

TERMS AND CONDITIONS OF PURCHASE ORDER – INNO-PAK, LLC

1. Definitions

- “Agreement” means a paper or electronic agreement between Seller and Purchaser duly executed by authorized representatives of both parties to sell or provide and to buy or use goods or services pursuant to which a Purchase Order is issued by the Purchaser. To the extent that these Terms and Conditions conflict with any term in an Agreement between Seller and Purchaser, the terms of the Agreement shall govern.
- “Purchase Order” means a written order or release issued by Purchaser and that incorporates these Terms and Conditions. To the extent that these Terms and Conditions conflict with any term in a Purchase Order, the terms of the Purchase Order shall control.
- “Seller” means the party identified as the Seller in the Agreement or the Purchase Order. “
- “Purchaser” means INNO-PAK, LLC and its subsidiaries, related and sister companies, and affiliates.
- “Parties” shall mean Purchaser and Seller.

2. Acceptance

Seller’s acceptance of any Purchase Order, or by shipping goods or providing services, shall evidence its acceptance of these Terms and Conditions. These Terms and Conditions shall be incorporated into any agreement between the Parties. Any contrary term contained in any quotation, order, acknowledgement, invoice or other document originating from Seller is hereby rejected and does not govern the Purchaser and Seller’s relationship.

3. Blanket Order

If the Purchase Order is designated by Purchaser as a blanket order, Purchaser shall be obligated to purchase only those quantities of goods which it specifically requests under separate subsequent release orders issued by Purchaser to Seller.

4. Price

The Price shall be that stated in the Purchase Order unless such price exceeds the Price stated in the Agreement, if any, or the lowest price at which Seller is selling similar goods or services to its other customers as of the date of delivery to Purchaser, in which case the lower price shall control. If there is no price stated in the Purchase Order or Agreement, the Price shall not be higher than that last charged or quoted to Purchaser for such good or service by Seller. If prior to delivery of the goods or prior to providing the services, Purchaser is able to purchase the goods, or similar goods of like quality, or the services at a price which is less than the Price, Purchaser shall notify Seller of the Price change. Should Seller fail or refuse to meet such lower price, Purchaser may, at its option, cancel the Purchase Order and purchase from the other source at the lower price, in which event Purchaser and Seller shall be released of their obligations under the Contract in respect of that portion of the goods or similar goods purchased from the other source.

5. Quality; Drawings and Specifications

The goods supplied by Seller shall equal or exceed the quality of any production samples or industry standard, whichever is higher, and shall conform to Purchaser's specifications and quality control standards. Any specifications, drawings, notes, instructions, engineering information, or technical data furnished by either Purchaser or Seller to the other, or referred to in the Agreement or Purchase Order, shall be incorporated herein by reference. Seller shall be solely responsible for obtaining any product data for the design, manufacture, fabricate, construct and deliver the goods in compliance with all requirements of the Agreement or the Purchase Order. Purchaser shall retain title to all such data and design documentation, and Seller shall not use any of such documents or the information contained therein for any purpose other than in performance of the Agreement or Purchase Order. Seller shall not disclose such data or design documentation or any information related to the goods or services to any party other than Purchaser or a party duly authorized by Purchaser.

6. Delivery; Customs Compliance

The Seller shall deliver the goods or provide the services to Purchaser on the date(s) indicated in the Purchase Order. Time is of the essence. Seller shall immediately notify Purchaser if it is not going to meet the delivery date set forth in the Purchase Order and provide the anticipated revised delivery date. If Seller fails to meet the delivery date(s) indicated in the Purchase Order, the Purchaser may terminate the Purchase Order and pursue other remedies. Unless otherwise indicated on the Purchase Order, all shipments shall be delivered F.O.B. to the destination designated by Purchaser in the Purchase Order, and title and risk of loss shall remain with Seller until the goods are received by Purchaser. Seller will mail Bills of Lading and Shipping Notices directly to the F.O.B. destination on the day of shipment unless Purchaser requests otherwise. Bills of Lading shall indicate the relevant Purchase Order number. Seller, or the carrier it uses to deliver goods, whichever is applicable, shall: (a) maintain a "satisfactory" safety rating from the U.S. Department of Transportation and upon request, shall provide Purchaser with written proof if the carrier is a motor carrier, and (b) shall maintain comprehensive general liability, bodily injury and property damage insurance in not less than the amount required by Section 18 below, unless a larger amount is required by any federal, state, or local regulatory agency, in which event such larger amount shall be maintained.

