

## TERMS AND CONDITIONS OF SALE

**1. ENTIRE CONTRACT.** The following Terms and Conditions of Sale (the "Terms") are applicable to the sale of all products, accessories, and parts (collectively, "Goods") by Pipeline Packaging Corporation or any of its affiliates or subsidiaries ("PPC") to any purchaser thereof ("Buyer"). All orders are subject to these Terms to the exclusion of all other terms. ANY ADDITIONAL OR DIFFERENT TERMS IN BUYER'S PURCHASE ORDER OR OTHER DOCUMENT ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS, AND NOTICE OF REJECTION OF SUCH TERMS IS HEREBY GIVEN. No course of prior dealings between the parties or usage in the trade shall be relevant to supplement or explain any term hereof.

**2. PRICING.** The minimum order amount is \$500.00, exclusive of shipping. Prices are subject to change without notice. Prices billed will be those in effect at time of shipment. If applicable, a tax exemption certificate must be provided to PPC prior to order shipment.

**3. PAYMENT TERMS.** PPC will invoice Buyer upon shipment. Payment is due within thirty (30) days of the date of PPC's invoice. Amounts remaining unpaid twenty (20) days after the due date will bear interest at the rate of one and a half percent (1.5%) per month until paid. Payment may be made by credit card (transaction charges may apply) or on open account. Payment terms are subject to change based on Buyer's payment history. PPC reserves the right to decline to accept any order or make any shipment whenever, for any reason, it has doubt as to Buyer's financial responsibility, and PPC shall not in such event be liable for breach or non-performance of contract in whole or in part.

**4. ACCEPTANCE.** Upon receipt, Buyer shall immediately inspect and test the Goods. Unless Buyer provides PPC with written notice describing with particularity any defects or the amount of any claimed shortage within ten (10) days after delivery, the Goods shall be deemed accepted by Buyer, and any claims relating to the Goods shall be deemed waived.

**5. SHIPPING TERMS; TITLE; RISK OF LOSS.** Delivery dates and charges are estimated and subject to change depending on carrier availability and carrier charges at the time of shipment. Unless otherwise agreed, all shipments are "FOB Origin" (either a PPC warehouse or PPC's supplier's facility), and the Goods will be deemed to be delivered when loaded onto a carrier at Origin. Title to and risk of loss of the Goods pass to Buyer upon delivery. Buyer is responsible for filing claims for loss or damage directly with the carrier. Pick-up orders require 24-hour advance notice.

**6. PRODUCT COMPATIBILITY.** Consistent with Title 49 of the Code of Federal Regulations, product and container compatibility is the sole responsibility of Buyer. PPC assumes no responsibility for testing procedures and makes no representations as to product and container compatibility upon sampling or sale. PPC makes no representation or warranty with respect to the compatibility of any Goods sold hereunder with the materials to be held or transported in such Goods. Buyer assumes sole responsibility with respect to the selection of Goods that are suitable and compatible to the material or product to be held or transported therein.

**7. WARRANTY.** PPC warrants that the Goods will conform to agreed-upon specifications as of the date of delivery. If any of the Goods are alleged by Buyer not to conform to the agreed-upon specifications as of the delivery date, Buyer must promptly notify PPC in writing and provide such details, samples, photographs, and other supporting information that PPC may reasonably require to evaluate Buyer's claim. Upon PPC's determination that the Goods do not conform to the agreed-upon specifications, PPC shall, at its option, either replace the non-conforming Goods at PPC's cost or issue a refund to Buyer of the amounts paid for such non-conforming Goods. The parties hereto expressly agree that Buyer's sole and exclusive remedy and PPC's sole obligation for any breach of the foregoing warranty shall be for PPC to replace or refund the amounts paid by Buyer for the non-conforming Goods. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as PPC is willing and able to replace non-conforming Goods. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PPC's warranty does not extend to any losses or damages due to misuse, accident, abuse, neglect, normal wear and tear, unauthorized modification or alteration, use beyond rated capacity, or any other cause not the fault of PPC. No affirmation of PPC by words or action, other than as set forth in this Section 7, including without limitation, any technical advice or information regarding the Goods, whether given verbally, in writing, as test results, or otherwise, shall constitute a warranty, either expressed or implied. At PPC's request, Buyer will send, at Buyer's sole expense, any allegedly defective Goods to a location specified by PPC. PPC's warranty extends only to Buyer. Any claim relating to the Goods sold hereunder shall be deemed waived by Buyer unless submitted in writing to PPC within ten (10) days following the date Buyer discovered or by reasonable inspection should have discovered any claimed breach of the foregoing warranty.

**8. LIMITATION ON DAMAGES; INDEMNITY.** IN NO EVENT SHALL PPC BE LIABLE FOR INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING

OUT OF OR IN CONNECTION WITH THESE TERMS OR ANY ORDER OR QUOTE TO WHICH THEY APPLY. BUYER SHALL INDEMNIFY PPC FOR ALL CLAIMS, DEMANDS, LIABILITY, COST, OR EXPENSE (INCLUDING ATTORNEY FEES) SUSTAINED OR INCURRED BY PPC TO THE EXTENT ARISING OUT OF BUYER'S ACTS, OMISSIONS, NEGLIGENCE, OR BREACH OF THESE TERMS.

