

COMCO PLASTICS (BELFAST) LTD - STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions of sale:

Company	means Comco Plastics (Belfast) Ltd.
Conditions	mean the terms and conditions of sale set out overleaf and below and any special terms and conditions agreed in writing by the Company.
Contract	means the contract for the sale and purchase of the Goods upon and subject to the Conditions.
Customer	means the person firm or company who purchases the Goods from the Company.
Delivery Date	means the date specified by the Company when the Goods are to be delivered.
Goods	means the Goods described overleaf.
Price	means the price of the Goods as determined in accordance with clause 4.1.

1.2 Any reference in the 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.

1.3 The headings in the Conditions are for convenience only and shall not affect their interpretation.

1.4 Where the context so admits the singular shall include the plural and vice versa and reference to any gender shall include all genders.

2. CONDITIONS APPLICABLE

2.1 Unless otherwise agreed in writing signed by a director of the Company the Conditions shall govern all contracts between the Company and the Customer to the exclusion of any other terms and conditions subject to which any quotation is accepted or purported to be accepted or any order is given or purported to be given by the Customer. No condition warranty or other term of any order submitted by the Customer or which the Customer may seek to impose shall apply to the Company. No other statement, written or oral, including without limitation any statements, descriptions or illustrations contained in any brochure or promotional literature of the Company or any manufacturer relating to the Goods, (other than the manufacturer's specification of the Goods) shall be incorporated into the Contract or have any legal effect whatsoever.

2.2 The Customer confirms that it has not entered into the Contract on the basis of any representation relating to the sale of the Goods that is not expressly incorporated into the Contract.

2.3 No employee or agent of the Company has any authority to vary the Conditions orally or to make any representation on behalf of the Seller as to their effect.

2.4 No variation to the Contract shall be binding on the Company unless the variation is in writing and signed by a director of the Company.

2.5 All orders for the Goods shall be deemed to be an offer by the Customer to purchase the Goods subject to the Conditions. Any quotation or price list issued by the Company shall act as an invitation to treat only.

2.6 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Customer's acceptance of the Conditions.

2.7 A quotation by the Company is without commitment and is valid for a period of 30 days only from its date of issue provided that the Company has not previously withdrawn it.

3. THE GOODS

- 3.1 The Company warrants that on delivery the Goods will conform with the manufacturer's specification relating to the Goods.
- 3.2 The Customer shall be responsible for specifying the Goods and/or selecting the Goods and shall satisfy itself that the Goods are of the description type condition quality and fitness for the Customer's purpose. Also the Customer shall be responsible for giving the Company any necessary information and instructions relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
- 3.3 Samples are provided solely to enable the Customer to judge the quality colour thickness texture and other characteristics of the Goods and shall not render any sale to be a sale by sample.

4. THE PRICE AND PAYMENT

- 4.1 The Company reserves the right to vary any of the prices in its published price lists without prior notice. Orders are accepted on condition that the Goods will be invoiced at the Company's prices as stated in its published price list ruling at the date of delivery and save with the prior written agreement of a director of the Company all prices and any discounts quoted by the Company whether orally or in writing are made on the basis that the resulting amounts invoiced together with all costs of carriage and other associated costs if the Company agrees to effect delivery of the Goods elsewhere than at its own premises must in all circumstances be settled in full by the Customer by the last working day of the month following the end of the month in which the Goods are delivered.
- 4.2 The Price and all additional charges stated as being payable under the Contract are exclusive of VAT which shall be due at the rate ruling on the date of a VAT invoice.
- 4.3 The Price is exclusive of the costs of carriage packing packaging and insurance of the Goods unless otherwise agreed by the Company in writing.
- 4.4 Save with the prior written agreement of a director of the Company payment of the Price and all other additional sums payable under the Contract (including without limitation all costs of carriage and other associated costs) and VAT thereon shall be settled in full by the last working day of the month following the end of the month in which the Goods are delivered. Time for payment of the Price shall be of the essence.
- 4.5 The Company shall be entitled to invoice the Customer for the Price on or at any time after delivery of the Goods unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods in which event the Company shall be entitled to invoice the Customer for the Price at any time after the Company has notified the Customer that the Goods are ready for collection or (as the case may be) the Company has tendered delivery of the Goods.
- 4.6 Without prejudice to the Company's other rights and remedies interest on overdue payments shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 1½% per month calculated on a daily basis and shall accrue at such a rate after as well as before any judgment.
- 4.7 Delivery of the Goods may at any time be suspended and/or cancelled by the Company pending payment of any sum due on any account whatsoever from the Customer (including but not limited to any other contract between the Company and the Customer).
- 4.8 The Company reserves the right by giving notice to the Customer at any time before delivery to increase the Price to reflect any increase in the cost to the Company in supplying the Goods which is due to any change of delivery dates,

quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or any failure of the Customer to provide the Company with adequate information or instructions.

