

TEXTURING TECHNOLOGY LIMITED (TTL)
TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS

1. **Interpretation**
- 1.1 **Definitions:**
 - Business Day** means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
 - Conditions** means the terms and conditions set out in this document as amended from time to time in accordance with clause 15.4.
 - Contract** means the contract between TTL and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.
 - Delivery Date** means the date specified in the Order, or, if none is specified, within 14 days of the date of the Order.
 - Delivery Location** means the address for delivery of Goods as set out in the Order.
 - Goods** means the goods (or any part of them) set out in the Order.
 - Order** means TTL's order for the Goods, as set out in TTL's purchase order form.
 - Specification** means any specification for the Goods, including any related plans and drawings, that is agreed by TTL and the Supplier.
 - Supplier** means the person or firm from whom TTL purchases the Goods.
 - TTL** means Texturing Technology Limited registered in England and Wales with company number 02684488.
- 1.2 **Interpretation:**
 - 1.2.1 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
 - 1.2.2 any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
 - 1.2.3 a reference to **writing** or **written** includes [faxes and] emails.
2. **Basis of contract**
- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by TTL to purchase the Goods in accordance with these Conditions.
- 2.3 The Order shall be deemed to be accepted on the earlier of:
 - 2.3.1 the Supplier issuing a written acceptance of the Order; and
 - 2.3.2 the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence.
- 2.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
3. **The goods**
- 3.1 The Supplier shall ensure that the Goods shall:
 - 3.1.1 correspond with their description and any applicable Specification;
 - 3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by TTL expressly or by implication, and in this respect TTL relies on the Supplier's skill and judgement;
 - 3.1.3 where they are manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after delivery; and
 - 3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 3.3 The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.4 If following such inspection or testing TTL considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, TTL shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
4. **Delivery**
- 4.1 The Supplier shall ensure that:
 - 4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - 4.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - 4.1.3 if the Supplier requires TTL to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
 - 4.2.1 on the Delivery Date;
 - 4.2.2 at the Delivery Location; and
 - 4.2.3 during TTL's normal business hours, or as instructed by TTL.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.
- 4.4 If the Supplier:
 - 4.4.1 delivers less than 95% of the quantity of Goods ordered, TTL may reject the Goods; or
 - 4.4.2 delivers more than 105% of the quantity of Goods ordered, TTL may at its discretion reject the Goods or the excess Goods,and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and TTL accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without TTL's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle TTL to the remedies set out in clause 5.
5. **Remedies**
- 5.1 If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, TTL may exercise any one or more of the following remedies:
 - 5.1.1 to terminate the Contract;
 - 5.1.2 to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
 - 5.1.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
 - 5.1.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - 5.1.5 to recover from the Supplier any costs incurred by TTL in obtaining substitute goods from a third party; and
 - 5.1.6 to claim damages for any other costs, loss or expenses incurred by TTL which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.
- 5.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 5.3 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.
6. **Title and risk**
- 6.1 Title and risk in the Goods shall pass to TTL on completion of delivery.
7. **Price and payment**
- 7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.
- 7.2 The price of the Goods:
 - 7.2.1 excludes amounts in respect of value added tax (VAT), which TTL shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - 7.2.2 includes the costs of packaging, insurance and carriage of the Goods.
- 7.3 No extra charges shall be effective unless agreed in writing with TTL.
- 7.4 The Supplier may invoice TTL for price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Order, the invoice number, TTL's order number, the Supplier's VAT registration number, and any supporting documents that TTL may reasonably require.
- 7.5 The Customer shall pay correctly rendered invoices within 30 days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.
- 7.6 If a party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.
- 7.7 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to TTL against any liability of TTL to the Supplier.
8. **Customer materials**
- 8.1 The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by TTL to the Supplier (**Customer Materials**) and all rights in TTL material are and shall remain the exclusive property of TTL. The Supplier shall keep TTL Materials in safe custody at its own risk, maintain them in good condition until returned to TTL, and not dispose or use the same other than in accordance with TTL's written instructions or authorisation.
9. **Indemnity**
- 9.1 The Supplier shall keep TTL indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by TTL as a result of or in connection with:
 - 9.1.1 any claim made against TTL for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
 - 9.1.2 any claim made against TTL by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
 - 9.1.3 any claim made against TTL by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 9.2 This clause 9 shall survive termination of the Contract.
10. **Insurance**
- 10.1 During the term of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on TTL's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
11. **Confidentiality**
- 11.1 A party (**receiving party**) 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 receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 11.2 This clause 11 shall survive termination of the Contract.
12. **Compliance with relevant laws and policies**
- 12.1 In performing its obligations under the Contract, the Supplier shall:
 - 12.1.1 comply with all applicable laws, statutes, regulations [and codes] from time to time in force; and
 - 12.1.2 comply with any of TTL's policies previously issued to the Supplier.
- 12.2 The Customer may immediately terminate the Contract for any breach of clause 12.
13. **Termination**
- 13.1 The Customer may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 13.2 Without limiting its other rights or remedies, TTL may terminate the Contract with immediate effect by giving written notice to the Supplier if:
 - 13.2.1 the Supplier commits a material breach of any term 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 to do so;
 - 13.2.2 the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - 13.2.3 the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his assets, or ceasing to carry on business [or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction];
 - 13.2.4 the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 13.2.5 the Supplier's financial position deteriorates to such an extent that in TTL's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.
- 13.4 Clauses that expressly or by implication survive termination of the Contract shall continue in full force and effect.
14. **Force majeure**
- 14.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from an event, circumstance or cause beyond its reasonable control. If the period of delay or non-performance continues for 26 weeks the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.
15. **General**
- 15.1 **Assignment and other dealings**
 - 15.1.1 The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.
 - 15.1.2 The Supplier may not assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of TTL.
- 15.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of TTL. If TTL consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 15.3 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supercedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 15.4 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by TTL.

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- 15.5 **Waiver.** Except as set out in clause 2.4, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:
- 15.5.1 waive that or any other right or remedy; or
 - 15.5.2 prevent or restrict the further exercise of that or any other right or remedy.
- 15.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 15.7 **Notices.**
- 15.7.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.
 - 15.7.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.7.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
 - 15.7.3 This clause does not apply to the service of any proceedings or other documents in any legal action, or other method of dispute resolution.
- 15.8 **Third party rights.** No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.
- 15.9 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.
- 15.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.