



## Brentwood Standard Terms and Conditions of Sale

### **Acceptance:**

(a) No order to purchase any product ("Product") from Brentwood Industries, Inc. ("Brentwood") shall be binding upon Brentwood until accepted in a written acknowledgement by an authorized Brentwood employee. All orders by Purchaser shall be subject to credit screening and approval and these Standard Terms and Conditions ("Terms and Conditions").

(b) Brentwood's acceptance of any agreement to sell shall be conditioned on Purchaser's assent to these complete and unaltered Terms and Conditions. Purchaser's assent shall be deemed given unless Purchaser notifies Brentwood in writing to the contrary within five (5) days after Brentwood provided to Purchaser written acknowledgement of such order, and returns any Products shipped by Brentwood, unopened in the original packaging within five (5) days of receipt. No provision of Brentwood's Terms and Conditions shall be subject to change in any manner, except as agreed to in writing by a duly authorized Brentwood employee. These Terms and Conditions supersede any and all other agreements or understanding, whether written or oral, that may exist between Brentwood and Purchaser, unless otherwise agreed to in writing by Brentwood. These Terms and Conditions shall supersede all terms and conditions contained in or attached to orders submitted on Purchaser's forms, where such forms contain conflicting or inconsistent statements, clauses or conditions. Any such statements, clauses or conditions contained in any forms of the Purchaser shall not be effective or binding upon Brentwood, and the rights and liabilities of Brentwood shall be determined solely by these Terms and Conditions. By accepting and consummating any such order, Brentwood shall not be deemed to have in any way diminished its rights, remedies, liabilities or obligations as fixed by these Terms and Conditions. If any provision of these Terms and Conditions is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of these Terms and Conditions.

(c) These Terms and Conditions may be supplemented with other written terms and conditions provided by Brentwood. In the event of conflict between any portion of these Terms and Conditions and any portion of any other written terms and conditions provided by Brentwood, these Terms and Conditions shall prevail unless agreed otherwise, in writing, by a duly authorized Brentwood employee.

### **Pricing and Payment:**

The Product ordered shall be invoiced at the price in effect at the time of shipment or in accordance with Brentwood's quoted amount, unless otherwise agreed to in writing by Brentwood. All prices are stated and shall be paid in United States Dollars. The purchase price is due, in full, within thirty (30) days after the invoice date. Past due amounts shall bear an interest rate of one and one-half percent (1.5%) per month or the maximum amount allowed by law, whichever is less. Purchaser shall bear all collection costs, including, without limitation, reasonable attorneys' fees and litigation costs. Any invoice disputes not raised within ten (10) days from the invoice date are waived. Clerical errors on invoices may be corrected by Brentwood at any time. Brentwood reserves the right to adjust the price at any future time due to raw material and/or labor cost fluctuations greater than +/- 5%.

### **Storage Fee:**

Unless previously agreed upon by Brentwood and Purchaser, Brentwood will store the Product free of charge for thirty (30) days after the initially agreed upon delivery date as set at time of contract signing. After the thirtieth (30th) day, Purchaser agrees to pay a monthly storage fee equal to one and one-half percent (1.5%) of the invoice price of the Product. The monthly storage fee shall be due in full upon receipt of invoice for storage fee, regardless of whether Purchaser has been invoiced or has paid for the Product.

**Purchase Money Security Interest:**

(a) To secure payment and performance of all liabilities, duties, and obligations of Purchaser to Brentwood, including invoices issued by Brentwood to Purchaser, interest, fees, charges, and any and all other amounts and obligations of Purchaser to Brentwood of any nature that may be due and payable from Purchaser to Brentwood from time to time (collectively, the "Obligations"), Purchaser hereby grants to Brentwood, acting as creditor, a purchase-money security interest (as that term is defined in Section 9-103(b) of Article 9 of the U.C.C. as enacted in Pennsylvania [the "UCC"]) in (i) all Product manufactured by or sold by Brentwood, whenever and by whomever sold or delivered, directly or indirectly, to or for the benefit of Purchaser, wherever located, now owned and hereafter acquired; (ii) all replacement and substituted Product, including repossessions and returns; (iii) all proceeds from the sale or other disposition of the foregoing; and (iv) all existing subsequently arising accounts and accounts receivable and supporting obligations, which may from time to time hereafter come into existence during the term of the agreement between Brentwood and 2 Purchaser (collectively, the "Collateral"). Brentwood's security interest attaches to all Products that Purchaser buys from Brentwood, as well as to all subsequent and outstanding obligations between Brentwood and Purchaser upon receipt of the Products and/or receipt of invoice.

