FORWARD PLASTICS LIMITED
TERMS & CONDITIONS OF TRADE.

APPLICABLE TERMS AND ACCEPTANCE OF ORDER.

These Terms of Trade between FORWARD PLASTICS LTD (the "Company") and the Buyer (the "Buyer") shall apply to all the orders for Plastic Blow and injection moulded product, and ancillary and related products and services performed and provided ("Goods") accepted by the Company from the Buyer and that these terms and conditions shall prevail and take precedence over any document or oral message from the Buyer. Where the Company fails to enforce any terms or conditions under this contract the Company will not be deemed to have waived these rights with respect to any terms or condition or right.

The Buyer and the Company shall acknowledge that these Terms of Trade constitute a Security Agreement as defined by the Personal Property Securities Act 1999 ("PPSA"). For the purposes of the PPSA, Collateral shall include all and any Goods supplied by the Company and the process from the sale of all Goods. The buyer shall also agree not to allow any person to file a finance statement over any of the Collateral secured by this Security Agreement without prior written consent of the Company.

- **Quotation and Price**

The Company shall confirm the price of Goods in its price list or as a quotation and the Buyer shall confirm acceptance of the price or quotation by signing the quotation and providing an order.

No quotation shall constitute an offer unless confirmed in writing by the Company. The Company reserves the right to withdraw or amend any quotation prior to acceptance by the Buyer

The quoted price will be exclusive of GST and shall be valid for a period of thirty (30) days. Freight, Insurance, and other handling charges shall be the responsibility of the Buyer.

- **Price Reviews**

The Company reserves the right to review and adjust its pricing in response to significant changes in the cost of raw materials, energy, freight, exchange rates, or other input costs beyond its control. Where such adjustments are necessary, the Company will provide the Buyer with no less than thirty (30) days' written notice of the proposed change.

Any revised pricing will apply only to orders accepted by the Company after the effective date of the notified adjustment. Orders already accepted by the Company prior to the effective date will be supplied at the previously agreed price.

- **No cancellation for Make to Order Goods**

Upon acceptance of a Company quotation by the Buyer or Buyer order to the Company for goods that are designed or procured specifically for the Buyer (meaning no standard or indented to order) cannot be cancelled without the Buyer paying the full cost to manufacturer or procurement of the Goods to the time of cancellation.

- **Custom Materials and Components**

Where The Company purchases any custom or specific raw materials, including but not limited to, masterbatch colourants, resins, components, or packaging for the purpose of manufacturing the Goods exclusively for the Buyer, the Buyer acknowledges and agrees that such materials are procured solely to meet the Buyer's requirements.

If the Buyer cancels production, discontinues ordering, or fails to place further orders for a period exceeding six (6) consecutive months, or where the Company determines in its reasonable opinion that the Buyer's production has ceased or been discontinued, the Company reserves the right to invoice the Buyer for the actual cost price of any such materials held in stock that were purchased specifically for the Buyer.

At the Company's discretion, an additional handling or administrative fee may be applied to recover reasonable costs associated with storage, management, or disposal of these materials.

- **Payment**

Payment shall be made according to the terms stated in the Company invoice or terms of the Buyer order and confirmed in the quotation by the 20th of the month following date of Invoice. The Buyer shall make payment of all amounts due to the Company without any delay or deduction whether by way of set-off or counterclaim even under the dispute of the invoice.

The Buyer shall agree that the Company has sole discretion to apply payments from the Buyer to any transaction or Company invoice notwithstanding that the Buyer may have applied the payment to a particular transaction or invoice.

- **Interest for Late Payment**

The Company reserves the right to charge the Buyer interest on any monies outstanding under this contract on a daily basis. Interest is payable from the date payment was due until the date the Company receives payment. The Company's right to charge interest is without prejudice to the Company's other rights or remedies for the Buyers default in failing to pay on the due date.

- **Suspension of Contract for Non-Payment**

If at any time the Company reasonably deems the credit of the Buyer to be unsatisfactory, it will require the Buyer to provide at the Buyer's cost, security for payment and/or the Company may suspend performance of its obligations including suspension of the supply of Goods under this contract.

The Company may secure any or all Goods previously supplied by the Company and in possession of the buyer under the Retention of the Title clause to the value of the outstanding amount owed until payment is made in full OR until security is provided to the Company's satisfaction and the Company may require the Buyer to pay all costs incurred as a result of the suspension and re-commencement of supply including debt collection and legal costs.

The Buyer agrees that the Company may at its discretion retain possession of any dies, moulds, or tooling owned by the Buyer until all monies owing have been paid in full

- **Delivery**

The Buyer shall agree that risk in the Goods shall pass to the Buyer once the Goods are delivered. Delivery by the Company to a carrier normally used by the Company shall constitute delivery and the Buyer shall accept risk in the Goods once the Goods are in the care of the carrier and Buyer agrees that the Company shall not be liable for damage caused by the carrier.

