

# ORDER ACKNOWLEDGEMENT & CONDITIONS OF SALE

Thank you for your order no:.....

Our acknowledgement no is:.....

## 1. Parties

In these conditions, Liquid Rubber Limited is called "the Company" and any individual firm, company or other party with whom the Company contracts is called "the Customer". The contract is personal to the Customer who shall not assign the benefit whereof without the Company's written consent.

## 2. Quotations

Any quotation given by the Company is only an invitation to the Customer to make an offer and no order of the Customer is placed with the Company in pursuance of a quotation or the rise shall be binding on the Company unless and until it is accepted by the Company in accordance with these terms and conditions. Any contract made between the Company and the Customer (hereinafter called "the Contract") shall incorporate and be subject to these conditions according to their provisions. No purchase conditions of the Customer shall be valid or apply unless expressly accepted in writing by a Director of the Company.

## 3. Prices

Unless it is a term of the Contract that the price quoted by the Company shall remain fixed, the price shall be the Company's price ruling at the date of despatch of the goods.

## 4. Despatch

Whilst the Company will make every endeavour to comply with any date of dates for despatch or delivery of the goods stated in the Contract, such date or dates shall constitute only statements of expectation and shall not be binding on the Company, if the Company fails to despatch or deliver the goods by such date or dates, failure shall not constitute a breach of the Contract and the Customer shall not be entitled to treat the Contract as thereby repudiated or to rescind it or any related contract in whole or in part or claim damages for such failure.

## 5. Delivery

- Unless otherwise provided in the Contract, delivery shall be to the Customer's premises.
- Unless otherwise provided in the Contract, the price of the goods does not include the cost of off-loading the goods which shall be arranged by the Customer and performed at his sole expense and risk.

## 6. Risk

- Where the Company itself delivers the goods, the risk shall pass to the Customer on delivery. In all other cases, the risk shall pass to the Customer when the goods leave the Company's premises.
- Where the Company itself delivers the goods, the Company undertakes to replace or (at its discretion) to repair free of charge any goods damaged in transit in which event the time for delivery of the goods shall be extended for such period as the Company reasonably requires for such replacement and repair. It is a condition precedent of this undertaking that
  - The Customer shall give written notice of such damage in transit with reasonable particulars thereof to the Company within 3 days of receipt of the goods and
  - the Customer, if requested by the Company to do so, shall return the damaged goods to the Company within 2 weeks of his receipt thereof.

## 7. Limitation of Liability

- The Company's liability to the Customer in respect of the direct and/or indirect consequences (including, but not being limited to, death, injury, illness, disease, loss (whether financial or otherwise) or damage (save those of death or personal injury to human beings resulting from negligence) or any breach or non-performance of this contract, howsoever caused or arising, of negligence or of any misrepresentation or any other sort of breach of statute on the part of the Company or its agents, shall be limited to the price of the goods the subject matter of the particular consignment.
- It is the exclusive responsibility of the Customer to satisfy himself that the goods are suitable for the particular purpose for which he requires them notwithstanding that he may make known such purpose to the Company and the Customer shall not in this respect rely upon the Company's skill or judgement or any advice it may give. Accordingly, Section 143 of the Sale of Goods Act 1979 shall not apply to the Contract and the Company shall not be liable to the Customer for damages in negligence in respect of any such advice or for failure to exercise proper skill and judgement.

## 8. Indemnity

The Customer will indemnify the Company against any claim made against the Company in respect of any injury to any person or damage to any property arising from any defect in the goods or anything done or omitted to be done in the delivery thereof to the Customer where such delivery is affected by the Company including any such injury or damage caused by the negligence of the Company, its employees or agents.

