

1. **Terms of Sale ("Terms")**

The Goods and all other products sold by Techno-Plas Pty. Ltd. ACN 008 167 191 ('TP') are sold in accordance with these Terms. These Terms (which may only be waived or varied in writing by TP) prevail over any inconsistent terms proposed by the Customer.

To the extent of any inconsistency, any special conditions specified in a Quotation or a Purchase Order accepted and signed by TP prevail over these Terms.

2. **Payment Terms**

Unless otherwise agreed, the Customer will pay to TP all amounts due under a Purchase Order in full and without deduction, offset or counterclaim before the order is dispatched.

TP will not take responsibility if the Customer transfers money to an incorrect account & the Customer will remain liable to TP for incorrectly transferred payments until the debt is received in full into an authorised TP bank account.

TP may grant credit to approved Customers, with any additional trading terms required by TP. Approved credit account Customers must pay all accounts within 30 days of the end of month in which the account was issued. TP may stop supply if a balance remains outstanding beyond the credit terms. TP may alter or revoke credit approval and trading terms by written notice to the Customer.

If the Customer fails to pay any amounts due and owing to TP, TP will issue a default notice to the Customer specifying a period within which the non-payment must be remedied. If the Customer fails to remedy the non-payment within the specified timeframe, TP may charge the Customer interest (at its banker's current published overdraft interest rate, plus 5%) on any overdue amounts to the Customer. Debt collection charges incurred by TP in recovering any amounts due and payable to TP will be on charged to the Customer.

3. **Quotation & Pricing**

Subject to the below paragraph, all Quotations provided by TP are valid for 30 days from the date of the Quotation unless otherwise specified in the Quotation.

TP may vary quoted prices at any time by written notice to the Customer to take into account any increase to the cost of manufacture or delivery of the Goods by TP, including as a result of legislative changes. TP will provide written notice to the Customer promptly after it becomes aware of any such changes. Prices are quoted for a specific quantity or quantities per run. TP may adjust its prices if the Customer requests a variation in run sizes from

those quoted. All labels purchased by TP for use on the Goods will be charged to, and paid by, the Customer unless otherwise agreed.

All prices quoted are exclusive of GST unless otherwise specified. The Customer must pay GST to TP.

The Customer will be deemed to have accepted the pricing and terms set out in a Quotation upon the issuance of any subsequent order (including a Purchase Order) by the Customer.

If the Customer places a Purchase Order with a total value of less than \$500 plus GST, TP may charge the Customer a \$70 plus GST service fee.

If the volume of Goods supplied by TP to the Customer deviates by +/- 10% or more of the amount of Goods stated in the Purchase Order, TP will adjust the invoiced amount for that Purchase Order on a pro rata basis.

4. **Credit Card Payments**

Credit Card Payments are only accepted by TP for accounts paid before due date, to a maximum of \$2000 of the outstanding balance. A fee of 1.5% will apply to all credit card payments.

5. **Orders for Goods**

All Goods supplied by TP to the Customer will match the description on the agreed Purchase Order. That description prevails over all other descriptions including any specification or enquiry of the Customer. If TP agrees to any subsequent changes to the specifications of the Goods, TP may charge any additional fee for any such changes.

The Customer warrants and represents to TP that:

- it has performed to its satisfaction all necessary stability and functional testing to ensure the Goods are fit for their intended purpose in every respect;
- if applicable, it has had the opportunity to review any sample Goods and has determined that the Goods are satisfactory;
- it has not relied and will not rely on the skill or judgement of TP in relation to the suitability and/or compatibility of any of the Goods for their intended purpose; and
- the Customer has selected and agreed to the supply of Goods by TP based on its own requirements and its

investigations as to the suitability of the supply of the Goods by TP.

Unless expressly set out in a Quotation or Purchase Order signed by TP and to the maximum extent permitted by law, TP gives no warranty, advice or representation as to:

- the suitability of the Goods for the Customer or its end users needs or requirements (including as to the suitability or compatibility of the Goods to be used, filled or finished by particular equipment). This applies even if the Customer tells TP or TP can reasonably infer the intended use of the Goods;
- whether the Goods will comply with any law or standard including which applies to the intended use of the Goods;
- whether the Goods will achieve any standard of performance;
- whether the Goods will have the durability or other characteristics and the performance required by the Customer; or
- the period that any artwork applied to the Goods will remain visible or readable and whether such artwork is able to cope with exposure to the sun or particular temperatures or water.

TP may refuse any Purchase Order within seven days after receiving the Purchase Order.

