



## TERMS AND CONDITIONS OF SALE OF PRODUCTS BY OLIVER PACKAGING AND EQUIPMENT COMPANY

1. **Applicability.** The following Terms and Conditions ("Terms") are applicable to all sales by Oliver Packaging and Equipment Company ("Oliver") to the purchaser specified in the order ("Purchaser") and are the only conditions applicable to the sale of Oliver's products ("Products"), except conditions relating to price, quantities, delivery schedules, terms of payment, invoicing, shipping instructions, and the description and specification of the Products, together with other written conditions which may be mutually agreed upon by the parties. Oliver shall not be deemed to have waived any of these Terms if it fails to object to provisions appearing, or incorporated by reference in, or attached to Purchaser's purchase order or other purchase documents.
2. **Acceptance.** Oliver's offer to sell Products to Purchaser is expressly conditioned upon Purchaser's acceptance of these Terms. Oliver expressly rejects and objects to all new, different, or additional terms submitted by Purchaser in Purchaser's purchase order or other purchase documents. Oliver's acceptance of any orders for Products will not constitute acceptance of any terms or conditions contained therein.
3. **Payment Terms.** Unless otherwise stated in Oliver's quotations, payment in full of the price is due thirty (30) days after shipment at Oliver Packaging and Equipment Company, PO BOX 8506, Carol Stream, IL 60197-8506, U.S.A., without discount. Any payment not made when due shall accrue a finance charge of 1 1/2% per month.
4. **Warranty and Disclaimer.** Oliver warrants its Products to be free from defects in material and workmanship in all material respects for a period of one (1) year from date of shipment by Oliver. THESE WARRANTIES BY OLIVER ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. OLIVER SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.
5. **Exclusive Remedy.** OLIVER'S LIABILITY TO PURCHASER AND PURCHASER'S REMEDY FOR A BREACH BY OLIVER OF ANY OF THE PRODUCT WARRANTIES IS LIMITED, IN OLIVER'S DISCRETION, TO EITHER THE REPLACEMENT OF THE DEFECTIVE PRODUCTS RETURNED TO OLIVER OR TO A REFUND OF THE PURCHASE PRICE OF THE DEFECTIVE PRODUCTS (OR, IF NOT PAID, TO A CREDIT IN THE AMOUNT OF THE PURCHASE PRICE). IN NO EVENT SHALL OLIVER BE LIABLE FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS.
6. **Shipment.** Unless otherwise agreed in writing, all Product sales are F.O.B. Oliver's place of shipment. Oliver shall have no liability for delays, damage, or delivery failures occurring after the Product is delivered to the carrier. Purchaser is solely liable for detention and demurrage charges assessed at the destination. Product shortages and visibly damaged or defective Products must be reported to Oliver within 10 days of delivery. Purchaser may not withhold payment on uncontested product deliveries.
7. **Installments.** Oliver reserves the right to make delivery in installments, all such installments to be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Purchaser of its obligation to accept remaining deliveries.
8. **Cancellation.** No order accepted by Oliver may be cancelled or altered by Purchaser except upon terms and conditions acceptable to Oliver as evidenced by written consent signed by duly authorized personnel of Oliver.

9. Equipment. If this purchase involves equipment or machinery,

(a) Oliver shall have the right to make design or engineering changes in its parts, equipment, processes, and methods of manufacture, but shall make no change in operational or dimensional specifications submitted by Purchaser without Purchaser's prior written approval, and

(b) Purchaser shall install and operate the Product properly and according to Oliver's operating instructions and will not remove any safety devices, warnings, or operating instructions placed on the Product by Oliver.

10. Indemnity. If this purchase involves labels or packaging, Purchaser agrees to defend, indemnify, and hold harmless Oliver against any and all liability of any nature and any loss, damage, cost, or expense, including attorney's fees, arising out of any claim of infringement of any patent, trademark, or copyright arising out of this transaction.

11. Returns. Product returns will not be accepted without prior written approval of Oliver and a return authorization number issued by Oliver.

12. Taxes. Prices quoted are exclusive of all taxes. Purchaser shall pay to Oliver, in addition to the purchase price, the amount of all fees, duties, licenses, and all sales, use, privilege, occupation, excise, or other taxes, federal, state, local, or foreign which Oliver is required to pay or collect in connection with furnishing Products to Purchaser.

13. Force Majeure. Except for the obligation to make payments to the other party (which shall not be deferred or extended for any reason), neither party shall be responsible for any failure to perform or delay in performing if such failure or delay is due to any strike, riot, civil commotion, sabotage, embargo, war or act of God or other cause beyond its reasonable control. In addition, Oliver shall not be responsible for any failure to perform or delay in performing due to inability to obtain deliveries of necessary raw materials or packaging components where such inability is caused by a supplier to Oliver.

14. Modification. These Terms may be modified only by a writing signed by an authorized representative of Oliver.

15. Claims. In the event that there are clerical errors or other claims involving Products discovered after completion of a sale of Products, the party discovering the error shall promptly notify the other party. The parties agree that any claim or action arising out of or related to Products or to any sale transaction between Oliver and Purchaser, will be brought within one (1) year after the cause of action has accrued or be deemed waived.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Michigan without regard to any conflict of law or choice of law rules or provisions.