Delivery by the Company to the premises of the Buyer shall also constitute delivery and the Buyer shall agree that risk in the Goods shall pass to the Buyer once the Goods are delivered. The Buyer agrees that the Company shall not be responsible for the validity of the person accepting the Goods on behalf of the Buyer at the time of delivery.

Goods that are finished items buy only part of an order may be delivered in installments at the Company's discretion and in such case each delivery will be regarded as a separate contract and any Goods delivered shall be paid by the Buyer in accordance with the terms of Payment.

The Company will make every effort to ensure delivery of Goods on time but will not be liable for any loss or damage or consequential loss to the Buyer arising from delays in delivery.

- **Risk, Ownership and Title**

Risk of any loss, damage or deterioration of or to the Goods shall be borne by the Buyer from the time of delivery of the Goods into the Buyers care and control and the Buyer shall properly insure the Goods from theft, fire or loss damage. Where the Buyer fails to insure the Goods upon delivery and suffers loss or damage to the Goods, and where the Goods remain unpaid, the Buyer shall agree to pay the Company for the full cost of the Goods.

The Buyer agrees that the Company has legal and equitable right to title in all and any Goods supplied that remain unpaid and ownership shall only pass to the Buyer when the contract price is paid. For as long as ownership in the Goods is retained by the Company the Buyer may use the Goods in such a way that they are identifiable as the property of the Company.

Where the goods remain unpaid the Buyer hereby irrevocably gives the Company, it's agents or servants, the free uninterrupted right to enter its premises during normal business hours in accordance with the Credit (Repossession) Act, to search for, inspect and remove any of the Goods supplied in which the Company has retained ownership and the Buyer will not hold the Company responsible for any economic or consequential loss that the Buyer may suffer as a result of the Goods being removed or dismantled from the property of the Buyer.

- **Title upon Sale to a Third Party**

Notwithstanding that property in the Goods is retained by the Company, the Buyer is hereby authorized to see the Goods in the ordinary course of business and to deal with such proceeds as fiduciary agent and bailee of the Company until the Buyer pays the Company in full without deduction or setoff: provided that such authority may be revoked by written notice at any time if the Company deems the credit of the Buyer to be unsatisfactory or if the Buyer is in default of its obligations under the Contact or any other contract between the Company and the Buyer.

Where any Goods in respect of which title has not passed to the Buyer are sold by the Buyer pursuant to the authority granted, any book dept created upon sale of such Goods and the proceeds of sale of such Goods when received by the Buyer shall be held upon trust by the Buyer for the Company. Proceeds of sale so received by the Buyer shall be placed in a separate bank account help as a separate fund in trust for the Company and shall first be applied towards the satisfaction of all indebtedness of the Buyer to the Company.

- **Personal Property Securities Act**

The Buyer shall inform its creditors of the terms upon which it buys Goods from the Company and that the Company may create and register a Purchase Money Security Interest under the PPSA for any and all Goods and that the Buyer agrees to waive the right to receive a verification statement for purpose of s.148 of the act. The Buyer shall inform any Trustee in Bankruptcy or Liquidation of the Buyer or any Receiver of the Buyers business or assets of the rights of the Company and title to the proceeds of sale.

The Security Agreement is a continuing security and will operate irrespective of any intervening payment or settlement of account until a release has been signed by the Company. The security interest granted in the Collateral by the same priority in relation to any and all of the Goods and Services supplied to the Buyer at any time.

- **Company Warranty & Limitation of Liability**

The Company's liability in respect of any claim shall relate only to specific defects in the Goods arising from faulty manufacture or from damage proven to have occurred before delivery by the Company.
The Buyer is responsible for satisfying itself that the Goods are suitable for the Buyer's intended application, product, filling process, storage conditions, transportation requirements and end use. Where the Buyer uses the Goods for a purpose other than that specified or agreed with the Company, or fails to ascertain the suitability of the Goods for its intended purpose, the Company shall not be responsible for the fitness or suitability of the Goods for that purpose.
Where the Company accepts liability for defective Goods, the Company's obligation shall, at its option, be limited to repairing the Goods, replacing the Goods, supplying equivalent Goods, or refunding or crediting the purchase price of the affected Goods.
To the maximum extent permitted by law, the Company's total aggregate liability to the Buyer arising out of or in connection with the supply of any Goods, whether arising in contract, tort (including negligence), equity, statute or otherwise, shall not exceed the invoice price paid or payable by the Buyer for the specific Goods giving rise to the claim.
To the maximum extent permitted by law, the Company shall not be liable for any indirect, consequential, special or economic loss or damage, including loss of profit, revenue, production, business, contracts, anticipated savings, goodwill or reputation, or for any costs associated with business interruption, product recall, withdrawal, disposal, repacking, relabelling, freight or labour.
Without limiting the foregoing, the Company shall not be liable for the value of any product, formulation, contents or other material filled into, packed in, attached to, incorporated into or otherwise used in conjunction with the Goods, or for any consequential loss arising from the loss, contamination, deterioration or disposal of such product, formulation, contents or material.
The Company shall not be liable for any breach or failure to perform any of its obligations where such breach or failure is caused by circumstances beyond the Company's reasonable control, including but not limited to war, civil commotion, hostilities, strikes or lockouts, acts of God, fire, natural disasters, governmental regulations, directions or actions, or any other event of force majeure. The occurrence of such an event shall not give the Buyer a right to cancel the contract.
Nothing in these Terms excludes or limits any liability which cannot lawfully be excluded or limited.

