



1 Corporate Drive, Suite 106
Bedford, PA 15522-7983
(814) 623-8125
bedfordreinforced.com

Bedford Reinforced Plastics, Inc. Terms and Conditions of Sale

Last modified: May 1st, 2020

1. **Applicability of Terms & Conditions:** These Terms & Conditions of Sale (“**Terms**”) govern all sales of products (“**Goods**”) to a customer (“**Buyer**”) by Bedford Reinforced Plastics, Inc. and its affiliates (collectively “**Seller**”). Structural shape products are covered under a different warranty as stated in Paragraph 2. The Terms contained herein shall supersede all other terms, understandings, and conditions inconsistent herewith, including, but not limited to, terms in any purchase order, drawing, or Buyer’s form. Any additional or inconsistent terms, understandings, and conditions contained in any written or oral representations are expressly objected to by Seller and will not be effective or binding as to Seller.
2. **Warranty:** For all structural shape products except for Design and Build Products, as hereinafter defined, please see the PROForms® Structural Shapes Warranty located at <https://bedfordreinforced.com/about-bedford/guarantee-and-warranty/> for its specific warranty provisions, herein incorporated by reference. For all other products except for Design and Build Products, as hereinafter defined, the following warranty provisions apply:

Goods furnished are guaranteed to be free from all latent defects in material and workmanship under normal use and service for a period of one (1) year from the date of shipment. However, Seller will not be obligated beyond the repair or replacement, at Seller’s sole discretion, of such Goods proven to be defective. Whether the Goods are manufactured by Seller or by another, such repair or replacement shall be Buyer’s exclusive remedy and Seller shall not be subject to any other or further liability and no claim for consequential or incidental damages will be allowed.

NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO THE GOODS. BUYER HEREBY EXPRESSLY WAIVES THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THIS SECTION SURVIVES THE TERMINATION OR CANCELLATION OF THE PURCHASE ORDER OR ANY OTHER DOCUMENT RELATING TO THE SALE OF GOODS FROM SELLER TO BUYER.

The limited warranty provided is void if (i) the Goods are subject to misuse, abuse, modification or alteration or if the Goods are not used in accordance with Seller’s specifications, instructions and recommended procedures, (ii) the Goods are not stored or handled appropriately, (iii) the defect in the Goods resulted from damages occurring after delivery of the Goods, or (iv) the defect in the Goods has not been reported to Seller in writing within thirty (30) days after the date on which the defect was or should have been discovered by Buyer. A Return Material Authorization (RMA) will be issued by Seller for products deemed defective and unusable. Buyer shall not ship defective products to Seller without first receiving an RMA from Seller.

3. **Design and Build Products.** From time to time, Seller is asked to design and build various products for Buyers (such products hereinafter called “**Design and Build Products**”). For all Design and Build Products, Seller has designed and built or will design and build said products to comply with Pennsylvania laws and regulations only; therefore, if a Buyer purchasing a Design and Build Product from Seller wishes to use said Product in a jurisdiction other than Pennsylvania, Buyer is advised to have its own engineer or personnel



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review the design of the product for compliance with its jurisdiction prior to use of same. SELLER HEREBY DISCLAIMS ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, IN REGARDS TO ALL DESIGN AND BUILD PRODUCTS. BUYER HEREBY EXPRESSLY WAIVES THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND AGREES TO REFRAIN FROM ASSERTING SAID WARRANTIES AGAINST SELLER. SELLER HEREBY FURTHER DISCLAIMS ALL LIABILITIES ARISING FROM THE IMPROPER DESIGN UNDER ANY JURISDICTION'S LAWS AND REGULATIONS OF THE DESIGN AND BUILD PRODUCTS, AND BUYER ACCEPTS ALL RESPONSIBILITY IN ASSURING THE DESIGN MEETS THE JURISDICTIONAL REQUIREMENTS OF BUYER'S INTENDED USE. THIS SECTION SURVIVES THE TERMINATION OR CANCELLATION OF THE PURCHASE ORDER OR ANY OTHER DOCUMENT RELATING TO THE SALE OF DESIGN AND BUILD PRODUCTS FROM SELLER TO BUYER. Design and Build Products furnished to Buyer are guaranteed to be free from all latent defects in material and workmanship under normal use and service for a period of one (1) year from the date of shipment. However, Seller will not be obligated beyond the repair or replacement, at Seller's sole discretion, of such Design and Build Products proven to be defective. Whether the Design and Build Products are manufactured by Seller or by another, such repair or replacement shall be Buyer's exclusive remedy and Seller shall not be subject to any other or further liability and no claim for any other damages, including, but not limited to, consequential or incidental damages will be allowed.