(b) The security interest granted hereunder shall constitute at all times a valid first priority purchase money security interest vested in Brentwood in and upon all of the Collateral pursuant to Section 9-103(b) of the UCC, and shall not become subordinate or junior to the security interests, liens, encumbrances or claims of any other person, firm or corporation, including the United States or any department, agency or instrumentality thereof, or any state, county or local governmental agency. Purchaser hereby authorizes Brentwood to file such UCC financing statements without Purchaser's signature and to generally take such other actions as are reasonably required to perfect Brentwood's purchase money security interest in the Collateral for purposes of the UCC. Brentwood may, as Purchaser's attorney-in-fact, execute, deliver on behalf of Purchaser and file any such financing statements or other documents or instruments as may be necessary to protect, perfect or maintain the perfection of the security interest granted herein. This appointment is coupled with an interest and is irrevocable so long as any obligations remain outstanding hereunder. Purchaser shall maintain the Collateral to the extent applicable, in its original condition but for the ordinary wear and tear and shall insure the Collateral against all expected risks.

**Default:**

(a) Any of the following shall constitute a Purchaser's default hereunder: (i) failure of Purchaser to pay any obligations which become due according to the terms of any invoices, or any other amount payable to Brentwood when due; (ii) failure of Purchaser to observe or perform any of Purchaser's obligations herein; (iii) failure of Purchaser to pay its debts as they come due; (iv) failure to pay or default by Purchaser on any bank loan; (v) Purchaser's credit or financial condition has become impaired; or (vi) any bankruptcy, insolvency, or assignment by Purchaser for the benefit of creditors. Following a default as defined hereunder, Brentwood may (i) declare all Obligations due and payable, (ii) require Purchaser to assemble the Collateral and make it available to allow Brentwood to take possession of the Collateral, (iii) repossess and remove any of the Collateral from Purchaser with or without notice, (iv) exercise any and all other rights and remedies of a secured party under Article 9 of the UCC, and (v) suspend any further Product deliveries until Purchaser pays its obligations in full.

(b) If Brentwood believes that the prospect of payment or performance of any obligations of Purchaser is materially impaired, Brentwood may make a demand for adequate assurances of performance by Purchaser and Purchaser shall provide such within five (5) days. As part of its demand for adequate assurances, Brentwood may demand a credit report from one or more credit agencies, as well as complete financial statements with respect to Purchaser and any guarantors. Pending such assurances, Brentwood may limit sales and deliveries to Purchaser to a cash-on-demand (C.O.D.) basis.

**Taxes:**

All government charges upon the production, shipment or sale of the Product or Service, including, without limitation, use, occupation, export and import taxes, and any other impositions by any government whatsoever, direct or indirect, including those required to be collected by Brentwood, shall be paid by Purchaser or, in lieu thereof, Purchaser shall furnish Brentwood with an exemption certificate acceptable to the taxing authority. Brentwood reserves and Purchaser disclaims all rights to drawback of duties paid on materials used in the manufacture of the Product. Purchaser shall supply Brentwood with proof of exportation and all other documents necessary and otherwise cooperate to obtain payment thereof.

**Shipment and Title:**

Unless otherwise agreed to by Brentwood, Purchaser is responsible for all shipment costs and all shipments are EX WORKS. Unless otherwise agreed by Brentwood, once Brentwood notifies Purchaser that the Product is available at Purchaser's disposal, title to the Product passes to the Purchaser, and Purchaser bears all risks of loss or damage to the Product from that point forward.

**Changes and Cancellations:**

Order changes or cancellations are subject to Brentwood's written approval, and additional charges may apply. Brentwood shall not be liable for any delays due to order changes. Brentwood may make changes in its Product without obligation to install or manufacture such changes in any Product manufactured prior thereto. Brentwood may make such changes to any ordered Product as does not, in Brentwood's reasonable judgment, interfere with the satisfactory operation of the Product. If Purchaser cancels any order, in whole or in part, or if Brentwood terminates an order due to Purchaser's violation of any duty to Brentwood, Brentwood may charge Purchaser a cancellation charge of twenty percent (20%) of what the total price of the order (or, if applicable, the portion cancelled) would have been if invoiced as of the date of cancellation.

