

## DN PLASTICS CORPORATION TERMS OF SALE

- **AGREEMENT DEFINED** This agreement shall, together with these Conditions of Sale, constitute the entire "Agreement" between SELLER and BUYER and shall take precedence over any differing terms in any other documentation. No terms, conditions, or representations other than those set out in this Agreement including, but not limited to terms, conditions or representations made by any employee, agent or representative of SELLER shall be binding on SELLER unless expressly agreed to in writing and signed by SELLER.
- **PRICE AND PAYMENT TERMS:** The price and terms of payment will be as specified for the Product in the Agreement. If payment of the amount is not received by the SELLER when due, any outstanding amount shall bear interest at the monthly rate of 1.5%, payable on the first day of default and monthly thereafter until paid in full. Any tax (other than income), duty or other governmental charge now or hereafter imposed on the Product or on any raw material used in manufacturing the Product or on SELLER or required to be paid or collected by SELLER by reason of the manufacture, importation, sale, use or disposal of such Product or raw material, will be paid by the BUYER in addition to the price. BUYER also shall pay to SELLER on demand all expenses, including reasonable legal fees, incurred by SELLER in protecting or enforcing any of its rights under the Agreement.
- SELLER may, at its sole discretion, grant credit to the BUYER in respect of Product purchased hereunder upon such terms and conditions as SELLER may establish from time to time. BUYER agrees and acknowledges that SELLER may at any time refuse to grant or extend credit to BUYER or that SELLER may demand immediate payment of all indebtedness outstanding hereunder.
- Credit/Security: SELLER reserves and, by its order BUYER grants, SELLER a security interest in all Goods furnished by SELLER to BUYER until payment has been received, and BUYER will promptly execute and deliver documents to perfect such security interest. The SELLER reserves full security interest under the Uniform Commercial Code in all resin compound delivered to BUYER for which payment has not been made including any parts produced from the compounds sold to the BUYER. When SELLER requests the return of compounds/parts produced from compounds then BUYER must complete the request in a reasonable manner.
- **WARRANTIES:** The warranties described in this paragraph are in lieu of all other warranties. SELLER warrants that the Product supplied by SELLER to BUYER shall be in accordance with SELLER's standard product specifications, when delivered. SELLER warrants that all products delivered under this Agreement will have been produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended. THE PARTIES AGREE THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER OR NOT THAT PURPOSE IS KNOWN TO SELLER, AND ALL OTHER WARRANTIES AND CONDITIONS,

EXPRESSED OR IMPLIED, NOT SPECIFICALLY STATED IN THE AGREEMENT, ARE EXCLUDED FROM THE AGREEMENT.

- DELIVERY: Shipments of product will be made at the delivery point specified in this Agreement. BUYER will promptly load or unload each shipment at its own risk and expense, including any demurrage or detention charges. From the time of delivery of the Product, title to and risk of loss of, or damage to Product from whatever cause shall pass to BUYER. Each delivery shall be considered to be a separate and independent transaction.
- INTENDED FOR USE OF BUYER: Product is sold by the SELLER for the sole use of the BUYER and BUYER agrees not to resell or redirect delivery points of Product without express prior consent of SELLER.
- ACCEPTANCE, ENTIRETY AND RELEASE: SELLER's acceptance of BUYER's order or proposal is expressly conditional on BUYER's assent to the terms of this Agreement and SELLER rejects any terms of BUYER'S order or proposal which differ from or are in addition to them. BUYER's assent to the terms of this Agreement will be conclusively presumed by BUYER's acceptance of Product delivery. This Agreement, as of its beginning date, contains the complete and exclusive Agreement of SELLER and BUYER concerning the Product, and supersedes all prior understandings and representations (oral and written) between parties concerning the Product and, except for any indebtedness or indemnity obligation to BUYER to SELLER, each releases the other from all claims arising in connection with any such prior contract.
- LIABILITIES-CLAIMS-INDEMNIFICATION: BUYER shall inspect all Products before use and BUYER assumes all risks incident to non-conforming Product. Receipt by BUYER of Product delivered hereunder shall be considered acceptance of same and a waiver by BUYER of claims with respect thereto, unless BUYER gives SELLER written notice of claim within 30 days after the date such Product was delivered. SELLER's total liability under this Agreement, whether based on Agreement, negligence or any other legal theory, will not exceed the purchase price of the Product involved in the claim and NEITHER PARTY WILL BE LIABLE FOR ANY PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. BUYER assumes all risk and responsibility for handling of the Product, for the results obtained by the use of the Product in a manufacturing process or otherwise, and for the results obtained by the use of the Product in combination with other substances, irrespective of the fact that such use or handling of product is in accordance with any descriptive, advice or suggestion of SELLER. BUYER is not authorized to deduct any charges from SELLER'S invoices. All invoices are due in full, any amounts for returned goods will be credited by SELLER. The provisions of this article will survive termination of the Agreement. BUYER will indemnify SELLER against any liability (whether strict or otherwise) for any claim, loss, or expense, direct or indirect, on account of injury, disease or death of persons (including BUYER's employees) or damage or property (including BUYER's) arising out of BUYER's transportation, storage, sale, use in any manufacturing process or disposal of the product.

- **EXCUSES FOR NONPERFORMANCE:** Either SELLER or BUYER will be excused from the obligations of this Agreement to the extent that performance is delayed or prevented by any circumstances (except financial), direct or indirect, reasonable beyond its control including fire, floods, accidents, explosion, mechanical breakdowns, strikes or other labor trouble, plant shutdown, unavailability of or interference with the usual means of transporting the Product in compliance with any law, regulation, order, recommendation or request of any governmental authority. In addition, SELLER will be so excused in the event it is unable to acquire from its usual sources and on terms it deems to be reasonable, any material necessary for manufacturing the Product. If because of such circumstances, there should be a shortage of any Product from any of SELLER's sources, SELLER will not be obligated to change its supply point for BUYER or to purchase in order to perform this Agreement and may apportion its available Product among itself, its affiliates and all its customers in such equitable manner as it deems fair and reasonable. Quantities of Product consequentially not shipped will be deducted from the applicable remaining quantity obligation.
- **REMEDIES:** If BUYER fails to pay, when due, any invoice or any other indebtedness to SELLER (whether or not under this Agreement), or fails, within 30 days of receiving notice of a breach of other obligations hereunder, to remedy such breach, SELLER may, in addition to any other remedies, suspend shipments, change terms of payment or terminate this Agreement forthwith by notice to BUYER and commence litigation to obtain and collect a judgment against BUYER for payment and lost profits. BUYER will be responsible for all collection charges and legal charges (attorney and court). BUYER's obligation to perform will not be limited to any waiver by SELLER.
- **NOTICES:** Notice by either SELLER or BUYER shall be mail or facsimile addressed to the other party as its address in this Agreement and will be considered given three days following the time it is deposited with the Postal Service in the case of mail and when faxed in the case of facsimile.
- **SEVERABILITY OF WAIVER:** Should any provision of the Agreement be or become illegal or unenforceable, such provision shall be considered separate and severable from this Agreement and the remaining provisions shall remain in force and be binding upon SELLER and BUYER as though such provision had never been included. Any waiver by the SELLER of any breach if nay term or condition of this Agreement shall not be construed as or be deemed to be waiver of any future breach of such term and condition.
- **ASSIGNMENT:** This Agreement may not be assigned in whole or in part by BUYER without the prior written consent of SELLER, which consent shall not be unreasonably withheld.
- **GOVERNING LAW:** This Agreement will be interpreted, and the rights, obligations and liabilities of the parties determined in accordance with the laws of Tennessee.