



20 April 2021

**STANDARD TERMS AND CONDITIONS OF SALE
OF PLASTICOLORS PROPRIETARY LIMITED
(hereinafter referred to as "PLASTICOLORS")**

1. ACCEPTANCE OF TERMS AND CONDITIONS

The signature of this document or any quotation/invoice/delivery note/credit application form and any subsequent placement of an order shall be taken as actual or implied acceptance of these Terms and Conditions of Sale.

2. VALIDITY OF QUOTATIONS

Quotations are valid for a period of 30 (thirty) days from date of written quotation. Thereafter they will be subject to revision and confirmation by PLASTICOLORS. Only written quotations on a PLASTICOLORS' letterhead, signed by a duly authorized person, shall be binding.

3. COLOUR AND QUALITY VERIFICATION

As Customers' products, raw materials, machines, applications, moulds, temperatures, weathering requirements and conditions differ for every situation, PLASTICOLORS supplies samples for testing and approval in terms of your specific requirements. The obligation is on the Customer to test and approve the samples/colour batches before placing a production order with PLASTICOLORS. PLASTICOLORS does not purport to make any guarantees or warranties with respect to the weathering capabilities of the Customer's final product. The Customer undertakes to adhere to the recommended addition rates as per the Product Data Sheet. Receipt of a production order will be accepted as confirmation that you have tested and approved the trial material and that you are satisfied with its performance in all respects. Should the Customer fail to test any goods supplied before using them in bulk, PLASTICOLORS shall not be liable for any damages suffered by the Customer, directly or indirectly and in any manner whatsoever and the Customer shall under no circumstances be entitled to withhold payment of PLASTICOLORS' account.

4. EXCLUSION OF LIABILITY

4.1 PLASTICOLORS shall not be responsible for:

4.1.1 any loss or damages suffered by the Customer in any manner whatsoever, directly or indirectly, as a result of a defect in the purity or incorrect colour of the goods supplied to Customer;

4.1.2 any loss or damages suffered by the Customer in any manner whatsoever, directly, or indirectly, in respect of goods supplied in compliance with any public regulation, or should the Customer not use the material for its intended use.

4.2 For the sake of clarity, the loss or damages referred to in 4.1 shall exclude liability for any direct, indirect, special or consequential damages, loss of profits, economic loss, loss of goodwill, or any other loss or damages of any nature whatsoever, and any claims for scrap or unsaleable material.

4.3 Customer's products, raw materials, machines, applications, moulds, temperatures, weathering requirements and conditions differ for every situation. Plasticolors supplies samples for testing and approval in terms of Customer's specific requirements. The obligation is on the Customer to test and approve the samples and/or colour batches before placing a production order with Plasticolors. Plasticolors does not imply, suggest, or claim to make any guarantees or warranties with respect to the weathering capabilities of the Customer's final product. The Customer is deemed to have adhered to all recommended addition rates as per the Product Data Sheet provided.

4.4 Customer's placing of a Production Order serves as confirmation that Customer has tested and approved the trial material and is satisfied with its performance in all respects, and for the use for which it is intended. Should the Customer fail to test any goods supplied to them, Plasticolors shall not be liable for any damages suffered by the Customer, directly or indirectly and in any manner whatsoever.

4.5 Plasticolors gives no warranties or guarantees and makes no representations as to the merchant ability or fitness for a particular purpose of any completed product or goods of the Customer and any warranties or representations, whether express or implied, and whether oral or in writing are hereby excluded.

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4.6 Plasticolors supplies its products based on best practice guidelines and in accordance with accepted national and international regulations. The information provided in our Product Data Sheets is based on our knowledge and experience at the time of supply and is accurate based on the current state of scientific and technical knowledge at the time of supply.

5. RETURN OF GOODS

The Customer shall not be entitled to return any goods as being defective until such time as PLASTICOLORS have had a reasonable opportunity to investigate the nature of the complaint. Nothing in these Terms and Conditions shall be construed as obliging PLASTICOLORS to accept the return of any goods correctly supplied by PLASTICOLORS according to the order and any agreement by PLASTICOLORS to do so shall in no way be construed as an admission that the goods are in fact defective. Notwithstanding the foregoing, in the event of PLASTICOLORS agreeing to accept return of goods, the goods shall be returned in the same condition and packaging as when supplied and provided that the Customer complies with the terms and conditions contained in this document. The Customer specifically understands that any second hand, or scrap material is sold 'voetstoots' and that under no circumstances will PLASTICOLORS accept return of such goods or entertain any complaints. Where the addition of any form of non-virgin material has been used in the Customer's manufacturing process, the return of goods correctly supplied by PLASTICOLORS according to the order will not be accepted for return or credit.

