

PIL MEMBRANES Ltd. STANDARD TERMS AND CONDITIONS OF SALE

1. INTERPRETATIONS
- 1.1 In these Conditions:
 - "BUYER" means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.
 - "GOODS" means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions.
 - "SELLER" means the PIL Membranes Ltd.
- "CONDITIONS" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.
- "CONTRACT" means the contract for the purchase and sale of the Goods.
- "WRITING" includes telex, cable, facsimile transmission and comparable means of communication.
- 1.2 Any reference in these 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 these Conditions are for convenience only and shall not affect their interpretation.
2. BASIS OF THE SALE
- 2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.
- 2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.
- 2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.4 Any description contained in the Sellers catalogues, samples, price lists or other advertising material is intended mainly to present a general picture of the Sellers products and shall not form a representation or be part of the Contract.
- 2.5 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyers own risk and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 2.7 It is a condition of sale that all used moulds are returned intact to PIL Membranes Ltd.
3. ORDERS AND SPECIFICATIONS
- 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.
- 3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 3.3 The quantity, quality and description of the Goods shall be set out in the Seller's quotation (if accepted by the Buyer) or the Buyers Order (if accepted by the Seller). The specification for the Goods shall be in accordance with:
 - 3.3.1 the current edition of the relevant product description leaflet as published from time to time by the Seller and;
 - 3.3.2 any further specifications or descriptions (if any) expressly listed or set out on the face of the Order. No other specification shall form part of or be incorporated by reference into this contract.
- 3.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.
- 3.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.
4. PRICE OF THE GOODS
- 4.1 The price of the Goods shall be the Seller's quoted price or, (where no price has been quoted or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- 4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as without limitation, any foreign exchange fluctuation currency regulation, alteration of duties, significant increase in the costs of labour materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 In respect of Goods to be delivered to locations in Great Britain the price includes delivery by the Seller to the Buyer's premises using the Seller's normal packaging. Any special packaging of Goods requested by the Buyer shall be an extra charge and unless provided to the contrary containers and packaging will not be returnable.
- 4.4 Damage or shortage of Goods at delivery shall be reported to the Seller within 48 hours of receipt of Goods at the Buyers premises. Non-delivery of Goods shall be reported within 10 days of the date of dispatch as notified to the Buyer in advance notices.
- 4.5 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 4.6 Unless otherwise agreed in writing all tools, drawings and other equipment manufactured or obtained by the Seller for the purposes of the Contract (whether partly or wholly at the expense of the Buyer or not) shall be and remain the property of the Seller.
5. TERMS OF PAYMENT
- 5.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall in the case of a Buyer whose credit has been approved by the Seller be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods. In the case of a Buyer whose credit has not been approved by the Seller, payment will be due cash on delivery to the Buyer or its nominated carrier.
- 5.2 The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
 - 5.3.1 cancel the contract or suspend any further deliveries to the Buyer;
 - 5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 5.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 2 per cent per annum above Barclays Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
6. DELIVERY
- 6.1 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.2 Where the goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.3 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) or similar goods to replace those not delivered over the price of the Goods.
- 6.4 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Sellers fault) then without prejudice to any other right or remedy available to the Seller, the Seller may:
 - 6.4.1 charge the Buyer the full price of the Goods;
 - 6.4.2 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage.
7. RISK AND PROPERTY
- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
 - 7.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer the Goods are available for collection: or
 - 7.1.2 In the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods
- 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or

	property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.	10.1.3	he Buyer ceases, or threatens to cease, to carry on business or
7.4	Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.	10.1.4	the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
7.5	The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.	10.2	If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
8.	WARRANTIES AND LIABILITY	11.	EXPORT TERMS
8.1	Subject to conditions set out below the Seller warrants that the Goods will correspond with their specifications at the time of delivery and will be free from defects in material and workmanship for a period of six months from delivery.	11.1	Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
8.2	The above warranty is given by the Seller subject to the following conditions:	11.2	The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon and if the Buyer fails to comply with such requirements the Buyer shall (in addition to any other liability it may have to the Seller) be liable to indemnify the Seller in respect of any costs and expenses incurred by the Seller in pursuance of the contract.
8.2.1	the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;	11.3	Unless otherwise agreed in Writing between the Buyer and Seller, the Goods shall be delivered F.O.B to the air or sea port of shipment and the Buyer undertakes to adequately insure Goods against loss when risk passes to the Buyer. When a contract is expressed to be either C and F or C.I.F to an overseas territory the price of the Goods will include the cost of freight by air or sea to principal ports only in the territory named and C.I.F prices will include insurance protection against breakage risk or total loss for the amount of the C.I.F price plus 10%.
8.2.2	the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;	11.4	Payment of all amounts due to the Seller shall be made by irrevocable letter of credit opened by the Buyer in favour of the Seller and confirmed by a United Kingdom Bank acceptable to the Seller and enable the Seller to present the contract documents through Barclays Bank plc, King's Lynn, Norfolk or such other bank as the Seller may from time to time designate.
8.2.3	the Seller shall be under no liability under the warranty (or any other warranty, condition or guarantee) if the total price of the Goods has not been paid by the due date for payment.	11.5	The Buyer undertakes not to offer the Goods for resale at a price lower or terms more favourable than the published prices or terms of the Seller applicable at the relevant time without the Seller's written consent.
8.2.4	the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.	12.	GENERAL
8.3	Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.	12.1	Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may be at the relevant time have been notified pursuant to this provision to the party giving the notice.
8.4	Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.	12.2	No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
8.5	Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions the Seller shall be entitled to replace the Goods (or the part in question) free of charge or at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.	12.3	If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
8.6	Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty condition or other term or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer except as expressly provided in these conditions.	12.4	The Contract shall be governed by the laws of England and the parties hereto irrevocably submit to the jurisdiction of the English courts.
8.7	The Seller shall not be liable to the Buyer or be deemed to be in breach of Contract by reason of any delay in performing, or any failure to perform any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control.	12.5	The Seller reserves the right to sub-contract the whole or any part of the Contract.
8.8.1	act of God, explosion, flood, tempest, fire or accident;		
8.8.2	war or threat of war, sabotage, insurrection, civil disturbance or requisition;		
8.8.3	acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;		
8.8.4	import or export regulations or embargoes;		
8.8.5	strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);		
8.8.6	difficulties in obtaining raw materials, labour, fuel, parts of machinery;		
8.8.7	power failure or breakdown in machinery.		
9.	PATENT NAME		
	Goods which are the subject of patent protection both in Great Britain and elsewhere and the sale of such Goods pursuant to this contract carry a limited licence under such of the Seller's patents as relate to the Goods. Where the Goods are sold by reference to a trade name or mark of the Seller, the Buyer and its successors in Title shall have the right to describe such of its products as incorporate a substantial quantity or proportion of the Goods by reference to the trade name or mark in question. This right shall be subject to the Seller's prior approval of the quality and standards of workmanship and design of the Buyer's products provided that such approval shall not be unreasonably withheld.		
10.	INSOLVENCY OF BUYER		
10.1	This clause applies if;		
10.1.1	the Buyer makes any 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 purposes of amalgamation or reconstruction) or		
10.1.2	an incumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer, or		