

TERMS AND CONDITIONS OF SALE

Plas-Pak (WA) Pty Ltd

1. Quotation and Pricing

- 1.1. All quotations are subject to withdrawal or alteration at any time before acceptance by the customer.
- 1.2. All prices are subject to change by Plas-Pak WA Pty Ltd without notice.

2. Delivery

- 2.1. Plas-Pak WA Pty Ltd will make all reasonable efforts to deliver the goods to the customer on the date agreed between the parties as the delivery date, but will be under no liability to the customer should delivery not be made on the required date.
- 2.2. Plas-Pak WA Pty Ltd will endeavour to deliver to the customer the quantity ordered. The customer acknowledges that production conditions may lead to overruns or shortages, and accordingly, the customer will accept delivery notwithstanding that the quantity delivered may be more than or less than the quantity ordered, provided that such excess or shortage is not more than 10% of the quantity ordered.
- 2.3. Deliveries may be totally or partially suspended during any period in which Plas-Pak WA Pty Ltd may be prevented or hindered from delivering by any circumstances outside its reasonable control, including but not limited to : strikes, lockouts, raw material shortages, accidents or breakdowns of plant or machinery. The customer acknowledges that in such an event, Plas-Pak WA Pty Ltd will be under no liability or obligation to deliver to the customer any goods not delivered during the period of suspension.
- 2.4. If goods that are the subject of one order by the customer are delivered by more than one delivery, each delivery will be deemed to be sold under a separate contract. Failure by Plas-Pak WA Pty Ltd to deliver the whole of the order within the time stated on the order form will not entitle the customer to repudiate the contract for the balance remaining undelivered.

3. Payment Terms

- 3.1. Credit terms will only be granted following receipt of an acceptable credit application. If credit terms are granted, the terms of payment will be net thirty (30) Days from invoice of goods (unless otherwise agreed to in writing).
- 3.2. If payment is in default, then all moneys owing will be immediately due and payable and the debt will be subject to collection charges which will Ipso Facto be added to the account as well as interest due up to the date the debt is settled. All expenses incurred by Plas-Pak WA Pty Ltd in recovering the moneys including solicitors charges, debt collectors' fees and disbursements, costs or charges in relation to security documents and any fees on dishonor shall be a debt due and owing by the customer.
- 3.3. The customer will pay interest on all overdue payments at the rate of 2.5% per month.

4. Warranty as to Quality

- 4.1. The customer has the benefit of the conditions and warranties implied by the Trade Practices Act 1974 and similar provisions of State and Territory enactments. Nothing herein excludes, limits, restricts or modifies any statutory obligation of Plas-Pak WA Pty Ltd or any rights, entitlements and remedies conferred upon the customer if that cannot lawfully be effected.
- 4.2. Plas-Pak WA Pty Ltd warrants that the goods supplied will be of a merchantable quality, however, any liability, whether consequential or otherwise, arising out of or in respect of the supply, re-supply, use or re-use of the goods, howsoever arising, including by virtue of representation, warranty or express or implied condition or term is hereby excluded.
- 4.3. If the goods supplied are not of a merchantable quality, Plas-Pak WA Pty Ltd will, at its discretion, replace the goods or refund the price paid by the customer, but will not be liable to the customer for any loss (including but not limited to loss of profits and consequential loss) caused by any act or omission (including negligent acts or omissions) of Plas-Pak WA Pty Ltd or its Agents.
- 4.4. The warrant contained in Clause 4.3 is conditional upon the customer, within 7 days of delivery of the goods, making a written claim to Plas-Pak WA Pty Ltd identifying the full particulars of such claim, where possible returning to Plas-Pak WA Pty Ltd sufficient part of the goods to enable a proper examination and having regard to Clause 4.5.
- 4.5. All advice, recommendations, information, assistance or services provided by Plas-Pak WA Pty Ltd in relation to the goods sold or manufactured by it, or their use or application, is given in good faith and is believed by Plas-Pak WA Pty Ltd to be

appropriate, accurate and reliable. However Plas-Pak WA Pty Ltd makes no warranty and is without liability or responsibility for the accuracy or reliability of the advice.

- 4.6. Plas Pak WA Pty Ltd reserves the right to change material or other specifications as deemed necessary without notice providing the change does not alter the final characteristics to the detriment of the use intended.

5. Passing of Title & Risk

- 5.1. The risk in the goods purchased from Plas-Pak WA Pty Ltd by the customer will pass to the customer upon delivery by Plas-Pak WA Pty Ltd to the customer, or his Agent, or his commissioned carrier.
- 5.2. Ownership and property in the goods will remain with Plas-Pak WA Pty Ltd until payment is made and Plas-Pak WA Pty Ltd shall have the right (and is hereby authorised by the customer) to enter into and upon any premises or vehicle where the goods may be stored or in use and retake possession of and remove same, and the customer hereby indemnifies Plas-Pak WA Pty Ltd against any claim, action, or damages arising out of any such action and against the cost of the same.
- 5.3. Until Plas-Pak WA Pty Ltd receives payment for the goods, the customer will store the goods in a way that clearly manifests the title in the goods of Plas-Pak WA Pty Ltd.
- 5.4. The customer acknowledges that until his total indebtedness to Plas-Pak WA Pty Ltd in respect of the goods is paid, he holds the goods as Bailee for Plas-Pak WA Pty Ltd.

6. Indemnities

- 6.1. Where Plas-Pak WA Pty Ltd utilizes a design or has followed an instruction by the customer relating to the manufacture of the goods, the customer will indemnify and hold harmless Plas Pak WA Pty Ltd from any and all claims, proceedings, judgments, prosecution, damages, losses, costs, expenses and liability made or recovered against Plas-Pak WA Pty Ltd as a result of, whether direct or indirect, any activity or undertaking by Plas-Pak WA Pty Ltd in accordance with those instructions involving an infringement of a patent, trade mark, registered or unregistered design, copyright, or as a result of the Customer's mis-assembly or design of the goods, or markings, instructions or warning on the goods.
- 6.2. The customer will keep Plas-Pak WA Pty Ltd fully indemnified against all losses and expenses (including solicitor / client legal expenses) which Plas-Pak WA Pty Ltd may

suffer or incur due to the failure by the customer to observe its obligations under the contract, including losses and expenses arising from Plas-Pak WA Pty Ltd entering the customer's premises and repossessing the goods as provided for in Clause 5.5.

7. Security

7.1. The customer (including Directors in the case of a Corporation, and its partners in the case of a Partnership) hereby charge their right, title and interest In any and all realty of which the customer and the persons referred to herein, whether solely, jointly or otherwise in favor of Plas-Pak WA Pty Ltd with the obligations of the customer under these terms and conditions. The customer and the persons referred to herein acknowledge that Plas-Pak WA Pty Ltd may pursuant to its interest conferred under this clause, register a caveat on any realty referred to herein.

8. No Waiver

8.1. Unless expressed in writing to the customer, failure or delay by Plas-Pak WA Pty Ltd in exercising any right, power or privilege available to it, will not operate as a waiver thereof nor will the exercise by Plas-Pak WA Pty Ltd of any other right, power or privilege prevent it from exercising any other rights, powers or privileges available to it.