

## PLASTEK LLC TERMS AND CONDITIONS OF SALE

**READ THIS DOCUMENT CAREFULLY. IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS WARRANTY LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU.**

The following terms and conditions, together with any additional provisions stated on the reverse side of this invoice (collectively, the "Terms"), represent the agreement between Plastek LLC ("Plastek") and its customer ("Customer") for the purchase of the goods described on the reverse side hereof (the "Goods"). Unless the parties have entered into a separate written purchase agreement, these Terms constitute the entire and sole agreement between the parties with regard to the sale of the Goods. By accepting delivery of the Goods, Customer agrees to be bound by and accepts these Terms. No course of dealing, usage of trade or course of performance shall be relevant to explain or supplement the Terms. Plastek reserves the right in its sole discretion to modify the Terms for future purchases at any time and without prior written notice.

**1. PAYMENT.** Unless otherwise indicated on the reverse side hereof, Payment shall be made by Customer at time of order placement via credit card. When partial shipments are made, a prorated partial payment shall become due net upon shipment of items. Plastek may accept partial payment in an amount less than the full amount of any invoice, but such acceptance shall not constitute a waiver of Plastek's right to collect the remaining balance. All overdue payments are subject to finance charges computed at a periodic rate of 1.5% per month (18% per annum), or the highest rate permitted by applicable law. All amounts are stated and all payments are to be made in U.S. Dollars. If Plastek's price for the Goods is based upon acceptance by Customer of a specified quantity of Goods, such price shall be subject to adjustment by Plastek if Customer does not accept such specified quantity.

**2. TITLE AND DELIVERY.** Title of all Goods and risk of loss shall pass to Customer upon shipment of the F.O.B. Plastek's facility. Customer shall be responsible for all shipping, handling and insurance charges as invoiced. Claims for shortages or other errors in delivery must be made in writing to Plastek within five days after receipt of shipment and Customer's failure to provide such notice shall waive all such claims. Claims for loss or damage to Goods in transit by common carrier must be made to the carrier and not to Plastek. All delivery dates provided by Plastek are approximate only. Plastek shall have no liability for any delays in delivery.

**3. PRODUCT SUPPORT.** Plastek reserves the right, without prior notice or liability to discontinue support for the Goods and/or not to provide parts or accessories related thereto.

**4. WARRANTY DISCLAIMER.** THE WRITTEN LIMITED WARRANTIES, IF ANY, COMPRISE THE SOLE AND ENTIRE WARRANTY PROVIDED. NOT WITHSTANDING THE FOREGOING, ALL GOODS ARE PROVIDED .AS IS. AND NO OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY ARE GIVEN IN RESPECT OF THE GOODS, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. SPECIFICALLY, BUT WITHOUT LIMITING THE APPLICATION OF THE FOREGOING DISCLAIMER, THE PARTIES RECOGNIZE AND AGREE THAT THE GOODS MAY NOT WORK ON ALL TYPES OF WINDOWS. PLASTEK DOES NOT WARRANT THAT: (i) THE GOODS WILL MEET CUSTOMER'S REQUIREMENTS; (ii) THE GOODS WILL OPERATE IN THE COMBINATIONS WHICH THE CUSTOMER MAY SELECT FOR USE; (iii) THE OPERATION OF THE GOODS WILL BE DEFECT-FREE; OR (iv) DEFECTS IN THE GOODS OR ANY RESULTING DAMAGE CAN BE CORRECTED. EXCEPT FOR ACTIONS FOR NONPAYMENT OR BREACH OF CONFIDENTIALITY OR INTELLECTUAL PROPERTY RIGHTS, ANY ACTION FOR AN ALLEGED BREACH OF ANY CONTRACT OF SALE OR OF WARRANTY MUST BE COMMENCED WITHIN ONE YEAR AFTER THE DATE ON WHICH THE CAUSE OF ACTION ACCRUES.

**5. EXCLUSION AND LIMITATION OF LIABILITY.** PLASTEK SHALL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND; OR FOR: LOST GOODWILL, LOST PROFITS, LOST BUSINESS, COST OF COVER OR OTHER INDIRECT ECONOMIC DAMAGES, AND FURTHER INCLUDING INJURY TO PROPERTY, WHETHER SUCH CLAIM IS BASED ON THEORIES OF CONTRACT, NEGLIGENCE, TORT (INCLUDING STRICT LIABILITY) OR OTHERWISE AS A RESULT OF BREACH OF ANY WARRANTY OR OTHER OBLIGATION, REGARDLESS OF WHETHER PLASTEK WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY OF SUCH DAMAGES.

**6. RETURNS.** Customer may return Goods that are purchased directly from Plastek only in accordance with Plastek's return policy in effect at the date of the invoice. Customer must directly contact Plastek before attempting to return Goods to obtain a Plastek Return Merchandise Authorization (RMA) number which must be marked clearly on the return shipping label. Unless otherwise provided by a written Plastek warranty, returns of Goods are only allowed within 14 days of Customer's receipt thereof. Plastek, in its sole discretion, may either repair or replace the returned Goods or refund the purchase price to Customer. Shipping handling, insurance, taxes, risk of loss and tariff charges for the return Goods shall be borne by Customer. Plastek may charge a restocking fee for returned Goods.

**7. INTELLECTUAL PROPERTY.** Customer shall not, in any manner, directly or through others, modify or disassemble for the purpose of reverse engineering any of the Goods or related Plastek products or parts. To the extent that the Parties have entered into a nondisclosure agreement, the terms of such agreement are incorporated into these Terms. All intellectual property rights related to Goods, including, without limitation, copyrights, trademarks, patents, trade secrets and confidential information, shall remain the sole and exclusive property of Plastek.

**8. INDEMNITY.** Customer shall indemnify, defend and hold Plastek harmless from and against all costs, losses, liabilities and expenses, including attorney's fees, arising out of or related to Customer's improper application, use or operation of the Goods, including, without limitation, those resulting from any personal injury, workman's compensation or products liability claim.

**9. SECURITY INTEREST.** If the purchase of the Goods are financed, Customer grants to Plastek a purchase money security interest in the Goods, additions and accessions thereto and proceeds whether now existing or hereafter arising (a .PMSI.). The PMSI is granted to secure the full and timely payment of all amounts owed by Customer to Plastek. Plastek shall have all of the rights, powers, privileges, and remedies with respect to such collateral as shall be permitted to a secured party under the Uniform Commercial Code.

**10. TAXES.** If applicable and unless otherwise indicated on the reverse side hereof, all prices are exclusive of federal, state and local excise, sales and similar taxes. Such taxes, when applicable, shall be borne by Customer and are noted as additional items on the reverse side hereof.

**11. GENERAL PROVISIONS.** These Terms may not be modified unless agreed to in writing by Plastek. The sale of the Goods shall be governed by the laws of the State of California, excluding conflict of law provisions. Venue and jurisdiction for all disputes shall be in Los Angeles County, California. Customer may not assign its rights or obligations under these terms. If any provision of these Terms shall be held to be unenforceable, such provisions shall be enforced to the fullest extent permitted by applicable law and enforceability of the remaining provisions shall not in any way be affected or impaired.