4. **Notice of Defect:** Buyer shall notify Seller of any defect, error or shortage in Goods received by Buyer, in writing, within thirty (30) calendar days after delivery and such written notice must state the applicable order number or other information identifying the specific Goods at issue and must be accompanied by documents that substantiate the alleged defect, error, or shortage. If Buyer fails to provide Seller with such written notice within the required time, Buyer will be deemed to have waived such defect, error or shortage and to have accepted the Goods delivered.
5. **Notices:** Any notice to Seller or Buyer required or permitted hereunder shall be sent by registered or certified mail with return receipt requested, postage prepaid, by a nationally recognized delivery service, to Seller at 1 Corporate Drive, Suite 106, Bedford, PA 15522, and to Buyer at Buyer's last address on file with Seller.
6. **Goods Returned:** Goods and Design and Build Products may not be returned without Seller's prior written permission unless otherwise agreed upon. Stock items, when returned, will be credited at the lowest prevailing price, and subject to a minimum charge of ten percent (10%) for handling and restocking. Return transportation charges must be prepaid. Non-standard or special items, including Design and Build Products, are not subject to cancellation, change, reduction in amount, nor return for credit without prior written consent and upon terms that indemnify Seller fully against loss. Only merchandise in resalable condition will be accepted.
7. **Terms and Security Interest:** Terms of payment are net cash thirty (30) days from invoice date unless Seller has demanded payment prior to shipment. Interest at the rate of one and one-half percent (1.5%) per month will be charged on past due accounts commencing after the last day of the first calendar month following the date of invoice. Seller may suspend credit, refuse shipment, or cancel unfilled orders whenever Seller believes Buyer's credit is impaired or if Buyer fails to comply with these payment terms. Seller retains a security interest in all Goods, Design and Build Products, and all proceeds and products thereof until all amounts due or to become due hereunder have been paid. Any repossession and removal of Goods and/or Design and Build Products shall be without prejudice to any of Seller's other remedies at law or in equity.



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THIS DOCUMENT IS A SECURITY AGREEMENT AND GIVES SELLER ALL THE RIGHTS OF A SECURED PARTY UNDER THE UNIFORM COMMERCIAL CODE. Therefore, Buyer agrees, without further consideration, at any time to do or cause to be done, executed and delivered, all such further acts and instruments as Seller may reasonably request in order to perfect Seller's security interest.

8. **Manufacturing Variations:** All Goods and Design and Build Products shall be subject to normal manufacturing tolerances and variations of Seller and its raw materials suppliers as recognized in the reinforced plastics industry. Seller reserves the right to change raw materials specifications and/or raw materials at any time and assumes no obligation to continue to supply any product, or products, previously sold.
9. **Prices:** Prices for undelivered portions of continuing orders are subject to change whenever Seller's costs are affected by Federal or State legislation, changes in costs of raw materials, and/or labor rates, together with applicable overhead for such costs.
10. **Taxes:** Prices do not include any taxes, duties, or fees. If Seller should be required to pay such taxes, invoices will be increased accordingly. Buyer agrees to defend, indemnify, and hold Seller harmless from and against any and all such taxes, duties and fees, including without limitations, any cost, expense, attorney's fees, interest or penalties assessed against or incurred by Seller as a result of or in any way related to Buyer's failure to pay any such taxes, duties or fees.
11. **Shipments:** Seller's shipping dates are approximate unless otherwise expressly stipulated to in writing between Seller and Buyer. Seller's shipping dates are based on receipt of orders with complete information and authority to proceed with manufacture.
12. **F.O.B. Point:** Quotations and sales are F.O.B. Seller's place of business unless otherwise expressly stipulated.
13. **Quality:** In the event samples of Goods are submitted to Buyer, future production will be based on the sample standards, recognizing that some modifications may occur through normal tool wear due to production.
14. **Quantity:** Seller reserves the right to deliver Goods in quantities not to exceed 10% more or less than the quantity specified by Buyer. In the event of such variance, appropriate adjustments shall be made in the purchase price at prevailing prices.
15. **Packaging:** Seller shall provide adequate packaging for all Goods and Design and Build Products shipped in accordance with recognized industry practice. The costs of all special packaging requirements of Buyer shall be billed to Buyer's account.
16. **Cancellation:** Buyer may not terminate, reduce, suspend, or cancel any order for Goods and/or Design and Build Products after Buyer's purchase order is placed with Seller, unless Seller provides Buyer with explicit prior written consent to such termination, reduction, suspension or cancellation. Seller may withhold such written consent in its sole discretion. If Seller consents in writing to Buyer's request for termination, reduction, suspension or cancellation, Buyer's request shall be subject to payment of charges based upon the status of work completed. Seller reserves the right to apply a minimum charge of 25% of the purchase price of the unshipped portion of the order.