6. ACCEPTANCE OF ORDER

Once PLASTICOLORS has accepted an order, the Customer shall not be entitled to cancel the order without PLASTICOLORS' written consent. A handling fee of 10% (ten percent) may be charged to recover any costs pertaining to an order that PLASTICOLORS may agree to cancel. Where goods are specially manufactured, any additional costs incurred will be for the account of the Customer.

7. DELIVERY

Orders will be accepted, and delivery shall be effected on the following basis:

- 7.1 Where late delivery occurs and is as a result of the action or inaction of the Customer or a third party, such as a carrier, or due to *force majeure*, PLASTICOLORS shall bear no responsibility and shall not be liable for any consequential losses or damages suffered by the Customer;
- 7.2 Delivery of goods by PLASTICOLORS shall be deemed to take place upon collection of the goods by the Customer or the date on which the goods are ready for collection (where the Customer is obliged to collect the goods) or where PLASTICOLORS is obliged to deliver the goods, actual delivery of the goods to the Customer by PLASTICOLORS or its agent;
- 7.3 Should expedited delivery be agreed, PLASTICOLORS shall be entitled to make additional charges on a time and materials basis to cover any overtime or any other additional costs involved, including without limitation, the cost of couriers or special delivery post;
- 7.4 Should production be suspended at the request of or delayed through any default of the Customer for a period of 30 (thirty) days or more, PLASTICOLORS shall then be entitled to payment for work already done or goods produced, materials specially ordered and other additional costs including storage;
- 7.5 Risk of loss of or damage to goods completed by PLASTICOLORS shall pass to the Customer on delivery. Notwithstanding delivery and the passing of risk in the goods to the Customer, ownership of and title to the goods shall not pass to the Customer as stipulated in Clause 8 below.
- 7.6 In the unlikely event that PLASTICOLORS deems it necessary to redo samples or colour batches, the date of delivery shall be extended at PLASTICOLORS' sole discretion;
- 7.7 Advice of damage, delay, or partial loss of goods in transit or of non-delivery must be given in writing to PLASTICOLORS and the carrier within 3 (three) clear days of delivery (or, in the case of non-delivery within 28 (twenty eight) days of dispatch of the goods) and any claim in respect thereof must be made in writing to PLASTICOLORS and the carrier within these time periods;

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7.8 *Force Majeure*: PLASTICOLORS shall be under no liability if it shall be unable to perform any obligation which is owed by it to the Customer for any reason beyond its control including (without limiting the foregoing) an Act of God, legislation, war, fire, flood, failure of power supply, lock-out, strike or other industrial action taken by employees in contemplation of furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract;

7.9 Every endeavour will be made by PLASTICOLORS to deliver the correct quantity ordered. However, some variation is inherent in the process and it is understood and accepted by the Customer as reasonable that minor variations are immaterial and that PLASTICOLORS shall have no liability in respect of such variations. It is acceptable to over or under deliver by not more than 10% (ten percent) of the quantity ordered and in respect of any under delivery, PLASTICOLORS entire liability will be to pass a credit;

7.10 It is the Customer's duty to inspect the goods on receipt and by signing the delivery note / waybill, the Customer shall be deemed to be satisfied that the goods are in good order;

7.11 The Customer accepts that the signature by any employee or agent on behalf of the Customer of any delivery note or weigh bill constitutes evidence of receipt of the goods by the Customer.

8. OWNERSHIP OF GOODS

8.1 All goods remain the sole and absolute property of PLASTICOLORS until payment in full has been received in respect of any goods supplied to the Customer.

8.2 The Customer shall notify any landlord of leased premises that the landlord's hypothec shall not apply in respect of PLASTICOLORS' goods.

9. PAYMENT

9.1 Payment terms are strictly 30 (thirty) days from date of statement in respect of Customers enjoying a credit facility. Funds will be cleared into our bank account by no later than the last working day of the month after the date of statement.

