

**SMOOTH-BOR PLASTICS
TERMS AND CONDITIONS**

1. SELLER'S OFFER. Notwithstanding any contradictory terms and conditions which may appear on any forms of the buyer ("Buyer") of goods or products of STEWARD PLASTICS, INC. d/b/a Smooth-Bor Plastics ("Seller"), the shipment and/or delivery of the goods by Seller and the Seller's delivery of an invoice shall not constitute an acceptance by the Seller of any prior written or oral offer by the Buyer which contains terms and conditions different from or additional to those set forth below. Seller's acceptance of any such offer is expressly conditioned on the terms and conditions set forth below. Buyer's acceptance of the goods and/or services provided by Seller shall constitute confirmation of Buyer's acceptance of the terms and conditions set forth below. Seller hereby objects to and rejects all terms and conditions of Buyer's order or purchase order which are inconsistent with these terms and conditions and the Seller's invoice.

2. PRICE AND QUANTITY. The price of the products to be supplied hereunder shall be Seller's price for such products as of the date of shipment thereof. Seller reserves the right to adjust prices from time to time without Buyer's prior notification or consent. Buyer represents and warrants that Buyer has a valid seller's permit or equivalent exemption certificate. Buyer shall provide Seller, on request, with properly completed exemption certificates from any tax from which Buyer claims exemption. Seller shall charge Buyer, and Buyer agrees to pay applicable state and local sales tax on every item for which sales tax exemption certificates have not been provided. Seller's prices reflected in the invoice are wholesale prices and include all trade discounts.

3. TAXES. Any tax, excise or other governmental charge imposed upon the production, value added, sales, or transportation of or to any material sold hereunder, which Seller may be required to pay, shall be paid by Buyer directly to such taxing authority or agency or to Seller in addition to the purchase price.

4. TITLE: RISK OF LOSS. Title to the goods sold hereunder shall remain with Seller until payment in full by the Buyer. The goods sold hereunder, however, shall be at the risk of the Buyer, and Buyer shall bear all risk therefor upon delivery to the carrier for goods that are shipped F.O.B. at Seller's place of business, upon Seller making the products available at the designated location at Seller's place of business for goods that are shipped *ex works* or, if the goods are shipped pursuant to other applicable shipping arrangement, Buyer shall bear all risk therefor in accordance with the Incoterms 2020 or other applicable rules of the risk allocation between buyers and sellers applicable to the agreed upon method of shipping of such goods.

5. TERMS OF SALE. Unless otherwise specified, Seller's standard terms of sale are net thirty days from date of shipment. If payment is not made in accordance with the payment terms hereof, the account will be subject to a service charge of one and one-half percent (1½%) per month on the unpaid balance. If Seller commences an action to collect amounts due on this account, Buyer shall pay all court costs, collection expenses, and reasonable attorneys' fees in connection therewith. Cash or anticipation discounts are not allowed. All payments must be in U.S. Dollars. If Buyer fails to make payment within thirty (30) days, Seller may defer shipments until such payment is made, or may, at its option, cancel all or any part of any unshipped order. If the financial responsibility of Buyer becomes impaired or unsatisfactory to Seller, in Seller's sole and absolute discretion, advance cash payments or satisfactory security shall be given by Buyer upon demand by Seller, and shipments may be withheld until such payment or security is received.

6. LIMITATION OF WARRANTIES. Unless an express written warranty is otherwise furnished by Seller by a separate document, the Seller makes no warranty, express or implied, with respect to the goods sold by Seller hereunder. ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED AND EXCLUDED FROM THIS AGREEMENT.

7. INSPECTION; NOTICE OF CLAIM. Buyer shall inspect and test the products delivered hereunder for damage, defect, or shortage immediately upon receipt at Buyer's plant or such other location as determined by Buyer and provide Seller with notice of any damage, defect, or shortage within ten (10) days of receipt. Buyer shall pay for the shipping and other transportation charges in returning such claimed by Buyer defective or nonconforming products; provided that, if after return of such products Seller determines, in its sole discretion, that such products are damaged or defective, then Seller will reimburse Buyer for reasonable and customary transportation charges for such products. Seller shall inspect such returned products and determine, in its sole discretion, whether such products are damaged or defective. If Seller determined such products are damaged or defective, Seller shall, in its sole discretion but within a reasonable time from Seller's receipt of such defective or nonconforming products, either (i) replace such defective or nonconforming products without additional charge to Buyer, or (ii) refund the purchase price to Buyer. All claims for any cause whatsoever, whether based in contract, negligence, or other tort, strict liability, breach of warranty, or otherwise ("Claims") shall be deemed waived unconditionally and absolutely unless Seller receives written notice of such claim not later than ninety (90) days after Buyer's receipt of the products as to which such claim is made.