Seller shall issue one commercial invoice and packing list for each shipment of goods in English that includes relevant invoice details such as price, quantity, item number, purchase order number, HTS code, country of origin and address of manufacturing location. Seller's packing list must also accurately state the weights by line item number. Seller shall provide to Purchaser the country of origin of manufacture validation for the goods on an annual basis and shall certify to Purchaser on an annual basis that the country of manufacture for the goods is accurate and correct on all documentation and declarations. Seller agrees that any transshipments of goods will not change the original country of origin of manufacture of the goods.

7. Warranty

Seller warrants that all goods will: (a) be of merchantable quality; (b) be fit for a particular purposes; (c) be new and be free from defects in material and workmanship; (d) comply with the Purchaser's or Seller's specifications, performance guarantees and requirements; and (e) comply with all laws, regulations, and established industry standards. All goods shall be sold by Seller to Purchaser free and clear of any liens and encumbrances. Seller's warranties shall survive inspection, delivery, and acceptance of the goods and/or payment by Purchaser. If the goods are nonconforming or defective, then, at Purchaser's option, Seller shall repair or replace the defective goods, F.O.B. at Purchaser's designated site at Seller's expense, or in the case of services, re-perform the services at Seller's expense or refund any amount paid for the goods or services. Notwithstanding the foregoing, Seller shall be responsible for all expenses and damages that Purchaser incurs because of the breach of warranty or any other term of this Agreement. Disclaimers of express or implied warranties and limitations of liability in any Seller document will be of no effect unless specifically agreed to in writing by Purchaser.

8. Changes

Purchaser shall have the right to make changes in the specifications or description of the goods, method of shipment or packing and/or the time and/or place of delivery. Purchaser shall give Seller written notice of any such change and may include any increase or decrease in the cost of or the time required for performance that is reasonably determined by Purchaser. If Seller does not agree with such adjustments, Seller shall still be obligated to proceed immediately with all of the changes directed by Purchaser without waiting to reach an agreement on any such adjustments. Any claims by Seller for adjustments after its receipt of Purchaser's notice must be asserted in writing to Purchaser not more than ten (10) days after such receipt by Seller or such claim shall be null and void.

9. Payments and Invoices

Payment terms for all purchases are stated in the Purchase Order or the Agreement. If the Purchase Order or the Agreement is silent as to payment terms, all invoices are due within forty-five (45) days from receipt. Unless otherwise specified in a written agreement signed by Purchaser, no invoice shall be issued by the Seller before the shipment of goods or completion of performance of the services. All invoices shall include the purchase order number on the invoice and shall be delivered to the address specified by Purchaser. All claims for money due from Purchaser shall be subject to set-off by Purchaser by reason of any claim arising out of the parties' relationship or any other transaction with Seller.

10. Inspection

Purchaser may inspect any goods prior to delivery at reasonable times and shall have the right to inspect such goods at the time of their delivery. Purchaser has the right to reject a good for being defective at any time and the inspection of the good does not waive Purchaser's right.

11. Intellectual Property

The Seller shall indemnify, defend and hold harmless the Purchaser, its customers, and agents from any and all actual or alleged claims for infringement of any patent, copyright, or trademark by reason of the design, manufacture, purchase, use or sale of the goods and shall indemnify the Purchaser for all costs, expenses, judgments, liability and damages, including reasonable attorneys' fees, which the Purchaser may incur or have rendered against it by reason of any alleged or actual infringement. Purchaser reserves the right to be represented by its own counsel in any infringement proceeding. In the event of an infringement claim Purchaser may require any of the following: (a) procure for Purchaser the right to continue using the goods; (b) replace the goods with equivalent or better non-infringing goods, or (c) modify the goods, so that they become non-infringing, provided they perform in an equivalent or better manner.

