



Opportunity Through Innovation

[Cable Fixings](#) • [Pipe Fixings](#) • [Sub-Contract Mouldings](#)

High Street Rillington Malton N. Yorkshire YO17 8LA U.K.

Telephone: +44 (0)1944 758395 Facsimile: +44 (0)1944 758808

E-mail: enquiries@ellispatents.co.uk Web: www.ellispatents.co.uk

CONDITIONS OF BUSINESS

ELLIS PATENTS LIMITED (hereinafter called 'the Company') engages in the production of plastic goods by means of injection moulding. All and any business undertaken, including any advice, information or service provided by the Company whether gratuitously or not is transacted subject to these conditions and each condition shall be deemed to be incorporated in and to be a condition of any agreement between the Company and any Customer. No agent or employee of the Company has the Company's authority to alter or vary any of these conditions.

1. Interpretation
 - (a) 'the Customer' shall include all persons with whom the Company transacts or proposes to transact business
 - (b) 'the Goods' means any goods manufactured by the Company, or by its servants, agents or sub-contractors
 - (c) 'the Order' means the order placed by the Customer for the manufacture and supply of the goods
 - (d) 'the Specification' means the description of the goods contained or referred to in the order
 - (e) 'the Tools' means any tools supplied by the Customer to the Company, or made by the Company for the Customer
2. If any legislation is compulsorily applicable to any business undertaken these conditions shall, as regards such business, be read as subject to such legislation and nothing in these conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these conditions be repugnant to such legislation to any extent then such part shall, as regards such business, be void to that extent but no further.
3. The Customer warrants that:
 - (a) He is acting as a principal or as the authorised agent of a third party.
 - (b) He accepts these conditions for himself and is authorised to and does accept them for such third party.
 - (c) He has full capacity and has taken or will take all necessary steps, including the obtaining of all necessary licences and permissions, to enable him to deal in the goods.
 - (d) Where he is acting for a third party and not as a principal he accepts personal responsibility to the Company just as if he were acting as a principal and not as an agent for a third part.
 - (e) Any instruction or order given by him will not cause the Company to infringe the law of a country.
4. The Company does not insure the tools which (subject to payment having been made in full therefor if made by the Company for the Customer) shall be and shall remain the property of the Customer. The Customer shall accordingly be responsible for insuring the tools against all risks of loss or damage, howsoever caused, whilst in the possession or control of the Company (and whilst in transit between the Company and the Customer). No claim shall lie against the Company in respect of loss of or damage to or deterioration in the tools, howsoever caused, whether by any of the insured risks as set out herein or otherwise.
5. When a tool is made by or delivered to the Company a first batch of 20 samples shall be taken using the tool and 10 of those samples shall be delivered to the Customer. Unless the Customer shall notify the Company in writing of its dissatisfaction with the samples within seven days of delivery of the samples, the samples shall form the dimensional basis for future orders of the goods and the specification, and drawings, specifications, or other particulars relating to the goods supplied by the Customer shall be for the purposes of illustration only.
6. The cost of all maintenance repair or replacement of tools undertaken by the Company whether with or without prior notification to and approval of the Customer shall be for the Customer's account, and the Customer shall reimburse the Company in full therefor on demand.
7. Estimates and/or quotations whether relating to price, delivery, materials or otherwise howsoever are given on the basis of immediate acceptance and are subject to withdrawals or revisions. After the customer has placed his order, the Company shall be at liberty to revise quotations or charges with or without notice in the event of changes occurring in the costs of materials, rates of freight or any charges of whatsoever nature applicable to the goods and incurred by the Company. The Company reserves the right to charge a set up fee for short runs and sampling tools.

