

STANDARD TERMS AND CONDITIONS OF SALE

These Standard Terms and Conditions of Sale ("Terms and Conditions") are automatically incorporated by reference into quotes issued and orders accepted by **Encore Packaging LLC**, an Illinois limited liability company with a place of business at **201 Park Ave, Lake Villa, IL 60046** ("Seller"). "Buyer" refers to you, the party submitting an order or receiving a quote.

1. Contract. Acceptance by the parties is conditioned upon and expressly limited to these Terms and Conditions and Seller objects to and rejects any different or additional terms provided in response. The contract of sale is formed when Buyer's order ("Order") is accepted in writing by Seller. Any additional or different terms provided by Buyer are automatically voided, superseded and of no legal force or effect. Notwithstanding the foregoing, any such counterproposals by Buyer shall not operate as a rejection of the contract of sale, but only as a rejection of the additional or different term(s). No prior course of dealings between the parties or usage of trade is relevant to supplement or amend these Terms and Conditions. Buyer's acceptance of the products sold to and purchased by Buyer ("Products") is conclusive evidence of Buyer's acceptance of these Terms and Conditions. Any changes to these Terms and Conditions or other portions of the contract of sale will not be effective unless expressly included in a Seller quote, a Seller order confirmation or otherwise in a writing expressly authorized by Seller.

2. Prices; Taxes. The prices and charges stated on Seller's quote will be adjusted to, and the Products will be invoiced at, the prices and charges in effect at the time of scheduled shipment under the Order, provided that such prices and charges will not exceed the prices and charges included in Buyer's applicable then-current price schedule or product catalog ("Product List"), which is made available upon request to qualified, designated distributors in Seller's discretion by contacting Seller's Customer Service department (customerservice@encorepack.com), if any, in effect at the time of shipment. Prices exclude any federal, state, provincial or local sales, excise or use taxes. If taxes are later imposed on the Order, Buyer shall reimburse Seller promptly on demand. Sales taxes invoiced for any Order will be due in accordance with the payment terms defined herein, unless Buyer has furnished Seller a current sales tax exemption certificate. Buyer acknowledges and agrees that Seller does not control raw material costs and shall be allowed to pass through such costs directly to Buyer.

3. Credit. Seller may, but shall not be obligated to, grant credit terms to Buyer. Buyer agrees and acknowledges that any extension of credit terms to Buyer by Seller is made in consideration of Buyer's agreement to comply with the payment terms set forth herein. Acceptance of any Order is subject to credit approval by Seller. Seller reserves the right to cancel any Order if Seller deems Buyer unable to pay for any Products. Seller reserves the right, in its sole discretion and without prior notice, to deny, change or limit the amount or duration of credit to be allowed Buyer, either generally or with respect to a particular Order, and may require cash payments in advance or security satisfactory to Seller.

4. Packing and Transportation; Risk of Loss. Seller uses commercially reasonable packaging and shipping methods. Unless otherwise agreed in writing by Seller, all Orders shipped domestically will be delivered Free on Board (FOB) Seller's dock. Upon delivery to the carrier, title to the Products and all risk of loss will pass to Buyer. Special packaging charges may apply if Buyer requests nonstandard packaging or if otherwise necessary in Seller's reasonable discretion. If Buyer's Order specifies drop shipment, Seller will ship applicable Products to Buyer's customer specified in the Order at Buyer's sole expense, without markup, subject to applicable carrier freight terms. Buyer may be charged any special fees imposed by carrier including, without limitation, redelivery fees and residential fees for small parcel post and LTL shipments for Orders specifying delivery to residential areas.

5. Delivery Date; Amendments; Partial Shipments:

A. All delivery times are approximate. Buyer may not cancel and is not entitled to damages arising from delayed Orders. Seller may in its sole discretion consider requests from Buyer to amend an Order, provided that Buyer agrees and acknowledges that amendments to Orders may affect the lead time and delivery date estimated on the original Order.

B. Buyer agrees that Seller has the right to deliver a quantity of Products that may vary up to ten percent (10%) of the quantity specified in the applicable Order. Buyer agrees to accept and pay for such increased or decreased quantity in complete satisfaction of Buyer's applicable Order, to the extent allowable by applicable law.