**Returns:**

No Product may be returned for credit or otherwise unless Purchaser receives Brentwood's authorization. The Product must be returned in good condition, in its original packaging with completed identification and with all supporting documentation detailing of any claimed defect as required by Brentwood. All shipping and freight charges shall be prepaid by the Purchaser. The returned Product may be subject to a restocking charge. The returned Product must be securely packed in its original packing materials and adequately insured and protected to reach Brentwood without damage. All costs incurred by Brentwood to restore equipment and/or product to Brentwood's specifications will be charged to the Purchaser, including any handling charges. Product manufactured according to the design or specification of the Purchaser (collectively, the "Specifications") may not be returned for credit.

**Inspections and Claims:**

Immediately upon receipt of the Product, Purchaser must inspect the Product. All claims, including claims for an allegedly defective Product, must be made to Brentwood in writing within the sooner of thirty (30) days after delivery or fifteen (15) days after the Purchaser learns of facts upon which such claim is based. All claims not made in writing and received within the time period specified above shall be deemed waived. Purchaser expressly hereby assumes all liability for all damages and injury occurring before and after said time period if notice is not made within the required time frame. Any lawsuit or legal action whatsoever by Purchaser against Brentwood relating to any Product purchased hereunder must be filed within one (1) year following the date of delivery of such Product, notwithstanding any statute of limitations or similar law.

**Warranty:**

(a) Brentwood offers limited express warranties for select product lines, as published on its website under the Warranty tab. The limited express warranties under the warranty tab on Brentwood's website supplement the warranty terms herein. In the event of conflict between the terms in this clause and a product specific, limited express warranty under the warranty tab on Brentwood's website, the product specific warranty terms shall supersede the terms of this clause. UNLESS AGREED IN WRITING OTHERWISE BY BRENTWOOD OR UNLESS THE PRODUCT IS COVERED BY ONE OF THE LIMITED EXPRESS WARRANTIES PUBLISHED ON BRENTWOOD'S WEBSITE, NONE OF THE EXPRESS WARRANTIES MADE IN THESE TERMS AND CONDITIONS SHALL APPLY TO BRENTWOOD'S CUSTOM THERMOFORMING OR INJECTION-MOLDED PRODUCTS (INCLUDING, BUT NOT NECESSARILY LIMITED TO, ALL PACKAGING, TRANSPORTATION, HEAVY-GAUGE, LIGHT-GAUGE, BATTERY, BUILDING AND CONSTRUCTION THERMOFORMING PRODUCTS, AND ALL INJECTION-MOLDED PRODUCTS); HOWEVER, ALL DISCLAIMERS OF IMPLIED WARRANTIES BY LAW, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED FOR ALL PRODUCTS SUPPLIED BY BRENTWOOD TO PURCHASER.

(b) Pursuant to the foregoing and unless agreed otherwise, in writing, between Brentwood and Purchaser, Brentwood warrants the materials and equipment which comprise its Products against defects in the materials and workmanship for a period of twelve (12) months from Product shipment, unless provided for otherwise by one of Brentwood's limited express warranties published under the warranty tab on its website, or provided for by written agreement otherwise between Brentwood and Purchaser. This warranty is limited to the repair or replacement of the defective materials in the Product, at Brentwood's option, and shipping costs of the Product, if applicable, but does not include any costs of labor, removal of the non-conforming Product, or installation associated with the replacement Product. This warranty may not cover parts provided by Brentwood when assembled by others.

(c) This warranty is based upon operation, maintenance, storage and proper shut down procedures, as applicable, in accordance with good industry standards. The warranty is further contingent upon proper installation, use, and operation and maintenance consistent with the design criteria and Brentwood supplied O&M manual, and, to the extent applicable, staying within specified loads and temperatures as outlined in Brentwood's Specification or Approved Submittal. Brentwood shall not be liable for any damage caused by non-compliance with any of the foregoing conditions or any of the following:

- i. Abuse or neglect
- ii. Acts of god
- iii. Abnormal contaminants determined to be detrimental to the material complained of or damage due to pollutants, solvents or hazardous substances
- iv. Improper handling during installation, improper installation or improper use
- v. Damage due to excessive temperatures, ice or freezing
- vi. Damage during shipping

(d) THE TERMS OF THIS WARRANTY ARE THE SOLE AND EXCLUSIVE OBLIGATION OF BRENTWOOD TO PURCHASER FOR CLAIMS RELATED TO THE PRODUCT. BRENTWOOD DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS AND BRENTWOOD'S LIMITED EXPRESS WARRANTIES PUBLISHED UNDER THE WARRANTY TAB ON ITS WEBSITE. BRENTWOOD HEREBY DISCLAIMS, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.



