

## STANDARD TERMS AND CONDITIONS OF SALE

**1. ENTIRE AGREEMENT/ORDERS.** This agreement (the "Agreement") is between American Industrial Plastics, LLC ("AIP") and Purchaser. No order for AIP's goods or services shall be binding upon AIP until acknowledged in writing by AIP. Such written acknowledgement and these Standard Terms and Conditions of Sale (the "Terms and Conditions") constitute the entire agreement between AIP and Purchaser. Any purchase order, offer or counter-offer made by Purchaser before or after AIP's written acknowledgement is rejected and all documents exchanged prior to AIP's written acknowledgement are merely preliminary negotiations and not part of any agreement between the parties. For example, orders submitted on Purchaser's own purchase order forms modifying, adding to, contrary to, or inconsistent with these Terms and Conditions are expressly rejected and of no force or effect and acceptance is expressly made conditional upon assent to these terms. In no event will AIP be deemed to have in any way changed, enlarged or modified its liabilities or obligations as fixed by these Terms and Conditions including, without limitation, situations in which AIP satisfies an order submitted on Purchaser's own purchase order form. Purchaser shall have been deemed to agree to these Terms and Conditions upon the earlier of acceptance of AIP's quotation, acceptance of delivery of the goods or performance of services or the issuance of a purchase order to AIP. No acknowledgement by AIP and no provision of AIP's Terms and Conditions shall be subject to change in any manner except as agreed to in writing by an officer of AIP.

**2. PRICES.** Until acceptance of a purchase order is acknowledged in writing by AIP, all prices are subject to change. Written quotations expire fourteen (14) calendar days from the date of quotation unless specified otherwise. Verbal quotations are non-binding on AIP. Quoted prices do not include sales, excise, municipal, state or any other government taxes. All taxes and other governmental charges upon the production, manufacture, distribution, sale or use of goods or performance of services to the extent required or not forbidden by law to be collected by AIP from Purchaser, shall be paid by Purchaser to AIP unless Purchaser furnishes AIP with exemption certificates acceptable to the relevant taxing authorities. AIP reserves the right to revise final quoted prices of work in process due to any change in the order on the part of the Purchaser or any factor beyond the control of AIP. Typographical and/or clerical errors made by AIP are subject to correction.

**3. TERMS OF PAYMENT.** Invoices are net thirty (30) days from the date of invoice unless specified otherwise and approved in writing by AIP. In the event that the purchase order between Purchaser and AIP requires partial payments to be made by Purchaser, Purchaser shall pay those required amounts in a timely manner or AIP will be permitted to suspend, without penalty or liability of any kind, delivery of future goods or performance of services to the Purchaser. Past due accounts will bear interest at the rate of 3% per month of the invoiced amount. All invoices are payable in U.S. dollars, unless specified otherwise and approved by AIP in writing. Acceptance of bank drafts, checks or other form of payment shall be subject to immediate collection of the full face amount thereof. AIP may, at its discretion, impose a transaction fee on payments processed via wire transfer or by Letter of Credit. AIP reserves the right at any time to suspend credit or to change credit terms provided herein when in its sole opinion the financial condition of Purchaser so warrants. In such case, in addition to any other remedies provided herein or by law, AIP may request cash payment or satisfactory security from Purchaser prior to shipment of goods or performance of services. In the event of nonpayment of an invoice when due, and without prejudice to other lawful remedies, AIP shall have the right to suspend further work or the delivery of future goods under this Agreement or any other agreement with Purchaser until such invoice is paid in full; provided, however, that if such invoice remains unpaid for more than five (5) days after written demand by AIP, AIP may terminate this Agreement without penalty.

**4. DELIVERY.** AIP shall not be liable for any damage as a result of any non-delivery or delay due to any cause beyond AIP's reasonable control, including, without limitation, an act of God; act of Purchaser; embargo; other government act, regulation or request; fire; accident; strike; war; boycott; slowdown; riot; or delay in transportation or inability to obtain necessary labor, materials, or manufacturing facilities. If delivery is delayed or deferred by Purchaser beyond the scheduled date, payment shall be due in full when AIP is prepared to ship the goods or perform the services. The goods may thereafter, at AIP's option, be stored at the risk and expense of Purchaser. AIP may at certain times provide goods to Purchaser prior to the issuance, delivery and acceptance of a corresponding purchase order. In such cases, AIP will notify Purchaser that these Terms and Conditions shall apply to such transactions and Purchaser shall be deemed to have accepted such Terms and Conditions upon AIP's delivery of goods.

