

## SPECIALIZED PACKAGING GROUP - STANDARD TERMS AND CONDITIONS OF PURCHASE

The buyer identified on the face of this purchase order ("Buyer") agrees to purchase, and the seller identified on the face of this purchase order ("Seller") agrees to sell, the goods ("Goods") as described in this purchase order, which includes these standard terms and conditions of purchase (collectively, "Order"), subject to the following:

- 1. Acceptance.** Acceptance of the offer represented by this Order is expressly limited to the terms and conditions of this Order. There are no understandings or agreements relating to the subject matter of this Order other than as set forth in this Order and these terms and conditions supersede all prior negotiations, discussions and agreements between Buyer and Seller regarding this Order and any terms as may be deemed applicable under applicable governing law. Seller shall promptly notify Buyer of any obvious mistakes on the face of this Order, such as typing errors, miscalculations, or omissions. Buyer may withdraw this Order at any time before it is accepted by Seller. Seller shall be bound by this Order and these terms and conditions when it executes and returns the acknowledgement copy of this Order, when it otherwise indicates acceptance of this Order or when it ships any Goods ordered to Buyer or otherwise commences performance hereunder. Acceptance of this Order is expressly limited to the terms and conditions stated herein and Buyer hereby objects to and rejects any and all additional or contrary terms and conditions in Seller's order acknowledgment, invoice and/or in any other document issued by Seller, none of which shall be part of any contract between Buyer and Seller or otherwise binding on Buyer.
- 2. Prices and Payment Terms.** The price of the Goods is the price stated on the face of this Order. Unless specifically otherwise agreed by Buyer and Seller in writing, prices herein shall not be increased without Buyer's prior written consent. Except to the extent set forth on the face of this Order, no additional charges of any type shall be added to the Goods including, but not limited to, any charges for insurance, shipping, taxes, storage, packing or crating, without Buyer's prior written consent. Terms of payment, unless specifically otherwise agreed by Buyer and Seller in writing, are as set forth on the face of this Order. If any invoice issued under this Order is subject to cash discount, the discount period shall begin on the date Buyer receives such invoice.
- 3. Rejection.** Receipt of and/or payment for Goods shall not constitute acceptance thereof and any Goods which are defective, of inferior quality or workmanship, not in compliance with specifications, conditions and/or warranties (whether express or implied under applicable governing law), shipped contrary to instructions, not in the quantities specified, or otherwise not conforming to this Order or that violate any applicable law may be rejected by Buyer. In addition to other rights and remedies available to Buyer, Goods that have been so rejected in whole or in part may, at Buyer's option, be returned to Seller for reimbursement (including freight charges), credit or replacement, or may be held for disposition at Seller's expense and risk. Buyer may charge Seller any expenses incurred in unpacking, examining, repacking, storing and reshipping any Goods so rejected.
- 4. Termination.** Buyer reserves the right to terminate this Order, in whole or in part, at any time prior to shipment of any Goods, subject only to the payment by Buyer of the actual and direct cost of any custom made finished Goods previously ordered by Buyer that cannot be repurposed by Seller. Buyer may also terminate this Order, in whole or in part, for cause. Cause includes, but is not limited to, Seller's default or non-compliance with any term or condition of this Order, late delivery, delivery of defective or non-conforming Goods, cessation of the conduct of Seller's business, failure of Seller to pay its debts generally as such debts become due, commencement of any proceeding under the Bankruptcy Code or insolvency laws by or against Seller, appointment of a receiver for Seller or a substantial portion of its business or assets, or an assignment for the benefit of Seller's creditors. In the event of termination for cause, Buyer shall not be liable to Seller for any amount and Seller shall be liable to Buyer for all damages sustained by such termination. Seller may not cancel or modify this Order in whole or in part without Buyer's prior written consent. Upon receipt of notice of termination from Buyer, Seller shall not purchase any materials or goods specific to the Goods subject to this Order.
- 5. Confidentiality.** Seller shall keep in strict confidence all information furnished to Seller by in connection with this Order and shall not disclose any such information to any other person or use such information itself for any purpose other than performing this Order. Seller shall not advertise or publicize the fact that Buyer has contracted to purchase Goods from Seller, nor shall any other information relating to this Order be disclosed without Buyer's prior written consent. Seller shall not use Buyer's name in any way, including, without limitation, in any listing of Seller's customers, without Buyer's prior written consent. Any violation of this clause shall be considered a breach of this Order.
- 6. Warranties.** Seller warrants that in addition to all implied conditions and warranties under Governing Law that: (a) all Goods (including any component parts) provided to Buyer shall be new, merchantable, free from defects in design, workmanship and material, fit for their intended purpose and conform to applicable specifications, descriptions, statutes, rules, regulations, and all other requirements of this Order; (b) all Goods shall be adequately contained, packaged, marked and labeled; (c) it has the technical capability, skills and know-how to properly manufacture the Goods in accordance with Buyer's specifications and (d) neither the Goods nor any use thereof shall infringe on any existing or pending patent, copyright, trademark, trade name, invention or process of manufacturing or other intellectual property right. These warranties shall survive inspection, test, acceptance and use. These warranties are made to, and shall inure to the benefit of, Buyer, its successors and assigns, and its customers and any other users of the Goods. Seller, at its expense and at Buyer's option, shall repair or replace any defective Goods not conforming to the foregoing warranty promptly when notified of such non-conformity, provided that Buyer elects to provide Seller with the opportunity to do so. Alternatively, if Buyer elects to do so, or in the event Seller fails to promptly repair defects in or replace non-conforming Goods, Buyer may make such repairs or replace such Goods, or in any case may engage third parties to do so, and Seller shall reimburse Buyer for the cost thereof. Upon reasonable prior notice, Buyer shall be given access to Seller's works and facilities during ordinary working hours on any business day to enable it to inspect and attend tests of the Goods during manufacture.
- 7. Independent Contractors.** The relationship between Buyer and Seller is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Order.
- 8. Force Majeure.** No liability shall result from delay in performance or non-performance by Buyer caused by circumstances beyond its reasonable control including, without limitation, acts of God, pandemic, disease, fire, flood, explosions, riots, wars, terrorism, perils of the sea, labor disputes, machinery breakages, and/or government actions or prohibitions.
- 9. Buyer's Property.** Unless specifically otherwise agreed by Buyer and Seller in writing, all property furnished to Seller by Buyer shall be and remain the personal property solely of Buyer. Such property while in Seller's custody or control shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost thereof with loss payable to Buyer, shall be subject to removal at Buyer's written request and shall be used to fill only Buyer's orders. If applicable, Buyer acknowledges that all molds

