MIER MACHINE AND TOOL, LLC

Precision Injection Molds • Tooling • Machining
18 Garfield Street, Auburn, NY 13021 • 315-253-3412 • www.miertool.com

STANDARD TERMS AND CONDITIONS OF SALE

These Standard Terms and Conditions of Sale (the "Terms") govern all quotations, order acknowledgments, and sales of goods, tooling, molds, and services by Mier Machine and Tool, LLC ("Supplier," "Mier," "we," or "us") to the purchaser ("Buyer," "you"). As used in these Terms, "Tooling" means any mold, die, fixture, gauge, pattern, insert, or other tool designed, built, modified, repaired, or maintained by Supplier; and "Products" means Tooling, machined components, molded parts, and any other goods or services supplied by Supplier.

1. Acceptance and Scope of Agreement

A. Supplier, upon its acceptance of an order placed by Buyer, will supply the Products and services specified in the order in accordance with these Terms. Supplier's acceptance of any order is expressly conditioned upon Buyer's assent to these Terms.

B. These Terms, together with Supplier's written quotation and order acknowledgment, constitute the entire agreement between the parties and supersede any prior or contemporaneous understandings. Supplier's acceptance overrides any conflicting, additional, or different terms in Buyer's purchase order or other documentation, and any such terms are hereby rejected, unless expressly agreed to by Supplier in a signed writing. No modification of these Terms is binding unless made in writing and signed by an authorized representative of Supplier.

2. Quotations and Orders

A. Written quotations issued by Supplier are valid for thirty (30) days from the date of the quotation unless otherwise stated, after which they are subject to change without notice. Verbal quotations are not binding.

B. Quotations are based on the specifications, drawings, data, and materials in effect at the time of quotation. If Buyer's specifications, part design, resin, tolerances, quantities, or delivery requirements change, or if the information furnished by Buyer is incomplete or inaccurate, Supplier reserves the right to revise pricing and delivery accordingly.

C. All orders are subject to acceptance by Supplier. An order becomes binding only upon Supplier's written acknowledgment or commencement of performance.

3. Price and Payment Terms

A. Prices are as stated in Supplier's written quotation or current price list and are exclusive of freight, shipping, handling, insurance, and all federal, state, and local taxes, duties, and similar charges, all of which are the responsibility of Buyer unless otherwise stated in writing.

B. The extension of credit is subject to a satisfactory credit evaluation at Supplier's sole discretion. Supplier may at any time require payment in advance, cash on delivery, or other security.

C. When credit is extended, payment terms are net thirty (30) days from the date of Supplier's invoice. Past-due balances accrue a finance charge of one and one-half percent (1.5%) per month, or the maximum rate permitted by law, whichever is less. For any account more than ninety (90) days past due, Supplier may require advance payment, withhold or suspend delivery or performance, revoke credit, and recover all costs of collection, including reasonable attorneys' fees.

4. Tooling Deposits and Progress Payments

A. Unless otherwise agreed in writing, orders for Tooling require a non-refundable deposit due upon order placement, with the balance payable in progress payments tied to defined milestones (for example, design approval, cutting of steel, first sample, and sample approval). Supplier is not obligated to commence or continue work until each corresponding payment is received.

B. **ALL DEPOSITS AND PROGRESS PAYMENTS MADE TOWARD TOOLING ARE NON-REFUNDABLE.** Such payments compensate Supplier for engineering, design, materials, machine time, and labor expended, which are incurred progressively and cannot be recovered or reallocated once work has begun. In the event Buyer cancels, suspends, or fails to proceed with an order for any reason, Buyer forfeits all deposits and progress payments made, and remains liable for the cost of all work performed and materials and services committed through the date of cancellation, as provided in the Cancellation and Termination section below.

C. Progress payments are payments on account of the total Tooling price and do not constitute acceptance of the Tooling, transfer of title, or a waiver of any of Supplier's rights under these Terms. Time for payment is of the essence.

5. Tooling — Title, Possession, Molder's Lien, and Security Interest

A. **Retention of Title.** Title to Tooling built by Supplier shall not pass to Buyer until Supplier has received payment in full of the entire Tooling price and all other amounts then owed by Buyer to Supplier. Until such payment in full is received, the Tooling remains the sole property of Supplier, notwithstanding any deposit or progress payment made by Buyer, and Supplier may retain possession of it as owner and withhold its delivery.

