

# Bemis Manufacturing Company Standard Terms and Conditions of Sale

## 1. Acceptance of Terms

These Terms and Conditions apply to the sale of Bemis Manufacturing Company ("Bemis") Bathroom Products, Home Medical Equipment Products, Health Care Products, Kelch Products, Retail Solution Products, and Custom Manufactured Products. Bemis's sale of products to Buyer is conditioned on Buyer's assent to these Terms and Conditions. These Terms and Conditions, along with any terms and conditions included on a current and valid Bemis quotation or pricing schedule, and any terms and conditions mutually agreed to in writing by Bemis and Buyer, constitute the complete and exclusive agreement between the parties, and any additional or conflicting terms and conditions, whether written or verbal, are expressly rejected. Buyer irrevocably accepts these Terms and Conditions upon submitting an order for Products offered hereunder, paying any invoice for Products purchased hereunder, or accepting any delivery of Products purchased hereunder.

## 2. Changes and Cancellation

Products are subject to availability. No order is deemed accepted by Bemis until it is accepted by Bemis in writing. Orders that do not conform with applicable minimum-quantity requirements, forecasts, or lead times are hereby rejected without further notice. Bemis may otherwise cancel and refund any order or any part of an order without cause prior to shipment. Orders cancelled by Buyer may be subject to cancellation charges, which include costs associated with disposition of raw materials, work in progress, finished goods, tooling, restocking fees, and other demobilization costs related to the cancelled order.

## 3. Price

Prices for custom manufactured Products are based on assumptions related to material prices, labor rates, overhead, and estimated volumes and, absent a written agreement between Bemis and Buyer regarding price changes, are subject to change at Bemis's discretion upon reasonable notice to Buyer. Bemis reserves the right to adjust pricing based on changes requested by Buyer. Pricing schedules for proprietary Products are updated regularly and, absent a written agreement between Bemis and Buyer regarding Product pricing, Product prices billed hereunder will be based on the published price or quotation in effect at the time the order is placed, if any.

## 4. Payment:

Unless otherwise agreed to by Bemis, Buyer will provide payment net THIRTY (30) DAYS from date of invoice. Bemis reserves the right to adjust credit terms at any time, including requiring payment in advance. Late payments will accrue a late charge of 1½% per month, but shall not exceed the maximum rate allowed by law. Buyer shall reimburse Bemis for all costs incurred in collection (including reasonable attorney's fees).

Bemis may set off any amount due from Buyer, whether or not accrued for the Product or transaction governed by these Terms and Conditions, against any amount that may become due to Bemis by Buyer or Buyer's affiliates.

If Bemis is in possession of Buyer-owned equipment, including tooling, patterns, molds, dies, and fixtures, and to the extent permitted by local law or statute, Buyer hereby grants Bemis a security interest in such equipment, which Bemis may invoke to secure any amounts due to Bemis by Buyer or Buyer's affiliates.

## 5. Shipping

All shipments are FOB point of shipment. Bemis shall determine method and route of shipments unless otherwise agreed to in writing. Shipping and delivery dates provided by Bemis are estimates only. Risk of loss passes to Buyer at the time Products are tendered for shipment. Freight allowances and minimum billing and service charges may apply for certain Products.

## 6. Delivery and Acceptance

Except as otherwise mutually agreed to in writing, Bemis reserves the right to make deliveries in installments, which will be separately invoiced and paid for as billed without regard to subsequent deliveries. Buyer's failure to pay for any delivery shall excuse Bemis from making future deliveries. Bemis's delay in the delivery of any installment shall not relieve Buyer of Buyer's obligation to accept and pay for any remaining installments.

Buyer shall inspect the Products upon delivery and notify Bemis in writing within TEN (10) DAYS after receipt of the Products or Buyer's rejection of the Products. Buyer's failure to provide notice within such ten (10) day period shall constitute unqualified acceptance of the Products.

## 7. Bailment of Buyer-Owned Equipment

If Bemis is in possession of Buyer-owned equipment, including tooling, patterns, molds, dies, and fixtures, Bemis will maintain such equipment in good condition at Bemis's expense. Buyer will pay for all major repairs and replacements of the equipment, which Bemis will undertake only upon Buyer's written approval. Subject to any security interest Bemis has in the equipment, Bemis will return Buyer's equipment to Buyer at Buyer's expense upon thirty (30) days written notice.

Bemis may, to the extent permitted by local statute or law and upon at minimum thirty (30) days written notice, dispose of Buyer's equipment at Bemis's sole discretion, in the event Buyer relinquishes its rights to such equipment through Buyer's actions or inaction.