**Limitation of Liability:**

REGARDLESS OF THE FORM OF ACTION, BRENTWOOD'S LIABILITY RELATING TO THE PRODUCT OR THE MANUFACTURE, SHIPPING, SALE OR USE OF THE PRODUCT SHALL NOT EXCEED THE PRICE PAID BY PURCHASER FOR THE SPECIFIC PRODUCT GIVING RISE TO THE CAUSE OF ACTION. BRENTWOOD, ITS AFFILIATES, AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF USE, DOWNTIME, FAILURE TO DETECT ANY FLAW IN ANY SUBJECT MATTER OF ANY TEST, LOSS OF GOODWILL, BUSINESS INTERRUPTION, DELAY IN PERFORMANCE, OR LOST OPPORTUNITIES. REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE IN CONNECTION WITH THE SUPPLY OR SUBSEQUENT USE OR POSSIBILITY OF SUCH DAMAGES, BRENTWOOD, ITS AFFILIATES, AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS SHALL NOT BE LIABLE FOR PROPERTY DAMAGE AND/OR THIRD-PARTY CLAIMS COVERED BY INSURANCE PROVIDED TO PURCHASER, ITS ASSIGNS, AND EACH SUCCESSOR IN INTEREST TO THE PRODUCT.

**Insurance and Indemnification:**

Purchaser shall at all times maintain a comprehensive program of risk management and adequate broad form liability insurance in connection with Purchaser's business, operations, and activities. Purchaser shall at all times indemnify, defend and hold harmless Brentwood, its officers, directors, employees, agents, servants and representatives from and against any and all damages, liabilities, losses, claims, suits, penalties, fines, costs, and expenses, including attorneys' fees (collectively, "Claims") arising directly or indirectly out of or in connection with any (a) infringement of any patent, trademark, or other intellectual property right arising from compliance by Brentwood with Purchaser's Specifications; (b) use, operation or possession of the Brentwood Product, unless the Claim arises solely from the gross negligence or willful misconduct of Brentwood; or (c) breach by Purchaser of any provision of any agreement with or obligation to Brentwood. To the extent applicable and without limitation of the foregoing, Purchaser further agrees to defend, indemnify, and hold harmless Brentwood from any claim arising from use of the Product in any nuclear facility or related applications or activities, whether the cause of action is based in contract, tort (including negligence), strict liability or otherwise and from all indirect, special, incidental, exemplary, punitive or consequential damages arising out of a "nuclear incident" as defined in the U.S. Atomic Energy Act, or as similarly defined in any foreign statute, law or regulation. Purchaser waives all rights of recovery for any such Claims.

**Force Majeure:**

Brentwood shall not be liable or responsible to Purchaser, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement to the extent Brentwood's failure or delay is caused by or results from a force majeure event, including, acts of God; flood, fire, earthquake, pandemics, disease outbreaks, explosions or other natural disasters; war, invasion, hostilities, terrorist acts, civil unrest; government orders or actions; embargoes or blockades in effect on or after the date of this Agreement; national emergency; strikes, labor stoppages or slowdowns, or other industrial disturbances; shortage of adequate raw materials, labor, power, or transportation facilities; and other similar events beyond the reasonable control of Brentwood. Brentwood shall give notice within fourteen (14) days of the force majeure event or as soon as reasonably practicable to Brentwood, stating the period of time the occurrence is expected to continue. Brentwood shall use diligent efforts to end the failure or delay and ensure the effects of such are minimized. Brentwood shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event Brentwood remains unable to perform its obligations within ten (10) weeks from notice of force majeure event Purchaser may terminate the Agreement.