B. **Molder's Lien.** Supplier is a "molder" and Buyer is a "customer" within the meaning of Article 6-A of the New York Lien Law (Sections 150 through 154). For all amounts owed by Buyer for the manufacture, fabrication, modification, repair, maintenance, or storage of any die, mold, form, or pattern, together with the value of all related materials, Supplier shall have and retains a molder's lien, dependent on possession, upon all such Tooling in Supplier's possession belonging to Buyer. Supplier may retain possession of such Tooling until all amounts owed are paid in full, and may enforce the lien as provided in the Storage and Enforcement section below and under the New York Lien Law.

C. **Security Interest.** As additional security for all amounts owed by Buyer, Buyer grants Supplier a security interest in all Tooling and Products in Supplier's possession and in the proceeds thereof. Buyer authorizes Supplier to file such financing statements as Supplier deems necessary to perfect that security interest, and agrees to execute any documents reasonably requested for that purpose.

D. **Marking.** Buyer agrees that Supplier may permanently mark or affix a tag to each mold, die, form, or pattern identifying it as the property of, or subject to the title, molder's lien, and security interest of, Mier Machine and Tool, LLC until all amounts owed by Buyer are paid in full.

E. **Care, Risk, and Insurance.** Supplier will exercise reasonable care for Tooling in its possession but is not an insurer of it. Supplier's liability for loss of or damage to any mold, die, form, or pattern in its possession, however caused, shall not exceed the reasonable cost of repair or, if the item is not repairable, the reasonable cost of replacement, and shall exclude any consequential, incidental, or lost-production damages. Buyer is responsible for maintaining property insurance covering Tooling that Buyer owns while it is in Supplier's possession or in transit.

F. **Release and Buyer-Furnished Tooling.** Where Buyer has paid in full and the parties agree that Tooling will be released to Buyer, risk of loss and responsibility for insurance, maintenance, transport, and safekeeping pass to Buyer upon such release. Any Tooling furnished by Buyer to Supplier is provided at Buyer's risk, subject to the standard of care stated above.

G. **Intellectual Property.** All designs, drawings, engineering, specifications, know-how, methods, and processes developed by Supplier in connection with the Tooling remain the intellectual property of Supplier, whether or not title to the physical Tooling passes to Buyer, except to the extent they incorporate Buyer's pre-existing proprietary part design. Payment for Tooling conveys title to the physical Tooling only and does not grant Buyer any right to Supplier's proprietary designs, processes, or manufacturing know-how.

6. Engineering Changes and Modifications

A. Any change to part design, specifications, materials, tolerances, or quantities requested by Buyer after acceptance of an order must be submitted in writing and is subject to Supplier's written approval. Approved changes may result in adjustments to price, delivery schedule, and other terms, and Buyer shall be responsible for all resulting additional costs.

B. Supplier may make changes that do not materially affect the form, fit, or function of the Products. If applicable law, safety, or material availability requires a change, Supplier will notify Buyer and the parties will agree on any resulting adjustment to price and delivery.

7. Samples and First Article Approval

A. Upon completion of Tooling, Supplier will submit samples (first articles) to Buyer for evaluation. Buyer shall inspect and provide written approval or rejection, with specific reasons, within fifteen (15) days of receipt. Failure to respond within that period constitutes approval.

B. Buyer's written approval of samples establishes the standard of acceptance for the Tooling and for all subsequent Products produced from it, and constitutes Buyer's acceptance that the Tooling conforms to the agreed specifications. Production quantities are manufactured to the approved samples, subject to commercially reasonable manufacturing variation.

C. Corrections or modifications requested by Buyer that are outside the scope of the agreed specifications, or that arise from changes to Buyer's part design or from incomplete or inaccurate information furnished by Buyer, are billable to Buyer at Supplier's applicable rates.

8. Specifications, Tolerances, and Materials

A. Except where specific tolerances are stated in the accepted specifications, all Products are manufactured to commercially accepted industry tolerances and standards, including, where applicable, the standards published by The Manufacturers Association for Plastics Processors (MAPP) / former Society of the Plastics Industry (SPI) for molds and molded parts.

B. Buyer is responsible for the accuracy, completeness, and manufacturability of all designs, drawings, specifications, and data it furnishes, and for confirming that the specified materials and resins are suitable for Buyer's intended application. Supplier does not warrant the suitability of Buyer-specified designs or materials for any particular purpose.

C. The price, color, and performance of molded Products depend on the resin and colorants specified. Prices are based on resin and material costs in effect at the time of quotation and are subject to adjustment for changes in material costs. Reasonable variation in quantities of molded Products of plus or minus ten percent (±10%) of the ordered quantity constitutes acceptable delivery, and Buyer will be invoiced for the actual quantity delivered.