The Customer may not cancel a Purchase Order accepted by TP except with TP's written approval. The Customer must reimburse TP for any reasonable costs incurred by TP in respect of the Purchaser Order prior to its cancellation.

The Customer warrants that Goods, including packaging manufactured, constructed or supplied by TP which incorporate or are otherwise based in whole or in part upon designs, drawings, specifications or other information or material supplied to TP by or on behalf of the Customer, will not infringe any intellectual property rights of a third party or breach any laws. The Customer indemnifies TP from and against any action that may be brought against or loss suffered by TP as a result of a breach of that warranty.

TP reserves the right to make any changes to designs, drawings or specifications, supplied to TP by the Customer, and/or Goods ordered by the Customer which are required to ensure compliance with any applicable safety or statutory requirements, or changes which do not materially affect the quality or usage of the Goods by the Customer.

TP will not be liable for any defect in the Goods arising from any designs, drawings, specifications or other information or material supplied to TP by the Customer. Where the Customer approves any artwork or proofs which are submitted by TP, TP will not be liable for any errors or inaccuracies subsequently discovered.

6. **Production Lead Times**

TP will use its reasonable efforts (but does not guarantee) to maintain warehouse inventory of stock and catalogue lines.

Standard product colours and custom product colours will be subject to minimum order quantities. Typical lead times for out of stock items and standard colours are estimated at four to five weeks. Custom product developments and custom colour matching may require longer lead times.

7. **Custom Master batch**

Despite any other provision of these Terms, custom master batches are charged directly to the Customer under strict seven day trading terms. TP may agree to pay for and store custom master batches for up to six months upon a written agreement between TP and the Customer. After that time the Customer will pay in full all monies owed to TP for any unused master batch.

8. **Packaging of Goods – General**

The cost of any special packing and packing materials used in relation to the Goods are at the Customer's expense notwithstanding that such cost may have been omitted from any Quotation

9. **Plastic food packaging Goods**

If the Goods are plastic food packaging goods ("PFP Goods"), without limiting any other provision of these Terms, the following provisions in this clause 9 will apply:

- it is the sole responsibility of the Customer to ensure that the labels used on the PFP Goods, or otherwise the PFP Goods themselves, contain all warnings, cautions and other information required by law including in respect of the proper handling and/or use of the PFP Goods or product contained within the PFP Goods;
- the Customer acknowledges that there may be variations in colour of any moulded material or labels on the PFP Goods;
- the Customer must ensure that when product is filled in the PFP Goods it is done so in a suitable and appropriate

manner to ensure that the PFP Goods are not damaged;

- the Customer will supply TP with all materials and specifications required for TP to produce in-mould labelling (IML) packaging on the PFP Goods;
- TP will provide the Customer with artwork proofs for all IML labels which the Customer must approve in writing ("**Approved Artwork**") before TP orders the labels for use on the PFP Goods. TP will not be liable for any errors in text or colour selection in any labels or associated moulded products which are consistent with the Approved Artwork, including as a result of any errors in the Approved Artwork.
- if TP incurs any costs to produce artwork or plates for IML packaging, it may pass these costs on to the Customer for their payment and the Customer will pay all such costs to TP;
- TP may destroy the Customer's artwork and labels two years after they are last used by TP; and
- the Customer acknowledges and agrees that the following *dimensional* tolerances will apply to any labels applied to the PFP Goods:
 - cutting tolerance of +/- 0.4mm for labels smaller than 40 cm and +/- 0.6mm for bigger labels; and
 - print to cut tolerance of +/- 1.5mm (being the tolerance in image positioning towards the border of the label).
- the Customer acknowledges and agrees that the following *volume* tolerances will apply to any labels ordered or applied to the PFP Goods:
 - volume tolerance of +/-5%% for labels orders greater than 250,000.
 - volume tolerance of +/-10% for labels orders less than 5,000 per sku.

10. **Delivery**

The Goods will be delivered Ex Works unless otherwise quoted or specified in writing

The delivery times made known to the Customer are estimates only. TP is not liable for any loss, damage or delay occasioned to the Customer or its customers arising from late or non-delivery or late installation of the Goods.

Unless agreed in writing, TP may at its option deliver the Goods to the Customer in any number of instalments. If TP delivers by

instalments, and any one of those instalments is defective for any reason:

- it is not a repudiation of the contract of sale formed by these Terms; and
- the defective instalment is a severable breach that may give rise only to a claim for compensation in respect to the defective Goods.

TP is not responsible to the Customer for any loss or damage to Goods in transit caused by any event of any kind by any person (whether or not TP is legally responsible for the person who caused or contributed to that loss or damage).

