

Conditions of Sale

- 1. Terms of Sale.** Acceptance of the materials shipped by Chase Plastic Services (“CPS”) to its Customers (“Customer”) as documented on CPS’ invoices shall constitute Customer’s acceptance of the terms set forth below. These terms shall supersede the terms of Customer’s purchase order in the event of a contradiction or inconsistency. No understanding, agreement, term, condition or trade custom at variance with or contradictory to these terms shall be binding on CPS unless agreed to in writing by CPS and signed by an Executive of Chase Plastic Services.
- 2. Freight Charges and Passing of Title.** Where the price specified in the invoice provides that CPS is to pay the freight charges, CPS will have the right to select the means of transportation. In this case, the Title to all material shall pass to the Customer upon delivery. Any carrier claim for damage must be noted at the time of receipt on the carrier bill of lading or CPS will not be obligated for any reimbursement related to the claim. If the Customer requires a means of transportation other than one normally selected by CPS, the cost incurred by reason of using such other means, plus a \$100 administrative fee, shall be paid by the Customer. If the Customer arranges the pick-up of the material or select the carrier, title shall pass to the Customer once material is loaded on the carrier.
- 3. Force Majeure.** In the event of war, act of God, fire, flood, strike, labor trouble, accident, delay of carrier, riot, act of government authority, shortage of power, failure of CPS’ raw materials suppliers to fulfill supply commitments to CPS, or other contingencies beyond CPS’ reasonable control, which interferes with the production, supply, CPS’ ability to ship or the transportation of material covered by the invoice shall not constitute a default. Upon termination of the intervening cause, CPS shall promptly complete such shipment. CPS may, without liability during any period of shortage due to any of the aforementioned causes, prorate CPS supply of material in such manner as CPS believes to be fair and reasonable under the circumstances.
- 4. Material Weight.** Carrier weight at point of shipment shall govern in event of disagreement between the Customer and CPS. Due to variation in packaging and production quantities from CPS’ suppliers, CPS cannot guarantee exact quantity in all cases. The quantity delivered hereunder may vary by ten percent (10%) more or less from the quantity ordered. Customer accepts such excess or diminution as fulfillment of the order and will be billed for the actual amount shipped.
- 5. Custom Ordered or Blend Materials.** Should material be prepared specifically for the Customer and not of a grade or color customarily carried in stock by CPS, the Customer agrees that delivery of 90% of the quantity specified in the order shall constitute fulfillment of the order. In the case of an over-run, CPS may deliver up to 10% more than the quantity ordered. In either situation, the total price charged by CPS will be based on the actual pounds shipped to the Customer.
- 6. Cancellations.** In the event that the Customer cancels an order for material not customarily carried in stock by CPS or material purchased under a Blanket Purchase Order agreement, the Customer agrees to pay CPS as liquidated damages CPS published price for completed or purchased material and an equitable price as determined by CPS based upon degree of processing for material in process at the time of cancellation. In addition, the Customer agrees to pay CPS for any freight or restocking fees incurred to return the material to its manufacturer.
- 7. Limited Warranty.** CPS warrants all material to comply with the agreed upon specifications, if any. Any warranty given by the material manufacturer to CPS shall be passed along to the Customer to the extent permitted by applicable law. Any recommendation by CPS for the use of the material is based on tests or experience believed to be reliable. However, since the final processing and use of the product are beyond CPS’ control, CPS will make no warranty as to such use. In the event of material failure, CPS may grant a full or partial credit to the Customer for the cost of the material. All requests for credit of material on Customer’s premises are subject to prior approval, quality inspection and on terms acceptable to CPS. **THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO CASE SHALL CPS BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR FOR INJURY OR DAMAGES TO PERSONS OR PROPERTY USING OR USED IN CONNECTION WITH THE MATERIAL, WHETHER OR NOT DEFECTIVE, OR FOR LOSS OF PROFITS, DOWNTIME, OTHER COSTS, EXPENSES OR CHARGES OF ANY KIND OR CHARACTER.**
- 8. Claim for Damages.** No claim for damages of any kind, whether as to material delivered or for non-delivered material, shall be greater in amount than the purchase price of the material. For quality claims, any settlement will be subject to evaluation and negotiation between the supplier (manufacturer), CPS and the Customer. All claims for carrier damage must be submitted immediately upon receipt and any claims for potential quality issues must be submitted in writing within 15 days of material receipt to be considered.

9. **Invoice Payment.** Payment terms will be defined by CPS and will be clearly defined on the face of the Order Confirmation and Invoice. In the event the Customer fails to fulfill previous terms of payment, or if CPS should have doubt as to Customer's financial responsibility, CPS may decline to make further deliveries except upon receipt of cash or other special arrangements. In addition, CPS may elect to reduce or withdraw credit limits and terms without advance notice should payments fall outside of terms.

10. **Arbitration.** In the event of a dispute between CPS and the Customer regarding the interpretation or application of the terms in the invoice, or the relationship between CPS' respective companies, the Customer agrees to submit the dispute to binding arbitration at a location within Oakland County Michigan. The rules promulgated by the American Arbitration Association pertaining to commercial arbitration shall govern the arbitration. The award of the arbitrators shall be binding upon the Customer and CPS and shall be enforceable in the state of federal courts of Michigan. The arbitrators will be authorized to award costs and reasonable attorney's fees to the prevailing party as part of the arbitration award. The laws of the State of Michigan shall govern the terms of this Agreement.

11. **Sales Literature.** The Customer acknowledges that CPS' sales literature and brochures are intended only to present summary descriptions and are not intended to substitute for testing of such materials, compliance with written specifications, knowledgeable manufacturing procedures and/or continuous quality control. CPS will supply a material certification for all material shipped to the Customer. Upon the Customer's request, CPS will endeavor to furnish such technical advice as CPS has available in reference to the use of the material by buyer. The Customer acknowledges, however, that all CPS' technical advice is not intended to represent an "expert opinion". CPS assumes no obligation of liability for the advice given or the results obtained. All such advice is given and accepted by the Customer at the Customer's own risk.

12. **Hazardous Materials.** The Customer acknowledges that the materials covered by the invoice may be, or become, considered as "hazardous materials" under applicable laws and regulations. The Customer agrees to familiarize themselves (without reliance on CPS except as to the accuracy of specific safety information actually furnished by CPS) with any hazard of such materials and their applications and the containers in which such materials are shipped.

13. **Indemnification.** The Customer agrees to indemnify, defend, and hold harmless CPS and CPS' consultants, agents and employees, from and against any and all claims, demands, causes of action, damages, losses or expenses including costs and attorney fees because of bodily injury, whether actual or merely alleged, including death, sustained by any person or persons, or on account of damage to property, whether actual or merely alleged, including loss of use of such property, or rising out of, in connection with or in relation to the material sold to the Customer by CPS, whether such injuries to persons are due, or claimed to be due, to the negligence of CPS, CPS' consultants, agents, or employees, except only such injury or damage as shall have been occasioned by the sole negligence of CPS, CPS' consultants, agents and/or employees.

14. **Default.** Failure to pay CPS' invoice(s) according to its terms shall constitute a default. In the event of default, the Customer agrees to pay CPS, in addition to the unpaid balance, interest at the maximum rate permitted under the law together with all costs incurred by CPS to collect the balance due.