## 8. Limited Warranty

Bemis warrants that all Bathroom Products, Kelch Products, Health Care Products, and Custom Manufactured Products will conform to any mutually agreed-upon specifications, and will be free of defects in material, workmanship, and title for a period of one year following the date they are shipped from Bemis, or for the period prescribed by any applicable law or regulation, whichever is longer.

Bemis warrants that all Home Medical Equipment Products will be free of defects in material, workmanship, and title for the life of the Product.

Bemis warrants that all Retail Solutions Products will conform to any mutually-agreed upon specifications, and will be free of defects in material, workmanship, and title for a period of three years following the date they are shipped from Bemis. For Retail Solutions Products only, Bemis further warrants that Products in standard colors (as defined by Bemis) will resist fading for a period of five (5) years following the date they are shipped from Bemis, provided the Products are properly installed, used, and maintained. Fading is defined as a color shift of more than five (5) Delta E (Commission Internationale de l'Éclairage – CIE) when calculated according to American Society for Testing and Materials (ASTM) Standard D2244.

If Buyer provides written notice of a Product defect to Bemis within the applicable warranty period and Buyer provides adequate documentation or evidence that establishes a Product defect to Bemis's satisfaction, Buyer's sole remedy is the repair, replacement, or refund of the Product's purchase price (less shipping, if applicable), at Bemis's option.

Bemis may, at its option, require the return of any Product for inspection and testing before honoring any defect claim. This Limited Warranty excludes component parts not manufactured by Bemis, and excludes costs related to shipping and labor, including removal, disposal, repair, or replacement of the defective Product and installation of replacement Product (if applicable). Proprietary Products returned for a refund must be in original packaging and in saleable condition, and may be subject to a restocking fee. Discontinued colors or models, and custom or specially ordered Products cannot be returned for a refund.

This Limited Warranty is void if: (a) the Product has not been installed, used, or maintained according to any applicable written materials, including written instructions, specifications, packaging, and manuals; (b) the Product is not used for the intended application, or (c) the Product has been modified or repaired without Bemis's express written permission.

THIS LIMITED WARRANTY IS PROVIDED IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BEMIS EXPRESSLY DISCLAIMS LIABILITY FOR SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES ASSOCIATED WITH THE PRODUCT, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTIONS. BEMIS'S LIABILITY UNDER THESE TERMS AND CONDITIONS SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCTS.

Buyer acknowledges and accepts that BUYER IS SOLELY RESPONSIBLE FOR DETERMINING THAT A PARTICULAR PRODUCT IS APPROPRIATE FOR BUYER'S INTENDED PURPOSE AND THAT BUYER IS NOT RELYING UPON ANY ADVICE, REPRESENTATION OR STATEMENT OF BEMIS OR ITS REPRESENTATIVES REGARDING THE SUITABILITY OF ANY PRODUCT FOR ANY PURPOSE, including any advice, recommendation or information obtained from Bemis's product literature or web sites, or any design assistance or other service made available by Bemis. Buyer is responsible for performing all appropriate Product testing, evaluation, certification, and final approval. For Bemis Products that Buyer will incorporate into Buyer's goods, Buyer acknowledges and accepts that it is solely responsible for the performance, capabilities, and safety of the end product, including developing user instructions or manuals, labels, warnings, and providing end-user support.

## 9. Indemnification

Buyer agrees to release, defend, and indemnify Bemis (including its officers, directors, shareholders, agents, representatives, employees, successors and assigns) against, any and all loss, liability, claim, damage, cost and expense (including attorneys' fees), whether direct, indirect, incidental or consequential, resulting in, caused by, related to or arising out of or in connection with: (i) defects in the design of the Products, if Products are designed by Buyer, as well as (if applicable) defects in the design of any goods into which the Products are incorporated by Buyer, including design defects related to safety, improper or inadequate warnings, labels, and instructions; (ii) infringement by the design of the Products on any third party's intellectual property rights, if Products are designed by Buyer, as well as (if applicable) infringement by the design of any goods into which the Products are incorporated by Buyer, on any third party's intellectual property rights; (iii) Buyer's selection, use, assembly or incorporation of the Products into Buyer's goods (if applicable); (iv) Buyer's sale, distribution, and marketing of the Product or (if applicable) any goods incorporating the Product; (v) Buyer's failure to comply with any applicable law or regulation; (vi) Buyer's negligence or willful misconduct; (vii) Buyer's breach of these Terms and Conditions.

## 10. Force Majeure

Bemis shall not be responsible for any damage as a result of any delay due to any cause beyond Bemis's reasonable control, including, without limitation, any act of God, act of the Buyer, governmental act, regulation or request, fire, accident, strike, slow-down, war, riot, delay in transportation, or inability to obtain necessary labor, materials, or manufacturing facilities.