8. (a) Sale of the goods will be made ex the Company's premises and the cost of delivery by the Company to the Customer, at the place of business specified by the Customer in the order, shall be at the expense of the Customer from the time of despatch of the goods from the Company's premises and until delivery and the risk of any loss or damage to or deterioration in the goods from whatever cause arising shall be borne by the Customer.
- (b) The Customer shall inspect the goods supplied immediately on receipt and shall, within seven days of receipt of the goods, give notice in writing to the Company of any allegation of deficiency. Claims for any deficiency will not be entertained unless a clear signature has been given by the customer acknowledging receipt of the goods concerned but the Company cannot be held liable for goods received and signed for 'Not Examined'. If the Customer fails to give such notice the goods shall be deemed to be in all respects in accordance with the Customer's order and the Customer shall be bound to accept and pay for them accordingly.
9. The Company shall be discharged from all liability in respect of mis-delivery of the goods as follows:
 - (a) in respect of part mis-delivery, unless notice be received in writing within (seven) days after the date of delivery/despatch by the Company
 - (b) in respect of total non-delivery of the whole of a consignment or any separate package forming part of the consignment (however caused) unless notice be received in writing within (28) days of the date when the goods should have been received/were despatched by the Company.
10. Time shall be of the essence in respect of payment for the goods and:
 - (a) unless otherwise agreed in writing payment for the goods shall be due forthwith upon delivery thereof
 - (b) in cases where credit is given, payment must be received by the Company by the end of the month following that of delivery of the goods
 - (c) in respect of both (a) and (b) above, if payment is not received by the Company on the due date for payment:
 - (i) the Company shall be entitled to interest on the sum or sums outstanding at the rate of 5% above Barclays Bank PLC's base lending rate from time to time in force from the date that payment is due to the date of actual payment whether before or after judgement irrespective of any other rights which the Company is entitled to hereunder and
 - (ii) the Company shall have the right to suspend work on or cancel any outstanding contracts with the Customer summarily by notice in writing without compensation to the Customer but with the right to be paid in respect of work or goods supplied to the Customer and to be reimbursed the amount of all monies paid out on account of the Customer and
 - (iii) The Company shall be entitled to the full and unrestricted right to use for itself and any third party authorised by it of and to sell and apply the proceeds of sale in satisfaction of all sums due to the Company from the Customer:
 - (a) any tools of the Customer in the Company's possession or control and all proprietary or similar rights relating to such tools and
 - (b) any thing or things produced by any such tools and all proprietary or similar rights relating thereto.
11. (a) Notwithstanding that credit may have been given for the payment of the price of the goods the Company shall be entitled to retain possession thereof until payment.
- (b) In addition to any right of lien to which the Company may by law be entitled the Company shall be entitled to a general and particular lien on all goods and tools of the Customer in the Company's possession or control (even though the goods or tools or any of them respectively may have been paid for) for any monies owed by the Customer to the Company under the same or any other contract.
12. Where payment is made by means of a Bill of Exchange, cheque or other negotiable instrument the Company shall be deemed not to have received full payment until the Bill of Exchange, cheque or instrument has been honoured on presentation for payment notwithstanding that the Company may have negotiated it and received value therefor.
13. Until full payment has been received by the Company for all goods whatsoever or howsoever supplied and all services rendered at any time by the Company to the Customer:
 - (a) Property in the goods shall remain in the Company.
 - (b) Should the Customer convert the goods (or any of them) into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportion the conversion shall be effected by the Customer solely as agent for the Company, which shall have the full legal and beneficial ownership of the new product(s) as surety for the full payment of all sums owed by the Customer to the Company.
 - (c) The Customer shall keep a record of sales and shall store the goods and the new product(s) separately from any other property and in such a way that they can be readily identified as being the property of the Company.
 - (d) Subject to (e) and (f) below, the Customer shall be at liberty to sell the goods and the new product(s) referred to in (b) above in the ordinary course of business on the basis that the proceeds of sale shall belong to the Company to whom the Customer shall account on demand provided that the Customer shall have no authority to enter into any contract of sale on behalf of the Company and any contract of sale shall accordingly be concluded in the name of the Customer.
 - (e) The Company may at any time revoke the Customer's power of sale by notice to the Customer if the Customer is in default for longer than seven days in the payment of any sum whatsoever due to the Company (whether in respect of the goods or any other goods supplied or services rendered at any time by the Company to the Customer or for any other reason whatsoever) or if any Bill of Exchange, cheque or other negotiable instrument drawn or accepted by the Customer in favour of the Company is dishonoured on presentation for payment or if the Company has bona fide doubts as to the solvency of the Customer.
 - (f) The Customer's power of sale shall automatically cease if a Receiver is appointed over any of the assets or the undertaking of the Customer or a winding up order is made against the Customer or the Customer goes into voluntary liquidation (otherwise than for the purposes of reconstruction or amalgamation) or causes a meeting of or makes any arrangement or composition with creditors or commits any act of bankruptcy.

