

Plastruct Polyzone Inc. - Terms and Conditions

The Terms and Conditions listed below are the exclusive and binding agreement between the parties covering the sale of any and all materials and/or services sold herein (the "Products"), and in lieu of all other terms and conditions appearing on a Buyer purchase order, website, software, or elsewhere and apply to all quotations made and orders accepted by Plastruct Polyzone Inc. ("Seller"). Additional terms proposed by Buyer are hereby rejected unless specifically agreed by the parties in writing. Acceptance of the Terms and Conditions must be without qualification. Seller's shipment of the Products shall not be interpreted as acceptance of terms and conditions in Buyer's purchase order which are different from any terms and conditions contained herein. The Terms and Conditions listed below comprise the entire agreement between the parties, and supersede all prior understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. The prices quoted herein are based on the following terms and conditions, in the expectation that the Buyer will prefer these prices over higher prices on other terms.

1. **PRICES** - Buyer will be invoiced for Products according to the price in effect at the time of shipment of Products. Prices quoted by Seller and availability of Products are subject to change without notice.
2. **TAXES** - Buyer shall reimburse the Seller for all taxes, excises or other charges which the Seller may be required to pay to any Government (National, Province/State or Local) upon the sale, production or transportation of the Products sold hereunder. Seller's quoted prices do not include sales tax or freight charges, which will be added separately on the invoice. If applicable, fuel charges and oversized pallet fees will also be added by Seller separately on the invoice.
3. **PAYMENT TERMS** - Net 30 Days from the date of invoice, if payment is not received within such period, the outstanding balance shall accrue Interest at the rate of 1.5% per month until paid. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms and Conditions or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Products if Buyer fails to pay any amounts when due hereunder and such failure continues for thirty (30) days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller.
4. **CREDIT** - Buyer shall submit a credit application to Seller for approval. Credit is subject to advance approval by Seller, in its sole discretion. If the financial condition of Buyer at any time is such as to give Seller, in its judgment, reasonable grounds for concern about Buyer's ability to perform its obligations under a purchase order, Seller may require full or partial payment in advance or may suspend any further deliveries or continuance of the work to be performed by Seller until such payment has been received. Failure to furnish payment within ten (10) days of demand by Seller shall constitute a repudiation of the contract and in such event, Seller shall be entitled to receive reimbursement for its cancellation charges in addition to any other rights available to it at law. In the event of bankruptcy or insolvency of Buyer or in the event any proceeding is brought by or against Buyer under the bankruptcy or insolvency laws, Seller shall be entitled to cancel any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.
5. **DELIVERY AND INSPECTION** - Estimates of delivery are subject to revision when complete ordering information is received by Seller and Seller reserves the right to deliver in advance of the estimated delivery date. Seller shall have no liability for failure or delay of delivery due to causes beyond the reasonable control of Seller. Upon any such delay or failure, the delivery shall be extended or the items affected may be eliminated from the order. Seller shall not be liable for physical damage incurred in transit or storage. Buyer shall inspect Products at the point of receipt of shipment and confirm to the carrier at the time of delivery if any damage is observed. Regardless of whether Buyer inspects Products, all claims for alleged defects or shortfalls in Products are waived unless (i) Seller is notified of the claim within three (3) days after receipt of shipment and (ii) unless Buyer furnishes such written evidence or other documentation as required by Seller. No claim shall be effective if made after Products have been altered or used. Buyer shall afford Seller prompt and reasonable opportunity to inspect all Products to which any claim is made. No material shall be returned to Seller without Seller's express consent, a return authorization, and return instructions in accordance with the return procedures set forth below. All returns require pre-approval of Seller. Buyer shall contact their Inside Sales Representative to receive a Return Authorization.
6. **SHIPMENTS** – F.O.B. point of shipment. Title and risk of loss or damage passes on to Buyer on delivery to carrier. As collateral security for the payment of the purchase price of the Products, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing.
7. **WARRANTIES** — Seller warrants the title and merchantability of the goods. If the goods do not meet these warranties, the Seller shall replace the goods based on current production schedule, or make a suitable adjustment in the price thereof, or repurchase the goods from the Buyer, provided that written notice is delivered to the Seller within thirty (30) days after the original shipment, and provided that the goods have not been processed. The foregoing expresses the entire liability of Seller regarding the properties or quality of the goods and Seller shall not be liable for any special or consequential damages. Seller shall not be liable for a breach of the warranty set forth in this Section if: (i) Buyer makes any further use of such Products after giving such notice; (ii) the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products, or they are otherwise mishandled; or (iii) Buyer alters or repairs such Products without the prior written consent of Seller, or combines or converts such Products. Seller does not warrant the suitability of the goods for any particular purpose. Even though samples, or information as to observed properties of the goods, may have been supplied to the Buyer. Seller does not warrant the conformity of the goods to the samples or to the observed properties.
8. **INDEMNIFICATION** - Buyer shall indemnify Seller for and hold Seller harmless from (i) any and all loss, damage or injury to persons or property or claims of intellectual property infringement or regulatory noncompliance resulting from Buyer's handling, storage, transportation, resale or use of Products in manufacturing processes, or in combination with other substances, or otherwise.
9. **SERVICES** - All technical advice, recommendations and services provided by Seller, including in connection with consultive engineering designs, are intended for use by persons having skill in the particular area of the services being provided. Such advice is provided to Buyer at its own risk, and Seller assumes no responsibility for any such advice, recommendations or services, and Buyer hereby waives all claims against Seller, for any results obtained or damages incurred or claims or regulatory noncompliance arising from the use of Seller's advice, recommendations or services, absent willful misconduct.
10. **PATENTS** - No Patent license is granted or implied by the Seller and no warranty is given by Seller against infringement of patents of others by reason of the use of the Product in combination with other goods or in the operation of a process.
11. **QUANTITY**- Due to conditions existing in manufacturing the goods, the right is reserved to ship and bill 2% more or less than the quantity specified.
12. **PARTIAL TOOL CHARGES** — Charges for special tools, dies or fixtures required for production of the goods are partial and tools will remain the property of the Seller.
13. **ERRORS** - Stenographic and clerical errors are subject to correction.
14. **CHANGES AND CANCELLATION** — Orders accepted by the Seller are not subject to changes or cancellation by the Buyer, except with the Seller's consent. If the sale covers goods that must be manufactured especially for Buyer and such change or cancellation is made, Buyer shall take all completed goods at full price and all goods in process at cost plus pro-rate profit and Buyer shall reimburse Seller for any loss on materials purchased or on contract for the filling of the order
15. **LAWS** — The Seller certifies that the goods described herein are produced in compliance with the requirements of the laws of Ontario
16. **ENTIRE CONTRACT** — These terms and conditions constitute the entire contract between Buyer and Seller, transcending any oral arrangements of representations which may be inconsistent therewith.