

## CONDITIONS OF SALE

### 1. CONTRACT TERMS

EVERY QUOTATION, OFFER TO SELL, OFFER TO PURCHASE, ACCEPTANCE OF OFFER TO PURCHASE, CONFIRMATION OF SALE, AGREEMENT, AND SALE OF OR RESPECTING PLASTIC CONTAINERS OR ANY OTHER PRODUCTS ("GOODS") SOLD BY GENPAK® LLC ("SELLER") AND BUYER ("BUYER") IS EXPRESSLY CONDITIONED ON ACCEPTANCE BY THE BUYER TO THESE CONDITIONS OF SALE WHICH MAY NOT BE VARIED OR WAIVED EXCEPT IN WRITING SIGNED BY SELLER'S DULY AUTHORIZED REPRESENTATIVE, ANY LAWS OR RULES OF CONSTRUCTION OF CONTRACTS TO THE CONTRARY NOTWITHSTANDING. SHIPMENT PURSUANT TO BUYER'S ORDER CONTAINING DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS DOES NOT CONSTITUTE ACCEPTANCE THEREOF.

### 2. PRICES

Prices are subject to change without notice. Respecting any order accepted for shipment, Seller's prices in effect on the date of shipment shall apply. Seller reserves the right to select the carrier. Any excess transportation charges arising through Buyer's selection of carrier shall be borne by Buyer. Seller may, at its option, make partial shipment and invoice for same.

### 3. TITLE, RISK OF LOSS

Unless otherwise specified within Seller's order acknowledgement, price and delivery terms are FOB Seller's plant or Seller's warehouse and do not include sales, use or other taxes.

### 4. LIMITED WARRANTY

SELLER EXPRESSLY WARRANTS THAT ALL UNUSED GOODS FURNISHED BY SELLER ARE FREE FROM DEFECT IN WORKMANSHIP AND MATERIALS AS OF THE TIME OF SHIPMENT BY SELLER. SELLER DISCLAIMS ALL OTHER EXPRESS WARRANTIES AND ALL IMPLIED WARRANTIES AS TO THE QUALITY OF ANY GOODS, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSES. ALL SELLER WARRANTIES AND OTHER DUTIES WITH RESPECT TO THE QUALITY OF ANY GOODS ARE CONCLUSIVELY PRESUMED TO HAVE BEEN SATISFIED AS OF THIRTY-DAYS FROM THE DATE OF SHIPMENT BY SELLER, EXCEPTING ONLY OBLIGATIONS OUTSTANDING UNDER VALID WARRANTY CLAIMS PRESENTED IN WRITING TO SELLER PRIOR TO THE CLOSE OF SUCH THIRTY-DAY PERIOD. IN THE CASE OF SELLER'S BREACH OF ANY WARRANTY OR ANY OTHER DUTY WITH RESPECT TO THE QUALITY OF ANY GOODS, THE EXCLUSIVE REMEDY THEREFORE IS REPLACEMENT, OR IN APPROPRIATE CASES, PAYMENT OF OR CREDIT FOR THE PURCHASE PRICE UPON THE RETURN OF THE GOODS.

SELLER RECOMMENDS THAT BUYER TEST SUITABILITY OF GOODS BEFORE THE COMMENCEMENT OF FULL-SCALE PACKAGING OPERATIONS.

### 5. SELLER'S LIABILITY

MAXIMUM LIABILITY OF SELLER, IF ANY, DUE TO INFERIOR QUALITY OR DEFECTIVE CONDITION, DELAY, FAILURE TO SHIP, OR FROM ANY OTHER CAUSE, SHALL BE TO REFUND IF PAID, OR OTHERWISE TO CREDIT TO BUYER, THE PURCHASE PRICE OF THAT PART OF THE GOODS WHICH ARE INFERIOR IN QUALITY, DEFECTIVE, UNSHIPED OR SUBJECT TO SUCH OTHER CAUSE OR CONDITION AS MAY BE THE BASIS OF CLAIM. NO CLAIM AGAINST SELLER SHALL BE ALLOWED UNLESS BUYER COMPLIES WITH THE PROVISIONS OF CONDITION 6.

SELLER HEREBY EXPRESSLY DISCLAIMS ALL RESPONSIBILITY AND ANY LIABILITY WHATSOEVER RESPECTING ANY PRODUCT PACKED WITHIN THE GOODS AND RESPECTING ALL SUCH PACKAGING OPERATIONS.

### 6. CLAIMS

Upon delivery, Buyer shall make prompt inspection, and all claims must be made in writing to Seller within thirty-days after delivery. Buyer will afford Seller's representative reasonable opportunity to examine and test the Goods being the basis for any claim. As a condition for refund or credit, Seller may request Buyer to return to Seller, transportation charges collect, the Goods upon which the claim is made in as good condition as when received by the Buyer, except such part, if any, as cannot be returned due to the necessary use or testing to determine the existence of any inferior quality or defective condition. Upon request Buyer shall also return, if possible, the said Goods tested. No claim against Seller shall be made or allowed or credit given for Goods returned without prior authority of Seller in writing.

In the event the Goods are received in damaged condition not acceptable for use, or an order is received short, Buyer shall notify Seller. A copy of the delivery carrier's receipt, indicating the damage or shortage and the disposition of the damaged goods must accompany such notification. Deduction must not be taken against the original invoice.

### 7. NO CONSEQUENTIAL DAMAGES

UNDER NO CIRCUMSTANCES SHALL SELLER OR BUYER BE LIABLE TO EACH OTHER FOR ANY CONSEQUENTIAL DAMAGES, WHETHER BASED UPON LOST GOODWILL, LOST RE-SALE PROFITS, WORK STOPPAGE, IMPAIRMENT OF PRODUCTS OR OTHERWISE AND WHETHER ARISING OUT OF BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE, EXCEPT ONLY IN THE CASE OF PERSONAL INJURY WHERE APPLICABLE LAW REQUIRES SUCH LIABILITY.

### 8. RIGHT TO CANCEL

Seller reserves the right to cancel any order at any time after ninety days from date of Seller's acknowledgement if the order has not been shipped, unless the delay is that of the Seller and is not due to an event of force majeure.

### 9. PATENT INFRINGEMENT

Seller reserves the right to discontinue deliveries of any Goods, the manufacture, sale or use of which in its opinion would involve patent infringement.

### 10. TAXES

Any quotations on prospective sales, and prices named by Seller for current or future delivery of any Goods within the United States and are made with the understanding that any tax, duty, or impost, shipping or other charge, effective of the present time or hereafter made effective respecting any of the Goods, or the manufacture, transportation or sale thereof, shall be added to such price and paid by Buyer.

### 11. FORCE MAJEURE

Seller shall not be responsible for its inability to provide products based on the following contingencies which, without limitation, might render Seller's performance impractical or impossible: strikes, riots, fires, war, late or non-delivery by Seller's suppliers, assertion by third parties of infringement claims, compliance with any order, recommendation or request of any government authority or agency and all other contingencies beyond Seller's reasonable control. Seller reserves the right to equitably allocate its available goods among its customers, including its own affiliates.

### 12. GOVERNING LAW

The Uniform Commercial Code, as enacted in the State of New York, shall govern all transactions to which these standard conditions of sale apply.