

Plastatech Standard Terms and Conditions

GOODS AND SERVICES SOLD BY PLASTATECH ENGINEERING, LTD. (“PLASTATECH”) ARE EXPRESSLY SUBJECT TO THE TERMS AND CONDITIONS SET FORTH BELOW. ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS IN BUYER’S PURCHASE ORDER OR SIMILAR COMMUNICATION ARE OBJECTED TO AND SHALL NOT BE BINDING ON PLASTATECH UNLESS AGREED TO IN WRITING BY A PLASTATECH CORPORATE OFFICER. BUYER’S ACCEPTANCE OF SHIPMENT OR PERFORMANCE AND/OR PAYMENT FOR THE GOODS OR SERVICES CONSTITUTES ACCEPTANCE OF PLASTATECH’S TERMS AND CONDITIONS.

Standard Payment Terms

1. Net 30 days for all invoices.
2. Service charges begin to accrue after 30 days at 1.5% per month on the outstanding balance. Buyer shall pay Plastatech all costs incurred by it in collecting any past due account from Buyer, including, but not limited to, all court costs and attorney’s fees.
3. All prices quoted by Plastatech are subject to correction or change upon 5 days’ notice by Plastatech to Buyer.
4. In the event that an order for products designed and manufactured specifically for purchaser are suspended or terminated for any reason, purchaser will take delivery of and make payment for all product(s) completed and or in process on the date the notice of suspension or termination is received by Plastatech. If purchaser for any reason cannot accept delivery of such products, payment will be made therefor as though delivery had been made and Plastatech will store product(s) for purchaser’s account and at purchaser’s expense.

Shipping, Freight & Delivery

1. All sales are F.O.B. Plastatech’s manufacturing facility located in Saginaw, Michigan, unless otherwise specified in writing. Orders of less than truckload quantity will be made freight collect unless purchaser arranges transportation from Plastatech. Unless specifically requested, method of transport will be at the discretion of Plastatech.

Tolerances and Variations

1. All films, fabrics, and laminates, will be produced in accordance with Plastatech’s standard practices. Materials produced to purchaser’s specifications will be subject to tolerances and deviations of consistent good manufacturing practices regarding weight, gauge, composition, dimensions, quality, practical testing and inspection methods.

Limited Warranty

THIS LIMITED WARRANTY (“WARRANTY”) CONSTITUTES THE SOLE WARRANTY AVAILABLE TO ANY PURCHASER OR SUBSEQUENT PURCHASER FOR ANY ALLEGED DEFECT OR FAILURE OF ANY GEOMEMBRANE, LINER, FILM, SHEET OR ANY ACCESSORIES OR SEALANTS THERETO (“PRODUCTS”), INCLUDING ALL WORKMANSHIP OF PLASTATECH AND/OR ANY AND ALL INSTALLERS. PLASTATECH HEREBY DISCLAIMS AND MAKES NO WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. THE

REMEDIES DESCRIBED IN THIS WARRANTY ARE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE TO THE PURCHASER OR SUBSEQUENT PURCHASERS AND ALL OTHER REMEDIES ARE EXCLUDED. PLASTATECH WILL HAVE NO LIABILITY FOR ANY DIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE, DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, CLAIMS OF CONTRIBUTION, INDEMNITY, PROPERTY DAMAGE, LOST PROFITS, LOSS OF USE OR ANY OTHER PARTICULAR DAMAGE WHETHER DUE TO DEFECT OR OTHERWISE.

Warranty. Plastatech hereby warrants to the initial purchaser and any subsequent purchasers, for up to one (1) year after delivery to the initial purchaser, that the Products will be free of any manufacturing defect at the time of initial delivery.

Exclusions. Products are intended only for industrial and commercial uses and are not a “consumer product” as defined by the Magnuson-Moss Warranty Act, or similar state, local or federal law. This Limited Warranty does not cover workmanship in installation, repair or inspection. This Warranty does not cover any failure or damage arising out of Acts of God, earthquake, lightning, hurricane, tornado, flood, fire, explosions, riots, acts of terrorism and/or war, radiation, acid, birds, insects, mechanical abuse by machinery and/or equipment, punctures, excessive pressure or stress, floating debris, accidents, vandalism, intentional acts, negligence or failure to use reasonable care.