To the maximum extent permitted by law, the Customer waives any claim for shortage of any Goods delivered if a claim in respect for short delivery has not been lodged with TP within seven days from the date of receipt of Goods by the Customer. If the volume of Goods supplied by TP deviates by +/- 10% or less of the amount of Goods stated in the Purchase Order, the Customer acknowledges that this will not be considered a defective delivery of Goods

Goods are delivered on CHEP or other pallets. Unless TP owns the pallets, the Customer is responsible for exchange and de-hire (from the TP account) of the pallets.

TP may charge an additional fee for urgent or express deliveries and fuel and other levies charged by service providers.

TP may charge the Customer for storage of the Goods (on a reasonable basis) if delivery instructions are not provided by the Customer within 14 days of a request by TP for them. TP reserves its rights to dispose of any unclaimed Goods after 90 days in accordance with the law.

11. **Returned and defective Goods**

To the maximum extent permitted by law and subject to the below paragraph, TP is not under any duty or obligation to accept Goods returned by the Customer. Returns will not be accepted without a Returns Authorisation Form issued and signed by TP. The Customer must return all authorised return Goods to TP's place of business at the Customer's cost. A restocking fee of 20% of sale price will apply to all returns of Goods which are not defective.

To the maximum extent permitted by law, the Customer must notify TP of any defect in the Goods within 14 days of delivery of the Goods to the Customer. Where TP has authorised the return of the defective Goods, TP in its sole discretion will repair or replace the defective Goods at TP's cost or refund the price paid by the Customer for the defective Goods.

To the maximum extent permitted by law, TP will not accept the return of any Goods (defective or otherwise) where the age of those Goods is greater than 6 months.

12. **Retention of Ownership and Security**

The Customer agrees that whilst title in the Goods remain with TP:

- risk in the Goods shall pass to the Customer immediately on delivery of the Goods to the Customer;
- the Customer has no right or claim to any interest in or lien over the Goods (including to secure any liquidated or unliquidated debt or obligation TP owes to the Customer); and
- the Customer will not create any absolute or defeasible interest in the Goods in relation to any third party except as may be authorised by TP.

Title in the Goods remains with TP until TP has been paid in full for the Goods.

The Customer is a bailee of the Goods until title in the Goods passes to the Customer. That bailment continues in relation to each of the Goods until the price of the Goods has been paid in full.

Pending payment in full for the Goods, the Customer:

- must not supply any of the Goods to any person outside of its ordinary or usual course of business;
- must not allow any person to have or acquire any security interest in the Goods; and
- must insure the Goods for their full insurable or replacement value (whichever is the higher) with an insurer licensed or authorised to conduct the business of insurance in the place where the Customer carries on business.

Despite this, if the Customer supplies any of the Goods to any person before all moneys payable have been paid to TP (and have not been claimed or clawed-back by any person standing in the place of or representing the Customer), the Customer agrees that:

- it holds the proceeds of re-supply of the Goods on trust for and as agent for TP immediately when they are receivable or are received; and
- it must pay the amount of the proceeds of re-supply to TP immediately when they are received.

Until title in the Goods passes to the Customer:

- TP retains a purchase money security interest in the Goods and the proceeds of sale of the Goods under the *Personal Property Securities Act 2009* (Cth) (**PPSA**);
- the Customer consents to TP registering a security interest on the Personal Property Securities Register under the PPSA and agrees to do all things reasonably required by TP to effect such registration;
- the Customer waives any right the Customer has under PPSA to receive notice in relation to registration of TP's interest in the Goods under the PPSA; and
- the Customer will immediately advise TP of any changes which may affect TP's security interest.

13. **Customer Assets**

All of the Customer's tools, moulds, labels, goods and other assets in TP's possession ('**Customer Assets**') are at the Customer's risk. The Customer (and not TP) is solely responsible for insuring the Customer Assets.

The Customer grants TP a particular and general lien over the Customer's Assets.

The lien secures any monies owed by the Customer to TP. If any monies owed to TP are not paid within one month after notice to the Customer, TP may dispose of the Customer Assets either by auction or otherwise. The proceeds may be used to settle outstanding monies owed by the Customer to TP and any expense incurred in disposing of the said consignment.

14. **Liability**

Each party indemnifies the other party for any and all claims that may be brought against the other party as a result of the first mentioned party breaching a provision of these Terms.