provided by Seller to manufacture the Goods and all designs, specifications, trademarks, copyright, patents, proprietary information and processes, know-how, software and other intellectual property rights in the Goods or related thereto (together referred to as "Molds & IP Rights") are the property of Buyer and Seller shall not acquire any rights or interest in Buyer's Molds & IP Rights under this Order, except a license to use the Molds & IP Rights for the purpose of this Order while it remains in force. Seller shall not, either during this Order or at any time after its termination, divulge any information concerning the Molds & IP Rights to any third party or use or permit the use of any of the molds, designs or specifications or other Molds & IP Rights of Buyer for the manufacture of any products for any third party.

**10. Changes.** Buyer reserves the right to make changes to this Order (including, but not limited to, designs, specifications, materials, packaging, time and place of delivery and method of transportation), in whole or in part, at any time prior to shipment of any Goods. If any such changes cause an increase or decrease in the cost of, or the time required for the provision of such Goods, an equitable adjustment shall be made in the Order price or delivery schedule, or both, by mutual agreement of Buyer and Seller. Seller shall not make any changes to the design, materials or processes used to manufacture the Goods, or to the location at which the Goods are manufactured, without Buyer's prior written consent.

**11. Delivery/Title.** Seller shall deliver the Goods on the date specified in this Order (the "Delivery Date"). Except as otherwise agreed in writing by Buyer and Seller, delivery shall be made at Buyer's facility identified on the face of this Order (the "Facility"). Time is of the essence and if delivery of the Goods is not completed on the Delivery Date, Buyer reserves the right, without liability and in addition to its other rights and remedies under this Order or otherwise, to terminate this Order by notice to Seller effective as to Goods not yet shipped, and to purchase substitute Goods elsewhere and charge Seller with any additional expenses, costs and loss incurred by Buyer as a result. Seller shall promptly notify Buyer in writing if the supply of the Goods will be delayed, indicating the cause and extent of the delay, but such notice shall not relieve Seller of its obligations to deliver as required by this Order unless otherwise instructed by Buyer in writing. If, in order to meet the Delivery Date, it becomes necessary for Seller to ship by a more expensive way than specified in this Order, such increased transportation costs shall be paid solely by Seller and Buyer shall have no liability therefor. Title and risk of loss shall pass to Buyer upon delivery of the Goods to Buyer. A complete packing list shall be enclosed with all shipments.

**12. Hazard Communication.** In accordance with applicable governing law, including the OSHA Hazard Communication Standard (29 CFR 1910.1200, as amended) (the "Standard"), Seller shall provide Buyer with a fully completed Safety Data Sheet (SDS), Certificate of Analysis, and any other notices and information required by any applicable Federal, State, Provincial or local law, rule or regulation either prior to or with the initial shipment of any hazardous chemical or material, and all containers shall be properly labeled with the identity of the contents, appropriate hazard warning, and the name and address of the manufacturer or responsible party. Seller shall maintain these SDSs and labels current and shall provide updated copies to Buyer as necessary. If the Goods supplied hereunder are exempt from the labeling and SDS requirements under the Standard, Seller shall provide Buyer a signed statement of such exemption on its company letterhead.

