

Biome Bioplastics Limited

Terms & Conditions

1. GENERAL

- 1.1 Unless otherwise agreed in writing, these conditions of sale ("**Conditions**") apply exclusively to each transaction ("**Contract**") for the sale of goods ("**Goods**") by the Company to a purchaser of Goods ("**Purchaser**") (together "**the Parties**").
- 1.2 The headings used are for convenience only and do not affect the interpretation of these Conditions.
- 1.3 Any dispute or question unresolved between the Parties shall be referred in London to a single arbitrator to be agreed. Should the dispute not be settled by way of arbitration within a period of 30 days from commencement of the hearing, or an arbitrator cannot be agreed, the unresolved dispute shall be heard by the courts of England who shall have jurisdiction in connection with the dispute.
- 1.4 Each Contract will only confer rights and benefits on the Company and the Purchaser and no third party will acquire any rights or benefits under the Contract or these Conditions.
- 1.5 The Contract may not be assigned by the Purchaser but the Company may assign or sub contract all or any of its rights or obligations.
- 1.6 Any waiver by the Company of any breach of the Contract by the Purchaser will not be treated as waiving any subsequent breach of the same or any other provision.
- 1.7 Any notice given under these conditions must be in writing and be addressed to the registered office or principal place of business of the addressee or any other address as may at the relevant time have been notified of the correct address to service the documents. Any notice must be given by hand or sent by first class (airmail if overseas) recorded delivery post. E-mail is not effective notice, except where served under clause 9. Notices may be faxed provided they are also sent in accordance with this Condition.

2. QUOTATION AND SPECIFICATION

- 2.1 Any Contract arising shall be subject to these terms and conditions in their entirety unless expressly varied or excluded by the Company in writing and these terms and conditions shall prevail over all other Conditions, warranties and representations, whether expressed or implied, statutory or otherwise and any purported provisions to the contrary are hereby excluded.

3. ORDERS, SCHEDULES, CANCELLATIONS AND RETURN OF GOODS

- 3.1 All verbal orders or instructions must be confirmed to the Company in writing within 5 working days. Orders for spread deliveries must state clearly the period over which delivery is required, together with details of monthly requirements. No cancellations, changes of order, return of goods or reductions in delivery periods can be accepted without the Company's written consent. Times quoted for delivery represent the Company's estimates only and are given in good faith at the time of quoting. The Company cannot accept any liability in respect of failure to meet such estimated delivery dates and times shall not be deemed to be of the essence of the Contract.

4. PRICE AND PAYMENT TERMS

- 4.1 The price of the Goods ("**the Price**") is the price contained in the Company's non binding quotation or if no price is quoted, the current list price of the Goods and is exclusive of VAT, delivery, packaging, carriage and insurance. The Company's entitled to increase the Price at any time before the Contract is accepted by the Company to reflect any increase in its costs because of any factor beyond its control or any changes in delivery dates, quantities, or specifications requested by the Purchaser or any delay caused by the Purchaser's failure to provide adequate information or instruction.
- 4.2 Unless the Parties agree otherwise, the Purchaser will pay the price (whether or not the Company has formally demanded it) within 30 days after the date of the invoice, or 30 days after date of despatch of the Goods, whichever is the later.
- 4.3 If the Price (plus VAT and other applicable charges) is not paid in full when due then, without affecting any of the Company's other rights or remedies, the Company may cancel the Contract and/or suspend any further deliveries; charge interest at 6% per year above Barclays Bank base rate at the time on all unpaid amounts; withdraw all credit facilities extended and require immediate payment of all outstanding invoices whether or not due for payment; and/or cancel and withdraw any trade discount allowed on the Price.
- 4.4 The Price paid shall be in the currency stated on the invoice.
- 4.5 In the event of any delay or delays in manufacture, despatch or delivery which are attributable to the Purchaser's actions or failure to act, the Purchaser at the sole discretion of the Company shall either make payment to the Company in accordance with the above as if the Goods had been delivered at the times specified, but for such a delay or delays such delivery would have taken place, or will make a partial payment to the Company in accordance with the above based upon the proportion of the Contract completed at the date of and from the date of which the delay was notified.
- 4.6 If any payment falls into arrears the Company shall have the right to cancel or postpone performance of the Contract wholly or in part and to be paid immediately for performance of the Contract to date.

