

QUADPACK AMERICAS, LLC

STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions (these “**Terms and Conditions**”) apply to all orders placed with, and all services performed by, Quadpack Americas, LLC (“**Seller**” or “**Quadpack**”), and each customer placing an order with Seller (“**Buyer**” or “**you**”) for products or services does thereby, by doing so, agree to be bound by these Terms and Conditions in all respects as to such order and as to all such containers, closures and other products and services provided by Seller to Buyer (collectively, the “**Products**” and each a “**Product**”).

**1. Selection of Products:** Buyer is responsible for selecting the Products that fit Buyer’s needs and requirements. Different combinations of chemicals, plastics, paper, glass, wood, or any other materials contained in Products may react poorly with Buyer’s goods or products and become defective. Seller cannot guarantee that any container or Products will function properly with Buyer’s particular goods or products. Seller will provide Buyer with samples of most of Seller’s Products free of charge, and Buyer shall be solely responsible for testing Buyer’s goods and products with each applicable Product or container before placing any order for Products hereunder. Seller shall have no responsibility for suitability of any Product for Buyer’s particular use, and it is Buyer’s sole responsibility to do product compatibility testing. Seller is not responsible for damages arising from Buyer’s selection and use of any Products, including, without limitation, (i) for any damages to or loss of Buyer’s bulk products that are inserted into any containers purchased from Seller, and (ii) for any damages or losses resulting from design specifications, artwork, and/or decorations selected by, supplied by, and/or approved by Buyer. Seller hereby advises Buyer that all Products ordered from Seller should be used within six (6) months after receipt by Buyer as the integrity and quality of certain Products may be adversely impacted by delays in utilizing such Products.

**2. Acceptance of Order or Quote:** Seller may accept or reject any order and may cancel any order at any time for any reason including, but not limited to, fraud, unauthorized or illegal transaction, errors in descriptions or prices of products or services, error in the order, unavailability of materials or supplies, etc. Any acceptance of Buyer’s order by Seller, is expressly made conditional on Buyer’s assent to these Terms and Conditions, and by placing any order with Seller, Buyer agrees to these Terms and Conditions. Any proposal for additional or different terms, or any attempt by Buyer to vary these Terms and Conditions in any quote, purchase order or other document is hereby disallowed. Notwithstanding the foregoing, if Buyer accepts such order or quote and delivers Products in connection therewith, such order or quote shall be deemed accepted by Buyer without said additional or different terms and these Terms and Conditions shall govern. In no event shall Seller’s delivery of any Product hereunder be deemed or construed as an acceptance of any additional or different terms or conditions of Buyer.

**3. Cancellations and Returns:** To cancel an order, Buyer should email sales.americas@quadpack.com immediately. On orders that are for standard, stock non-custom Products, (i) if the cancellation is received prior to shipping the order then Buyer may receive a refund for the full cost of the order minus a 10% restocking fee, and (ii) if the order has already shipped, then Seller will generally, but not in all cases (as determined by Seller in its sole discretion), accept returns for up to six (6) months after shipping, and Buyer may generally, but not in all cases, receive a refund for the full cost of the order minus a 20% restocking fee. No refunds or returns will be accepted on any Products after six (6) months as Products should be used within six (6) months of receipt of such Products (and if not used within that time period, should be re-tested by Buyer). On orders that are for non-standard or non-stock Products that are custom Products or Products that have any special design, decoration, size, style, or capacity features or requirements, (a) if the cancellation is received prior to beginning any production of such custom Products, then Buyer may receive a refund for the full cost of the order minus a 10% fee, and (b) if production has already begun on the order, then all such sales are final and there will not be any refunds or returns. In all cases, shipping charges will not be refunded, and Buyer must pay any shipping charges associated with returning shipped Products to Seller.

**4. Terms of Payment:** Buyer agrees to pay all invoices not later than thirty (30) days after the invoice date. Unless otherwise specified in an order or quote, all payments and amounts are in U.S. Dollars. All late payments and past due amounts shall accrue interest at a rate equal to the lesser of one and one half percent (1.5%) per month, compounded annually, or if lower, the highest permissible rate under applicable law. Seller will also charge Buyer a fee equal to the lesser of \$50 or 5% of the invoice amount for each time any Buyer check does not clear Buyer’s bank due to insufficient funds. Payments should be made at the direction and location specified by the Seller. Terms of payment shall be subject to change by Seller.

