collecting the Goods from the Seller's premises then delivery shall be effected once the Goods arrive at the agreed place for delivery specified overleaf but prior to unloading.
- 5.3 Offloading of the Goods shall be the responsibility of the Buyer which will be conducted with immediate despatch.
- 5.4 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer
- 5.5 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract. Failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the contract as a whole as repudiated
- 5.6 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods
- 5.7 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may agree to:-
- (a) Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - (b) Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the contract or charge the Buyer for any shortfall below the price under the contract

DESIGN

- 6.1 The Seller may provide drawings and or calculations and undertake other design work (individually and collectively known as "Design Work") at the behest of the Buyer once a contract for the supply of the goods that are the subject of the Design Work has been entered into.
- 6.2 The cost of the Design Work shall be additional to the cost of supplying any goods or the provision of other services by the Seller.
- 6.3 Once the Design Work has been approved by the Buyer, the Seller cannot in any way be held responsible for any errors, inaccuracies, or omissions in the Design Work. The Buyer is responsible for satisfying all requirements, rules, and regulations and the conduct of any work, including that of a structural or architectural nature, that may be the subject or consequence of the Buyer utilising or adopting the Design Work in any way.

7. INSTALLATION

- 7.1 Where the Seller at the Buyer's request agrees to install the Goods at a place specified by the Buyer as part of the Contract (so that the contract is to be properly regarded as a supply and installation contract) then such installation will be carried out by a suitable qualified representative of the Seller
- 7.2 Any date quoted for installation of the Goods is approximate only and the Seller shall not be liable for any delay in installing the Goods Time of installation shall not be of the essence unless otherwise agreed in writing by the Seller
- 7.3 As soon as is practicably possible following completion of the installation the Buyer shall inspect and test the Goods and upon being satisfied that installation has been properly effected shall sign a certificate to that effect which shall be conclusive evidence as to satisfactory installation of the Goods and their suitability for purpose and condition
- 7.4 Failure by the Buyer to inspect and test all Goods supplied and installation of the Goods shall not entitle the Buyer to avoid liability for payment of the Contract Price in accordance with these Conditions
- 7.5 The obligations of the Seller to assemble, erect or install the Goods are accepted on condition that the Buyer undertakes to provide or procure safe working conditions and the Buyer shall ensure safe and adequate access for the Seller its servants and agents to the place where installation work is to be done by the Seller and shall be responsible for the safe custody of all equipment, materials and other property belonging to the Seller, its servants or agents

8. RISK AND PROPERTY

- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer:-
- (a) in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
 - (b) in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery of the Goods, the time when the Seller has tendered delivery of the Goods
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is thing due
- 8.3 Until title to the Goods passes:-
- (a) the Buyer will hold the Goods as fiduciary agent and the bailee for the Seller;
 - (b) the Goods shall be kept separate and distinct from all other property of the Buyer and of third parties and in good and substantial repair and condition and be stored in such a way as to be clearly identifiable as belonging to the Seller;

- (c) the Buyer's power to sell the goods shall automatically cease if the Buyer has a petition presented for its winding-up or for an administration order under the Insolvency Act 1986 or passes a resolution for voluntary winding-up otherwise than for the purpose of a bona fide amalgamation or reconstruction or compounds with its creditors or has a receiver appointed over all or any part of its assets or becomes bankrupt or insolvent or enters into any arrangements with creditors or takes or suffers any similar action in consequence of debts or carries out or undergoes any analogous act or proceeding under foreign law;
- (d) upon determination of the Buyer's power of sale pursuant to sub-clause (c) above the Buyer shall place any of the Goods in its possession or under its control and unsold at the disposal of the Seller and the Seller shall be entitled to enter upon any premises of the Buyer for the purpose of removing the Goods
- (e) Where the Seller exercises its rights to remove the Goods pursuant to Condition 7(d) above the Buyer will reimburse the Seller in respect of any decrease in value of the Goods arising out of the fact of such removal
- (f) The Seller shall not be required to make good any alterations to the Buyer's property undertaken by the Seller or its agent in good faith for the purposes of effecting installed or with a view to removing the Goods which is necessary because of the Buyer's failure to pay to the Seller the Contract Price in accordance with these Conditions

