

Custom Composites Ltd - Terms & Conditions of Purchase.

1. INTERPRETATION

1.1) The definitions and rules of interpretation in this condition apply in these terms and conditions of purchase ("Conditions").

Company: means Custom Composites Ltd (company number 01677195) whose registered office is at Hopwood Street Mills, Hopwood Street, Preston, Lancashire PR1 1UN. **Contract:** the Order and the Seller's acceptance of the Order, which for the avoidance of doubt incorporates these Conditions. **Goods:** any goods described in the Order (including any part or parts of them). **Order:** the Company's written instruction to buy the Goods, incorporating these Conditions. **Seller:** the person, firm or company who accepts the Company's Order. **Specification:** the technical requirements of the Goods as detailed in the Order or provided to the Seller by the Company. **VAT:** means value added tax chargeable under English law for the time being and any similar additional tax.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 A reference to one gender includes a reference to the other gender.

1.4 Condition headings do not affect the interpretation of these Conditions.

1.5 A reference to a "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

2.) APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.4, these Conditions are the only conditions upon which the Company is prepared to deal with the Seller and they shall govern the Contract to the entire exclusion of all other terms or conditions.

2.2 Each Order for Goods by the Company from the Seller shall be deemed to be an offer by the Company to buy Goods subject to these Conditions and no Order shall be accepted until the Seller either expressly by giving notice of acceptance, or impliedly by fulfilling the Order, in whole or in part accepts the offer.

2.3 No terms or conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of order, specification or similar document shall form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.

2.4 These Conditions apply to all the Company's purchases and any variation to these Conditions shall have no effect unless expressly agreed in writing and signed for and on behalf of the Company.

2.5 For the avoidance of doubt, where there is any incontinency between the terms of these Conditions, and any express provisions detailed by the Company in the Order, the provisions detailed in the Order shall take precedent and shall apply.

3.) QUALITY AND DEFECTS

3.1 The Goods shall conform in all respects with the Order and the Specification and/or patterns supplied or advised by the Company to the Seller, including the quantity assurance conditions as provided in accordance with condition 3.2

3.2 The Goods shall be in accordance to whichever of the following quality assurance conditions are specified in the Order. In the absence of any specified quality requirement, cat 4 requirement shall apply.

Cat	Description of the type of requirement	Requirement
1	ISO 9000 - Approved Supplier	C of C IS REQUIRED. All work to be in accordance with your ISO9000 registration. A certificate of conformity is required. Reasonable access shall be afforded for representatives of Custom Composites Ltd our clients and/or regulatory authorities. [1]
2	BAe/CAA/MOD Approved Supplier	C of C IS REQUIRED. All work to be in accordance with your BAe/CAA/MOD registration. A certificate of conformity is required. Reasonable access shall be afforded for representatives of Custom Composites Ltd our clients and/or regulatory authorities [2]
3	Internally Approved - C of C Required	C of C IS REQUIRED. Manufacturers certificates showing batch traceability to be supplied with goods. Reasonable access shall be afforded for representatives of Custom Composites Ltd our clients and/or regulatory authorities. [3]
4	Internally Approved, No C of C Required	Goods to be manufactured strictly in accordance with description/ drawing/ specification. Reasonable access shall be afforded for representatives of Custom Composites Ltd, our clients and/or regulatory authorities. [4]
5	Calibration Certificate Supplier	Certification showing traceability to National / International Standards and degree of error / uncertainty is required. [5]Reasonable access shall be afforded for representatives of Custom Composites Ltd, our clients and/or regulatory authorities.
6	ISO 9000 - Annual Cert on File	ANNUAL C of C. All work to be in accordance with your ISO9000 registration. Annual C of C issued by yourselves covers this order. Reasonable access shall be afforded for representatives of Custom Composites Ltd, our clients and/or regulatory authorities [6]
7	ISO 9000 Approved - Mat'l Test Cert	All work to be in accordance with your ISO9000 registration. A material test certificate of conformity is required. Reasonable access shall be afforded for representatives of Custom Composites Ltd, our clients and/or regulatory authorities. [7]

3.3 The Seller undertakes that the Goods when delivered will comply with all statutory requirements (including European Legislation) which are applicable to the Goods, and agrees to fully indemnify the Company against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Company as a result of or in connection with a breach of the undertaking given by the Seller under this condition 3.3.