Regardless of any prior approval of credit for an order, Seller may at any time require full or partial payment in advance. Seller may at any time and without liability suspend performance until receipt of any requested advance payment or security satisfactory to Seller. If at any time and for any reason the financial responsibility of Buyer shall become unsatisfactory to Seller, Seller may require cash or satisfactory security on subsequent shipments or deliveries without impairing the obligation of Buyer to take and pay for the quantity of Products ordered. Until payment in full of all amounts owed to Seller by Buyer hereunder, Seller shall have (and Buyer hereby grants to Seller) a purchase money security interest in all goods, inventory, products, materials and works-in-progress of Buyer, including all services and replacements and proceeds thereof. Buyer agrees to execute, file and deliver, and authorizes Seller to execute and file, any UCC-1 financing statements in any jurisdictions as Seller deems appropriate to maintain and perfect its security interest hereunder.

**5. Delivery and Shipment:** Unless otherwise specifically agreed to in writing by Seller, Buyer is responsible for all shipping costs, all shipping costs are non-refundable, and all shipments shall be shipped Ex-Works. All risk of loss and/or damage to the Products shall pass to Buyer upon such Products being picked up from Seller, at Seller’s plant or other designated shipping point, by the applicable third party carrier selected by Buyer or by Buyer’s agent or representative. Buyer is responsible for pursuing the third party carrier for any loss or damages occurring to Products in transit. Buyer agrees to hold Seller harmless from any claims, loss, cost or expense, including attorney’s fees, resulting from negligence, acts or omissions of buyer’s designated carrier incident to the loading, handling, transportation or unloading of Products purchased by Buyer.

Buyer shall inspect all Products within fifteen (15) days after receipt by Buyer. All claims for shortages, defects, or other non-conformities shall be made in writing by Buyer within fifteen (15) days after receipt by Buyer. Failure to notify Seller in writing of any claim within such fifteen (15) day period shall constitute an irrevocable acceptance of the Products and an admission by Buyer that such Products comply fully with all terms, conditions and specifications of the corresponding order. Products shall be deemed acceptable if they conform in all material respects to samples accepted (or deemed accepted) by Buyer without regard to whether such sample varies from any applicable specifications. Credit will not be allowed on any Products which have been altered or defaced in any manner or are otherwise not in saleable condition. All orders are subject to 10% over or under run, and specifications are based on commercially acceptable tolerances.

All Products shall be packed for shipment and storage in accordance with standard commercial practices. In no event shall Seller assume any liability in connection with shipment, nor shall the common carrier be deemed an agent of Seller. Seller shall use its commercially reasonable efforts to deliver Products in accordance with any reasonably requested delivery schedule. Where strict compliance with such requested delivery schedule is not commercially reasonable, Seller will make delivery as soon as commercially reasonable possible. Seller shall not be liable for delay in delivery or for failure to give notice of any delay. Buyer shall have no right to delay the delivery or shipment date, and Seller may charge reasonable storage charges for any Products which it holds for Buyer.

**6. Taxes and Other Charges:** Any tax or other charge imposed by any governmental authority with respect to the manufacture, sale, transportation, delivery and/or use of the Products ordered by Buyer from Seller will be added to the prices provided in any quote or purchase order. Buyer is responsible for all such taxes and charges in addition to the quoted price for Seller’s products and services. If Buyer’s shipping address is outside of the United States, items may be subject to taxes, customs duties and fees levied by the destination country (“**Import Fees**”). If so, Buyer shall be the importer of record in the destination country and is responsible for all Import Fees, for ensuring that the Products can be lawfully imported, and for complying with all laws and regulations of the destination country.

**7. Liability:** Seller shall in no event be liable for any incidental, consequential, indirect, punitive or special damages, including without limitation, loss of any Buyer products inserted into any containers sold by Seller, loss of profits, loss of data, use, goodwill, or other intangible losses, and/or any damages or losses resulting from design specifications, artwork, and/or decorations selected by, supplied by, and/or approved by Buyer. Seller’s liability and Buyer’s exclusive remedy for any cause of action arising out of any transaction and its performance, including negligence, is expressly limited, at Seller’s option and discretion, to replacement of nonconforming Products, or to payment in an amount not to exceed the purchase price of the specific Products for which damages are claimed. In no event shall Seller be liable to Buyer for any reason in an amount in excess of the amount paid by Buyer hereunder for the specific Products at issue.