9. **WARRANTIES AND LIABILITIES**

- 9.1 Nothing in this Agreement shall be deemed to exclude or restrict the Seller's liability for death or personal injury resulting from the Seller's negligence save in the circumstances set out in Clause 9 or otherwise where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12) all liability of the Seller for negligence is expressly excluded
- 9.2 The Seller warrants that it has title to the Goods and that any installation work undertaken on its behalf will be carried out using reasonable skill and care but that all other warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the Goods and/or their operation and whether implied by statute or common law or otherwise are excluded (including compliance with any British standard as issued by the British Standards Institute or other public law requirement relating to the Goods) and the Buyer shall satisfy itself in this respect prior to the formation of the contract
- 9.3 Notwithstanding Clause 9.2 above the Seller will pass on the benefit of any manufacturer's guarantee or warranty in relation to the Goods and shall where so authorised by the manufacturer (and at the manufacturer's expense) undertake such repair or replacement of goods as sanctioned by the manufacturer but not otherwise
- 9.4 The Seller shall be under no liability for any indirect or consequential loss and/or expense (including loss of profit) suffered by the Buyer or any third party arising out of breach by the Seller of these Conditions and in any event its maximum liability to the Buyer for any loss or series of losses hereunder whether arising in contract or tort shall be limited to the Contract Price.

10. **FORCE MAJEURE**

The Seller shall not be liable to the Buyer or be deemed to be in breach of these Conditions for any failure in the performance of any of its obligations under these Conditions caused by factors outside its control

11. **SALES PROMOTION DOCUMENTATION**

- (a) Any of the particulars contained in any manufacturer's catalogues, technical circulars, price lists and its other literature, are for the Buyer's general guidance only and shall not constitute representations by the Seller and the Seller shall not be bound thereby
- (b) Any technical advice, drawings, specification and other particulars produced by the Seller or any representative of the Seller is believed to be reliable and is given in good faith but the Seller makes no warranty express or implied in regard thereto and the Buyer should verify such information independently

12. **ASSIGNMENT**

Neither the Seller nor the Buyer shall assign or transfer or purport to assign or transfer the contract or the benefits thereof to any person without the prior written consent of the other

13. **NOTICES**

Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its address specified overleaf or such other address as may be specified by either party by notification to the other in writing and shall be deemed to have been served, if sent by post, 48 hours after posting

14. **SEVERABILITY**

If any provision of these Conditions is held by any court or other competent authority, to be void or unenforceable in whole or in part, the other provisions of these Conditions and the remainder of the affected provisions shall continue to be valid

15. **PROPER LAW AND JURISDICTION**

The contract shall be governed by and construed in accordance with the Law of England and any matter to be determined hereunder will be subject to the exclusive jurisdiction of the English Courts.



Unit 11
 Waterloo Park
 Wellington Road
 Bidford on Avon
 B50 4JH
 Tel: 01789 774099
 Fax: 01789 774599

Credit Account Application Form

Company Name : _____

Accounts Contact : _____

Invoice Address : _____

Registered Office Address : _____

Tel : _____

Co. Reg. No. : _____

Fax : _____

VAT No. : _____

PLC Ltd. Partnership

Sole Proprietor

If partnership please list names and address of all partners. If sole proprietor please give name and address if different to that given above.

Company Established in : _____

Approx. annual sales : _____

Monthly credit required : _____

Banker : _____

Sort Code : _____

Account No. : _____

Trade Reference 1 : _____

Trade Reference 2 : _____

Tel : _____

Tel : _____

Fax : _____

Fax : _____

I/We give the above names and address of referees of whom the customary trade enquiries may be made. (N.B. trade referees should be able to speak for a credit figure comparable to the credit required). I/We agree to your credit terms of payment by the end of the month following the month of invoice.

Signature : _____

Date : _____

Position : _____