- 4.9 Notwithstanding any other Condition the Company may at any time in its sole discretion limit or cancel the credit of the Customer as to time and amount and as a consequence reserves the right to require payment in cash before delivery of any undelivered part of the Goods.
- 4.10 The Customer may not withhold payment of any invoice or other amount due to the Company by reason of any right of deduction set-off or counterclaim which the Customer may have or allege to have under the Contract or otherwise.
- 4.11 The Company shall be entitled to a general lien on all Goods and property of the Customer in the Company's possession (whether worked on or not) (including Goods which have been paid for) for the unpaid Price of all Goods sold to the Customer by the Company under the Contract or any other contract made with the Customer and shall be entitled on the expiration of 14 days' notice to dispose of such Goods or property as agent for the Customer in such manner and at such price as it thinks fit and to apply the proceeds towards such unpaid Price and shall when accounting to the Customer for any balance remaining be discharged from all liability in respect of such Goods or property.

5. DELIVERY

- 5.1 All Delivery Dates are made by the Company honestly and on reasonable grounds but shall be estimates only and to the extent permitted by law the Company shall not be liable for delay or for any damage or inconvenience suffered by the Customer as a result of such Delivery Dates not being met. Delivery Dates shall be extended by such time as shall be reasonable on account of any delay caused by any act omission or default of the Customer or by any other matter beyond the reasonable control of the Company.
- 5.2 Unless otherwise agreed by the Company in writing delivery of the Goods shall be made by the Customer collecting the Goods at the Company's premises following notification that the Goods are ready for collection. Where the Company agrees that delivery shall be made otherwise than by the Customer collecting the Goods from the Company's premises then delivery shall be effected once the Goods arrive at the place for delivery agreed in writing by the Company but prior to unloading.
- 5.3 The Company shall be entitled to make deliveries by instalments or partial deliveries. Each instalment shall be construed as constituting a separate agreement to which all the provisions of the Contract shall (with any necessary alterations) apply. Failure by the Company to deliver any one or more instalments in accordance with the Contract or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 5.4 Where the Customer is entitled to call off the Goods under the Contract at intervals it shall take delivery of the Goods immediately upon the Delivery Dates or at the intervals stated in the Contract or as soon thereafter as it is notified by the Company that the Goods are available for delivery.
- 5.5 If for any reason the Customer fails to call off give delivery instructions or take delivery of the Goods on the due date or upon receipt of such notification or otherwise causes or requests a delay in delivery then without prejudice to any of its other rights the Company shall be entitled to store the Goods and if it does so:
- 5.5.1 it shall so inform the Customer in writing;
 - 5.5.2 the Customer shall pay or reimburse the reasonable cost (including insurance) of such storage from the date of such notification until delivery to the Customer;
 - 5.5.3 it shall be entitled to invoice the Customer for the Price of such Goods;

- 5.5.4 it shall be entitled to appropriate any payment made by the Customer to such of the Goods (or any Goods supplied under any other contract with the Customer) as the Company may in its sole discretion think fit;
 - 5.5.5 such Goods shall be in all respects at the Customer's risk;
 - 5.5.6 it shall be entitled to suspend or cancel any further consignments of the Goods.
- 5.6 The Customer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased provided that such discrepancy in quantity shall not exceed 10% and the Price shall be adjusted pro rata to the discrepancy.

6. PASSING OF RISK

- 6.1 The risk of loss or damage to the Goods shall pass to the Customer in the case of Goods to be delivered at the Company's premises at the time when the Company notifies the Customer that the Goods are available for collection or in the case of Goods to be delivered by the Company itself otherwise than at the Company's premises at the time when the Company has tendered delivery of the Goods or in the case of delivery by a carrier appointed by the Customer on delivery to such carrier.
- 6.2 Notwithstanding clause 6.1 as to the passing of risk the Goods delivered by the Company under the Contract shall remain the sole and absolute property of the Company until the Customer has paid in full the Price of the Goods and all other goods agreed to be sold by the Company to the Customer for which payment is then due (including any VAT and interest thereon).
- 6.3 Until ownership of the Goods has passed to the Customer, the Customer must:
- 6.3.1 hold the Goods on a fiduciary basis as the Company's bailee;
 - 6.3.2 store the Goods (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property;
 - 6.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 6.3.4 maintain the Goods in satisfactory condition insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company and on request the Customer shall produce the policy of insurance to the Company; and
 - 6.3.5 hold the proceeds of the insurance referred to in condition 6.3.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
- 6.4 The Customer's right to possession of the Goods shall terminate immediately if:
- 6.4.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation otherwise than for the purpose of solvent amalgamation or reconstruction, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
 - 6.4.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under the contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
 - 6.4.3 the Customer encumbers or in any way charges any of the Goods.

