



ENGINEERED PLASTICS, INC.

## **TERMS AND CONDITIONS OF SALE: CUSTOM FABRICATION**

1. **DEFINITIONS:** As used herein, “Buyer” means the party identified on the face of a Quote, Acknowledgement or Invoice (each may be referred to as a “Contract”) issued by Engineered Plastics, Inc. (“EPI” or “Seller”); and “Products” means all articles, materials, work or services to be furnished by Seller to the Buyer.
2. **QUOTED PRICES:** Quoted prices are applicable only to uninterrupted runs in the lots specified and for the quantity specified in the Contract. Interruptions caused by the Buyer will constitute authorization for increased charges to allow for shorter runs and additional material handling and set-up costs.
3. **TERMS OF PAYMENT:** Subject to the approval of Seller, terms of payment are net cash 30 days from shipment date. Seller may require payment in advance or payment upon delivery.
4. **DELIVERY:** Deliveries are F.O.B. the shipping point designated on the face hereof or, if no shipping point is designated in the Contract, then F.O.B. Gibsonville, NC. Delivery dates specified in the Contract are approximate and delivery made within a reasonable time thereafter shall constitute a good delivery.
5. **WARRANTY (LIMITED):** Subject to the tolerances allowed in Paragraph 10 below, Seller warrants that the Products shall conform to the description on the face hereof and shall be free from defects in materials and workmanship for a period of one year from delivery under normal conditions of usage and service. SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. Buyer assumes all risk and liability for results obtained from the use of the Products whether used by Buyer or others and whether used singly or in combination with other products. If any model or sample was shown to the Buyer, such model or sample was used merely to illustrate the general type or quality of goods and not as a promise or affirmation that the Products would necessarily conform to the model or sample.
6. **NOTICE OF CLAIMS:** Any claim for shortage, for delay in shipment or for defective goods must be made in writing and received by Seller within 30 days after delivery to the Buyer. Any claims not made in writing and received by Seller within such period shall be deemed waived.
7. **LIMITATION OF LIABILITY:** Seller’s liability for any and all losses and damages to Buyer resulting from any cause whatsoever including Seller’s negligence, alleged damaged or defective goods or late shipment shall be limited to the purchase price of the Products (or, if Buyer furnishes its own materials, to Seller’s charges for the fabrication service performed or to be performed for the Buyer) with respect to which losses or damages are claimed, or, at the election of the Seller, the repair or replacement of defective or damaged Products. In no event, including a claim for negligence, shall Seller be liable for incidental or consequential damages.
8. **VERBAL REPRESENTATIONS:** No agent, employee or representative of Seller is authorized to make any oral warranties, promises, representations or recommendations not set forth herein as to the Products and none shall be binding unless included herein.
9. **PATENT AND TRADEMARK INFRINGEMENT:** The Buyer shall hold the Seller harmless against any expense or loss resulting from infringement of patents or trademarks on products manufactured in accordance with Buyer’s designs or specifications.
10. **TOLERANCES:** Unless specified, commercial tolerances will apply. All goods shall be furnished subject to Seller’s manufacturing standards and commercial variations and practices. Seller reserves the privilege of shipping overages and underages to the extent of 10% of the quantity ordered.
11. **INTEREST CHARGES:** Interest shall be due for unpaid invoices after invoice is 30 days old for each day invoice is overdue for payment at an annual rate of 18% or, if the maximum rate permitted by law is less than 18%, then at the maximum rate permitted by law.

12. **LATE PAYMENT:** Seller reserves the right to suspend its performance contract without liability to the Buyer or, at its sole option, to cancel this contract by written notice to the Buyer if invoicing for this or for any other contract with the Buyer is overdue for payment or if Buyer becomes insolvent.
13. **TOOLING:** Buyer bears initial tooling cost, thereafter Seller will be responsible for normal maintenance and repair of tooling. Buyer will be consulted and ultimately billed for any major overhaul or replacement agreed upon. Subject to due allowance for wear and tear, the Seller will maintain all molds and tools in its possession in condition to furnish products to Buyer for two years after Seller's most recent contract for sale with the Buyer of goods produced with such tooling and may, thereafter, dispose of such tooling without prior notice to the Buyer and without any obligation to account to the Buyer for such disposition or any proceeds therefrom.
14. **FORCE MAJEURE:** Seller shall not be liable for any delay or failure to deliver due to any cause or circumstances beyond its control, including, but not limited to, strikes, lockouts, or labor disputes, fires, acts of God or the public enemy, riots, interference by civil or military authorities, compliance with the laws of the United States of America or with the orders or policies of governmental authority, delays in transit or delivery on the part of transportation companies or communications facilities, shortages of materials or failures of sources of materials. In such event, Seller may, at its option make deliveries ratably with reference to itself and all of its customers.
15. **GOVERNING LAWS:** This contract shall be governed by and interpreted under the laws of the State of North Carolina.