3.4 The Seller undertakes to notify the Company if the base components, including ingredients, are modified or are proposed to be modified from the Specification required by the Company when the Company placed the Order and delivery taking place. Goods which do not conform to the Order and the Specification, and the quality assurance conditions as determined under condition 3.2 must not be supplied without the prior written consent of the quality manager of the Company. Without prejudice to any other rights of the Company, the Company shall have the right to cancel the Contract, and reject the Goods if the base components, including ingredients, of the Goods are changed, modified or altered, including the use of substitute base components or ingredients at any time following the Company placing the Order.

3.5 The Company's rights under these Conditions are in addition to the statutory conditions implied in favour of the Company by the Sale of Goods Act 1979.

3.6 At any time prior to delivery of the Goods to the Company the Company shall have the right (but is not obliged) to inspect and test the Goods at all times.

3.7 If the results of such inspection or testing cause the Company to be of the opinion that the Goods do not conform or are unlikely to conform with the Order or to any Specifications and/or patterns supplied or advised by the Company to the Seller, the Company shall inform the Seller and the Seller shall immediately take such action as is necessary to ensure conformity and in addition the Company shall have the right to require and witness further testing and inspection.

3.8 Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Seller's obligations under the Contract.

3.9 If any of the Goods fail to comply with the provisions set out in condition 3 the Company shall be entitled, in addition to any statutory rights available to the Company, to avail itself of any one or more remedies listed in condition 12.

4.) INDEMNITY

The Seller shall keep the Company indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Company as a result of or in connection with:

- (a) an infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Goods; and
- (b) any claim made against the Company in respect of any liability, loss, damage, injury, cost or expense sustained by the Company's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Seller.

5.) DELIVERY

- 5.1 The Goods shall be delivered, carriage paid, to the Company's place of business or to such other place of delivery as is agreed by the Company in writing prior to delivery of the Goods. The Seller shall off-load the Goods at its own risk as directed by the Company.
- 5.2 The date for delivery shall be specified in the Order, and time shall be of the essence of the Contract. If no such date is specified in the Order then delivery shall take place within 28 days of the Order.
- 5.3 The Seller shall invoice the Company upon, but separately from, despatch of the Goods to the Company.
- 5.4 The Seller shall ensure that each delivery is accompanied by a delivery note which shows, among other things, the Order number, date of Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 5.5 Unless otherwise stipulated by the Company in the Order, deliveries shall only be accepted by the Company in normal business hours.
- 5.6 If the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, the Company reserves the right to:
- (a) cancel the Contract in whole or in part;
 - (b) refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
 - (c) recover from the Seller any expenditure reasonably incurred by the Company in obtaining the Goods in substitution from another supplier; and
 - (d) claim damages for any additional costs, loss or expenses incurred by the Company which are in any way attributable to the Seller's failure to deliver the Goods on the due date.
- 5.7 If the Seller requires the Company to return any packaging material to the Seller that fact must be clearly stated on any delivery note delivered to the Company and any such packaging material shall only be returned to the Seller at the cost of the Seller.
- 5.8 Where the Company agrees in writing to accept delivery by instalments the Contract shall be construed as a single contract in respect of each instalment.
- 5.9 If the Goods are delivered to the Company in excess of the quantities ordered the Company shall not be bound to pay for the excess and any excess shall be and shall remain at the Seller's risk and shall be returnable at the Seller's expense.
- 5.10 The Company shall not be deemed to have accepted the Goods until it has had 7 days to inspect them following delivery. The Company shall also have the right to reject the Goods as though they had not been accepted for 7 days after any latent defect in the Goods has become apparent.
- 5.11 All records relating to the Order and the Goods shall be retained by the Seller for a period of not less than 5 years, (or such longer period as determined by the Company's client and/or statutory requirements) and shall be available to inspection by the Company, on reasonable notice during business hours.
- 5.12 The Seller undertakes to provide to the Company, on or before delivery will all instruction documentation and written safety information applicable to the Goods.
- 5.13 The Seller shall:
- (a) On the day of despatch of each consignment send advice note(s) and such Certificate(s) of Conformity as may be applicable and/or required by the terms of the Order.
 - (b) One copy of the Certificate of Conformity or such other document as may be required by these Conditions shall accompany each consignment and a further copy shall be sent by post to the Company's quality manager.
 - (c) If the Seller has been provide copies of the original manufacturer's Certificate of Conformity together with test figures, inspection/verification date etc. then the Seller agrees to also supply a copy of the original manufacturer's Certificate of Conformity together with any such applicable documentation.