C. If shipment of Products is delayed or otherwise impacted by any cause defined in Section 6 (entitled "Excusable Delays"), Seller may place such Products or parts therefor in storage (which may be at the place of manufacture). In such event, (i) Seller shall notify Buyer of the placement of the Products in storage; (ii) Seller's delivery obligations will be deemed fulfilled and title and all risk of loss or damage will thereupon pass to Buyer, (iii) any amounts otherwise payable to Seller upon delivery will be payable upon presentation of Seller's invoices therefor and its certification as to such cause, (iv) promptly upon submission of Seller's invoices, Buyer shall reimburse Seller for all expenses incurred by Seller, such as preparation for and placement into storage, handling, storage, inspection, preservation and insurance, and (v) when conditions permit and upon payment of all amounts due hereunder, Seller shall assist and cooperate with Buyer in any reasonable manner with respect to the removal of any Products which have been placed in storage.

D. Buyer shall inspect Products promptly upon receipt to identify, without limitation, any damage, nonconformities or short quantities. Buyer shall promptly notify Seller in writing, not less than 48 hours after delivery to the location identified in the Order, of Buyer's acceptance or the reason and scope of rejection, including photographs of any applicable damage and

a copy of the unamended signed receipt of goods (bill of lading) which identifies the short quantities, nonconformities or damages. Unless such notice of rejection or acceptance is earlier properly submitted and received by Seller, the Products will be deemed accepted at the end of such 48 hour period. Seller must be notified within such 48 hour period of any damages or shortages which could reasonably be discovered upon receipt, provided that in no event will Seller's obligations hereunder extend beyond the 90 day period set forth in its Product Guarantee defined in Section 8. Buyer waives all rights to revoke an acceptance of Products for any reason, whether known or unknown to Buyer at the time of acceptance. Rejected Products must include all original packaging.

6. Excusable Delays.

A. Seller shall not be liable for delays in delivery or failure to perform due directly or indirectly to: (i) causes beyond Seller's reasonable control, (ii) acts of God, acts of Buyer, acts (including failure to act) of any governmental authority, wars (declared or undeclared), governmental priorities, change of government, government instability, port congestion, riots, revolutions, strikes or other labor disputes, fires, floods, acts of terrorism, sabotage, nuclear incidents, earthquakes, storms, pandemics, epidemics, or (iii) inability due to causes beyond Seller's reasonable control timely to obtain necessary and proper labor, materials, components, facilities, energy, fuel, transportation, governmental authorizations or instructions, material or information required from Buyer. The foregoing will apply even though any of such causes exists at the time of the Order or occurs after Seller's performance of its obligations is delayed for other causes.

B. Seller shall notify Buyer of any delay or failure excused by this Section and shall specify the revised delivery date as soon as is practicable. In the event of a delay, subject to Section 6(C), there will be no termination and the time of delivery or performance will be extended for a period equal to the time lost by Seller by reason of the delay.

C. If delay excused by this Section 6 extends for more than 60 days and the parties have not agreed in writing upon a revised basis for continuing the work at the end of the delay, including adjustment of the price, then either party (except where delay is caused by Buyer, in which event only Seller), upon 30 days written notice, may terminate the Order with respect to the unexecuted portion of work, whereupon Buyer shall promptly pay Seller its termination charges determined in accordance with Seller's standard accounting practices upon submission of Seller's invoices therefor.

7. Payment Terms. Buyer shall remit payment in full to Seller within thirty (30) days of the invoice date, without deduction, offset or counterclaim. Any applicable discounts must be agreed upon by Seller in writing for such Order. If Buyer fails to pay amounts when due, interest will accrue at the higher of one and a half percent (1.5%) per month (18% per annum) or the highest amount permitted by applicable law and Seller may, among other remedies, impose different payment terms, require additional assurances of due payment, suspend shipment and cease production. In addition, Buyer shall reimburse Seller on demand for all costs incurred to collect amounts past due including, without limitation,

reasonable attorneys' fees, court costs and other collection costs. All payments hereunder must be mailed to **PO Box 595, Winnetka, IL 60093**, or by such other method as is approved in writing by Seller.

8. Product Warranty:

A. For a period of ninety (90) days from the date of shipment hereunder, Seller represents and warrants that the Products will be free from defects in material and workmanship and will conform to the applicable published specifications for such Products, as made available by Seller at the time of Order acceptance.

