

Standard terms for injection moulding tools in the plastics industry

The Danish Plastics Federation, February 2005

1 Scope

1.1 The standard terms specified below shall apply where agreed by the parties in writing or otherwise. Derogations may only be made upon written agreement.

1.2 "Tools" shall mean: production equipment, manufactured with the purpose of carrying out an agreed task.

2 Tools to be manufactured or procured by the supplier

2.1 Right of ownership

The supplier shall have the right of ownership of the tools until the buyer has paid the full costs of the tools to the supplier – after which the right of ownership of the tools shall be transferred to the buyer.

In the event that the supplier or the buyer goes bankrupt, current Danish legislation on bankruptcy shall apply.

2.2 Restrictions

The supplier shall not be entitled to manufacture items for use by himself or for third parties.

2.3 Payment

Unless otherwise agreed, the buyer shall pay for the tools as follows:

- one-third net cash on the date of the written agreement
- one-third net cash on delivery of the first moulded sample
- one-third net cash when moulded samples are in accordance with specifications and manufactured by tools suitable for manufacture - payment to be effected no later than 30 days thereafter, provided the customer does not make a justified complaint.

If payment is not effected by the due date, penalty interest shall be charged per month commenced, cf. point 5(1) of the "bekendtgørelse af lov om renter ved forsinket betaling m.v." (the Danish interest act) - (the official lending rate of Danmarks Nationalbank plus seven percentage points).

2.4 Quality specification

The supplier shall not be responsible for the structural design of items, including design and engineering of buyer's items, manufactured by means of the tools. In the event that the buyer places specific requirements on the geometry, the surface and the mechanical properties of the items, or on the lifetime of the tools (shot guarantee), such requirements shall be agreed in writing.

2.5 Modifications

The supplier shall not be obliged to make any modifications until the parties have agreed in writing on the consequences of such modifications for the price offered, for the time of delivery, and for other terms of the agreement.

2.6 Cancellation

The buyer may cancel an order. Notification of cancellation of an order shall be given in writing to the supplier, who shall stop work immediately in order to prevent further costs. Notwithstanding cancellation, the buyer shall pay the agreed sum, less the amount saved by the supplier as a result of suspension of work. This shall also apply to bankruptcy, suspension of payments or ascertained insolvency.

Upon entering into the agreement, a price may be agreed for the know-how held by the supplier. This price shall be paid, if the buyer cancels the order wholly or in part.

2.7 Time of delivery

Unless otherwise agreed, the time of delivery shall be the time from placing the order to delivery of the first moulded samples manufactured in accordance with the specifications and manufactured by tools suitable for manufacture.

Subsequent adjustments to the tools shall not be included in the time of delivery, unless a written agreement has been made to this effect.

2.8 Delay

In the event of delay, the supplier shall inform the buyer in writing, indicating a new time of delivery. Unless otherwise agreed in writing, such delay shall not give the buyer other rights than the right to cancel the agreement in accordance with point 2.6. A new time of delivery shall not be later than the original time of delivery plus 20 percent, subject, however, to a maximum of three weeks. If the delay is of material importance to the buyer, and a new time of delivery cannot be observed, the buyer may cancel the agreement in writing, and shall only be required to indemnify the supplier for expenses to third parties.

2.9 Complaints

Complaints shall be effected to the supplier in writing, without delay, and no later than two weeks after delivery. Otherwise, the buyer's right to complain shall lapse.

The supplier shall be entitled and obliged to remedy all defects referable to the supplier and caused by failure of construction, materials or manufacture. The supplier shall bear the costs pertaining to such remediation.

The responsibility of the supplier shall only apply to defects appearing within one year from delivery of the first moulded samples made in accordance with specifications and manufactured with tools suitable for manufacture. In the event of defects, this period shall be extended by the period of time in which the items ordered could not be used due to said defects.

If the tools are used by others than the supplier, any responsibility for defects shall lapse if the tools have not been regularly maintained or used correctly. The buyer shall be responsible for documentation to this effect.

The supplier's responsibility shall not extend beyond the responsibility for defects specified in point 2.9, and shall not cover any production loss or other indirect loss incurred by the buyer.

2.10 Storage

Where the tools are stored by the supplier, the supplier shall be under a duty to provide safe storage, but the supplier shall not be responsible for accidental damage to or destruction of the tools.

Costs, if any, of storage of the tools shall be paid at the expense of the buyer upon prior notification.

If the tools have not been used for a period of two years, the duty of the supplier to store and maintain the tools shall lapse, and the supplier shall be entitled to return them at the expense of the buyer.

2.11 Damage to property

The supplier shall not be responsible for damage caused by the items sold:

- to real property or movable property/machinery, occurring while the tools are in the buyer's possession
- to products manufactured/delivered by the buyer or to products in which they are contained, or damage caused by such products.

The supplier shall not be responsible for operational losses or other indirect loss.

2.12 Insurance

The buyer shall be obliged to take out the desired insurance policy covering tools in the supplier's possession.

The insurance policy shall cover fire, theft, vandalism and accidental destruction.

2.13 Maintenance

Costs pertaining to normal maintenance of the tools, such as lubrication and cleaning, shall be borne by the supplier, whereas the costs of repair and maintenance resulting from normal wear and tear shall, upon prior notification, be borne by the buyer.

2.14 Surrender

The supplier shall be obliged to surrender the tools at the request of the buyer, provided they have been paid for. However, the supplier may exercise any lien and charge on the tools incidental to any claim the supplier may have in connection with the production for the customer.

3 Moulds and tools delivered or procured by the buyer

3.1 Points 2.2, 2.10, 2.11, 2.12, and 2.13 shall apply correspondingly.

3.2 Risk

The customer shall in all respects be responsible for ensuring that the tools are suitable for the intended production.

3.3 Lien

The supplier may exercise any lien and charge on tools incidental to any claim he may have in connection with his production for the customer.

4 Disputes and legal remedy

Unless otherwise agreed, any dispute between the parties shall be settled in accordance with Danish law. Amicable settlement of disputes should always be sought. Where a dispute cannot be settled amicably, it shall be settled by arbitration at Copenhagen Arbitration.