9.2 In respect of COD orders over R1 000.00 (One Thousand Rand) a deposit of 50% (fifty percent) will be required which may be waived at PLASTICOLORS' sole discretion. Full payment for the order must clear into our bank account before delivery or collection can take place;

9.3 In respect of Cash Upfront Orders, a pro-forma invoice will be raised, against which payment must clear into our bank account before manufacture of the goods will commence;

9.4 Late payment: the Customer hereby acknowledges that should any amount not be paid on due date, the full amount owing by the Customer to PLASTICOLORS shall immediately become due and payable without any notice of whatsoever nature, notwithstanding that any amount may, as at that date, not yet be due. The Customer shall pay interest on all overdue amounts at a compound rate of 2% (two percent) per annum above the prime overdraft rate charged by PLASTICOLORS' bankers to PLASTICOLORS and PLASTICOLORS shall be entitled to place the Customer on "stop supply" without any notice notwithstanding that the Customer may have placed an order for the supply of goods prior to the stop supply date;

9.5 All prices charged are net amounts and a discount will be allowed only by prior written arrangement. All goods are supplied at PLASTICOLORS'S ruling prices as at the date of placement of order and not prices based on previous orders for the same product.

10. PROTECTION OF PERSONAL INFORMATION

10.1 We are committed to protecting your privacy and to ensure that your personal or business information is collected and stored properly, lawfully and transparently. We collect and process your information mainly to contact you for the purposes of doing business, understand your requirements, and deliver our services to you accordingly. We may disclose your information where we have a duty or a right to disclose in terms of law, and where we believe it is necessary to protect our rights. If you have any queries; need further information about our privacy practices; wish to withdraw consent; exercise preferences or access or correct your personal or business information, please contact our POPI information officer at finance@plasticolors.co.za.

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11. LEGAL PROCEEDINGS

11.1 The Customer and its sureties hereby consent to the jurisdiction of the Magistrate's Court or Regional Court for all actions which may be instituted by PLASTICOLORS for the recovery of any amounts owing to it, provided that PLASTICOLORS may at its discretion, institute any legal proceedings against the Customer in the High Court of South Africa having jurisdiction;

11.2 In the event of PLASTICOLORS instructing its attorneys to collect any amounts, all legal costs (inclusive of collection charges and tracing agents' fees) shall be borne by the Customer on the attorney and client scale and all payments made shall firstly be allocated towards such fees and charges and thereafter to interest and finally to capital;

11.3 Should the Customer fail to pay any amounts due or become provisionally or finally liquidated or be placed under business rescue, PLASTICOLORS reserves the right to institute urgent legal proceedings to take possession of the goods and shall be deemed a secured creditor in terms of its right of ownership referred to in Clause 8 above.

12. SERVICE AND DOMICILIUM

For all purposes under these Terms and Conditions of Sale, including giving of any notice, the service of any processes and for all other purposes arising from these terms and conditions, the Customer hereby chooses its *domicilium citandi et executandi* at the physical address of the Customer stipulated on the Credit Application Form, or at the address where goods are delivered to the Customer. The Customer shall be obliged to notify PLASTICOLORS in writing should there be any change in its physical address.

13. NON-VARIATION

No amendment and/or alteration and/or variation and/or addition and/or cancellation of these terms and conditions (including this clause), whether consensual or unilateral or bilateral shall be of any force and effect unless reduced to writing and signed by PLASTICOLORS. No agreement, whether consensual or unilateral or bilateral, purporting to obligate PLASTICOLORS to sign any written agreement to amend, alter, vary, delete or add or cancel these terms and conditions shall be of any force and effect unless reduced to writing and signed by PLASTICOLORS. No warranties, representations or guarantees have been made by PLASTICOLORS or on its behalf which may have induced the Customer and/or the surety to sign this document.

14. NON-WAIVER

No relaxation or indulgence granted by PLASTICOLORS to the Customer and/or the surety/ies shall be deemed to be a waiver of any of the rights of PLASTICOLORS in terms of this agreement and such relaxation or indulgence shall not be deemed to be a novation of any of the terms and conditions of this agreement.

15. SURETYSHIP

Where the signatory/ies sign in a representative capacity, he/they hereby renounce the benefits of execution and division and agree to bind himself/themselves jointly and severally as surety and co-principal debtor *in solidum* with the Customer unto and in favour of PLASTICOLORS, its order or assigns, for the due performance by the Customer of all its obligations to PLASTICOLORS and shall, when required to do so by PLASTICOLORS, sign a separate Deed of Suretyship.

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I/WE ACKNOWLEDGE HAVING READ THE ABOVE TERMS AND CONDITIONS AND WITHOUT LIMITING THE GENERALITY THEREOF, AGREE TO BE BOUND BY ALL SUCH TERMS AND CONDITIONS.

COMPANY NAME: _____

FULL NAMES: _____

SIGNATURE: _____

CAPACITY: _____

DATE: _____

DOMICILIUM ADDRESS OF CUSTOMER:



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