

# Terms and Conditions – Applicable to Purchase Orders

## By Acceptance of this Order, Seller agrees with Buyer as follows

- 1. Definition.**
- 1.1 **Parties:** The term “Buyer” shall mean Advanced Molding Technologies (AMT) and Vendor shall be referred to as “Seller”. Seller is an independent contractor and under no circumstances may Seller represent itself as an agent for Buyer.
- 1.2 The term “Materials” shall mean materials, equipment, goods, and any other articles ordered hereunder by Buyer.
- 2. Order and Acceptance.**
- 2.1 This Purchase Order (“Order”) constitutes the entire contract between the parties concerning Buyer’s offer to Seller to buy Material and/or services and shall become a binding contract subject to the descriptions, terms and conditions set forth in this document upon acceptance by Seller. Acceptance shall be indicated by either (i) Seller’s signing and returning an acknowledgment copy of this Order, or (ii) Seller’s commencement of services or delivery of Materials, either in whole or in part.
- 2.2 This offer and its acceptance is expressly limited to Buyer’s terms and conditions stated herein. Any term or condition proposed by Seller, (including, without limitation, delivery, price, quantity, quality or specifications) which is in addition to any term or condition herein is hereby objected to by Buyer and shall be void and of no effect unless and to the extent accepted in writing by Buyer’s authorized representative.
- 2.3 Change or other modification to any of the terms, conditions, prices, or deliveries are valid, unless in writing and signed by Buyer’s authorized representative. Any acknowledge or other form from Seller containing terms and conditions of sale submitted by Seller shall not have the effect of modifying the terms and conditions hereof. Buyer will consider Seller’s requests for changes only if such requests are in writing and are directed to specific clauses in this Order.
- 2.4 Buyer shall have no obligation or liability with respect to any and all Materials delivered in excess of the amount or in nonconformity with that called for in this Order. At Buyer’s option, such Materials may be stored or returned to Seller at Seller’s sole cost and expense.
- 2.5 In the event of any inconsistency between these printed terms and conditions and any mutually agreed upon supplemental conditions attached hereto, such supplemental conditions shall prevail.
- 3. Cancellation of Purchase Order.**
- 3.1 Buyer shall have the right, at its sole option, to cancel this Order (or any part thereof), to refuse delivery of any Materials and to return any Materials already received by Buyer if:
  - 3.1.1 Seller fails to make any delivery in accordance with the provisions hereof or to comply with Buyer’s shipping instructions.
  - 3.1.2 Materials supplied by Seller, (i) shall not conform to and comply with Buyer’s specifications, (ii) shall be defective, or (iii) shall not be satisfactory to Buyer; or
  - 3.1.3 Buyer experiences an unforeseeable cause beyond the control of Buyer, including any act of God or of the public enemy, fire, flood, epidemic, quarantine, strike, embargo, failure of usual means of transportation and any other case which in the judgment of Buyer may adversely affect the manufacturing or sale of any product by Buyer.
- 3.2 Buyer may cancel this contract forthwith, without waiving any of its remedies in the event of proceedings by or against Seller leading to bankruptcy or insolvency, or under any provision of the United States Bankruptcy Act, or for the appointment of a receiver or trustee or an assigned for the benefit of creditors of Seller,
- 4. Risk of Loss; Shipments.**
- 4.1 Title to and all risk of loss of any Materials shall be upon the Seller until such time as the Materials ordered shall be delivered to the final destination specified in this Order and there accepted by Buyer. This shall be so without regard to the F.O.B. point. Transportation charges shall be paid by Seller and only if this Order so provides, shall be added to the purchase price.
- 4.2 No additional charge will be allowed for packing, crating, or storage unless agreed upon in writing at time of purchase. Shipments must be packed to conform with the carrier’s requirements.
- 4.3 Seller shall use its best efforts to make deliveries as expeditiously as possible. All shipments must be forwarded to the Buyer in the manner indicated on its Order. Unless otherwise expressly stated in this Order, on-time delivery is expected. If Buyer believes that a delay or anticipated delay in Seller’s deliveries may impair its ability to meet its production schedules or may otherwise interfere with its operations, Buyer may at its option, and, without liability, to Seller, cancel any outstanding deliveries hereunder wholly or in part. In the event of any variance, all additional expenses to which the Buyer may be subjected shall be borne by the Seller.
- 4.4 All Material shipped to the Buyer from abroad shall be securely packed for export as light as possible and in the smallest cubical bulk consistent with safe carriage by ocean vessel, railroad or aircraft (as the case may be). All packaging and boxing costs shall be borne by Seller.