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17. **Credit:** All orders shall be subject to credit approval at Seller's main office.
18. **Ownership of Tooling:** All Seller's dies and tools are integral parts of Seller's manufacturing process. Buyer has no ownership rights in Seller's dies and tools. A custom die paid for by Buyer is the property of Buyer. Seller will use Buyer's die exclusively for Buyer unless otherwise authorized by Buyer in writing. Buyer has the right to obtain possession of the die by requesting the die from Seller. Buyer shall pay freight costs for their custom die. If the die remains in Seller's possession and is inactive for a period of eighteen (18) months following the most recent order from Buyer, then Seller obtains all ownership rights in the die and may use it in Seller's sole discretion for any purpose or dispose of it in any manner it sees fit without notice to Buyer.
19. **Waiver:** Failure to assert a claim arising from these Terms shall not be deemed to waive any subsequent claim.
20. **Contingencies:** Seller shall not be responsible for any inability to perform this agreement, loss, delay or damage caused, either directly or indirectly, by fire, flood, wars, strikes, lockouts, government acts or requirements, embargoes, insurrection, riot, accidents to, or breakdowns or mechanical failure of Seller's plant machinery or equipment, delays by any supplier, delays in transportation or lack of transportation facilities, epidemics, pandemics, quarantine, government prohibition of gatherings, or government/CDC-recommended or mandated shelter-in-place or social distancing measures, including but not limited to those resulting from the Coronavirus Disease 2019 (COVID-19) pandemic, or any other cause or causes beyond its control.

SELLER SHALL NOT BE LIABLE FOR ANY LOSS, COST, PENALTY OR ANY CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES OF ANY KIND OCCASIONED BY OR ARISING OR RESULTING FROM ANY DEFAULT OR DELAY IN DELIVERY CAUSED BY ANY EVENT BEYOND SELLER'S REASONABLE CONTROL, WHETHER OR NOT SAID LOSS, COST, PENALTY OR DAMAGE WAS REASONABLY FORESEEABLE.

21. **Indemnification:** Buyer agrees to defend, indemnify and hold Seller and its members, managers, employees, affiliates and agents harmless from and against any and all loss, cost, damage, liability, penalty, and expense (including, without limitation, any penalties or punitive damages, attorney's fees and expenses and costs of suit) (collectively "**Expenses**") arising out of, resulting from, or in any way connected to the manufacture, sale, or use of such Design and Build Products and Goods, including without limitation, any Expenses resulting from (1) infringement of patents, copyrights or trademarks which may arise from compliance with Buyer's designs, specifications or instructions; (2) any damage to property, personal injury, or death, or (3) any breach by Buyer of any of these Terms or terms in any purchase order or document related to the sale of Design and Build Products and Goods from Seller to Buyer. This indemnification obligation, however, shall not apply if the liability incurred by the Seller arose solely as a result of breach by Seller of its limited warranty under Paragraphs 2-3 above.
22. **Intellectual Property:** Buyer agrees that it does not have any property interest in Seller's intellectual property, including, but not limited to, its trademarks, trade names, copyrights, trade secrets, patents, know how or other proprietary rights of any nature whatsoever, whether or not incorporated in the Goods and/or Design and Build Products covered by these Terms, and Buyer will not attempt to reverse engineer any such Goods or Design and Build Products or disclose or use any such intellectual property without Seller's prior written consent.



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23. **Relationship:** An offer to sell or acceptance of order by Seller constitutes the only relationship of Buyer and Seller and no other relationship, such as agent, distributor or broker, is expressed or implied.
24. **Successors and Assigns:** These Terms shall be binding upon and inure to the benefit of the parties, their successors and assigns, provided that Buyer may not assign the contract without Seller's prior written consent, which Seller may withhold in its sole discretion.
25. **Governing Law; Severability:** The validity, construction, and performance of the Terms herein and any other documents related to the sale of Design and Build Products and/or Goods from Seller to Buyer shall be governed by the laws of the Commonwealth of Pennsylvania without regard to conflicts of laws principles. Further, the law of the Commonwealth of Pennsylvania shall apply to all disputes or controversies arising out of or connected to or with the sale of Design and Build Products and/or Goods from Seller to Buyer and all such other documents and terms without regard to conflict of law principles. Each provision hereof shall be severable, and in the event any provision hereof is held to be contrary to law, invalid, or unenforceable, the remaining provisions shall not be affected thereby, but shall remain in full force and effect.
26. **Jurisdiction and Venue:** Buyer irrevocably submits and agrees to the exclusive jurisdiction of the Common Pleas Court of Bedford County, Pennsylvania or the United States District Court, Western District of Pennsylvania, in any action, suit or proceeding related to, or in connection with, the Goods, the Design and Build Products, purchase orders, and Terms herein and, to the extent permitted by applicable law, Buyer hereby expressly waives and agrees not to assert as a defense in any such action, suit or proceeding any claim (i) that Buyer is not personally subject to the jurisdiction of either of these courts; (ii) that the venue of the action, suit or proceeding is improper, (iii) that the action, suit or proceeding is brought in an inconvenient forum; or (iv) that the subject matter of the sale of Goods, Design and Build Products, or Terms herein may not be enforced in or by either of these courts.
27. **Miscellaneous:**
- a. Buyer acknowledges that it has read these Terms and has had the opportunity to clarify these Terms with Seller. Buyer agrees that the provisions of these Terms may not be construed in favor of or against either party by reason of the extent to which a party or its professional advisors participated in the preparation of the Terms herein.
 - b. The paragraph headings herein are solely for the convenience of and reference by the parties and do not constitute any part of these Terms.
28. **Survival:** Sections 2, 3, 4, 7, 18, 21, 22, 25, and 26 of these Terms survive the expiration or cancellation of any purchase order, sale of Goods, or sale of Design and Build Products.