- **Claims for Damaged or Defective Goods, Discrepancies and Shortages**

The Company may, at its discretion, repair or replace any damaged or defective Goods provided that the Buyer advises the Company of the claim within seven (7) days of the defect occurring together with a claim specifically identifying the damage or defect(s); and provided that the Buyer does not continue to use the Goods once the defect is known. Discrepancies and shortage must be notified to the Company within seven (7) days of delivery.

- **When Claims will not be considered**

The Company's liability in respect of any claim shall relate only to specific manufacturing defects in the Goods. The Buyer agrees that the Company will not consider claims from the Buyer in respect of Goods which:

(i) Are not intact and in original condition subject to normal wear and tear.
(ii) Have been improperly stored and suffered damage.
(iii) Have been used for other than purposes specified in Company publications of packaging
(iv) Have been altered from the condition in which they were supplied or repaired by persons other than the Company
(v) Have not been maintained according to information in Company publications or packaging

If the Buyer does not comply with the above requirements for warranty and claims the Buyer will be deemed to have accepted the Goods and the Company will not incur any liability whatsoever in relation to the Goods.

- **Claims for Goods Incorrectly Ordered**

The Company reserves the right to allow claims for Goods that are incorrectly ordered by the Customer (provided that they are not made to order) by retaining fifteen per cent (15%) of the invoice price as an administrative charge and handling fee. Claims for Goods incorrectly ordered will not be recognized by the Company unless the Goods are in original condition and unless the Customer advises the Company within seven (7) days of delivery.

- **Packaging**

Packaging used in the supply of product ordered by the Buyer will be charged by the Company to the Buyer as separate items. This includes pallets, cartons, carton polyliners, layer boards and other packaging used from time to time which may vary. Pallets and cartons ONLY are returnable for a refund of 100% of the chargeable rate providing the packaging returned is in the same condition as delivered. Damaged packaging will not be accepted for return. Packaging must be returned within 90 calendar days from date of the original delivery. Freight charges for packaging returns are the responsibility of the Buyer.

- **Consumer Guarantees Act 1993**

Nothing in these terms is intended to have the effect of contracting out of the provisions of the Consumer Guarantees Act 1993 except to the extent permitted by that Act where the Buyer acquires the Goods in a business situation for the business purposes of a business and all provisions of these terms shall be ready as modified to the extent necessary to give effect to that intention.

- **Intellectual Property**

The Buyer agrees that where the Company supplies intellectual property in the form of patents, trademarks and copyrights or written instructions, drawings, plan, manuals and other technical information the ownership of such intellectual property shall always remain with the Company and the Buyer further agrees that it shall not use the intellectual property in any manner whatsoever whether in complete form or in any way adapting or altering except for its purpose in operating the Goods.

- **Force Majeure**

The Company shall not be liable for any failure or delay in performance caused by circumstances beyond its reasonable control, including but not limited to acts of God, war, natural disasters, strikes, industrial disputes, or government action. Performance shall be suspended for the duration of such circumstances without liability.

- **Dispute and Arbitration**

In the event of any dispute between the Company and the Buyer arising out of this Contract, the Buyer agrees to pay the undisputed part of the outstanding monies owed and such dispute shall be referred to a Mediator to be agreed between the parties and the costs shall be equally shared and upon failure to agree to the outcomes of mediation the dispute shall be referred to an Arbitration Act 1996 and any amendments thereof.

- **Privacy**

The Buyer authorizes the Company to collect, store and use personal information for the purpose of credit assessment, account administration, and marketing of related products and services. The Buyer has the right to access and correct any personal information held by the Company.

- **Governing Law**

These Terms and Conditions of Trade shall be governed by and construed in accordance with the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

Upon signing the Company Credit Application OR signing acceptance of a Company Quotation OR providing any order to the Company, the Buyer agrees that these Terms & Conditions of Trade shall apply.