B. Seller warrants that any Product manufactured by Seller and furnished hereunder will be free of any rightful claim of any third party for infringement of any United States patent. If Buyer notifies Seller promptly of the receipt of any claim that such Product infringes a United States patent and provides Seller, with respect to such claim, assistance and exclusive authority to settle and defend such claim, Seller shall, at its own expense and option, either: (i) settle or defend such claim or any suit or proceeding arising therefrom and pay all damages and costs awarded therein against Buyer, or (ii) procure for Buyer the right to continue using such Product, or (iii) modify the Product so that it becomes non-infringing, or (iv) replace the Product with a non-infringing Product, or (v) remove the Product and refund the purchase price (less reasonable depreciation and any transportation costs which have been separately paid by Buyer). THE FOREGOING STATES THE ENTIRE LIABILITY OF SELLER FOR PATENT OR OTHER INTELLECTUAL PROPERTY RIGHT INFRINGEMENT OF ANY PRODUCT AND IS SUBJECT TO THE LIMITATIONS OF LIABILITY SET FORTH HEREIN. THE PATENT WARRANTY AND INDEMNITY OBLIGATIONS SET FORTH ABOVE ARE IN LIEU OF ALL OTHER PATENT WARRANTIES AND INDEMNITIES WHATSOEVER, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY. The warranty in this Section 8(B) will not apply to any Product which is manufactured to Buyer's design or is manufactured by a third party.

C. Without limiting the foregoing, Seller reserves the right to discontinue deliveries of any Products, the manufacture, sale or use of which would, in Seller's opinion, infringe upon any U.S. patent, trademark or design now or hereinafter issued, registered, or existing and under which Seller is not licensed.

D. In the event a Product fails to conform to the foregoing warranties, Seller shall correct the failure, at its option, (i) by repairing the Product, or (ii) by making available at Seller's facility, a replacement Product. The warranties in this Section 8 apply only to claims that related to the Products, and do not cover claims arising from (i) the end use of the Products, (ii) any modifications, alterations or additions made to the Products by Buyer, directly or through any third party, (iii) any accidents, abuse, misuse, mishandling, misconduct, vandalism or negligence relating to the Product by Buyer either directly or through a third party, (iv) any cause identified in Section 6 (Excusable Delays). In the event of any repair or replacement, the warranty period will continue to remain fixed for the original time period and will not be extended.

E. Subject to Section 9, this Section sets forth the exclusive remedies for claims (except as to title) based upon defects in or nonconformity of the Products, whether the claim is in contract, warranty, tort (including negligence), strict liability, equity, quasi-contract, or otherwise. Upon the expiration of the warranty period, all such liability will terminate.

9. Disclaimer of Warranties. THE WARRANTIES SET FORTH HEREIN WITH RESPECT TO A PRODUCT ARE THE ONLY WARRANTIES MADE BY SELLER IN CONNECTION WITH THE PRODUCTS AND THE TRANSACTIONS CONTEMPLATED AS A RESULT OF THIS SALE. SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS TO BUYER OR ANY OTHER PERSON OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, AND SELLER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PRODUCTS SOLD HEREUNDER ARE SOLD ONLY TO THE SPECIFICATIONS SPECIFICALLY SET FORTH BY SELLER IN WRITING. SELLER'S SOLE OBLIGATION FOR A REMEDY TO BUYER SHALL BE REPAIR OR REPLACEMENT OF NON-CONFORMING PRODUCTS. BUYER ASSUMES ALL RISK WHATSOEVER AS TO THE RESULT OF THE USE OF PRODUCTS PURCHASED, WHETHER USED ALONE OR IN COMBINATION WITH OTHER PRODUCTS OR SUBSTANCES.

10. Limitation of Liability. THE TOTAL LIABILITY OF SELLER ON ANY AND ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR PATENT INFRINGEMENT), STRICT LIABILITY, EQUITY, QUASI-CONTRACT OR OTHERWISE, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE PERFORMANCE OR NON-PERFORMANCE OF ANY AGREEMENT SUBJECT TO THESE TERMS AND CONDITIONS OR FROM THE MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT OR USE OF ANY PRODUCT OR THE FURNISHING OF ANY SERVICE, SHALL NOT EXCEED THE PRICE ALLOCABLE TO THE PRODUCT OR SERVICE WHICH GIVES RISE TO THE CLAIM. EXCEPT AS TO TITLE, ANY SUCH LIABILITY SHALL TERMINATE UPON THE EXPIRATION OF THE APPLICABLE WARRANTY PERIOD. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR PATENT INFRINGEMENT) EQUITY, QUASI-CONTRACT OR OTHERWISE, SHALL SELLER BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COSTS OR

CLAIMS OF BUYER'S CUSTOMERS FOR SUCH DAMAGES, ALL OF WHICH ARE WAIVED IN FULL BY BUYER. IF BUYER TRANSFERS TITLE TO, OR LEASES THE PRODUCTS SOLD HEREUNDER TO, OR OTHERWISE PERMITS OR SUFFERS USE BY, ANY THIRD PARTY, BUYER SHALL OBTAIN FROM SUCH THIRD PARTY A PROVISION AFFORDING SELLER THE PROTECTION OF THE PRECEDING SENTENCE. If Seller furnishes Buyer with advice or other assistance which concerns any Product supplied hereunder and which is not required by the terms of this instrument or pursuant to any other written agreement between Seller and Buyer, the furnishing of such advice or assistance will not subject Seller to any liability, whether in contract, warranty, tort (including negligence or patent infringement), strict liability, equity, quasi-contract or otherwise.