- (g) Upon determination of the Customer's power of sale under (e) or (f) above, the Customer shall place the goods and the new product(s) at the disposal of the Company which shall be entitled to enter upon any premises of the Customer or of any third party for the purpose of removing such goods and new product(s) from such premises (including severance from the realty where necessary).
14. Unless the Company makes or gives a written warranty condition description or representation to the contrary the Customer relies on his own skill and judgement as to the state quality and fitness of the goods and their suitability for any purpose and as to their compliance with the requirements of any competent authority and subject as aforesaid all express or implied warranties and conditions statutory or otherwise as to quality or fitness for any purpose of the goods are hereby expressly excluded.
15. In no case whatsoever shall any liability of the Company however arising and notwithstanding any lack of explanation exceed the value of the relevant goods with a maximum of £5,000 per claim. For this purpose one claim shall be defined as all or any claims arising under one order irrespective of the number of goods supplied under that order. The Company shall in no case be liable for indirect or consequential loss or damage including but not limited to loss of profits whether as a result of negligence (death or personal injury excepted) or breach of contract.
16. The Customer shall fully indemnify the Company against any action, claim, demand, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any letters patent, registered design, copyright, trade mark, trade name or other proprietary right, by the use of the tools or the sale or manufacture of the goods and against all costs and damages which the Company may incur in any action for such infringement.
17. These conditions shall take priority over the Customer's own standard terms of business.
18. (a) The Company shall not be in breach of its obligations hereunder to the extent that performance is prevented, delayed or (in the sole but reasonable judgement of the Company) made substantially more expensive as a result of any one or more of the following contingencies:
- (i) any cause beyond the reasonable control of the Company
 - (ii) labour disturbance, whether involving the employees of the Company or otherwise, and regardless whether the disturbance could be settled by acceding to the demands of a labour group
 - (iii) compliance with a request or order of any governmental authority or person purporting to act therefore, or
 - (iv) shortage in raw material, transportation, manufacturing capacity, etc., from the Company's then contemplated source of supply thereof, or generally, not demonstrated by the Customer
- (b) Whenever performance is prevented or delayed by such a contingency the Company may reduce deliveries in such manner as it may in its sole discretion determine.
- (c) Whenever performance is made substantially more expensive by such a contingency, the Company shall have the option either to reduce or stop deliveries from one or more facilities and reduce deliveries as provided above or to continue deliveries and increase prices in a manner that fairly apportions the increased cost of operation under such a contingency.
- (d) The Company shall not be liable for demurrage or delay resulting from such a contingency.
- (e) Performance shall be excused as provided herein even though the occurrence of the contingency in question may have been foreseen or be foreseeable at the time of contracting or subsequently become foreseeable.
- (f) Quantities not sold or purchased due to the occurrence of such a contingency need not be made up later.
- (g) Nothing in this Condition 19 shall excuse the Customer from its obligations to make payments when due as provided herein.
19. All contracts between the Company and the Customer shall be governed by English law (and be within the exclusive jurisdiction of the English courts).
20. The Customer may not assign or otherwise deal with the benefit or burden of the whole or any part of any contract with the Company.
21. The rights of the Company under these conditions shall not be affected by any waiver or prior course of dealing.
22. These conditions shall have effect to the entire exclusion of any other memorandum agreement or understanding of any kind between the Company and the Customer touching and concerning its subject matter.