9. Tooling Storage, Maintenance, Inactivity, and Enforcement of Lien

A. Supplier will provide reasonable care for Tooling in its possession. Normal maintenance and repair arising from ordinary production wear is billable to Buyer unless otherwise agreed. Supplier is not responsible for wear, deterioration, or damage resulting from normal use, the number of cycles run, Buyer-specified materials, or the Tooling reaching the end of its useful life.

B. Supplier will store Tooling that is not in active production for a period of up to twelve (12) months following the last production run or last activity on the account, at no charge. Thereafter, upon written notice to Buyer, storage may be subject to a reasonable storage fee, which shall be added to the balance owed by Buyer and secured by Supplier's molder's lien and security interest.

C. If Tooling remains inactive for more than twelve (12) months, Supplier may, upon written notice to Buyer, require Buyer within thirty (30) days to (i) resume production, (ii) pay all amounts then owed and arrange for continued paid storage, or (iii) take possession of and remove the Tooling at Buyer's expense. Tooling for which no amount is owed remains Buyer's property, and Supplier's continued storage of it after notice shall accrue reasonable storage charges as provided above.

D. **Enforcement and Sale.** If Buyer fails to pay any amount owed for the manufacture, fabrication, modification, repair, maintenance, or storage of Tooling, Supplier may enforce its molder's lien and dispose of the Tooling in accordance with Article 6-A of the New York Lien Law. Supplier will give the written notice required by Section 152 to Buyer and to any holder of a perfected security interest, delivered personally or by registered mail to the last-known address, stating that a lien is claimed and demanding payment. If Buyer does not pay the amount due within sixty (60) days after receiving that notice, Supplier may sell the Tooling at public auction following the notice and sale procedures of Section 154, including a further registered-mail notice of Supplier's intention to sell the Tooling not less than thirty (30) days after Buyer's receipt, a description of the Tooling, the time and place of sale, an itemized statement of the amounts owed, and notice of Buyer's right to challenge the lien amount in court within ten (10) days. Supplier will apply the proceeds of sale to the amounts owed, pay any surplus first to other lienholders known to Supplier and then to Buyer, and will not sell any Tooling where doing so would violate Buyer's rights under federal patent or copyright law. Buyer remains liable for any deficiency.

10. Delivery

A. Delivery and completion dates are estimates based on current conditions and prompt receipt of all information, approvals, and payments due from Buyer. Supplier will use commercially reasonable efforts to meet estimated dates but is not liable for any delay. Time of delivery is not of the essence.

B. Unless otherwise stated, Products ship F.O.B. Supplier's facility (Origin) via carriers selected by Supplier, and risk of loss for Products passes to Buyer upon delivery to the carrier. If Buyer's circumstances prevent shipment, Products may be placed into storage at Buyer's expense and risk, and shall be deemed delivered.

C. Any claim for shortage, over-delivery, or visible damage must be reported to Supplier in writing within fourteen (14) days of Buyer's receipt, failing which the shipment is deemed accepted as delivered.

11. Limited Warranty and Disclaimer

A. Supplier warrants that Tooling built by Supplier will be free from defects in Supplier's workmanship, and that machined and molded Products will conform in all material respects to the specifications approved by Buyer, in each case for a period of ninety (90) days from delivery or sample approval. This warranty does not cover, and expressly excludes, normal wear, the number of cycles or shots produced, damage from misuse, neglect, improper operation, storage, or maintenance, unauthorized modification or repair, use of materials or resins other than those specified, or defects arising from Buyer's designs, specifications, or furnished materials or Tooling.

B. Buyer's sole and exclusive remedy, and Supplier's entire liability, under this warranty is, at Supplier's option, the repair or re-working of the nonconforming Tooling or Products, replacement, or credit of the purchase price for the nonconforming items. All warranty claims must be made in writing within the warranty period. Products or Tooling may not be returned without Supplier's prior written authorization.

C. **THE FOREGOING WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY SUPPLIER. SUPPLIER EXPRESSLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

12. Limitation of Liability

A. **IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST PRODUCTION, OR COST OF COVER, WHETHER OR NOT SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

B. **SUPPLIER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO ANY ORDER OR THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT PAID TO SUPPLIER FOR THE SPECIFIC PRODUCTS OR TOOLING GIVING RISE TO THE CLAIM.**

C. The limitations and exclusions in this section are a material and essential basis of the bargain between the parties, are reflected in the pricing, and shall apply notwithstanding the failure of any limited remedy of its essential purpose.