TP will not be liable for (and the Customer releases TP from) any claim in respect of the Goods where:

- the Goods have been exposed to direct sun light, water or particular temperatures (unless TP has expressly agreed in writing to such durability);
- unauthorised alterations have been made to the Goods; or
- the Goods have been improperly handled, located, used, maintained or stored.

To the maximum extent permitted by law, TP is only liable to repair or replace defective Goods if:

- the defects arise solely from TP's faulty materials or workmanship;
- the Goods have not received maltreatment, inattention or interference by the Customer;
- accessories of any kind used by the Customer are manufactured by or approved by TP; and
- the seals of any kind on the Goods remain unbroken.

To the maximum extent permitted by law:

- TP is not liable for (and the Customer releases TP from) any claims in respect of faulty or defective design of any Goods unless that design has been wholly prepared by TP and the responsibility for any claim has been specifically accepted by TP in writing;
- TP is not liable (and the Customer releases TP from) any claims of any kind arising out of the assembly, installation or operation of the Goods by the Customer;
- TP is not liable for (and the Customer releases TP from) any claim in respect of the Goods if the claim relates to less than 0.025 per cent of Goods supplied by TP to the Customer over the preceding 12 month period;
- The Customer may not recover (and releases TP from) that portion of any sum for which TP is liable which is less than \$1,000; and
- The Customer may not recover (and releases TP from) that portion of any sum for which TP is liable which exceeds the purchase price for the Goods subject to the claim.

TP will not be liable for (and the Customer releases TP from) any claim, to the extent that:

- the Customer is insured for loss or damage suffered in any claim (regardless of whether indemnity is sought);
- the claim arises from any conduct of the Customer;
- the claim arises from a breach of any law (including any retrospective law) or administrative practice not in force at the date of these Terms; or
- as a result of circumstances giving rise to the claim, the Customer or its related body corporate (within the meaning of the *Corporations Act 2001*

(Cth)) becomes entitled to a taxable credit, deduction, allowance or other tax saving.

Nothing in these Terms is to be interpreted as having the effect of excluding, restricting or modifying any condition or warranty, or right or liability implied by any applicable legislation (including the *Competition and Consumer Act 2010* Cth) into the Terms, if such exclusion, restriction or modification would be void or prohibited by the legislation.

To the maximum extent permitted by law, these Terms exclude all terms, conditions and warranties implied by custom, the general law or statute. TP's liability for breach of any warranty which is not excluded is limited, at TP's option to repairing or replacing (or to paying the cost of repairing or replacing) those Goods or the refund of the price paid by the Customer in respect of those Goods.

The Customer will reimburse TP any amounts paid by TP to the Customer in respect of any claim, to the extent to which those amounts are recovered by the Customer from any other person, including suppliers, manufacturers or insurers.

To the maximum extent permitted by law, TP will not be liable to the Customer for indirect or consequential losses (including loss of production, profit, goodwill or reputation).

15. Force Majeure

In the event of the suspension of production resulting from breakdowns, strikes, blackouts, fires, accidents, trade disputes or any other cause which TP has no reasonable control to stop, diminish or adversely affect production, deliveries may be wholly or partially suspended until normal production resumes and TP shall not be liable in respect of such suspension.

16. Other

TP may vary these Terms. TP will endeavour to give the Customer no less than 14 days prior notice before the variation takes effect. However, each variation will take effect upon notice to the Customer. If the Customer does not agree to any variation, the Customer may terminate these Terms by written notice to TP provided that all outstanding amounts owing to TP have been paid.

Any discretion granted to TP in these Terms may be exercised by TP in its absolute and unfettered discretion.

The Customer is obliged to not divulge to any third party any such information that is obtained in connection with the acquisition of the Goods that it is reasonable to assume is of a confidential nature including, but not limited to,

these Terms, and the terms of any Quotation, pricelist or Purchase Order.

The Customer acknowledges that its personal information will be handled by TP in accordance with TP's privacy policy available at www.technoplas.com.au.

Each term must be read down to the extent necessary to be valid. If that is not possible, it must be severed. All other terms are unaffected.

These Terms are governed by the laws of South Australia. The parties submit to the jurisdiction of the Courts of South Australia.

17. **Definitions**

The following words have the following meanings in these Terms:

- **"Customer"** means the Customer of the Goods detailed in the Quotation;
- **"Goods"** means the goods to be supplied by TP to the Customer;
- **"GST"** has the meaning given in section 195-1 of *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- **"Purchase Order"** means the purchase order issued by Customer to TP; and
- **"Quotation"** means the quotation issued by TP to the Customer which details the Goods and the price payable to which these Terms are annexed (if applicable).