**5. SHIPMENT/RISK OF LOSS.** Unless otherwise noted, all sales of goods are made FOB point of shipment. AIP will use commercially reasonable efforts to meet delivery dates stated in advance of actual shipment of goods or performance of services, but in no event shall such quoted delivery dates be deemed to represent fixed or guaranteed delivery dates. Claims for shortage or other quantity errors must be made in writing to AIP within five (5) days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Purchaser. AIP, in its sole discretion, may accommodate Purchaser requests for delivery of goods in installments if such requests are confirmed in writing by AIP. Such installment deliveries, when separately invoiced, shall be paid for when due per invoice without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Purchaser of its obligations to accept remaining deliveries.

**6. TOOLS/DIES.** All tools, patterns and other equipment used in the manufacture of any of AIP's goods or performance of any of AIP's services shall remain the property of AIP unless otherwise expressly agreed upon in writing. Purchaser shall not permit any third party to use such equipment nor disclose to any third party any technical, dimensional or design details, or any other information in respect of such equipment at any time.

**7. WARRANTY/CLAIMS.** Purchaser acknowledges that it has selected and ordered goods based on its own skill and judgment and agrees that it is responsible for ensuring that the goods selected are fit for Purchaser's purpose. AIP warrants only that such goods have been produced in accord with AIP's standard practices with regard to materials and workmanship and no samples or prior description of goods shall constitute an express warranty. If goods are non-conforming, AIP, at its option and subject to the terms of this paragraph 7 and paragraph 9, will either (i) allow Purchaser to return the goods and receive repayment of the price or (ii) repair or replace the goods. No goods are to be returned to AIP without prior written consent of AIP and the assignment of a return goods authorization number by AIP. Purchaser is liable to pay for all associated costs incurred by AIP due to Purchaser's selection of noncompliant or defective designs and materials. These associated costs are calculated based on any additional costs incurred by AIP in managing the noncompliant or defective products, including, but not limited to, all reworks, investigations and other consequential costs. AIP shall not be responsible for any selection made by Purchaser and will not have any liability to Purchaser for any loss, damages, costs or expenses suffered by Purchaser as a result thereof. THIS WARRANTY IS IN LIEU OF ANY EXPRESSED OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER OBLIGATION ON THE PART OF THE SELLER. AIP shall have no obligation under this warranty if damage to the goods occurs because of Purchaser's failure to comply with AIP's written storage procedures for the goods or improper handling or operation, modification of the goods, abuse, misuse, unauthorized repairs made or attempted and/or where equipment is operated above rated capacity. No agent, employee or representative of AIP has authority to bind AIP to any affirmation, representation or warranty concerning the goods sold. Upon receipt, Purchaser shall inspect the goods. All notice of claims, including claims for alleged defective goods, must be made within (i) thirty (30) days of receipt of such goods; or (ii) prior to the installation of such goods into any other products, whichever period is

shorter. If no notice of claim is made within such inspection period, the goods are irrevocably accepted by Purchaser and all claims against AIP are waived and forever barred. Purchaser agrees that any litigation or arbitration relating to any claim must be commenced within one (1) year after date of shipment by AIP. Purchaser hereby expressly assumes all liability for all damage and injury occurring before and after said time periods if notice is not made pursuant to this Agreement.

**8. PURCHASER SUPPLIED MATERIALS.** Purchaser warrants that any materials, inserts, or parts supplied to AIP will conform to all indicated specifications and will be timely delivered. AIP shall not be liable for any damages related to parts or materials supplied by Purchaser, including damage to the part or material itself, or damage caused by defective materials, inserts, or parts. AIP extends no warranty and shall not be liable for any AIP goods that are defective as a result of Purchaser supplied materials, inserts, or parts and Purchaser shall be required to purchase any goods into which AIP incorporates any Purchaser supplied materials, inserts, or parts at the then applicable price for such goods.

**9. LIMITATION OF LIABILITY.** AIP's liability on any claim for loss or damage arising out of any transactions under this Agreement or from the performance or breach thereof or connected with any goods or services supplied hereunder, or the sale, resale, operation or use of goods, whether based on agreement, warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such goods or services or part thereof involved in the claim, regardless of cause or fault. Purchaser's remedies are limited to the return of non-conforming goods and repayment of the price or to the repair and replacement of non-conforming goods, subject to the provisions of paragraph 7. This limitation of liability and remedies reflects a deliberate and bargained-for allocation of risks between AIP and Purchaser and constitutes the basis of the parties' bargain, without which AIP would not have agreed to the price or terms of this transaction. AIP SHALL NOT IN ANY EVENT BE LIABLE WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF GOODS OR ASSOCIATED PRODUCTS, BUSINESS INTERRUPTION, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OF PURCHASER FOR SUCH DAMAGE. In addition, if AIP furnishes Purchaser with advice or other assistance regarding any goods or services supplied hereunder, or any system or equipment in which any such goods may be installed, and which is not required pursuant to this transaction, the furnishing of the advice or assistance will not subject AIP to any liability, whether based on agreement, warranty, tort (including negligence) or other grounds.