- 4.5 An itemized packing slip bearing the Buyer’s Order number must accompany each delivery; and each container must be marked to show this Order number. The Buyer’s count will be accepted as conclusive on shipments not accompanied by a packing slip.
- 4.6 After shipment of the items covered by this Order, Seller shall submit a separate invoice to Buyer at the address indicated on the front side hereof.
- 5. Price, Discounts; Payment; Taxes.**
- 5.1 Items not priced on this Order will be supplied the lowest price charged by Seller for equal quantity, and shall not exceed current prices quoted or charged to any other customer of Seller for similar items and quantity. Seller will refund to Buyer any amounts in excess of such price.
- 5.2 Seller agrees that Buyer shall receive the benefit of any reduction in the price for any Materials or services described herein which shall be made or in effect at the time of the shipment or delivery or furnishing thereof to Buyer and that in any such case the price therefore provided in the Order shall be reduced accordingly.
- 5.3 Seller shall separately state on all invoices and confirmations the applicable sales taxes imposed by Federal, State or local governments, unless an exemption is available.
- 6. Warranties: Compliance with Laws**
- 6.1 Seller expressly warrants that:
  - 6.1.1 All Materials and work furnished hereunder will be (i) merchantable, (ii) suitable for use, (iii) fit and safe for the purpose for which it is intended, (iv) free from defects in material and workmanship, and (v) in conformance with all specifications, drawings, samples and descriptions and that, if of Seller’s design, such will be free from design defects.
  - 6.1.2 All Materials furnished and/or installed by it hereunder to be new and not used or reconditioned (unless otherwise specified in the Order) and free from defects in materials or workmanship for a period of no less than one year from the date of delivery or completion of installation, whichever is later.
  - 6.1.3 It has good title to the Materials supplied and that they are free and clear from all liens and encumbrances.
- 6.2 Materials not in accordance with these warranties may be returned to Seller with charge for transportation both ways. Buyer shall have the options of returning such Materials to Seller at any time after delivery for credit or replacement at the price charged. The foregoing shall not be in limitation of any rights which Buyer may have at law or in equity by reason of any breach of warranty.
- 6.3 Seller hereby guarantees that the Materials sold hereunder are not and will not be, on the date of shipment, or delivery, either adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, as amended or within the meaning of any applicable state or municipal law in which the definitions of adulteration and misbranding are substantially identical with those contained in the Federal Food, Drug, and Cosmetic Act, as said act and such laws are constituted and effective at the time of such shipments or delivery, and such Materials are not and will not be, on the date of such shipment or delivery, and that such Materials are not and will not be, on the date of such shipment or delivery. Materials which may not, under the provision of Section 404 or 505 of said Act, to be introduced into interstate commerce.
- 6.4 Seller warrants that the Materials or services purchase or provided hereunder have been produced and/or have been designed to and will comply fully with all Federal, State and local standards in effect on the date of shipment, including, without limitation, the appropriate sections of the Occupational Safety and Health Standards Act and the Fair Labor Standards Act, as amended.
- 6.5 If the Order is issued pursuant to a contract which Buyer has with the U.S. Government, or agency thereof, and such fact is communicated to Seller on this Order form or otherwise, then (i) Seller agrees to allow access to any representative of the U.S. Government (or agency) to Seller’s plants, materials and process, and relevant books and records, (ii) All material and workmanship is subject to inspection by the Government, and the Government, as well as the Buyer, has the right to reject any Materials found to be non-conforming or defective; and (iii) Seller performing work under this Order shall not discriminate against any employee or applicant because of race, creed, color, national origin or sex and shall include a similar clause in its subcontracts.
- 7. Delays.**
- 7.1 This Order is subject to modification or cancellation by Buyer in the event of acts of God, governmental authority, or the public enemy, fires, floods, strikes, labor troubles, freight embargoes or causes or contingencies reasonably beyond Buyer’s control.
- 7.2 Whenever the Seller has knowledge that any actual or potential labor dispute or other problem is delaying or threatens to delay the timely performance of this contract, the Seller shall immediately give notice thereof, including all relevant information with respect thereto, to the Buyer.