Conditions. Plastatech shall have no liability under this Warranty unless the purchaser or subsequent purchaser notifies it, in writing, of any alleged defect within thirty (30) days of discovery of the alleged defect. The purchaser or subsequent purchaser must also allow Plastatech’s agents free and open access to the Products. Any act by the purchaser or subsequent purchaser, including actions of any agents, to repair, replace, remove, alter or disturb the Products, unless authorized by Plastatech in writing, prior to an inspection by Plastatech shall constitute a waiver of the purchaser’s or subsequent purchaser’s rights under this Warranty unless such action was taken in the event of an emergency and to prevent loss of life or damage to person, property or the environment.

Exclusive Remedy for Breach of Warranty. If Products fail to perform as warranted during the term of the warranty, Plastatech will, at its option and sole discretion, repair Products, replace Products, or refund the purchase price paid to Plastatech for the particular Products that fail to perform as warranted.

Acceptance

1. Purchaser will notify Plastatech of any defects, errors, damages, or shortages in items received, in writing, within 30 days after delivery. The written notice must indicate the appropriate Invoice Number and Original Purchase Order Number and be accompanied by documents that support the alleged defects, errors, damage or material shortages.
2. If purchaser fails to provide written notice, documents or supporting information as well as the Invoice Number within the required time, purchaser will have waived all claims of defects, errors, damages or shortages.

Cancellation by Buyer

1. Plastatech shall not accept order cancellations of custom products. Exceptions to this rule will be determined at the sole discretion of Plastatech. Orders cannot be cancelled due to delays in delivery or other causes without written notification to Plastatech.
2. Purchaser shall be obligated to pay for and accept any goods shipped.
3. Purchaser shall be obligated to pay cancellation fees based on expenses incurred or commitments enter into by Plastatech for any goods or product which is used to manufacture product for the purchaser.
4. Plastatech reserves the right on any order of standard stock products cancelled by purchaser to apply a cancellation fee of up to 20% of the purchase price of the unshipped portion of the original order.

Delay or default by Plastatech

1. Plastatech will not be held liable for any default or delay in the production or delivery of any goods when such results are directly or indirectly from: (a) breakdowns or accidents or mechanical failure of Plastatech's manufacturing equipment or machinery: or (b) any other cause beyond the control of Plastatech.
2. Plastatech's liability on any claim for loss or damage arising out of this contract or from the performance or breach thereof, or connected with any Products or services supplied hereunder, or the sale, operation or use of Products, whether based on contract, warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such Products or services REGARDLESS OF CAUSE OR FAULT. This limitation of liability reflects a deliberate and bargained-for allocation of risks between Plastatech and Buyer and constitutes the basis of the parties' bargain, without which Plastatech would not have agreed to the price or terms of this contract. Plastatech shall not under any event be liable for INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.

Assignment

Buyer shall not assign or delegate any or all of its duties or rights under this contract without Plastatech's prior written consent. Plastatech may assign this contract to any affiliated or successor company upon notice to Buyer.

Choice of Law

This Limited Warranty and any other dispute related to a sale by Plastatech to Buyer shall be governed by and construed in accordance with the laws of the State of Michigan without regard to any conflicts of law principles.

Consent to Jurisdiction

Any and all demands, controversies, claims, actions, causes of action, suits, proceedings and/or other litigation relating to or arising out of the Limited Warranty or any other dispute related to a sale by Plastatech to Buyer shall be brought in the courts of the State of Michigan.

Limitation of Actions

Any and all claims, suits or other proceedings arising out of or related to the Limited Warranty or any other claim by Buyer against Plastatech shall be brought within one (1) year from the date of accrual or shall be forever barred.

General

Any representation, affirmation of fact or course of dealing, promise or usage of trade not incorporated herein shall not be binding on either party. If any provision of these terms and conditions shall be determined to be unenforceable, invalid or void for any reason such provision shall be automatically voided and shall not be part of this agreement and the enforceability or validity of the remaining provision shall not be affected.