**Confidential Information:**

(a) All information and proprietary materials provided or developed in whole or in part by Brentwood are confidential (“Confidential Information”), whether or not identified as such. Purchaser shall hold all Confidential Information in confidence and shall disclose it only to its employees who have a need to know, and shall not use it to the detriment of Brentwood. Purchaser shall not, and shall not attempt to, analyze, disassemble, or reverse engineer any Brentwood Product. “Confidential Information” does not include information which: (i) is or becomes available to the public generally (other than as a result of a disclosure by the Purchaser in violation of these Terms and Conditions); (ii) is subject to public disclosure under any federal, state or local law, ordinance or regulation; (iii) becomes available to Purchaser on a non-confidential basis from a source other than Brentwood, its affiliates, and their officers and directors, employees, agents or representatives, or any other person bound by a confidentiality agreement with or has contractual, legal or fiduciary obligation of confidentiality to Brentwood, its affiliates, their officers and directors, employees, agents or representatives; (iv) was known by or was available to Purchaser prior to or at the time Brentwood disclosed it.

(b) Nothing in these Terms and Conditions shall be deemed to grant a license directly or by implication, estoppel, or otherwise under any patent, patent application or other intellectual property related to any Confidential Information disclosed or developed pursuant to these Terms and Conditions. These Terms and Conditions shall not be construed as a teaming, joint venture, partnership, or other such arrangement; rather, the parties hereto expressly agree that these Terms and Conditions are for the purposes of protecting Brentwood’s Confidential Information and intellectual property and defining the ownership of, and use rights in, intellectual property and technical information.

**Governing Law and Jurisdiction:**

These Terms and Conditions shall be construed under the laws of the Commonwealth of Pennsylvania without reference to conflicts of law principles. The parties hereby agree that disputes hereunder shall be subject to the exclusive jurisdiction and venue of the courts of Berks County, Pennsylvania, in either the Pennsylvania Court of Common Pleas or the United States District Court for the Eastern District of Pennsylvania. The parties hereby waive any right to jury trial. The Purchaser waives any objections based on personal or subject matter jurisdiction or venue.

**Export Control:**

Purchaser will not use, distribute, transfer, or transmit any Product, components or technical information (even if incorporated into other products) provided in connection with this transaction except in compliance with U.S. export laws and regulations (the “Export Laws”). Purchaser will not, directly or indirectly export or re-export the following items to any country which is in the then-current list of prohibited countries specified in any applicable Export Laws: (a) the Product, components or technical data disclosed or provided to Purchaser by Brentwood; or (b) any improvements or variations of such Product, components or technical data. Purchaser agrees to promptly inform Brentwood in writing of any written authorization issued by the U.S. Department of Commerce office of export licensing to export or re-export any such items referenced in (a) or (b). The obligations stated above in this clause will survive the expiration, cancellation or termination of this transaction or any other related agreement.

**Translation:**

This document may be translated into one or more languages; however, the English translation shall be the official version and shall prevail over all other translations. All dollar amounts are United States currency unless specified otherwise. Purchaser shall abide by the United States Foreign Corrupt Practices Act of 1997, as amended.



**Assignment:**

Purchaser shall not assign or delegate its obligation hereunder without Brentwood's written consent, and any attempted assignment or delegation without such written consent shall be void. These Terms and Conditions are binding on both parties, their successors and permitted assigns.

**Waiver:**

The failure of Brentwood to insist in any one or more instances, upon the performance of any of the Terms and Conditions as set forth herein or the failure of Brentwood to exercise any of its rights hereunder shall not be construed as a waiver or relinquishment of any such terms, conditions or rights thereunder and shall not affect Brentwood's right to insist on strict performance and compliance with regard to any future performance of these Terms and Conditions.

**Severability:**

If any provision of these Terms and Conditions or any order subject to these Terms and Conditions are found by a court of competent jurisdiction to be prohibited or unenforceable, it shall be ineffective only to the extent such provision is prohibited or unenforceable and shall not invalidate the balance of such provision or the other provisions of these Terms and Conditions or any order subject to these Terms and Conditions.

**Authority:**

The individual assenting to or executing any documents or orders, whether as a hard copy or online, on behalf of Purchaser acknowledges, represents and warrants that he or she has read and understands these Terms and Conditions and has been duly authorized by the Purchaser to execute such on behalf of the Purchaser and bind the Purchaser to these Terms and Conditions.

**Tooling:**

(a) These tooling terms are supplemented by Brentwood's tooling quotation and these Terms and Conditions. In the event of a conflict between any of these sources, the order of precedence is: (i) tooling quotation, (ii) these tooling terms, (iii) the balance of these Terms and Conditions.

(b) Upon completion of final tooling design, Brentwood reserves the right to re-evaluate the tooling and mold costs to the Purchaser.