13. Cancellation and Termination

A. Orders accepted by Supplier may not be cancelled, reduced, or rescheduled by Buyer without Supplier's prior written consent. If Supplier consents to a cancellation, or if Buyer breaches these Terms, Buyer shall pay Supplier for all work performed, all materials, components, and services purchased or committed, all deposits and progress payments (which are non-refundable), and a reasonable charge for Supplier's engineering, overhead, and profit on the cancelled portion of the order.

B. Supplier may suspend performance or terminate any order, without liability, if Buyer fails to make any payment when due, becomes insolvent, files or has filed against it any bankruptcy or insolvency proceeding, or otherwise breaches these Terms.

14. Buyer's Indemnification

A. Buyer agrees to defend, indemnify, and hold Supplier and its officers, employees, subsidiaries, affiliates, agents, and representatives harmless from and against all claims, liabilities, damages, losses, and expenses (including reasonable attorneys' fees) arising out of or relating to Buyer's negligence, misuse of the Products, Buyer's designs or specifications, Buyer-furnished materials or Tooling, or any claim that Products manufactured to Buyer's designs or specifications infringe any patent, trademark, copyright, trade secret, or other intellectual property right of a third party.

15. Confidential Information and Intellectual Property

A. Each party's confidential information remains the property of the disclosing party and shall be used only to perform under the applicable order and not disclosed to any third party except to agents with a need to know who are bound to confidentiality. This obligation does not apply to information that is or becomes publicly available, was rightfully in the receiving party's possession before disclosure, or is independently developed without use of the disclosing party's confidential information.

B. Except as expressly stated in the Tooling section above, neither party acquires any right or license in the other party's pre-existing intellectual property, product information, or materials by reason of an order or these Terms.

16. Force Majeure

A. Supplier shall not be liable for any delay in or failure of performance caused by events beyond its reasonable control, including but not limited to acts of God, fire, flood, severe weather, epidemic or pandemic, war, terrorism, civil unrest, strikes or labor disputes, accidents, government action, and shortages or delays of materials, energy, transportation, or labor. In such event, the time for performance shall be extended by the period of delay, and if the delay continues for more than ninety (90) days, either party may terminate the affected order without liability, except that Buyer shall remain responsible for all work performed and costs incurred through the date of termination.

17. Compliance with Law

A. Each party shall comply with all applicable federal, state, and local laws and regulations in the performance of its obligations under these Terms.

18. Assignment

A. Buyer may not assign or transfer any order, or any of its rights or obligations under these Terms, whether by operation of law or otherwise, without Supplier's prior written consent, and any attempted assignment without such consent is void. Supplier may assign its rights and obligations. These Terms bind and benefit the parties and their permitted successors and assigns.

19. Notices

A. All notices under these Terms shall be in writing and delivered personally, by nationally recognized overnight courier, or by registered or certified mail, return receipt requested, to the party's address stated in the order or to its last-known address, and shall be deemed given upon receipt. Notices to Supplier shall be sent to Mier Machine and Tool, LLC, 18 Garfield Street, Auburn, NY 13021. Any notice given to enforce a molder's lien shall additionally be given in the manner required by Article 6-A of the New York Lien Law.

20. Waiver

A. Supplier's failure to enforce any provision of these Terms shall not constitute a waiver of that or any other provision or limit Supplier's right to enforce it thereafter.

21. Severability

A. If any provision of these Terms is held invalid or unenforceable, that provision shall be severed and the remaining provisions shall remain in full force and effect.

22. Governing Law and Venue

A. These Terms and any order shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict-of-laws principles. The parties agree that the exclusive venue for any dispute arising out of or relating to these Terms or any order shall be the state courts located in Cayuga County, New York, or the United States District Court for the Northern District of New York, and each party consents to the personal jurisdiction of those courts. THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY. In any action to enforce these Terms, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

23. Entire Agreement

A. These Terms, together with Supplier's quotation and order acknowledgment, constitute the entire agreement between the parties with respect to the subject matter and supersede all prior negotiations, representations, and agreements. These Terms may be updated by Supplier from time to time, and the version in effect on the date of Supplier's order acknowledgment governs that order.

By placing an order with Mier Machine and Tool, LLC, Buyer acknowledges that it has read, understands, and agrees to be bound by these Standard Terms and Conditions of Sale.