11. Returns and Cancellations.

A. In the event that a Product does not conform to the Product Warranty set forth in Section 8, you may within the applicable 90 day period, return the Product and receive a replacement Product. All returns must have a return material authorization (RMA) number, which is available upon request from Seller's customer service department. In its sole discretion, Seller may allow returns of Products for reasons other than a breach of Product Warranty, subject to a restocking fee as determined in Seller's sole discretion. Notwithstanding the foregoing, any damage, nonconformity or short quantity reasonably discoverable upon inspection at the time of delivery is ineligible for return after the expiration of the 48 hour period defined in Section 5(D).

B. Orders are non-cancellable as of the date the Order is accepted, unless otherwise agreed in writing by Seller. Products shipped pursuant to any Order are not eligible for return, except as permitted in this Section 11. Without limiting the foregoing, in no event will Seller permit returns or cancellations of Orders that are special order, custom made, made to order, or specifically outsourced to complete.

12. Seller's Rights. If Buyer should fail in any manner to fulfill the terms and conditions hereof, Seller may defer further shipments until such default is cured. Remedies provided herein will be in addition to, and not in lieu of, other remedies that may be available to Seller. If for any reason, the quantities of the Products covered hereby or of any materials used in the production of the products reasonably available to Seller shall be less than Seller total needs for its own use and for sale, Seller may allocate its available supply of Products among its existing or prospective purchasers and/or its own departments, divisions and affiliates in such manner Seller deems proper in Seller's sole discretion, without thereby incurring liability to Buyer hereunder.

13. Governing Law. The validity, performance and all matters relating to the interpretation and effect of this instrument will be governed by the laws of the State of Illinois, U.S.A., excluding its conflict of laws rules. The parties consent to the personal jurisdiction of and venue in the state and federal courts located in the County of Cook, State of Illinois, U.S.A., which courts will constitute the exclusive

forum for all actions and proceedings concerning this instrument, whenever, wherever and however arising, whether at law, in equity or otherwise and whether the dispute involves any alleged breach of contract, violation of law or tort of any kind. Each party waives to the fullest extent permitted by applicable law any right it may have to a trial by jury in respect of any such action or proceeding. In any such action or proceeding, the prevailing party will be entitled to an award of its reasonable costs, including reasonable attorney's fees. The UN Convention on Contracts for the International Sale of Goods will not apply to this contract.

14. No Assignment. This contract between Buyer and Seller is not transferable by either party without the prior written consent of the other party, except that Seller may assign this Agreement without Buyer's consent if the assignment is to an affiliate or if the assignment is carried out as part of a merger, restructuring, or reorganization, or sale or transfer of all or substantially all of Seller's assets.

15. Miscellaneous. These Seller's Terms and Conditions are the sole and exclusive statement of the parties' understanding and agreement with respect to the transactions contemplated by this sale, notwithstanding any other terms that might be contained in any purchase order or other document received from Buyer or submitted to Seller. These Terms and Conditions constitute the entire agreement between the parties regarding the subject matter hereof and can only be modified or changed in writing and signed by authorized representatives of both parties. No waiver by Seller of any of Seller's Terms and Conditions or any breach hereof will constitute or be deemed to be a waiver of any such term or any such breach in any other case. No waiver will be deemed to occur as a result of the failure to enforce any term or condition of these Seller's Terms and Conditions. If any clause or portion hereof will be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining clauses or portions will remain in full force and effect. The paragraph headings are for convenience only and will not be used in interpreting or construing these Seller's Terms and Conditions. The provisions of these Terms and Conditions are for the sole and exclusive benefit of the parties hereto and not for any other person. The delegation or assignment or encumbrance by Buyer of any or all of its duties or rights hereunder without Seller's prior written consent will be void.

16. Authority. By submitting an Order to Seller, the person submitting such Order represents they have full authority granted them by Buyer to enter into a contract for the purchase of the Products and accepts on behalf of Buyer the terms set forth herein.