

GOODFLEX RUBBER LIMITED - TERMS AND CONDITIONS

1. INTERPRETATION

1.1 **Definitions.** In these Conditions, the following definitions apply:

Conditions: the terms and conditions set out in this document.

Contract: the contract between Goodflex and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from Goodflex.

Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including, but without limitation, strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, adverse weather conditions, or default of Goodflex's suppliers or subcontractors.

Goodflex: Goodflex Rubber Limited (registered in England and Wales with company number 03494345).

Goods: the goods (or any part of them) set out in the Order.

Party includes personal representatives, successors or permitted assigns

Person: includes a natural person, corporate or unincorporated body

Order: the Customer's order for the Goods, as set out in the Customer's written acceptance of Goodflex's quotation or the Customer's purchase order, as the case may be.

Specification: any specification for the Goods, including any related plans and drawings, that is agreed by the Customer and Goodflex.

writing or written includes faxes and e-mails

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing and constitutes the entire agreement between the parties.

2.2 The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Goodflex which is not set out in the Contract.

2.3 A quotation for the Goods given by Goodflex shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue. The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate. The Order shall only be deemed to be accepted when Goodflex issues a written acceptance of the Order or commences manufacture of the Goods, at which point the Contract shall come into existence. Any samples, drawings, descriptive matter, or advertising produced by Goodflex and any descriptions or illustrations contained in Goodflex's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them and shall not form part of the Contract or have any contractual force.

3. GOODS

The Goods are described in Goodflex's catalogue as modified by any applicable Specification. Goodflex reserves the right to amend the specification of the Goods if required by statutory requirements. To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify Goodflex against all liabilities, costs, expenses, damages and losses suffered or incurred by Goodflex in connection with any claim made against Goodflex for actual or alleged infringement of a third party's intellectual property rights

arising out of or in connection with Goodflex's use of the Specification. This clause shall survive termination of the Contract.

4. QUANTITY VARIATION.

4.1 On all orders, quantities are subject to a quantity variation of plus or minus ten percent (10%) unless otherwise specified or agreed upon.

5. DELIVERY

5.1 Goodflex shall deliver the Goods to the location set out in the Order or such other delivery location as the parties may agree at any time after Goodflex notifies the Customer that the Goods are ready. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location and Goodflex will issue a delivery note with the Goods. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Goodflex shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the event or the Customer's failure to provide Goodflex with adequate delivery instructions.

5.2 If the Customer fails to take delivery of the Goods within 3 days of Goodflex notifying the Customer that the Goods are ready, then delivery of the Goods shall be deemed to have been completed at 9.00 am on the 3rd day after the day on which Goodflex notified the Customer that the Goods were ready. Goodflex shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including but not limited to insurance). If days after the day on which Goodflex notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, Goodflex may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

5.3 Delivery Discrepancies. All deliveries shall be deemed correct unless Goodflex receives from the Customer, no later than seven (7) days after Customer's receipt of the Invoice, a written notice specifying the delivery and the exact nature of the discrepancy between the Purchase Order quantity to be delivered on that date and the quantity delivered, or the exact nature of the discrepancy subject to Clause 4.1.

6. QUALITY

6.1 Goodflex warrants that on delivery, the Goods shall conform in all material respects with their description and any applicable Specification and be free from material defects in workmanship (Warranty). On the basis the Customer (i) gives notice in writing to Goodflex within a reasonable time of discovery that some or all of the Goods do not comply with the Warranty, (ii) provides Goodflex with a reasonable opportunity of examining such Goods and (iii) (if asked to do so by Goodflex) returns such Goods to Goodflex's place of business at the Customer's cost, then Goodflex shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

6.2 Goodflex shall not be liable for Goods' failure to comply with the Warranty if the Customer (i) makes any further use of such Goods after giving notice in accordance with clause 5.1, (ii) the defect arises because the Customer failed to follow Goodflex's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same, (iii) the defect arises as a result of Goodflex following the Specification supplied by the Customer, (iv) the Customer alters or repairs such Goods without the written consent of Goodflex, (v) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions or (vi) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements. Except as provided in this clause 5, Goodflex shall have no liability to the Customer in respect of the Goods' failure to comply with the Warranty and the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to

GOODFLEX RUBBER LIMITED - TERMS AND CONDITIONS

the fullest extent permitted by law, excluded from the Contract. These Conditions shall apply to any repaired or replacement Goods supplied by Goodflex.