- 4.7 No claim by the Purchaser under warranty or otherwise shall entitle the Purchaser to any deduction, retention or withholding of any part of any sums due for payment here under. The Purchaser shall not be entitled to any set off of obligations within or between contract with the Company.

5. DELIVERY

- 5.1 The Purchaser will pay for carriage, insurance and any other applicable delivery charges. The export terms and conditions 7 apply to Goods to be delivered outside of the UK.
- 5.2 If the Purchaser fails to take delivery of the Goods or fails to give adequate delivery instructions then, without affecting any of the Company's other rights or remedies, the Company may invoice the Purchaser and store the Goods until actual delivery and charge the Purchaser for the reasonable costs (including insurance) of storage. The Company may, after 30 days, sell the Goods at the best price readily obtainable and (after deducting reasonable storage and selling expenses) account to the excess over the Price to the Purchaser or charge the Purchaser the amount of any shortfall.
- 5.3 Any claim by the Purchaser for non or incorrect delivery (whether or not delivery is refused by the Purchaser) must be notified to the Company within 10 days from the scheduled delivery date. If delivery is not refused, and the Purchaser does not notify the Company accordingly, the Purchaser is not entitled to reject the Goods and the Purchaser must pay the price (plus VAT and other applicable charges) as if the Goods had been delivered in accordance with the Contract.

6. RISK AND PROPERTY

- 6.1 Risk of damage to or loss of the Goods passes on delivery or, if the Purchaser fails to take delivery without good cause, at the time when delivery is tendered.
- 6.2 Title of the Goods does not pass to the Purchaser until the Company has received full payment of the Price (plus VAT and other pre-notified applicable charges) and all other sums due to the Company from the Purchaser as cleared funds. Until title of the Goods passes to the Purchaser, it will hold the Goods as the Company's fiduciary agent and bailee and will keep the Goods separate from its goods and those of third parties, properly stored, protected, insured and identified as the Company's property; and the Purchaser will not pledge or charge the Goods by way of security or otherwise. Breach of any of the provisions of this Condition will result in all money owing by the Purchaser to the Company (without affecting any of the Company's other rights or remedies) becoming immediately due and payable. Once title of the Goods has passed to the Purchaser, it is entitled to resell or use the Goods in the ordinary course of its business. The Company may, before property of the Goods passes, require the Purchaser to deliver up the Goods to it and, if the Purchaser fails to do so, may repossess the Goods. The Purchaser grants the Company an irrevocable licence to enter, with or without vehicles, any of its premises for the purpose of inspecting or repossessing the Goods.

7. IMPORT / EXPORT TERMS

- 7.1 ("**Incoterms**") means The International Rules for the Interpretation of Trade Terms 2000 (as amended).
- 7.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this condition 7 apply (subject to any special terms agreed in writing between the Parties) and any term or expression which is defined in or given a particular meaning by the provisions of Incoterms has the same meaning in these Conditions, unless there is any conflict, in which case these Conditions will prevail.
- 7.3 The Goods will be delivered Ex-works, unless agreed otherwise in the purchase order. These Conditions shall prevail in the event of a dispute.
- 7.4 The Purchaser is responsible for ensuring that the Goods comply with the laws and regulations of the country to which it requires the Goods to be supplied and for obtaining the necessary export/import licences. The Purchaser will not hold the Company liable for any failure to comply with those laws and regulations or to obtain the necessary licences.

8. SPECIAL REQUIREMENTS

- 8.1 The Goods shall be packaged using the Standard Packaging of the Company (octabins or 25kg bags). If the Purchaser requires the Goods to be packaged in alternative packaging to the Standard Packaging, the Purchaser shall raise this request to the Company at the time of placing its order, so that the quotation can reflect the additional costs of the alternative packaging. Such additional costs to be paid for by the Purchaser.

9. GOODS DAMAGED IN TRANSIT/NON DELIVERY & INSPECTION

- 9.1 Where the transport of the Goods has been arranged by the Company and the Goods are damaged in transit or having been placed in transit has not been delivered to the Purchaser, then in the case of damage to the Goods, the Purchaser shall give notice to the Company within three (3) working days after delivery within the United Kingdom or seven (7) days overseas and, of non delivery of the Goods the Purchaser shall give notice to the Company within ten (10) working days after the receipt of the invoice to a United

Biome Bioplastics Limited

Terms & Conditions

Kingdom address or within thirty (30) days of receipt of the invoice to an overseas address.

- 9.2 The Purchaser is required to inspect the Goods upon receipt and where any defects in the Goods are noticed upon immediate inspection, the Purchaser shall notify the Company no later than 3 working days after identifying such defect. Defects that cannot be identified by careful inspection upon receipt shall be notified to the Company immediately after such defect is identified. Notices of defect have to be confirmed in writing to the Company together with a detailed description of the defect. The defective Goods are to be retained in the condition at the time when the defect was identified and shall be made available for inspection by the Company.
- 9.3 The Company's liability shall be limited to repair; replacement or refund of the purchase price applicable of the Goods at the Company's sole option provided always that notice is given in accordance with the above.

10. PERFORMANCE AND WARRANTY

- 10.1 Except as set out below, the Company warrants that the Goods will correspond to their specification at the time of delivery and will be free from defects in materials and workmanship. The warranty in respect of defects of the Goods shall be 1 year from the date of delivery of the Goods. All other warranties, conditions or other terms implied by statute or common law (including fitness for purpose) are excluded to the fullest extent permitted by law. This warranty is not transferable in any way.
- 10.2 The warranty given in Condition 11 does not apply in respect of any claims: Where there has been a failure to use, mix, apply, install, operate or maintain the Goods as instructed by the Company (as set out in the applicable material safety data sheet), or where the Goods have been used other than for their intended purpose or where the Goods have been modified.
- 10.3 No warranty claim may be made if: the Purchaser has not paid the Price in full; the Purchaser cannot provide proof of purchase; or the Goods have been sold or transferred in any way. In respect of any Goods, parts or components not manufactured by the Company, the Purchaser is only entitled to the benefit of any guarantee or warranty to which the Company is itself entitled. Replacement Goods are only warranted for the period of the original Goods, warranty and defective parts replaced will become the Company's property.
- 10.4 Where a valid warranty claim is made in respect of any Goods, the Company can choose either to repair or replace the Goods (or the part in question) free of charge or grant credit to or refund to the Purchaser the Price of the Goods (or a proportionate part of the Price) at the Company's absolute discretion, but the Company will have no further liability to the Purchaser under the warranty. This is the Purchaser's sole remedy in respect of the Goods.

11. LIMITATION OF LIABILITY

- 11.1 Except as provided in Condition 11.4 the Company is not liable to the Purchaser because of any representation (unless fraudulent), or any warranty (express or implied) Condition or any other term, or any duty of common law, or under the express terms of the Contract, for:
- 11.1.1 Any loss of profit, business, contracts, opportunity, goodwill, revenue, anticipated savings, expenses, costs or similar loss; and/or
- 11.1.2 Any indirect, special or consequential loss or damage (whether for loss of profit or otherwise);
Whether caused by the negligence, breach of contract, tort, or breach of statutory duty of the Company, its employees or agents or otherwise, arising out of or in connection with the Contract.
- 11.2 Except as provided in Condition 11.4 any other liability of the Company to the Purchaser in contract, tort, negligence, breach of statutory duty or otherwise arising out of or in connection with the Contract is limited:
- 11.2.1 In the case of damage to property, to £500,000 (five hundred thousand pounds) or the contract price whichever sum is the greater and
- 11.2.2 In any event, in connection with one or a series of contracts/causes of action/arising from one set of facts or circumstances/ in any twelve (12) calendar month period, to the sum of £2,000,000 (two million pounds).
- 11.3 Any advice, instruction and/or recommendation relating to the Goods and/or their use whether written or oral given by the Company's employees ("Advice") is given in good faith, but the Company only warrants that written Advice is given with reasonable skill and care. No further duty or responsibility is accepted by the Company.
- 11.4 Despite the Conditions set out above, no Condition will exclude or restrict the liability of the Company for breach of the statutory warranty as to title and quiet possession. Nothing in these Conditions will operate or be construed to operate so as to exclude or restrict the liability of the Company for fraud, or death or personal injury, caused by the negligence of the Company.
- 11.5 The Purchaser must rely on its own testing of Goods and under no circumstances will the Company be deemed to have represented that Goods are fit for any particular purpose, other than any purpose expressly