**9. DELAYS.** All shipping dates are contingent upon current availability of Goods, present production schedules, and prompt receipt of all necessary information from Buyer. PPC will not be liable for any damage, loss, cost, or expense arising out of PPC's delayed performance or nonperformance if caused by: (a) strikes, fires, flood, natural disasters, epidemics, riots, or acts of God, (b) acts or omissions of Buyer, (c) shortages of labor, fuel, power, materials, supplies, transportation, or manufacturing facilities, (d) governmental action, (e) subcontractor delay, or (f) any other cause or condition beyond PPC's reasonable control, whether of the class of causes enumerated or otherwise (any of the foregoing, a "Force Majeure"). In the event of a Force Majeure, PPC shall be excused from performance and may, at its option and without liability, exercise any one or more of the following: (i) cancel or suspend all or any portion of an Order or this Agreement, (ii) extend any date upon which any performance is due, or (iii) allocate and apportion Goods among its customers in any manner that PPC deems appropriate.

**10. RETURNS.** No returns will be accepted without PPC's prior written approval. All requests for return must be submitted within thirty (30) days of delivery of the Goods. Prior to returning any Good(s), Buyer must obtain approval and a Return Material Authorization ("RMA") from PPC to accompany the return. The following are not eligible for return, and any request for return of any of the following are hereby rejected by PPC: specially ordered, manufactured, or otherwise custom Goods, Litho Goods, Goods that have been installed or used in any way, Goods that have been altered in any way, and any open pallets/cases/cartons. Returned Goods are subject to PPC's inspection and will not be accepted for credit unless they are in "like new" condition as determined by PPC in its sole discretion and packaged as shipped by PPC. For authorized returns that conform to the foregoing requirements, PPC will issue a credit to Buyer less a restocking fee of twenty-five percent (25%) of the original value of the Goods. All transportation charges for returned Goods are the sole responsibility of Buyer and must be prepaid.

**11. CONFIDENTIALITY.** Buyer acknowledges that it may obtain from PPC non-public information, in whatever form, that is of a confidential or proprietary nature, whether such information is marked as confidential or reasonably should be understood to be confidential given its nature and the circumstances of its disclosure ("Confidential Information"). Buyer shall not disclose PPC's Confidential Information without PPC's prior written consent, except that Buyer may disclose Confidential Information to its officers, directors, employees, agents, and contractors who have a need to know such Confidential Information for purposes of fulfilling its obligations under these Terms and who agree to be bound to the confidentiality and nondisclosure obligations hereof. Notwithstanding anything to the contrary herein, Buyer may disclose PPC's Confidential Information without breaching these Terms if compelled to do so by a valid order of a government agency or court of competent jurisdiction provided that, prior to disclosure, Buyer promptly notifies PPC of the terms of such order and cooperates with PPC in taking lawful steps to resist, narrow, or eliminate the need for the ordered disclosure. At any time upon PPC's request, Buyer will either return to PPC all Confidential Information received, including all copies or extracts thereof or based thereon, or destroy all such Confidential Information and provide written certification thereof to PPC. This Section 11 shall survive completion, expiration, or termination of the order or transaction to which these Terms apply.

**12. PROPRIETARY RIGHTS.** As between Customer and PPC, each Party shall retain all right, title, and interest in and to any patents, trademarks, service marks, copyrights, product formulations, logos, proprietary marks or designs, and other intellectual property owned by or licensed to such Party ("Intellectual Property"). Customer hereby grants to PPC a limited license to use, copy, and reproduce Customer's Intellectual Property in connection with PPC's procurement, production, packaging, and delivery of the Products. Nothing in this Agreement shall operate to transfer or convey in whole or in part the ownership of one Party's Intellectual Property to the other or a third party except as expressly set forth herein.

**13. GENERAL TERMS.** No agent, salesperson, or other party is authorized to bind PPC by any agreement, warranty, promise, or understanding not herein expressed. These Terms shall be governed by the laws of the State of Ohio, without giving effect to the conflict of laws provisions thereof. Any claim or dispute arising out of or relating to these Terms or the Goods shall be brought exclusively in the federal or state courts located in Cleveland, Ohio. Each of the Parties hereto expressly submits to the exclusive jurisdiction of such courts and waives any objection based on improper venue or inconvenient forum. If Buyer breaches any of these Terms or any other contract with PPC, PPC shall have the right to suspend performance or terminate the order to which these terms apply, without liability. The remedies herein reserved by PPC shall be

cumulative and additional to any other or future remedies provided at law or in equity. The failure or delay of PPC at any time to enforce any provision of these Terms, to exercise its rights under any provision hereof, or to require performance of any provision hereof, shall in no way be construed as a waiver of such provision nor in any way affect the right of PPC thereafter to enforce each and every provision hereof. No waiver of any term, condition, or provision of this Agreement will be binding unless made in writing and signed by the party

making the waiver. If any provision in these Terms is finally determined to be invalid or unenforceable, it shall be modified to the minimum extent required to bring it into conformity with applicable law or severed from these Terms, and all other terms shall remain in full force and effect. Buyer may not assign or transfer these Terms, in whole or in part, except upon the prior written consent of PPC.