- 6.5 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.6 Until such time as the property in the Goods passes from the Company the Customer shall upon request deliver up to the Company such of the Goods as have not ceased to be in existence or not been resold. If the Customer fails to do so the Company may enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods.

7. INSPECTION AND ACCEPTANCE

- 7.1 The Customer shall inspect the Goods immediately on delivery and shall within 4 days of delivery notify the Company in writing of any alleged, shortage or surplus, loss or damage or any failure of the Goods to comply with the manufacturer's specification relating to the Goods and upon any such notification the Customer shall afford the Company an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them or any modification is made to them by the Customer or any sale of them takes place whichever is the earlier. If the Customer shall not give any such notice or shall fail to comply with any of the provisions of this clause the Goods shall be conclusively presumed to be in accordance with the Contract and the Customer shall be deemed to have accepted the Goods.
- 7.2 The Customer shall in any case accept and pay at the contract rate for all Goods which are delivered and conform to the Contract.
- 7.3 In no circumstances whatsoever may the Goods be returned in whole or in part by the Customer without the prior written consent of the Company. A handling charge determined by the Company may be deducted from any credit allowed by the Company or shall be paid to the Company by the Customer upon demand where such consent is given for the Goods to be returned and no failure to comply with the Contract on the part of the Company is found. In cases where Goods not normally stocked by the Company have been ordered especially, the Company may not then be in a position to accept cancellation and in any event shall not be so obliged.

8. WARRANTIES AND LIMITATION OF LIABILITY

- 8.1 Nothing in the Conditions shall exclude or restrict liability for death or personal injury caused by the Company's negligence or fraudulent misrepresentation or affect the statutory rights of a buyer dealing as consumer (as defined in the Unfair Contract Terms act 1977 s.12).
- 8.2 The Customer acknowledges that the Company acts as a stockist and merchant only and is not the manufacturer of the Goods and that the Goods are purchased by the Customer relying wholly on its own assessment of the Goods in all respects whatsoever.
- 8.3 The Company warrants that at the time of delivery it will have title to the Goods. Except for the warranty given by the Company in clause 3.1 all other warranties, conditions or terms relating to fitness for purpose, merchantability, quality, condition, operation and/or correspondence to any description or sample of the Goods and whether implied by statute or common law or otherwise are excluded to the fullest extent permitted by law.
- 8.4 Unless the Contract expressly provides otherwise all weights dimensions statements as to performance and any other data relating to the Goods supplied by the Company are approximate only.
- 8.4 The Company shall not be liable to the Customer in any way whatsoever for:
- 8.4.1 changes in specification of the Goods made by the Company's suppliers; or
 - 8.4.2 the discontinuance by the Company's suppliers of any particular line of the Goods.

- 8.5 It is agreed that the liability of the Company to the Customer in respect of any failure of the Goods to comply with the warranty given in clause 3.1 or in respect of loss or damage to the Goods in transit where the Company itself delivers the Goods shall be limited:
- 8.5.1 where such failure loss or damage is in respect of the whole of the Goods, to supplying free of charge repaired or replacement Goods within a reasonable time or at the Company's option repaying the Price of the Goods up to the amount paid by the Customer;
- 8.5.2 where such failure loss or damage is in respect of part of the Goods, to supplying free of charge repaired or replacement Goods for that part of the Goods within a reasonable time or at the Company's option repaying the proportion of the Price which that part of the Goods bears to the Price of all of the Goods included in the Contract up to the amount paid by the Customer provided that written details of any such claim shall have been received by the Company within 4 days from the date of delivery, the relevant Goods shall have been returned to the Company at its expense if so required and the Company's examination of the relevant Goods having disclosed to its reasonable satisfaction that any such failure loss or damage has been caused by faulty materials or workmanship or the fault or negligence of the Company in the course of delivering the Goods as appropriate and not by fair wear and tear, or any wilful damage, negligence, unsuitable storage, mishandling, damage in transit, inadequate packing, misuse or alteration of the relevant Goods by the Customer after delivery. Save as provided in this clause the Company shall have no further liability to the Customer in respect of such Goods.
- 8.6 Without prejudice to any other Condition the Company gives no warranty, express or implied, as to colour, uniformity of shade, exact colour shade, degree of transparency or tolerances of the Goods and it is agreed that any variation in colour, degree of transparency and/or tolerances within the manufacturer's specification relating to the Goods will be acceptable.
- 8.7 The Company will be responsible for the bodily injury or death of any person to the extent that such bodily injury or death is directly caused by the negligence of the Company or of any person for whose acts it is responsible.
- 8.8 The Company will be responsible for loss or damage to property to the extent that such loss or damage is directly caused by the negligence of the Company or of any person for whose acts it is responsible provided that the liability of the Company in respect of loss or damage to the Customer's property shall be limited to the lower of the direct costs of replacement or repair of such property or the sum of one million pounds per incident or series of incidents arising out of the one event.
- 8.9 Subject to clause 8.1 in no circumstances shall the Company be liable to the Customer whether in tort (including but not limited to negligence or breach of statutory duty) contract or otherwise for any loss of use of the Goods in whole or in part, any loss of profits or business or contract or any type of special indirect or consequential loss (including loss or damage suffered by the Customer as a result of any action by a third party) even if such loss was reasonably foreseeable or the Company had been advised of the possibility of the Customer incurring the same.
- 8.10 The Seller warrants that it is purchasing the Goods for resale purposes only and that it is not a consumer.
- 8.11 All processing of, or any work done on, the Customer's materials shall be entirely at the Customer's risk and the Company accepts no liability to the Customer or any third party for any loss or damage to such materials howsoever arising and the Customer shall indemnify the Company against all claims loss damages penalties costs and expenses to which the Company may become liable as a result of such processing or work or the use of such materials.
- 8.12 Subject to clause 8.1 the Company's total liability in contract for any claims loss or damage arising in connection with the Contract shall be limited to the Price of the Goods.

