



PRIORITY PLASTICS INC. TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE

These Terms and Conditions of Sale are Priority Plastics Inc.'s ("Seller") offer to Purchaser ("Buyer") and become a binding contract when accepted by issuance of a written Purchase Order. All quotations are made and orders accepted subject to applicable regulations and orders of government agencies and are subject to final acceptance or confirmation by Seller and no terms or orders are binding upon Seller until so accepted.

2. SHIPMENTS

Unless otherwise stated by Seller in writing, all deliveries will be FOB Seller's warehouse (UCC terms). All deliveries will be made via common carrier or some other reasonable means chosen by Seller unless specified by Buyer and accepted by Seller. All risk of loss to products sold shall pass to Buyer upon delivery by Seller of such product to a common carrier. Delivery schedules represent estimates by Seller and partial deliveries are permissible. Seller shall not be liable for any delay in the performance of orders or contracts or in the delivery or shipment of products or for any damages suffered by Buyer by reason of such delay. Delivery is subject to Buyer maintaining credit satisfactory to Seller. Seller may suspend or delay performance of delivery at any time pending receipt of assurance, adequate to Seller, at Seller's sole discretion, of Buyer's ability to pay, including without limitation, full or partial payment or payment of any outstanding amounts owed. Failure to provide such assurance will entitle Seller to cancel this contract without further liability or obligation to Buyer. The product will be shipped at Seller's earliest convenience and Seller shall select the point and route of shipment. Seller's weights and measures shall govern, except in case of proved error. Overruns or under-runs, not exceed 10% of the amount ordered, shall be considered acceptable delivery. The excess or deficiency shall be charged proportionately. Unless expressly stated in writing to the contrary, Seller reserves the right to select its source of raw materials, suppliers or producers of the Buyer's goods.

3. HELD INVENTORY

Without limiting any other rights Seller may have hereunder, if the shipment of the Product is delayed as a result of any action or inaction of Buyer for more than thirty (30) calendar days after the later of: (a) the shipment date agreed upon by Seller and Buyer, and (b) the date on which the Product is available for shipment (the later of (a) and (b), the "Available Date"), Buyer shall pay Seller a warehouse charge equal to the greater of 10% of the purchase price of the Product or \$500 for each month or portion thereof after such thirty (30) day period while the Product remains unshipped. In the event the Product is held for two months or longer after the Available Date, Seller may refuse to accept any additional Purchase Orders from Buyer. In the event the Product is held for three months or longer after the Available Date, Buyer shall be invoiced for all Product held. In the event the Product is held for four months or longer after the Available Date, Product will be shipped to a destination specified by Buyer at Buyer's sole cost and expense. If no destination is so specified, Seller may cancel all of Buyer's purchase orders and deliveries and sell or otherwise dispose of the unshipped Product without in any way limiting or waiving Seller's other remedies at law or in equity. If Seller utilizes a collection agency or an attorney to collect any unpaid amount owed or to assist in exercising Seller's rights hereunder, Buyer shall be obligated to reimburse Seller for the collection agency fees and attorney fees and expenses, including court costs incurred, regardless of whether litigation is actually filed.

4. PRICE

Unless otherwise agreed upon, all prices are subject to change without notice. All orders will be invoiced at prices in effect on the day of shipment. Prices are also subject to adjustments for changes in raw materials as may be directly incurred by Seller between the date thereof and the date on which such materials are used by Seller fulfilling this order.

5. TERMS OF PAYMENT

Unless otherwise agreed upon, Buyer shall make payments to Seller without discount within 30 days after date of invoice. Late payments will be subject to a late charge of one and one half percent (1.5%) per month, or the highest amount allowed by applicable law if lower. If payment is not made as provided herein, or if Buyer's financial responsibility becomes unsatisfactory to Seller, Seller may, at its option (1) elect to withhold future deliveries of goods to Buyer until such breach has been cured or Buyer's financial responsibility has been established to Seller's satisfaction; (2) require payment in advance as to future deliveries; (3) demand return from Buyer of any goods under this or any other invoice for which payment has not been made; or (4) cancel this Agreement. The remedies contained in this paragraph are cumulative and shall be in addition to any other remedies available to Seller under applicable law.

6. RETURNS

Within ninety (90) days after Buyer’s receipt of products, Buyer must give written notice to Seller of any claim by Buyer based upon condition, quality or grade of products or of any claimed nonconformity with Buyer’s specifications. Buyer’s failure to comply with this policy will constitute irrevocable acceptance by Buyer of such products and will bind Buyer to pay Seller for the full price of such products. Accepted products may not be returned for any reason without Seller’s written consent and may be subject to a twenty percent (20%) restocking fee. Requests for authorizations should be directed to Seller’s plant where product was purchased, or to Priority Plastics, Inc., Attn: RMA, 500 Industrial Park Drive, Portland, IN 47371; Phone 260-726-7000; Fax 260-726-8111.

7. CANCELLATION AND CHANGES

Seller recognizes a Purchase Order as a legal instrument that is binding upon the company issuing this document under the Uniform Commerce Code (UCC). Upon receipt of a Buyer’s Purchase Order signifying their intent to pay for goods rendered, Seller may begin activities to produce the ordered product “in good faith.” Prior to any of the activities set forth below being performed, Buyers may cancel their orders in writing at any time without penalty. The list of activities shall include but is not limited to the following:

ORDER CANCELLATION FEES – BUYER’S RESPONSIBILITY

- Specialty resins ordered or received – 50% of order value plus 100% of remaining specialty resin in Seller’s inventory purchased specifically for Buyer
- Special raw material (colorant, boxes, etc.) – 20% of order value plus 100% of remaining specialty material in Seller’s inventory purchased specifically for Buyer
- Utilized direct or temporary labor – 30% of order value
- Order produced – Full value of order plus held inventory costs of 10% of order value per month

Buyer may not cancel or change an order placed with and accepted by Seller except with the prior written consent of Seller and with terms that indemnify Seller against any loss or damage. All cancellations or changes must be in writing and sent to Priority Plastics, Inc., 500 Industrial Park Drive, Portland, IN 47371; Phone 260-726-7000; Fax 260-726-8111 and approved in writing. Upon receipt of your request Seller will respond in writing within three (3) business days, or as soon as reasonably possible. Subsequent charges assigned jointly by the Customer Service Manager and applicable Plant Manager.

8. WARRANTY

Seller warrants it has title to Product delivered hereunder and may properly sell the same to Buyer and that such Product will conform to Seller’s standard specifications or to the attached specifications, if any. Seller MAKES NO OTHER WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, CONCERNING THE PRODUCT OR THE MERCHANTABILITY OR FITNESS THEREOF FOR ANY PURPOSE. Seller shall not be liable for special, indirect or consequential damages of any kind under this Agreement or otherwise, whether or not caused by negligence, and assumes no risk whatsoever as to the result of the use of Product either singly or in combination with other material. Buyer assumes responsibility to analyze Product, and Seller shall have no liability if Buyer uses Product that does not conform to the aforesaid specifications. Notwithstanding, anything to the contrary herein contained, the Buyer shall be responsible to notify the Seller promptly and no later than ninety (90) days after the receipt of the Product of any questions as to the compliance of the Product with the Product specifications. Buyer represents that it is familiar with the characteristics of Product and assumes all responsibility and liability for and will indemnify and hold Seller harmless from any and all loss or injury to persons or property arising out of handling use or possession of Product delivered to it. Buyer agrees to hold Seller free and harmless from any and all claims, liabilities, judgments, losses, economic losses or expenses (including reasonable attorney fees) incurred by Seller in connection with its performance of this order and asserted by the Buyer or a third party except as may otherwise be permitted by the terms of this confirmation.

9. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AND REGARDLESS OF THE FORM OF ACTION AND/OR LEGAL OR EQUITABLE THEORY ON WHICH A CLAIM IS BASED (WHETHER CONTRACT, TORT OR OTHERWISE): (A) SELLER’S LIABILITY FOR ANY CLAIM UNDER THIS CONTRACT OR OTHERWISE (INCLUDING NEGLIGENCE) FOR ANY GOODS SHALL NOT EXCEED BUYER’S PURCHASE PRICE FOR GOODS GIVING RISE TO SUCH CLAIM AND (B) UNDER NO CIRCUMSTANCES SHALL BUYER BE ENTITLED TO, AND SELLER SHALL NOT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR, ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE, OR FOR ANY DAMAGES FOR COSTS OF RE-PROCUREMENT, LOSS OF PROFIT, REVENUE, OR CUSTOMERS, OR INJURY TO REPUTATION ARISING OUT OF, RELATING TO AND/OR IN

CONNECTION WITH THIS CONTRACT AND/OR GOODS, REGARDLESS OF WHETHER FORESEEABLE OR WHETHER OR NOT SELLER WAS INFORMED OF OR ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES. THE LIMITS OF LIABILITY ABOVE SHALL APPLY EVEN IF BUYER'S REMEDIES HEREUNDER FAIL OF THEIR ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE AND AGREE THAT SELLER ENTERED INTO THIS CONTRACT IN RELIANCE ON ALL SUCH LIMITATIONS, WHICH REFLECT AN ALLOCATION OF RISK BETWEEN THE PARTIES AND FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

10. INTELLECTUAL PROPERTY RIGHTS

Seller has no knowledge of Buyer's intended uses and has provided products based solely upon information furnished to Seller by the Buyer. Seller makes no representations or warranties to Buyer regarding any infringement of intellectual property rights (or the absence thereof) resulting from the use of the products. Seller reserves all intellectual property rights it may have in the products. All intellectual property rights with respect to any design and/or invention conceived or first reduced to practice, by Seller in connection with Seller products will remain the property of Seller. All drawings, illustrations, dimensions, specifications performance projections, designs, plans, computations, and descriptions prepared by Seller in connection with any work quotations, or contracts, whether of products or general engineering or other arrangements are Seller property and must not be copied or disclosed to any other persons or used for any purpose whatsoever without Seller's prior written consent.

11. CLAIMS

NO CLAIM OF ANY KIND, WHETHER BASED ON DELIVERY OR NON-DELIVERY OF PRODUCT OR ON TORT (E.G. NEGLIGENCE OR STRICT LIABILITY.) SHALL BE GREATER IN AMOUNT THAN THE PURCHASE PRICE OF THE QUANTITY OF PRODUCT TO WHICH SUCH CLAIM RELATES. Any claims by Buyer must be received by Seller in writing within ninety (90) days of the date of delivery or non-delivery. Failure to deliver notice of claim to Seller within such ninety (90) day period will constitute a waiver by Buyer of all claims in respect of such delivery or non-delivery. In addition, the Seller does not warrant or represent that the Product is fit for any specific use or purpose notwithstanding any communication, whether oral or written, received by Seller from the Buyer who assumes full responsibility for the fitness of the Product for any specific user or purpose. Unless the Buyer requests in writing that the Product be cleaned, washed, sterilized, or packaged in a particular manner other than that which is customary "Service", (and Seller confirms in writing that it will perform the service, the Buyer agrees to pay as consideration the additional cost to Seller of performing any such Service). There is no obligation or responsibility of Seller nor any assumption by the Buyer that Seller will perform such Service.

12. OWNERSHIP OF DRAWINGS, PATENTS AND OTHER PROPERTY

All drawings, illustrations, negatives, litho positives, dimensions, specifications performance projections, designs, plans, computations, and descriptions prepared by Seller in connection with any work quotations, or contract, whether of products or general engineering or other arrangements are Seller property and must not be copied or disclosed to any other persons or used for any purpose whatsoever without Seller's prior written consent. Artwork, tooling, molds which are billed and paid for by Buyer shall be released to Buyer upon request and subject to full payment of all outstanding invoices of Buyer. Seller will not be responsible for any material left in its possession and not used for a period greater than three (3) years.

13. SEPARATE SALES

Each delivery of Product shall constitute a separate sale with the same effect as though made under a separate Agreement covering the amount thereof. Any delay or default by Seller with respect to any delivery shall not affect Buyer's obligation to order, accept and pay for future deliveries.

14. REMEDIES

Seller reserves the right (a) to invoice Buyer for and/or ship, any Products at any time on or after date of manufacture or Buyer's initial requested ship date, whichever is the later; (b) to transfer to its general stock any Products ordered by Buyer for which Seller shall have been given no instructions for shipment to be made within four (4) weeks following the date of manufacture or Buyer's initial requested shipping date, whichever is later, or (c) to resell for any prices and on any terms Seller may choose, or to scrap any Product for which Buyer's initial requested shipping date or date of manufacture, whichever date shall last occur, and to invoice Buyer for such products according to Seller's then current price list less net proceeds from any resale of any net scrap value. In accordance with section 2 of this Agreement, Seller reserves the right to assess storage charges on all Product held in storage by Seller in excess of thirty (30) days following completion of the order or thirty (30) days after the Buyer's acknowledged availability date, whichever is later. Except as stated herein to the contrary, no Product may be returned without the written authorization of Seller, and Seller reserves the right to impose a reasonable restocking charge for merchandise which Seller accepts for return when not otherwise required to do so. Buyer grants and

Seller retains a security interest in all the merchandise sold and proceeds thereof until the purchase price is paid in full. Checks do not constitute payment in full and do not satisfy or suspend the obligation to pay the purchase price until such checks have cleared Buyer's bank. If Buyer commits a breach of any of the provisions of this Agreement; or if Buyer defaults in the payment of any indebtedness to Seller whether or not under this Agreement; or if any bankruptcy; receivership, insolvency or reorganization proceedings are instituted by or against Buyer, then in any such event Seller shall have the right, in addition to any other rights and remedies it may have, to suspend deliveries hereunder or to terminate this Agreement.

15. WAIVER

Any waiver by the parties of strict conformance with any of the terms and conditions of this Agreement shall not be a waiver of any subsequent failure to comply with such terms and conditions.

16. ENTIRETY OF CONTRACT

This Agreement and attachments contain the entire understanding between the parties, and supersede any other understanding arrangements whether oral or written except for any written agreement between Buyer and Seller which refers to this section 16 and specifies those portions of this Agreement which are subordinate to any such written agreement. Any other agreements between the parties concerning the purchase and sale of Product are hereby superseded. No interpretation, revision or amendment to this Agreement shall be effective unless stated in writing and signed by a duly authorized representative of each of the parties hereto. All purchase orders or purchase acknowledgements which may be used to order or acknowledge orders for delivery of Product shall be deemed intended for record purposes only, and any terms or conditions contained therein shall not serve to add or modify the terms and conditions of this Agreement.

17. ASSIGNMENT

This Agreement shall not be assigned by Buyer without prior written consent of Seller.

18. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performance hereunder which may be due, in whole in part, to fire, explosion, strike, accident, breakdown of machinery or equipment, curtailment in the supply of utilities (electricity, natural gas, water, etc.) whether pursuant to actions or proceedings already or hereafter commenced, inability to obtain power, labor or materials, including Product, from normal sources of supply, transportation or handling accidents or delays, act of God, act, order, regulation or request of government or other public authorities, war, riot, or civil disorder or any other cause or causes, of any nature beyond the control of the party affected. In the event of curtailment of supply of Product due to any causes, Seller shall have the right to apportion deliveries of Product on such basis as may appear to it to be equitable. Any accepted order which, due to any such causes shall not have been filed by the end of Agreement term, may be cancel either party with respect to Product not then delivered.

19. GOVERNING LAW

This Agreement shall be governed by and construed under laws of the State of Indiana. In the case of shipments outside the U.S.A., the trade terms as used herein shall be interpreted according to the provisions of "Incoterms 1980" of the International Chamber of Commerce.

20. TITLE AND RISK OF LOSS

Title to and risk of loss, damage, breakage or late delivery to the Product shall pass to Buyer upon Seller's delivery to a carrier at the shipping point, FOB Seller's warehouse, notwithstanding any terms of shipment specified.

21. OTHER

The terms of this Contract and all adversarial proceedings brought by the parties against one another arising out of this Contract or the sale, use or purchase of Goods shall be interpreted in accordance with and governed by the laws of the State of Indiana. Any cause or action relating in any manner to this Contract shall be brought and tried exclusively in the state or federal court whose jurisdiction includes Portland, Indiana. Buyer expressly consents to personal jurisdiction in the State of Indiana and to venue in the aforementioned courts for purposes of such action. The UN Convention on Contracts for the International Sale of Goods shall not apply. The terms of this Contract constitute the entire agreement between the parties with respect to the supply of Goods to Buyer and supersede any prior oral or written understandings, representations, negotiations, proposals, agreements and writings with respect to such subject matter.

No change, modification, rescission, or waiver of the Contract shall be binding on Seller unless made in writing and signed on its behalf by its duly authorized representative. Waiver of any provision, breach or default hereof shall not be deemed a waiver of any other provision, breach or default hereof. Trade custom, trade usage and past performance are superseded by these Terms and shall not be used to interpret the Contract. The parties are independent contractors and not principal and agent. Buyer does not have the right to bind or otherwise obligate Seller in any manner. The invalidity or unenforceability in any jurisdiction of any term herein in whole or in part will not affect the enforcement of any other portion of such term or any other term of this Contract nor the enforcement of remaining terms in that jurisdiction or the validity or enforceability of such provision in any other jurisdiction. The Contract is solely for the benefit of and shall inure to the benefit of Buyer and Seller and shall not give any third party any right, claim, cause of action or other interest. Buyer may not assign its rights or obligations hereunder by operation of law, merger or otherwise in whole or part without the prior written consent of Seller, and any purported assignment without such consent shall be void. Seller's obligations hereunder may be performed by its divisions, subsidiaries or affiliates. The term "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific items immediately following it. Quotations contain proprietary information of Seller provided to Buyer solely for Buyer's internal purposes and shall not be disclosed by Buyer to any third party or used in preparation of any request for quotation for goods similar to, or as a substitution for, Goods quoted by Seller. Buyer agrees that nothing herein shall be construed to grant it any rights or license in any of Seller's intellectual property and that Buyer may not use Seller's name, logo or other intellectual property without Seller's prior written consent. All notices hereunder shall be in writing sent to the other party at the address stated on the applicable Sales Acknowledgement either by certified or registered mail with return receipt, postage prepaid or by nationally recognized overnight courier, with all fees prepaid, and shall be effective on the date of receipt if so provided.