- 8. Indemnity.**
- 8.1 Seller agrees to defend, indemnify and hold harmless Buyer, Buyer’s customers, their respective subsidiary and affiliated companies, and their respective officers, directors, agents and employees, from and against any and all claims, loss, cost, liability, damage and expense (including without limitation, reasonable attorney’s fees and disbursements) arising out of or in connection with any materials or services provided by Seller or Seller’s performance hereunder, for or on account of (i) any injury, death or damage to person or property, or claim thereof, (ii) with respect to any Materials sold hereunder or its use, any infringement of any patent, copyright, design, process, trademark, tradename, or other adverse rights, or (iii) any litigation based on or as a result of any of the foregoing. Buyer agrees to give Seller reasonable notice of the commencement of any such litigation.
- 8.2 If this Order covers the performance of labor on Buyer’s premises, Seller agrees to indemnify and protect Buyer against all claims and liabilities for injury or damage to any person or property arising out of the performance of this Order. Seller also agrees, upon request, to furnish Buyer with a certification from Seller’s insurance carriers showing that it carries adequate Worker’s Compensation or other General Comprehensive Liability and Property Damage Insurance, and showing the amount of coverage, number of policy and date of expiration.
- 9. Assignment: Transfer of Rights.**
- 9.1 Seller shall not assign this Order, or any part thereof, without written consent of Buyer. Such consent shall not release Seller from its obligations and liabilities. Any and all rights, benefits and privileges under this Order including, without limitation the benefit of any and all warranties, shall inure to the benefit of a parent, subsidiary or affiliated corporation of Buyer to whom the Materials or services described herein, or any part thereof, shall be delivered or furnished or transferred, whether such delivery, furnishing or transfer shall be accompanied by Seller or Buyer or otherwise.
- 10. Governing Law.**
- 10.1 The interpretation or performance of this Order and contract resulting from Seller’s acceptance hereof shall be construed in accordance with and governed by Federal law and the laws of the State of Minnesota, including environmental regulations.
- 11. Proprietary & Confidential Information: Advertising**
- 11.1 Seller agrees to hold in strict confidence any proprietary, or otherwise confidential information described to Seller by Buyer and to make no use of such information other than that authorized by Buyer. Advertising and promotional material must be approved by Buyer prior to release.
- 12. Certification of Conformance.**
- 12.1 When required, the Seller shall certify that any materials, processed and finished items supplied under this order were produced, inspected, and/or tested and conform to the requirements of this order.
- 12.2 Certificates of Conformance must accompany each shipment when required by Buyers Purchase Order.
- 12.3 Each Certificate of Conformance is to be signed by a representative of the Seller and reference this Purchase Order, part number and lot number.
- 13. Vendor Subcontracting/Outsourcing.**
- 13.1 The Seller is obligated to provide Buyer notification of changes to their product, process or services that could affect product requirements including regulatory requirements.
- 13.2 Seller must immediately (within 24 hours of becoming aware) notify Buyer of such a change. Buyer will evaluate the changes to determine product acceptability. This evaluation will be documented and records maintained by the Seller.
- 14. Workmanship.**
- 14.1 Buyer reserves the right to issue Seller a Corrective Action Request (SCAR) when the Seller’s product does not meet stated product requirements.
- 14.2 The Seller has 15 days to respond to the Buyers Corrective Action Request.
- 14.3 Buyer reserves the right to withhold payment for services and/or return defective product at Seller expense.
- 15. Quality Assurance System.**
- 15.1 Buyer reserves the right to evaluate the adequacy of the Sellers quality program via on-site audits and/or perform product verification at the Sellers premises.
- 15.2 Any records of inspections, tests, and evaluation performed during production and acceptance will immediately be made available to Buyer at Buyers request.
- 15.3 Records must be maintained at a minimum of seven years unless contractually agreed otherwise.
- 16. Confidential Information/Intellectual Property**
- 16.1 Seller will not disclose to anyone for any reason information considered to be confidential and/or intellectual property by Buyer without expressed permission.
- 16.2 Seller will safeguard such information at least to the same extent as with Seller proprietary information.
- 17. Product Recall**
- 17.1 In the event of a product recall, the Seller must have an established procedure to supply Buyer with manufacturing control information and lot traceability information.
- 18. Process Change Agreement**
- 18.1 Buyer requires a minimum of 180 days notification, in writing, from Seller prior to the event of a change in manufacturing location, change in supplier of raw materials or components, use of raw material which differs in composition to the material previously used, any change to assembly or manufacturing process previously validated by Seller or Buyer, any significant change to an assembly or manufacturing process used to produce Buyers product, building product from new, refurbished or modified molds, tools, dies, etc., including replacement of tooling or molds or any of the above for sub-tier suppliers.