set out in the Company's literature (including data sheets) or otherwise in writing.

- 11.6 In respect of sales of Goods to or Advice given to consumers, nothing contained in these Conditions will affect those consumer's statutory rights.

12. INSOLVENCY OF PURCHASER

- 12.1 If the Purchaser makes any voluntary arrangement with its creditors or (being a individual or firm) becomes bankrupt, or (being a company) becomes subject to an administration order or goes into liquidation (otherwise and for the purposes of a solvent amalgamation or reconstruction), or an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Purchaser, or the Purchaser ceases or threatens to cease to carry on business, or the Company reasonable apprehends that any of the events mentioned in this Condition is about to occur (and notifies the Purchaser accordingly) then, without affecting any of the Company's other rights or remedies, the Company is entitled to cancel the Contract or suspend any further deliveries without incurring any liability. Additionally if the Goods have been delivered but not paid for, the Price will become immediately due and payable despite any previous agreement or arrangement to the contrary.

13. CONFIDENTIAL INFORMATION

- 13.1 The Purchaser is NOT authorised to copy, publicise or make available to any third party any drawings, specifications, written instructions on other technical papers supplied by the Company in connection with its quotation or here and under and the same shall remain the Company's property and shall be returned on demand or on termination of this Contract. The Purchaser at all times shall treat such information as confidential and may only use and make available to third parties the confidential information which is given to the Purchaser in so far as for the purpose of adjudication of the quotation, performance of the Contract and use of the Goods, or where information is required to be disclosed by law or any other government regulations. Any of the Company's business trade secrets or confidential information which may come into the Purchaser's possession must be regarded as strictly confidential even after termination of this Contract. The foregoing shall not apply to information which is or becomes public knowledge without failure on the Purchaser's part to comply with this Condition.

14. ENTIRE AGREEMENT

- 14.1 These Conditions and the documents referred to in them, set out the entire agreement between the Parties and supersedes any previous agreements between the Parties relation to the subject matter of the Contract. The Purchaser acknowledges that in entering into this Contract is has not relied on any representation, warranty, agreement or statement not set out in these Conditions and that (in the absence of fraud) it will not have any right or remedy arising out of such representation, warranty, agreement or statement and that its only remedy for breach of these Conditions is for breach of Contract under the terms of these Conditions.

15. TERMINATION

- 15.1 The Company operates a zero-tolerance to bribery and corruption and conducts its business in an honest and ethical manner. If it is determined that the Purchaser is seeking to flout or disregard the laws as defined in the Bribery Act 2010 and any other laws applicable to bribery and corruption in respect of any of the contracts entered into with the Company, the Company has the right to terminate the Contract/s immediately with no liability to the Purchaser and the Company shall co-operate fully with any authorities in respect of any investigation relating to any alleged or actual flouting or disregard of such laws. The Purchaser shall indemnify the Company against any losses, liabilities, damages, costs and expenses incurred by, or awarded against, the Company as a result of any breach of these provisions by the Purchaser.

16. LAW AND JURISDICTION

- 16.1 These Conditions and each Contract are governed by English Law and subject to clause 1.3 (arbitration clause) the Parties agree to the exclusive jurisdiction of the English Courts.