**10. INDEMNITY AND INSURANCE.** In the event Purchaser modifies AIP goods or incorporates AIP goods into another product or component part, Purchaser agrees to hold harmless and indemnify AIP from any and all claims, demands, penalties, actions, debts, suits, judgments, liabilities, losses, costs and expenses (including reasonable attorneys' fees) involving, without limitation, any product liability, personal injury or property damage. Purchaser also agrees to hold harmless and indemnify AIP from any (a) patent or other intellectual property claims related to (i) any AIP goods made in accordance with Purchaser's designs or specifications, or (ii) the use of any drawings provided to AIP by Purchaser for use in the manufacture, production or assembly of such goods, and (b) any actual or asserted violation of any federal, state or local law or regulation by virtue of which Purchaser's products sold, supplied, or delivered by the Purchaser shall be alleged or determined to be adulterated, misbranded, mislabeled or otherwise not in full compliance with or in contravention of any federal, state or local law or regulation. Purchaser will maintain in full force and effect during the term of this Agreement adequate insurance to cover its indemnification obligations hereunder. Upon request by the AIP, the Purchaser shall promptly submit satisfactory evidence of such insurance.

**11. USE OF MARKS AND NAMES.** The Purchaser expressly acknowledges and agrees that it will not use any AIP trade names, trademarks, logos, trade dress or other similar intellectual property on any of Purchaser's products that contain any AIP products or on any promotional materials or in any promotional campaigns relating to such Purchaser products.

**12. WAIVER AND CHOICE OF LAW.** The failure of AIP to insist in any one or more instances, upon the performance of any of the Terms and Conditions as set forth herein or the failure of AIP to exercise any of its rights hereunder shall not be construed as a waiver or relinquishment of any such terms, conditions or rights and shall not effect AIP's right to insist on strict performance and compliance with regard to any future performance of these Terms and Conditions. All transactions shall be governed by the laws of the State of Florida, United States of America, excluding conflict law rules. The provisions of the United Nations Convention on Agreements for the International Sale of Goods shall not apply.

**13. DISPUTE RESOLUTION/ATTORNEYS' FEES.** Any dispute, controversy or claim arising out of or related to this transaction where the amount in controversy does not exceed the sum of \$50,000, exclusive of interest and costs, shall be resolved by means of binding arbitration. A demand for arbitration shall be served on the other party by certified mail. Within forty-five (45) days after a party demands arbitration, the parties shall select a single arbitrator. The selected arbitrator shall conduct the arbitration in a manner substantially similar to the procedures set forth in the Commercial Arbitration Rule of the American Arbitration Association ("AAA"). If the parties are unable to agree on an arbitrator, the party demanding arbitration shall file a demand for arbitration with the AAA and the arbitration shall then proceed in accordance with the Commercial Arbitration Rules of the AAA. In all circumstances, the arbitration shall take place in Tampa, Florida. Any dispute, controversy or claim arising out of this transaction where the amount in controversy exceeds the sum of \$50,000, exclusive of interest and costs, shall be adjudicated exclusively by a court of competent jurisdiction in Tampa, Florida. Purchaser consents to personal jurisdiction and venue in Tampa, Florida and agrees not to take any action to challenge such jurisdiction or venue. In the event of any action or proceeding related to a transaction subject to this Agreement where AIP is determined to be the prevailing party with regard to some or all claims, Purchaser agrees to pay all of AIP's attorney's fees and litigation costs up through and including any appeal.

**14. ASSIGNMENT, WAIVER, ENTIRE AGREEMENT, SEVERABILITY.** Neither party shall assign or delegate any of its rights or obligations under this Agreement without the prior written consent of the other party, which such consent shall not be unreasonably withheld, except that either party may assign or delegate its rights or obligations hereunder to an Affiliate without the other party's consent. As used herein, the term "Affiliate" shall mean any entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the entity specified. AIP may terminate this Agreement upon written notice to Purchaser without any further liability to Purchaser if there is a change of control of Purchaser. The Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Agreement. Neither the Agreement nor any of its provisions may be modified, amended or waived, whether orally, through the parties' course of performance, course of dealing or course of conduct, or manifested in any other way, unless in writing and signed by an authorized officer of AIP. It is the express intention of the parties that such requirement for written modifications, amendments or waivers be strictly enforced notwithstanding judicial precedent or statutory provisions to the contrary. Any provision found invalid or unenforceable will not affect the validity or enforceability of any other provision and the invalid provision may be judicially modified to the extent enforceable.