Buyer shall not be entitled, without Seller’s prior written consent, to deduct or offset any amount or claim asserted against Seller from or against the price invoiced to Buyer for Products purchased by Buyer hereunder. Buyer’s failure to accept delivery of any installment of shipment of Products in the quantities and on the terms specified by any quote or purchase order, to fulfill any other provisions of any quote or purchase order, shall constitute a material breach of the entire transaction, in response to which, in addition to any other remedies available to Seller hereunder or at law or equity, Seller may in its sole discretion, by written notice to Buyer at least five days prior to the start of the succeeding month (i) declare the entire transaction terminated as of the breach date, or (ii) reduce the installments during the remainder of the term hereof to the quantity last ordered by Buyer.

Notwithstanding any statute of limitations to the contrary, in no event shall Buyer be entitled to commence any action for breach of any contract or warranty, expressed or implied, or for any loss or damages related to the Products, more than one (1) year after the date of Buyer’s receipt of such Products.

**8. Warranties:** Seller represents and warrants to Buyer that the Products will be of standard quality and will conform in all material respects to any applicable specifications that are expressly agreed to in writing by Seller, and that Seller will deliver the Products to Buyer free and clear of any liens or security interests. These warranties apply to Buyer only and not to any subsequent user or purchaser of the Products. Except for the foregoing warranties, the Products are sold “As Is” and Seller makes no other warranty of any kind or nature whatsoever, either express or implied, oral or written, by fact or by law, and all other warranties are hereby expressly disclaimed by Seller, including, without limitation, any implied warranties of fitness or suitability for a particular purpose, merchantability, arising out of course of dealing, custom or usage of trade, non-infringement or any other implied warranty. Seller in no way warrants that the Products sold hereunder will be compatible for use with any other product, good or component, or that the Products sold hereunder will be suitable for Buyer’s or any third party’s intended use, and Seller assumes no responsibility therefor.

Buyer hereby represents, warrants and covenants to Seller as follows: To the extent that Products hereunder are designed by Buyer, and/or the materials for any Products are selected by Buyer, such designs, materials and resulting Products (1) do not and will not infringe the intellectual property rights of any third party; (2) are and will be free of any material defects in design and materials including, without limitation, such defects as could create a hazard to person or property.

**9. Indemnity:** Buyer agrees to defend, indemnify and hold Seller and Seller’s owners, directors, officers, employees and agents harmless from and against all liabilities, damages, claims, causes of action, costs and expenses arising from or related to any breach by Buyer of any representation, warranty, and/or covenant contained in these Terms and Conditions, and/or from any use of the Products by Buyer or any customers of Buyer and/or any sales of goods or products by Buyer that include or utilize any Products.

**10. Waiver:** The failure of either party to insist in any one or more instances upon strict performance of any of the provisions hereof, or to take advantage of any of its rights, shall not operate as a continuing waiver of such rights.

**11. Governing Law:** The laws of the State of Texas, without regard to their conflict of law provisions, shall govern the transaction and these Terms and Conditions. The United Nations Convention of Contracts for International Sale of Goods shall not apply in any respect of this transaction. Exclusive venue for any action arising from or related to these Terms and Conditions and/or any Products sold by Seller to Buyer shall be in the state or federal courts located in Dallas County, Texas.

**12. Survival:** The terms set forth in these Terms and Conditions shall survive the delivery of any Products and fulfillment of any orders, and shall continue until any applicable statutes of limitations have expired.

**13. Severability; Entire Agreement:** If any provision of these Terms and Conditions is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of these Terms and Conditions will remain in effect. These Terms and Conditions constitute the entire agreement between Buyer and Seller regarding the Products sold by Seller, and supersede and replace any other or prior agreements, oral or written, regarding the Products.

**14. Amendments:** Seller reserves the right, in its sole discretion, to modify or replace these Terms and Conditions at any time. If a revision is material Seller will provide at least 30 days notice prior to any new terms taking effect. What constitutes a material change will be determined in Seller’s sole discretion. By continuing to order Products after any revisions become effective, Buyer agrees to be bound by the revised Terms and Conditions.

**15. Force Majeure:** Seller shall not be liable for failure to perform its obligations hereunder due to events beyond its reasonable control, including, but not limited to, strikes, parts or materials shortages, manufacturing difficulties, war, actual or threatened acts of terrorism, fires, natural disasters, acts of God, delays of carriers or suppliers, and acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any governmental body.

**16. Attorneys’ Fees:** In the event Seller initiates a collection action hereunder, Buyer shall reimburse Seller for all of its costs (including, without limitation, all of its attorneys’ fees and/or collection agency fees) incurred in connection therewith. In the event Buyer initiates any legal action regarding these Terms and Conditions, the prevailing party in any such action (including, without limitation, any mediation or alternative dispute resolution the parties may agree upon) shall be entitled to recover its reasonable attorneys’ fees and costs.