**13. No Assignment.** Seller shall not assign or subcontract this Order, in whole or in part, or any interest herein, without Buyer's prior written consent. Any attempted assignment in violation of the preceding sentence shall be void and of no effect.

**14. Set Off.** Buyer shall have the right to set off any amount payable any time by Buyer to Seller in connection with this Order or otherwise against any amounts due from Seller or its affiliated companies to Buyer.

**15. Applicable Laws.** Seller shall comply with all applicable national, federal, state, provincial and local laws, rules and regulations in providing Goods under this Order including, but not limited to: (a) all applicable requirements of the Occupational Safety and Health Act of 1970, as amended; (b) the Fair Labor Standards Act of 1938, as amended; (c) Executive Order 11246, and all regulations issued under such laws; and (d) all applicable export and import laws, directives and other requirements of all countries involved in the sale of Goods under this Order. Seller shall maintain in effect all licenses, permissions, authorizations, consents and permits that Seller needs to carry out its obligations under this Order. Seller acknowledges that the breach of this clause gives Buyer the right to terminate this Order immediately, by written notice to Seller, without any obligation, liability, or penalty for Buyer.

**16. Insurance.** Seller, at its expense, shall maintain and carry in full force and effect customary and reasonable insurance including, but not limited to commercial general liability insurance (including product liability). All such insurance shall be with financially sound and reputable insurers, with coverages, coverage limits and other terms acceptable to Buyer. Upon Buyer's request, Seller shall provide Buyer with a certificate of insurance from Seller's insurers evidencing the insurance coverage specified in this Order. The certificate of insurance shall name Buyer as an additional insured. Seller shall provide Buyer with ten (10) days' advance written notice in the event of a cancellation or material change in Seller's insurance coverages. Except where prohibited by law, Seller shall require its insurers to waive all rights of subrogation against Buyer, Buyer's insurers and Seller's indemnitees described below.

**17. No Waiver.** Failure or delay by Seller in enforcing any right which it may have in any instance shall not be deemed to be a waiver of any right it may have in that or any other instance.

**18. Indemnification.** Seller shall indemnify and defend Buyer, Buyer's affiliates, and its and their respective shareholders, directors, officers, employees, agents, representatives and customers, and hold each and all of them harmless, from and against any and all demands, claims, causes of action, damages, expenses, liabilities, losses, fines, penalties and costs (including, without limitation, attorneys' fees and court costs) arising out of, or in connection with: (a) any breach or non-performance by Seller of any term, condition, covenant or warranty contained in this Order; or (b) any wrongful act or omission of Seller or Seller's subcontractors, agents or representatives in connection with providing the Goods, except to the extent caused solely by Buyer's gross negligence or willful misconduct. This indemnification shall be in addition to the warranty obligations of Seller.

**19. Limitation of Liability.** IN ALL EVENTS BUYER'S LIABILITY SHALL BE EXPRESSLY LIMITED TO THE PURCHASE PRICE OF THE GOODS IN RESPECT OF WHICH ANY CLAIM IS MADE. BUYER SHALL HAVE NO OTHER LIABILITY TO SELLER WHATSOEVER, WHETHER BASED ON BREACH OF CONTRACT, NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY OR ANY OTHER CLAIM AND UNDER NO CIRCUMSTANCES SHALL BUYER BE LIABLE TO SELLER FOR LOST PROFITS OR REVENUES, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, OR FINES OR PENALTIES, INCURRED BY SELLER OR ANY THIRD PARTY.

**20. Governing Law; Venue.** This Order, and the rights and obligations of Buyer and Seller hereunder, shall be governed by and construed in accordance with the laws of the state or province in which the Facility is located. The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Order. Seller irrevocably agrees that the federal, state and provincial courts located in the state or

province in which the Facility is located shall have non-exclusive personal jurisdiction over Seller in connection with any dispute or claim that arises out of or in connection with this Order or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall prevent Buyer from bringing proceedings in any other courts of competent jurisdiction.

21. **Severability.** Each provision of this Order shall be interpreted in such a manner as to be effective and valid under applicable law. The determination by any court of competent jurisdiction that one or more of the sections or provisions of this Order are unenforceable shall not invalidate the remaining terms of this Order, and the decision of such court shall be given effect so as to limit to the extent possible the sections or provisions which are deemed unenforceable.

22. **Rights Cumulative.** Buyer's rights and remedies herein set forth shall be cumulative and in addition to any other available rights or remedies provided in law or equity.

23. **Binding Effect.** This Order shall be binding upon the successors and permitted assigns of Seller and shall insure to the benefit of the successors and assigns of Buyer.

24. **Survival.** The parties' rights and obligations under Sections 5, 6, 14, 18, 19, 20, 21, 22, 23 and 24 will survive the performance, termination and/or expiration of this Order.