

## PURCHASE ORDER TERMS AND CONDITIONS

All purchase orders and purchases by Plastics One, Inc. ("Buyer") are subject to the following terms and conditions:

- 1. Terms and Acceptance.** Buyer has offered to purchase from Seller the products ("Goods") described on the attached purchase order, which must be signed by an authorized agent of Buyer. These terms and conditions and any attached purchase order are hereafter referred to collectively as the "Purchase Order." The Seller accepts this offer and the Purchase Order becomes a contract only (1) when signed acknowledgement is received by Buyer, or (2) when shipment according to schedule of all or any portion of the Goods shall be made, or (3) when Buyer gives Seller written approval of the price and delivery schedule of the Goods as stated by Seller if Seller's written acknowledgement of the Purchase Order contains either: (a) a different price or delivery schedule or a different type of item, or (b) no price or no delivery schedule for the item or items to which Buyer's approval applies. Except as provided in the preceding sentence, it is a condition of this Purchase Order that any provisions printed or otherwise contained in any acknowledgement hereof, inconsistent with or in addition to the terms and conditions herein stated, and any alteration in this Purchase Order, shall have no force or effect, and that Seller by such acknowledgment thereby agrees that any such provisions therein or any such alterations in this Purchase Order shall not constitute any part of this contract of purchase and sale. Buyer may cancel the Purchase Order without liability, penalty or charge, at any time before the Goods are shipped. All documentation must contain reference to the Purchase Order.
- 2. Shipment.** Shipment and freight terms shall be according to the terms and conditions of the Purchase Order. Time is of the essence. The Seller shall not make delivery in advance of the delivery schedule. Goods delivered, whether paid for or not, are subject to inspection, testing and approval by Buyer before acceptance.
- 3. Warranties.** The Seller warrants that the Goods will be free from defects in material and workmanship, that they are merchantable and fit for the particular purpose and use intended by Buyer, that title conveyed shall be good and its transfer rightful, and that the Goods shall be delivered free from any security interest, lien, encumbrance, or claim of any third party whatsoever, including claims for infringement or the like. The Seller further warrants that in the production, sale and shipment of the Goods, the Seller has complied with, and will comply with all applicable federal, state and local statutes, regulations, orders and rules applicable to the Seller, the Goods, and the manufacture, sale and transportation thereof. This warranty shall survive any inspection, delivery, acceptance or payment by Buyer of the Goods.
- 4. Remedies.** In the event of any breach or default by the Seller, Buyer may pursue all remedies contained herein and any other remedies available at law or in equity. No right or remedy herein conferred upon or reserved to Buyer is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy of Buyer. If Buyer, incurs expenses (including, without limitation, court costs, expenses and attorneys' fees) in attempting to collect any amount owed or to enforce any term or condition of the sale, then Seller agrees to pay to Buyer, in addition to any other sums owed or relief sought, all such expenses to the fullest extent permitted by law.
- 5. Indemnity.** The Seller shall indemnify, save and hold harmless Buyer from any and all costs, loss, expense and damages, including reasonable attorney's fees, on account of any and all manner of claims, demands, infringements, actions and proceedings that may be threatened or instituted against Buyer by any third party arising out of, or related to: a) the Seller's breach of any of the warranties contained herein; b) any defect relating to the Goods; or c) the Seller's failure to timely deliver the Goods.
- 6. Non-Waiver.** No waiver by Buyer of any breach of the Purchase Order shall operate as a waiver of such breach, or of any subsequent breach thereof.
- 7. Severability.** If any portion of the Purchase Order shall be held invalid, those parts of the Purchase Order that are not held invalid shall continue in full force and effect.

**8. Applicable Law and Venue.** The Purchase Order, any acknowledgement or counter-offer by the Seller, and any matter related thereto shall be governed by the laws of the Commonwealth of Virginia, without regard to principles of conflict of laws. Any action, suit, or other legal proceeding which is commenced to resolve any matter arising under or relating to the Purchase Order or this transaction shall be commenced and prosecuted only in a state or federal court located in Roanoke, Virginia.

**9. Limitations on Actions.** Any action brought against Buyer must be commenced within one (1) year of the date of accrual of the cause of action, or it shall be barred.

**10. Tools and Equipment.** In the event a charge is paid by Buyer for tools, dies, jigs, gauges, fixtures, patterns, molds or other equipment used by Seller in producing the Goods, such tools and equipment shall become the property of Buyer and shall not be used in connection with the performance of work for any other person or entity unless provided otherwise in writing. Such tools and equipment shall be immediately delivered to Buyer upon the conclusion of work, unless the Seller is authorized in writing to retain them. In such case, the tools and equipment shall be properly stored and maintained, segregated insofar as is practicable, and marked "Property of Plastics One, Inc.," and shall be delivered to Buyer upon demand.

**11. Assembly and Installation.** If applicable, assembly and installation of all Goods shall be the responsibility of the Seller and at the Seller's expense.

**12. Corrections.** Stenographic and clerical errors in the Purchase Order, any quotation, acknowledgement or invoice are subject to correction by Buyer.

**13. No Substitutions or Assignment.** No substitution or change will be made on ordered Goods without the prior written consent of Buyer. The Seller shall not assign, transfer, sublet, set over or otherwise dispose of its obligations under the Purchase Order without the prior written consent of Buyer.

**14. Entire Agreement, Assignment and Modification.** The Purchase Order, which exclusively sets forth the rights and obligations of the parties, (a) constitutes the final and entire agreement between the parties, superseding all prior written or oral communications between the parties, and (b) may not be modified or assigned except in a writing signed by both parties.

**15. Authorization.** Each person signing the Purchase Order on behalf of Seller represents and warrants that such person has full authority to do so and that the Purchase Order binds the respective Seller.

**Agreed For:** \_\_\_\_\_ (Name of Seller)

**By:** \_\_\_\_\_ (sign here)     **Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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