7. TITLE AND RISK

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Title to the Goods shall not pass to the Customer until the earlier of (i) Goodflex receives payment in full for the Goods and any other goods that Goodflex has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums and (ii) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable; (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods and maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and (c) notify Goodflex immediately if it becomes subject to any of the events listed in clause 9.1 and give Goodflex such information relating to the Goods as Goodflex may require from time to time.
- 7.4 Subject to clause 6.3, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Goodflex receives payment for the Goods. However, if the Customer resells the Goods before that time title to the Goods shall pass from Goodflex to the Customer immediately before the time at which resale by the Customer occurs. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1, then, without limiting any other right or remedy Goodflex may have the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately and Goodflex may at any time require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. PRICE AND PAYMENT

- 8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in Goodflex's quotation. Goodflex may, by giving notice to the Customer at any time up to 5 days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to any factor beyond Goodflex's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs), any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or any delay caused by any instructions of the Customer or failure of the Customer to give Goodflex adequate or accurate information or instructions.
- 8.2 The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer. The price of the Goods is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from Goodflex, pay to Goodflex such additional amounts in respect of VAT as are chargeable on the supply of the Goods. Goodflex may invoice the Customer for the Goods on or at any time after the completion of delivery. The Customer shall pay the invoice in full and in cleared funds by the end of the month following the month the invoice was dated. Payment shall be made to the bank account nominated in writing by Goodflex. Time of payment is of the essence.
- 8.3 If the Customer fails to make any payment due to Goodflex under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 6% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment

of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

- 8.4 The price of Tooling is broken down into two charges. The first 50% charge called "Part Cost Tooling", and the second 50% charge is called "Final Cost Tooling". All prices quoted are Exclusive of VAT.

The first charge "Part Cost Tooling" is the charge that Goodflex Rubber makes is for the following services:

- Designing the tooling;
- Manufacturing or Procuring the tooling;
- Storing the tooling for a minimum of 6 months after the date of the last purchase order relating to its use;
- Maintaining the tooling for a minimum of 6 months after the date of the last purchase order relating to its use;
- Insuring the tooling.

Please note, at this stage, the tooling belongs to Goodflex Rubber Ltd, So, no sale of goods has taken place, only the sale of services. However, the tooling will not be used for any other party unless agreed by the customer, as long as they have paid the related invoice.

If, at any time, the customer wants to take over ownership of the tooling, Goodflex Rubber would make the second 50% charge ("Final cost tooling") or just charge "Full Cost Tooling" from the onset which combines "Part Cost Tooling" and "Final Cost Tooling". Title of the Tooling shall not pass to the customer until Goodflex receives payment in full for the Final Cost Tooling or Full Cost Tooling.

9. TERMINATION AND SUSPENSION

- 9.1 If the Customer becomes subject to any of the following events, Goodflex may terminate the Contract with immediate effect by giving written notice to the Customer: (a) the Customer commits a material breach of any term of the Agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so or repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement; (b) the Customer suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business (c) the Customer makes a resolution for its winding up, files a notice of intention to appoint an administrator, makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to the Customer or the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors or a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer; (d) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or (e) the Customer is the subject of a bankruptcy petition order, dies or suffers a critical illness.
- 9.2 Without limiting its other rights or remedies, Goodflex may suspend provision of the Goods under the Contract or any other contract between the Customer and Goodflex if the Customer becomes subject to any of the events listed in clause 8.1 or Goodflex reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment. On termination of the Contract for any reason the Customer shall immediately pay to Goodflex all of Goodflex's outstanding unpaid invoices and interest. Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

GOODFLEX RUBBER LIMITED - TERMS AND CONDITIONS

10. LIMITATION OF LIABILITY

Nothing in these Conditions shall limit or exclude Goodflex's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors, fraud or fraudulent misrepresentation; breach of the terms implied by section 12 of the Sale of Goods Act 1979; defective products under the Consumer Protection Act 1987. Goodflex shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and Goodflex's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

11. GENERAL

- 11.1 **Force Majeure.** Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event.
- 11.2 **Assignment and other dealings.** Goodflex may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign its rights or obligations under the Contract without the prior written consent of Goodflex.
- 11.3 **Notices.** Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or its principal place of business or such other address as that party may have specified to the other party in writing from time time to time.
- 11.4 **Set Off.** The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding. Goodflex may set off any amount owing to it by the Customer against any amount payable by Goodflex to the Customer.
- 11.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable.
- 11.6 **Waiver and Variation.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing.
- 11.7 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 11.8 **Governing law and Jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation.