

BAYTECH PLASTICS INC. – TERMS OF SALE

1) PRICE

- a) We reserve the right to increase our prices at any time if such increase(s) become necessary due to higher labour or material costs, or for other reasons beyond our control. However, unfilled orders or unfilled portions thereof which have been entered by us will be filled at the prices originally agreed upon, provided we are able to make shipment within the calendar quarter of order entry. All or part of an accepted order not shipped within the original calendar quarter will be invoiced at prices in effect during calendar quarter(s) in which shipments are made.
- b) We also reserve the right to increase the price on any undelivered portion of any order by the amount seller's costs are affected by changes in Federal or Provincial taxes, duties or rates of exchange.
- c) The prices quoted herein apply to uninterrupted runs in the quantities specified and are subject to seller's acceptance when order received.
- d) When the seller assumes financial charges for freight, duty, and brokerage on molds or other free issue goods, a handling charge will be added to the actual expense.
- e) This quotation is subject to revision if not accepted within thirty (30) days from date hereof.
- f) Minimum invoice charge \$100.00.

2) CREDIT

- a) All orders are subject of seller's approval in respect to credit. If credit has been established, cash must accompany the order.
- b) Seller reserves the right to discontinue performance of any order at any time if purchaser's credit is deemed unsatisfactory by our Credit Department or should delivery be delayed through fault of the purchaser.
- c) The seller shall be entitled to a lien upon all molds and tools in its possession for any amounts owing to it from time to time by the customer. Tooling cannot be removed from possession of the seller until all such accounts have been paid in full.

3) DELIVERY DATES

- a) Tooling – Since tool deliveries are estimates at best and in part beyond the seller's control, seller assumes no liability, financial or otherwise, on account of delays, but in turn agrees to keep the purchaser conscientiously informed regarding progress being made on their order.
- b) Merchandise – The seller will do everything possible to comply with customer's requested delivery date, but assumes no liability, financial or otherwise, in connection with delays caused by material supply, transportation, production, machinery or labour difficulties.

4) QUANTITY

Delivery of 5 percent more or less than the quantity ordered shall constitute fulfilment of the order and any excess within this limit shall be accepted and paid for by the purchaser. If no underrun is specified the overrun allowance will be increased to 10 percent. If no overrun is specified the underrun allowance will be increased to 10 percent.

5) CANCELLATION

Any costs incurred previous to cancellation, alteration or suspension of an order shall be paid for by the purchaser.

6) TRANSIT CLAIMS

The acceptance of shipment by a railroad or other common carrier shall constitute a delivery to the purchaser and the seller shall not be responsible for merchandise damaged in transit.

7) DEFECTS AND SHORTAGES

- a) Merchandise shall be returned only upon written authorization by the seller. The seller accepts no responsibility for merchandise returned without such authorization.
- b) Claims for shortages or rejection for defects must be made in writing within 14 days after receipt of merchandise. The seller's liability hereunder is limited, upon its return by the purchaser, to the seller's price of the merchandise which has been rejected through defect or at seller's option, to the replacement of such merchandise with other merchandise of the quality warranted, with due allowance made for service rendered by the merchandise returned.

8) INSERTS

- a) Unless specifically stated otherwise, inserts are to be furnished free issue by the purchaser, F.O.B. seller's factory. The quantity of inserts furnished shall exceed by ten percent the number required to complete the order to compensate for shrinkage through rejects.
- b) A handling charge will be made by the seller to cover costs of incoming inspection on free issue goods. The seller cannot assume responsibility for any mold damage caused by inserts, component parts or materials supplied by the purchaser.

9) MATERIALS

The purchaser is responsible for disclosing, at the outset, all pertinent engineering and design requirements, and restrictions of the part. Any expense incurred by the seller due to failure of the purchaser to comply with the above, will be the responsibility of the purchaser. The seller agrees to supply his professional engineering knowledge to advise the purchaser in every way possible and also draw on the specialized facilities of tool makers, designers and material suppliers, but the final choice of the most suitable plastic material must ultimately be the responsibility of the purchaser.

10) TOOLING

- a) Because molds are quoted at cost with no charge for engineering or sampling, the seller will charge a mold removal fee if the purchaser removes the tooling from the seller's plant. The following formula will be used for estimating mold removal fee. 10% of tool cost divided by quoted annual volume, multiplied by the difference between quoted annual and actual annual volume sold to customer.
- b) Tooling will be kept in a satisfactory condition for production at the purchaser's expense and will be held for the purchaser's work only for the normal life of the mold. The normal life of the mold will be considered as terminated when the customer no longer accepts the parts produced from that mold because of defects caused by mold wear. At that time, quotations will be submitted by the seller covering:
 - (1) The cost of reworking the tooling or replacing part or all of the mold as needed or
 - (2) The additional cost of secondary operations to enable the seller to ship parts of a satisfactory quality.It will be the purchaser's decision to decide whether to accept alternates (1) or (2).
- c) All tools shall be considered obsolete if no orders have been received for production for a period of two years and seller accepts no liability for their continued existence or availability after such a period of inaction. This clause will not be invalidated by lack of notification by the seller of the expiration date.
- d) If the purchaser wishes to store the mold at the seller's plant after more than two years inactivity, a mold storage charge would be made by the seller.
- e) The seller assumes no responsibility for the cost of changes in molds and tools made necessary by changes in specifications which purchaser may require and is under no responsibility as to resultant damage.

11) INSURANCE

Insurance coverage on purchaser's molds and tools will be maintained by seller on all current equipment as defined in paragraph 10C, under seller's blanket buildings and contents fire insurance policies, at the depreciated value, provided seller is advised of such value. Any additional insurance coverage shall be the responsibility of the purchaser.

12) PATENTS

The purchaser will indemnify and hold the seller harmless against all claims for infringement of patents, copyrights, etc., and for any other claims which may be made, together with the costs incurred incident thereto, with respect to goods manufactured to purchaser's specifications.

13) EXCUSABLE DELAYS

(Baytech Plastics Inc.) shall not be liable for delays in or non-performance of the contract or any part thereof, resulting directly or indirectly from (1) causes beyond its reasonable control, or (2) acts of God, acts of Purchaser, acts of laws and any civil or military authority, strikes, or other labour disturbances, floods, epidemics, war, civil commotion, accidents or disruptions including fires and breakdowns to plant or machinery, delays in transportation or storage, or (3) inability on account of causes beyond the reasonable control of (Baytech Plastics Inc.) to obtain necessary labour, materials, services or facilities. In the event of any such delay, there will be no termination or penalty and the date of delivery or of the performance shall be extended for a period equal to the time lost by reason of the delay.