12. Compliance with Laws and Regulations

Seller warrants that neither any of the goods provided to Purchaser nor their manufacture, fabrication, construction, transportation or use shall violate or cause Purchaser to be in violation of any federal, state or local law, code, ordinance, regulation, standard, rule, requirement or order. In the event of any conflict between the provisions of any laws, codes, ordinances, regulations, standards, rules, requirements or orders described in this Section 12, the more or most stringent provisions shall apply. Seller shall promptly take, at its expense, all action necessary to make all goods comply with the applicable Federal, State or local laws, codes, ordinances, regulations, rules, standards, requirements or orders after Seller receives either from the applicable agency or from Purchaser a notice that some violation exists with respect to the goods. If Seller fails to promptly take such action, Purchaser may take all such action at Seller's expense. Seller shall also be liable for the payment of any penalties, fines imposed as a result of

the failure of any good provided by or for Seller hereunder to comply with all of the above requirements and any recall or corrective action costs.

13. Tooling Ownership and Maintenance

Purchaser shall own all right, title and interest in any tooling supplied or paid for by Purchaser that is used to manufacture goods and components free and clear of all security interests, liens or encumbrances. Seller shall at its cost take all such maintenance and repair actions as are required to ensure that all tooling, equipment and mold(s) are and remain capable of producing the components and finished goods as long as the tool has not exceeded its contractual life cycle. In the event any tooling, equipment or mold(s) necessary for the supply of the goods is damaged, lost or destroyed during the term of this Contract, Seller shall promptly repair or replace such tooling, equipment or mold(s) at its cost. All substitutions, replacements and renewals made in or to any tooling, equipment or mold(s) shall be the property of the party that owned such tooling, equipment or mold(s) immediately prior to such substitution, replacement or renewal, free and clear of all security interests, liens or encumbrances. Except for ordinary or customary maintenance, Seller shall not modify any of Purchaser's tooling without the prior written consent and approval of Purchaser. Seller shall allow Purchaser or its duly authorized agent or representative, upon reasonable request and notice, access to inspect the Purchaser's tooling.

The Seller shall mark all of Purchaser's tooling with an identifying plate in English which indicates:

- That the tooling is property of Purchaser
- The Purchaser's tooling number and Purchaser's item name and item number

Seller acknowledges that operator training will be required prior to safe operation of Purchaser's tooling, equipment and mold(s), and Seller agrees to provide all required training and supervision to its employees in respect thereto. Seller further agrees to comply with all applicable laws and regulations, including but not limited to laws concerning employee health and safety, regarding its general operations and specifically its utilization of Purchaser's tooling, equipment and mold(s).

All tooling, equipment and mold(s) which are the property of the Purchaser shall, and may only, be moved at Purchaser's written request without any encumbrances. Upon request of Purchaser, all such tooling, equipment and mold(s) shall be promptly crated (so as to prevent damage in shipment) and shipped in good order, by and at the cost and risk of Purchaser, delivery point as directed by Purchaser notwithstanding any financial or other dispute between the parties. In the event Seller refuses or fails to return such tooling, equipment and mold(s), Seller hereby consents to Purchaser or its representative entering Seller's premises, with or without notice, for the purpose of repossession such tooling, equipment and mold(s) and Seller hereby covenants not to contest any such repossession action. Seller waives any state or local mold lien rights.

14. Indemnity

Seller shall defend and indemnify and hold Purchaser and its agents, customers, consignees, employees and representatives harmless from and against all expenses, costs, charges, damages, claims, suits, losses, fines, penalties or liabilities (including reasonable attorneys' fees) of every kind whatsoever by reason of, arising out of, or in any way connected with its performance under any Purchase Order, Agreement, or any other agreement between the Parties. This indemnification shall be in addition to the warranty obligations of the Seller. Seller, in any indemnification claim hereunder, hereby expressly and without reservation waives any defense or immunity it may have under any applicable Workers' Compensation laws or any other statute or judicial decision, disallowing or limiting such indemnification, and Seller consents to a cause of action for indemnity.