8. LIMITATION OF LIABILITY. Notwithstanding any other provision in these terms and conditions and regardless of the circumstance, SELLER'S TOTAL LIABILITY TO BUYER FOR ANY AND ALL CLAIMS SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT TO WHICH SUCH CAUSE OF ACTION AROSE. IN NO EVENT SHALL SELLER BE LIABLE FOR LOSS OF USE OR FOR ANY OTHER INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, CONSEQUENTIAL DAMAGES FOR PERSONAL INJURIES, DEATH, PROPERTY DAMAGE, OR DELAY. THIS DISCLAIMER OF CONSEQUENTIAL DAMAGES WILL CONTINUE IN FULL FORCE AND EFFECT EVEN IF BUYER'S LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. Seller is not liable for any Claim, if such Claims arise out of or are related to the misuse, negligence, neglect, improper cleaning, repair, installation, or maintenance, modification of the goods, or use or operation of the goods sold hereunder in a manner inconsistent with the product design. Any cause of action that Buyer may have against Seller and which may arise under this contract must be commenced within one (1) year from the original shipping date of the product by Seller.

9. USE OF GOODS. Buyer, or Buyer's customer, whichever the case may be, is responsible for determining the suitability of the goods for the use contemplated by Buyer or Buyer's customers for such goods and Seller has no responsibility in connection therewith. Buyer assumes all risk and liability for loss, damage, or injury to persons or property of Buyer or others arising out of the use or possession of the goods furnished hereunder.

10. DELAYS BEYOND SELLER'S CONTROL. Seller shall not be responsible for delays in performance, non-performance, modifications and/or rescissions caused by delays by suppliers or in transportation or due to strikes, fires, floods, earthquakes, storms, war, insurrections, riots, restrictions and/or impacts related to Covid or its variants, other pandemics or epidemics, other calamities, any governmental regulation, order, act, or instruction, shortages or price increases in materials, labor, transportation or any other events and/or circumstances beyond the Seller's reasonable control. Buyer's acceptance of goods shall constitute a waiver of any claims for damages due to delay. Under no circumstances shall the Seller be liable for any loss of use by Buyer or for any direct or consequential damages arising from such delays or non-performance.

11. FOREIGN SHIPMENT. In the event his sale involves a foreign shipment, Seller declares the invoice to be true and correct in every respect and declares the goods described on the reverse side hereof to be the product of the industry of the United States of America, except as otherwise noted.

12. ASSIGNMENT. Buyer shall not assign any order or interest therein without the written consent of Seller. Any actual or attempted assignment without Seller's prior written consent shall entitle Seller to cancel such order upon notice to Buyer.

13. RETURNED GOODS. Buyer may not return any goods without prior written authorization of Seller in Seller's sole and absolute discretion.

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14. PROPRIETARY RIGHTS. Seller shall retain all rights to any invention, technical data, information, drawings, sketches, blueprints, vellums, samples, products, specifications, or any other matter, technical data and/or information, whether or not patentable, arising out of or resulting from goods sold or furnished by Seller to Buyer hereunder. Buyer agrees not to enforce against Seller, or customers of Seller, any proprietary rights arising out of or resulting from the goods sold hereunder, including, without limitation, a system incorporating any product sold hereunder. Buyer shall treat such information of Seller as confidential and Buyer shall not use such information other than in connection with the use of such goods. Buyer shall, upon request from Seller, return all drawings, designs, specifications, and written data, and copies or reproductions thereof to Seller. Buyer shall not make any copies or reproductions of drawings, designs, specifications, or written data without Seller's prior written approval.

15. BLANKET ORDERS. Seller changes its prices from time-to-time and prices are not guaranteed with respect to any order. Unless otherwise agreed to in writing by Seller, Buyer shall not make any blanket orders for goods if the shipping date or dates for all or any portion of such goods is more than (6) months of date of purchase.

16. CANCELLATIONS. Orders may not be cancelled by or on behalf of Buyer unless Seller, in its sole and absolute discretion, agrees to such cancellation (in which case Buyer shall remain liable for all goods produced prior to such cancellation). Prepay orders must be paid within thirty (30) days of notification of charges or order will be considered cancelled. All orders on a will call basis must be picked up within two (2) weeks of notification for readiness or order will be considered cancelled with Buyer liable for any or all charges for merchandise.

17. RELEASES. Buyer may request Seller to change shipment due dates (each, a "**Change Request**"). Seller may accept or reject each Change Request in Seller's sole and absolute discretion (Seller's acceptance or rejection shall be in writing).

18. ENTIRE AGREEMENT. No agent, employee or representative of Seller has any authority to bind the Seller to any affirmation, representation, or warranty concerning the goods sold hereunder unless such representation of warranty is specifically included herein. No modification or alteration of the foregoing disclaimer of warranties or limitation of remedies provisions shall be valid or enforceable unless set forth in a separate document issued and executed by a duly authorized officer of the Seller. If a purchase order or other correspondence contains terms or conditions contrary to the terms and conditions contained in this invoice, Seller's acceptance of any order shall not be construed as assent by Seller to any such additional terms and conditions, nor will that constitute a waiver by Seller of any terms and conditions contained in these terms and conditions and the invoice.

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