6. RISK/PROPERTY

The Goods shall remain at the risk of the Seller until delivery to the Company is complete (including off-loading and stacking) when ownership of the Goods shall pass to the Company.

7. PRICE

- 7.1 The price of the Goods shall be stated in the Order and, unless otherwise agreed in writing by the Company, shall be exclusive of VAT but inclusive of all other charges, including but not limited to carriage and transport.
- 7.2 Unless the Company agrees in writing to the contrary, no variation in the price nor extra charges shall be accepted by the Company.

8. PAYMENT

- 8.1 The Company shall pay the price of the Goods within 60 days from the end of the month in which delivery of the Goods to the Company took place, but time for payment shall not be of the essence of the Contract.
- 8.2 Without prejudice to any other right or remedy, the Company reserves the right to set off any amount owing at any time from the Seller to the Company against any amount payable by the Company to the Seller under the Contract.
- 8.3 Where the Contract provides for delivery by instalments, then the Seller agrees that the Seller is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

9. CONFIDENTIALITY

The Seller shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Seller by the Company or its agents and any other confidential information concerning the Company's business or its products which the Seller may obtain and the Seller shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Seller's obligations to the Company and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Seller.

10. THE COMPANY'S PROPERTY

Materials, equipment, tools, dies, moulds, copyright, design rights or any other forms of intellectual property rights in all drawings, specifications and data supplied by the Company to the Seller or not so supplied but used by the Seller specifically in the manufacture of the Goods shall at all times be and remain the exclusive property of the Company and shall be held by the Seller in safe custody at its own risk and maintained and kept in good condition by the Seller until returned to the Company and shall not be disposed of other than in accordance with the Company's written instructions, nor shall such items be used otherwise than as authorised by the Company in writing.

11. TERMINATION

- 11.1 The Company shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Seller written notice whereupon all work on the Contract shall be discontinued and the Company shall pay to the Seller fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- 11.2 Either party shall have the right at any time by giving notice in writing to the other immediately on giving notice to the other if:
- (a) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
 - (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or

- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party;
- (e) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (g) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 11.2(b) to condition 11.2(f) (inclusive);

11.3 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of the Company accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

12. REMEDIES

Without prejudice to any other right or remedy which the Company may have, if any Goods are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract the Company shall be entitled (without prejudice to any other statutory rights which may be available to the Company) to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Company:

- (a) to rescind the Order; and/or
- (b) to reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid forthwith by the Seller; and/or
- (c) at the Company's option to give the Seller the opportunity at the Seller's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled; and/or
- (d) to refuse to accept any further deliveries of the Goods but without any liability to the Seller; and/or
- (e) to carry out at the Seller's expense any work necessary to make the Goods comply with the Contract; and/or
- (f) to claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.

13. ASSIGNMENT

13.1 The Seller shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

14. GENERAL

14.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

14.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

14.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

14.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Seller shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

14.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it, and the Contract (Rights of Third Parties) Act 1999 shall not apply.

14.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties agree to submit to the exclusive jurisdiction of the English courts.

14.7 Any notice or other communication required to be given under the Contract, shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to:-

- (a) in the case of a notice to the Company, Hopwood Street Mills, Hopwood Street, Preston, Lancashire PR1 1UN; and
- (b) in the case of the Seller, the address notified to the Company for the purpose, or to the Seller's usual or last known place of business.

14.8 Any notice or other communication under condition 14.7 shall be deemed to have been duly received:

- (a) if delivered personally, when left at the address detailed in condition 14.7; or
- (b) if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day (being any day which is not a Saturday, Sunday or public holiday in England) after posting; or
- (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.