(c) Brentwood will issue PPAP/FAIR to Purchaser for review and approval within the mutually agreed upon timeframe, so long as Brentwood has timely received the specifications and any other necessary information from Purchaser to complete the tooling design. Brentwood shall not be obligated to begin production of parts until after receipt of Purchaser's written approval of PPAP/FAIR.

(d) Purchaser agrees to conduct its in-house evaluation and issue its approval or rejection of PPAP/FAIR within seven (7) working days of receipt of samples. If, in the Purchaser's opinion, the samples do not comply with contracted specifications, any agreement between Brentwood and Purchaser shall, nevertheless, continue in full force and effect. If Purchaser is dissatisfied with PPAP/FAIR due to Brentwood's non-conformance to the agreed specifications, Brentwood agrees to make the changes in the tooling necessary to correct the PPAP/FAIR for the critical dimensions set forth at the quoting stage of the project, at Brentwood's expense, subject to Purchaser providing timely written notification of dissatisfaction to Brentwood. Purchaser agrees to pay for all costs associated with changes to the tooling and molds necessitated by the Purchaser's modifications to the original specifications submitted to Brentwood by the Purchaser, upon which Brentwood's quotation was based. Purchaser assumes all risks and liabilities and expenses arising from or



related to any dimensional changes to the agreed specifications, including Purchaser-requested engineering change orders and notices (ECOs and ECNs).

(e) For injection-molding tooling and molds, Brentwood's general dimensional, P/L mismatch and flash tolerances apply unless otherwise noted on the purchase order agreement between Brentwood and Purchaser.

(f) Title to tooling and molds shall pass to Purchaser upon Brentwood's receipt of full payment of tooling/mold charges.

(g) Brentwood agrees to store Purchaser's tooling and molds, without charge, for a period of two years. The tooling will be stored at Brentwood's facility at total risk of Purchaser. Purchaser agrees to hold Brentwood harmless for any and all loss, damage, or destruction to Purchaser's tooling and molds, however caused, and Purchaser agrees to waive its property insurer's rights to subrogate against Brentwood. Tooling and molds will be considered obsolete if no orders have been received for production for two (2) years. Brentwood accepts no responsibility for the tooling's continued maintenance, upkeep or availability after a two (2) year period of inactivity. Once tooling or molds become obsolete, Brentwood reserves the right to freely dispose of the tooling or molds without penalty or consequence of any kind. This clause will not be invalidated by lack of written notification of the expiration date of the two year period of inactivity.

(h) Tooling and mold charges do not include engineering and tailoring costs incurred by Brentwood; therefore, a twenty (20) percent charge of the initial total value of the tooling order will be invoiced to Purchaser to cover these costs, in the event the Purchaser elects to remove the tooling from Brentwood's facility.

(i) For thermoforming tooling and molds, repairs to tooling and molds necessitated by reasonable wear and tear shall be paid for by the Purchaser after the tooling and molds complete their first anniversary year of use in production.

(j) For injection-molding tooling and molds, general mold and tooling maintenance and repairs, including mold cleaning and lubing will be performed by Brentwood while the tooling or mold is in production at Brentwood's facility. Costs associated with injection molding tooling and mold maintenance and repair will be covered by Brentwood for the number of cycles associated with the tooling or molds' SPI classification status, as was designated in Brentwood's quotation to Purchaser. Any tooling or mold maintenance and repair costs occurring after the cycle limit is met, per the SPI classification designated in Brentwood's quotation, or relating to the maintenance or repair of tooling or molds transferred to Brentwood or designed and built outside of Brentwood's control, are the Purchaser's responsibility.

(k) Purchaser agrees to defend, indemnify and hold Brentwood harmless against any claim or loss resulting from infringement of patents or trademarks in relation to the tooling and molds.

(l) Qualification of the finished product is not line specific. Brentwood qualifies the tooling and the manufacturing process, not a specific production machine, unless otherwise expressly agreed upon, in writing, by Brentwood. Brentwood reserves the right to produce products on a machine as the schedule allows within the location and environment of the first qualification. Brentwood agrees to maintain documentation that products conform to Purchaser specifications and requirements at startup and throughout the production run. Deviation from this condition must be communicated to Brentwood, in writing, at time of placing the purchase order.

(m) Brentwood will fabricate tooling within Brentwood or through outside sources in conformance with its quality system. Outside sources are not required to hold any external certifications and are held to the standards set forth by Brentwood. Purchasers who require tooling suppliers with external certification must communicate that in writing at time of request for tooling quotation.