## 9. Title

- Notwithstanding that the risk in the goods has passed to the Customer the ownership of the goods shall remain with the Company, which reserves the right to dispose of the goods until payment in full for all the goods has been received by the Customer sells the goods to its customers by way of bona fide sales at full market value.
- The goods shall so far as practicable be kept separate from other goods on the premises of the Customer and so as to be readily identifiable as the goods of the Company,

- If payment is overdue in whole or in part the Company may (without prejudice to any of its other rights) recover or resell the goods or any part thereof and may enter upon the Customer's premises by its servants or agents for the purpose. Such payments shall become due immediately upon the commencement of any act or proceeding in which the Customer's solvency is involved.

- If any of the goods are incorporated in or used as materials for other goods before such payment the property in the whole of such goods shall be and remain with the company until such payment has been made, or the other goods shall have been sold as aforesaid, and all the Company's rights hereunder in the materials shall extend to those other goods.

- Until the Company is paid in full for all the goods the relationship of the Company to the Customer shall be fiduciary in respect of the products or other goods in which they are incorporated or used and if the same are sold by the Customer the Company shall have the right to trace the proceeds thereof according to the principles in *Re Hallett's Estate* (1880) 13 Ch d 696, (1874-801) All ER Rep 793. A like right fo the Company shall apply where the Customer uses the goods in any way so as to be entitled to payment from a third party.

- Nothing in this Clause shall confer any right upon the Customer to return the goods sold hereunder or to refuse or delay payment therefor.

## 10. Accounts

- All accounts shall be paid by the 30th day following the Company's invoice date.
- Where any sum owned by the Customer to the Company under the Contract is overdue, or if at any time the credit standing of the Customer has in the opinion of the Company been impaired for any reason, the Company may in its own absolute discretion demand payment of all outstanding balances whether due or not and/or cancel all outstanding orders and decline to make further deliveries except upon receipt of cash or satisfactory security. The setting off or withholding of payment by the Customer in respect of any claim shall not be allowed unless expressly agreed by the Company in writing.
- The Company reserves the right to charge interest on any invoice not paid at the rate of 5% per annum over LIBOR from the date to which payment is due until actual payment.

## 11. Specification and Quantities

- 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.
- Whilst the Company will make every endeavour to deliver the quantity of goods ordered, nevertheless a delivered quantity of 10% more or less than the quantity ordered shall be deemed to be due execution and performance of the Contract, the price being increased or reduced pro rata accordingly.
- The Company may ship or deliver by instalments and each instalment shall be deemed to be sold under a separate contract.

## 12. Packing Cases

Unless otherwise provided in the Contract, the price does not include the cost of cases or other packing materials which shall remain the property of the Company and be returned in good condition to the Company's premises at the Customer's expense within two months of delivery.

## 13. Customer's Property

Customer's property and all property supplied to the Company by or on behalf of the Customer will be held and carried at the Customer's risk.

## 14. Tools

Tools manufactured or provided by the Company for the production of any goods shall remain the property of the Company notwithstanding the Customer may have been charged for all or part of the cost of such manufacture or provision. The Company reserves the right to destroy or otherwise dispose of any tools which have not been used for a period of two years.

## 15. Force Majeure

The Company will make every effort to carry out the Contract in accordance with its terms but it shall not be liable for any failure on its part to perform any term of the Contract arising from any cause outside the Company's control including (but without prejudice to the generality of the foregoing) act of God, war, strike, lock-out or other industrial dispute, fire, flood, shortages of materials or breakdown of machinery or plant and in these circumstances the Company expressly reserves the right to cancel or suspend the whole or any part of any delivery.

## 16. Disputes

The contract shall be governed by and construed in accordance with English Law. All questions, disputes or controversies whatsoever arising out of or in relation to or in connection with the Contract or the goods supplied or to be supplied pursuant hereto shall, if not settled by agreement, be referred to the arbitration of a person appointed by the Company and the Customer or in default of such appointment shall be referred to the arbitration of a person appointed by the Chairman for the time being of Liquid Rubber GB Limited and the arbitration shall be subject to the Arbitration Act 1950 as modified or re-enacted from time to time.