9. INTELLECTUAL PROPERTY

- 9.1 All designs drawings specifications and patterns prepared by the Company are the copyright of and shall remain the property of the Company and shall not be copied, divulged or used either directly or indirectly by the Customer or any other person without the Company's prior written consent.
- 9.2 The Customer acknowledges that all of the intellectual property rights displayed on subsisting in or relating in any way to the Goods are and shall remain the sole property of the Company or the manufacturer of the Goods as the case may be and that it acquires no rights whatsoever therein.
- 9.3 If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with a design drawing instruction or specification provided by the Customer, the Customer shall indemnify the Company at all times against all claims, loss, damages, liabilities, costs and expenses awarded against or incurred by the Company in connection with any claim for infringement of any patent, copyright, design, trademark, or other intellectual property right of any other person which results from the Company following the same.

10. INSOLVENCY OF THE CUSTOMER

If the Customer makes a voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of solvent amalgamation or reconstruction), or an encumbrancer takes possession or a receiver or an administrator is appointed over any of the property or assets of the Customer, or the Company has reasonable cause to believe that any of such events is about to or appears likely to occur in relation to the Customer and notifies the Customer accordingly then without prejudice to any other right or remedy available to the Company, it shall be entitled to terminate the Contract forthwith or suspend any further deliveries of the Goods without liability to the Customer, and if the Goods have been delivered but not paid for the Price and all additional charges (including without limitation VAT) relating to them shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

11. FORCE MAJEURE

The Company reserves the right to defer the Delivery Date or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions or restrictions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or industrial disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials Provided that , if the event in question continues for a continuous period in excess of 30 days, the Company shall be entitled to give notice in writing to the Customer to terminate the Contract.

12. GENERAL

- 12.1 No waiver by the Company of any breach of contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

- 12.2 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected thereby.
- 12.3 The Customer shall not 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 Company.

13. NOTICES

- 13.1 All notices shall be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission:-
- 13.1.1 (in case of notices to the Company) to its registered office; or
- 13.1.2 (in the case of notices to the Customer) to its registered office (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the contract or such other address as shall be notified in writing to the Company by the Customer.
- 13.2 Notices shall be deemed to have been received:
- 13.2.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
- 13.2.2 if delivered by hand on a working day, on the day of delivery;
- 13.2.3 if sent by facsimile transmission on a working day prior to 4.00pm, at the time of transmission and otherwise on the next working day.

14. LAW

The Contract shall be construed and performed in accordance with Northern Ireland law and the Company and the Customer submit to the exclusive jurisdiction of the Northern Ireland courts.

15. DATA PROTECTION

- 15.1 The Company may from time to time need to make searches about the Customer at credit reference agencies. It may use credit-scoring methods to assess the Credit Account application and to verify the identity of the Customer. Credit searches and other information which is provided to the Company and/or the credit reference agencies may also be used for identification purposes, debt tracing and the prevention of money laundering as well as the management of the Credit Account.
- 15.2 Information about the Customer and the conduct of the Credit Account may be put onto the Company's database to provide the Customer with the service applied for, for the purpose of fraud prevention, audit and debt collection. The Company may give credit reference agencies details of any non-payment following default and where no satisfactory proposal for payment is received.
- 15.3 By completing and signing the Credit Account application form the Customer acknowledges and agrees that the Company will be using and holding Data for the purposes set out above.