15. Insurance

Seller shall take out and maintain with a carrier acceptable to Purchaser the following minimum insurance for the duration of the Parties' relationship (including all warranty periods thereunder) covering all of Seller's obligations and naming Purchaser as an additional-named insured: (a) Workers' Compensation – Statutory; (b) Employer's Liability – Bodily Injury by Accident - \$3,000,000 each accident; Bodily Injury by Disease - \$1,000,000; (c) Commercial General Liability (Bodily Injury, including premises, contractual, products liability or completed operations coverage) \$3,000,000 in the aggregate; \$1,000,000 each occurrence in the aggregate with a single excess umbrella coverage of not less than \$5,000,000 for combined bodily injury and property damage; (d) Commercial General Liability (Property Damage, including premises, contractual, products liability or completed operations coverage with the explosion, collapse and underground damage exclusions deleted) \$1,000,000 each occurrence; \$3,000,000 in the aggregate; (e) Business Automobile Liability – Bodily and Property Damage, \$3,000,000 combined single injury limit and each occurrence; (f) if Seller is providing a professional service, Errors and Omissions Liability – not less than \$3,000,000 per year covering Seller's obligations under the Contract with a per claim deductible satisfactory to Purchaser, (g) if Seller will access Purchaser's systems or have sensitive information from Purchaser, Network Security & Privacy Liability insurance in an amount of at least \$5,000,000 covering first and/or third party liability for financial loss, legal damages with a duty to defend by an attorney and indemnification settlement, (h) if Seller will supply or make changes to software or hardware or engage in systems development, Technology Professional Liability Errors and Omissions Insurance covering the liability for financial loss legal damages with a duty to defend by an attorney and indemnification settlement with a limit of at least \$5,000,000 and (g) Cargo Liability Insurance, if applicable, including a BMC 32 Endorsement in accordance with 49 CFR 387.301 covering loss or damage to goods being transported with a limit of not less than \$500,000 per vehicle and not less than \$10,000,000 per terminal, and naming INNO-PAK, LLC as Loss Payee. Any exclusions in such cargo liability insurance shall be reasonable having regard to the goods being transported, expressly set out in the certificate, and subject to Purchaser's prior approval The completed operation coverage of the products liability coverage described above under the commercial general liability insurance shall be kept in effect for the longer of two years from the date of Purchaser's initial commercial use of the goods or the period stated in the first sentence of this Section. None of the above insurance coverage shall be cancellable except upon thirty (30) days prior written notice to the Purchaser and to all other insured parties, and Seller shall provide Purchaser with a copy of any such cancellation notice immediately after Seller's receipt of it. Seller shall include Purchaser as an additional insured on all liability insurance.

16. Termination, Suspension or Delay

Purchaser shall have the right, for any reason, at any time to terminate, suspend any Purchase Order or any other order of goods or services, in whole or in part, by providing written notice to Seller. In the case of termination, Seller shall then transfer to Purchaser, all materials and all information accumulated, specifically prepared or acquired by Seller for use in the performance of its obligations to Purchaser. The Seller shall make all efforts necessary to preserve the work in progress and to protect the goods whether still at Seller's manufacturing facilities or in transit to Purchaser's facilities. If Seller is not in default of its obligations at the time of termination, Purchaser shall pay to Seller, as Seller's sole and exclusive remedy for termination, an amount equal to: (a) the reasonable and documented costs incurred by Seller prior to Seller's receipt of notice of termination, plus, (b) the reasonable and documented costs and charges incurred by Seller in winding up its activities, provided, however, that the amounts listed in (a) and (b) of this Section shall in no event exceed the total amount owed on any open Purchase Order or order at the time of the termination. Before Purchaser resumes performance under the Contract following such suspension or delay, Seller and Purchaser shall negotiate in good faith on the adjustments, if any, which may be required in payments to Seller or in the Price to avoid inequities either to Seller or Purchaser.

17. Default

If the Seller: (a) becomes insolvent; (b) has a petition under any chapter of the bankruptcy laws filed by or against it; (c) makes a general assignment for the benefit of its creditors; (d) has a receiver requested for or appointed to it; (e) fails to comply with any of its obligations under the Purchase Order or the Agreement, then Purchaser may, in addition to its rights under these Terms and Conditions, at its option

either cure the default at Seller's expense or terminate the Purchase Order, the Agreement, or any relationship between the Parties after first giving Seller ten (10) days written notice to cure such default. Immediately after such termination, Purchaser may: (i) take possession of the goods wherever they may be located and in whatever state of completion they may be together with all drawings and other design data and information; (ii) pay to Seller any amount then due under the Contract after taking full credit for any offsets to which Purchaser may be entitled; and (iii) collect from the Seller any additional expense, losses or damage which Purchaser may suffer.

18. Packing and Marking

All goods shall be packed, crated and braced to prevent damage or deterioration and in accordance with all applicable laws with no charges being paid by Purchaser for packing, crating or bracing. The contents of each shipping container shall be clearly identified on the outside of the container, and the applicable Purchase Order number for the contents shall be clearly stated on the outside of each such container.

19. Independent Contractor

Seller is acting as an independent contractor, and the manner and means of conducting the work or services and all individuals who will be performing the work or services in connection with the Purchase Order or the Agreement will be under Seller's sole control. Seller shall be solely responsible to Purchaser for the acts and omissions of all such individuals. Under no circumstances shall any of such individuals be or be deemed to be employees or agents of Purchaser. Seller shall pay, as required by applicable laws, all wages, overtime pay, taxes and benefits for its employees, and shall meet any and all Federal and State employment laws and regulations and shall hold Purchaser harmless from any fines or costs in connection therewith.

20. Confidential Treatment; Ownership of Designs

Purchaser has disclosed or may disclose proprietary information to Seller relating to Purchaser's customers, suppliers, licensors, methods of operation, financial status, cost of materials, price of products and services, market plans, product designs and concepts, product information, operational policies, and other business and/or technical information. Seller shall hold all such information confidential and shall not use said information for any purpose other than as required to perform its obligations under the Purchase Order or Agreement. Seller shall not copy, duplicate or otherwise use Purchaser's product designs and concepts or other confidential and proprietary information for any reason other than to fulfill its obligations to Purchaser. The requirements of this Section shall apply to all information received from Purchaser other than: (a) information that is known to Seller prior to its receipt from Purchaser, (b) information that is generally known in the public through no breach of this section by Seller, and (c) information received by Seller from any third party not bound to Purchaser to maintain such information confidential. The requirements of this Section shall survive for five (5) years following the termination of the Contract.

21. Assignment

Purchaser shall have the right, at its sole discretion, to assign any of its rights hereunder to any of its affiliates or to a successor-in-interest to all or substantially all of its membership interests or assets. Seller may not assign any of its obligations under the Contract without the prior written consent of Purchaser, which may be denied in Purchaser's sole discretion. Any attempted assignment or transfer by Seller of its obligations under the Contract shall be void and of no effect unless the prior written consent of Purchaser has been obtained.

22. Waiver

The failure of either party hereto to require strict compliance with or complete performance of any obligation of the other party hereto by such other party shall not be construed as a waiver of any subsequent breach by such other party or any obligation under these Terms and Conditions or any Purchase Order or Agreement between the Parties.

23. Entire Agreement

These Terms and Conditions, and any Purchase Order and Agreement, sets forth the entire agreement between Seller and Purchaser related to the goods or services and supersedes any prior agreement, negotiations, or representation. The agreement between Purchaser and Seller may only be modified in writing and signed by Seller and Purchaser.

24. Severability

In the event that any clause, section, other provision of the Contract is deemed to violate any applicable statute, ordinance or rule of law in any jurisdiction, such provision shall be ineffective to the extent of such violation without invalidating any other provision of the Contract and shall not invalidate the enforceability of these Terms and Conditions.

25. Governing Law

The Contract and all the performance thereunder shall be exclusively governed by and construed in accordance with the laws of the State of Ohio, U.S.A.. Any dispute between the Parties shall exclusively be heard in the Courts sitting in Delaware County, Ohio or the United States District Court, Southern District of Ohio, and the Parties succumb and surrender to the personal jurisdiction of said Court and waive the defenses of improper or inconvenient venue and lack of personal jurisdiction. If a party is not a resident of the United States, such party waives any defense related to service under the Hague Convention or any other international treaty and hereby appoints the Secretary of State of the State of Ohio as its agent for service of process. The Parties waive the application of the United Nations Convention on Contracts for the International Sale of Goods.