



MM SOLUTIONS

STANDARD SALES TERMS AND CONDITIONS

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Buyer agrees that the purchase of good(s) and/or service(s) from MM Solutions will be governed exclusively by these terms and the explicit provisions of any applicable purchase order(s) (taken together, the “Purchase Order” or “Order”).

As used herein from time to time, “Seller” means MM Packaging Products, Inc., a Colorado business corporation d/b/a MM SOLUTIONS (also, “MM Solutions”), and “Buyer” means the Buyer of the goods (“Product” or “Products”) and/or services (“Service” or “Services”) that are subject of the Order.

1. **ACCEPTANCE; ENTIRE AGREEMENT.** Buyer’s acceptance of these terms and conditions shall be indicated by any of the following, whichever first occurs: (a) Buyer’s making of an offer to purchase Products from Seller; (b) Buyer’s written acknowledgment hereof; (c) Buyer’s acceptance of any shipment of any part of the Products; or (d) any other act or expression of acceptance by Buyer. Seller’s acceptance is expressly limited to the terms and conditions hereof in their entirety without addition, modification, or exception, and any term, condition, or proposals hereafter submitted by Buyer (whether oral or in writing) which is inconsistent with or in addition to the terms and conditions set forth hereon is objected to and is hereby rejected by Seller. Seller’s silence or failure to respond to any such subsequent or different term, condition, or proposal shall not be deemed to be Seller’s acceptance or approval thereof.

2. **DELIVERY AND FREIGHT.** Unless otherwise agreed in writing, delivery shall be made in accordance with Seller’s shipping policy in effect on the date of shipment. For all domestic transactions, unless otherwise stated on the front of the invoice, title to, and all risk of loss or damage with respect to the Products shall pass to Buyer upon delivery by Seller to the carrier or to Buyer’s representative. For all international transactions, Products shall be sold on a delivered, insurance paid, duty and international freight unpaid basis. Seller assumes no responsibility for charges attendant to Customs clearance in the country of delivery, customs duty, VAT or any other charges or taxes within the country designated for delivery by the Buyer. Title and risk of loss shall pass to the Buyer upon delivery to the port designated by the Buyer and prior to Customs clearance. In no event shall Seller have any liability to Buyer or any third party for any (i) damage to, or loss of, any vehicle used to carry Products purchased by Buyer from Seller, whether such vehicle belongs to Buyer or a third party, or to any other vehicle belonging to a third party; (ii) damage to, or loss of, the Products or to a third party’s property (real or personal); (iii) injury to any person (whether the driver of the vehicle carrying the Products or an unassociated third person); or (iv) any other loss of any kind, resulting from a failure by Buyer or a freight carrier to properly transport Products. To the fullest extent permitted by law, Buyer shall, at Buyer’s sole cost and expense, indemnify, defend, release and hold harmless Seller, and its officers, directors, agents and employees, from and against any and all claims, demands, lawsuits, or proceedings of any kind brought or threatened against Seller and/or its officers, directors, agents and employees resulting, in whole or in part, from any failure by Buyer or a third party freight carrier to properly transport the Products. Delivery is subject to the payment provisions set forth herein and to Seller’s receipt from Buyer of all necessary information and documentation from Buyer including all import certificates, exemption and/or resale certificates, licenses, and other documents as may be required from Buyer for export of Products. Buyer shall promptly notify Seller, in no event later than five (5) business days after delivery, of any claimed shortages or rejection as to any delivery. Such notice shall be in writing and shall be reasonably detailed, stating the grounds for any such rejection. Failure to give any such notice within such time shall be deemed an acceptance in full of any such delivery. If Buyer does not take delivery by the date which Buyer requested, then Seller may impose applicable storage fees for each day after such date until Buyer takes delivery.



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3. **PRICE AND PAYMENT.** Buyer shall bear all applicable federal, state, municipal, and other government taxes (such as sales, use, and similar taxes), as well as import or customs duties, license fees and similar charges, however designated or levied on the sale of the Products (or the delivery thereof) or measured by the purchase price paid for the Products. (Seller's prices set forth on the front side of the invoice may not include such taxes, fees and charges.) Exemption certificates must be presented prior to shipment if they are to be honored. Seller, at its discretion, may require reasonable advance assurances of payment through irrevocable bank letters of credit or otherwise. All unpaid invoices shall bear interest at an amount equal to 1-1/2% of the outstanding balance per month (or the maximum rate of interest allowed to be contracted for by law, whichever is less), commencing upon the date payment is due. Buyer's failure to make timely payment may result in such action as commencement of proceedings for collection, revocation of credit, stoppage of shipment, delay or cessation of future deliveries, repossession of unpaid delivered goods, and termination of applicable sales agreements. Seller's invoices shall be due for payment in (30) days unless discount terms have been confirmed in writing or otherwise indicated on the face of the Order, in the amount shown on the invoice.
4. **MODIFICATIONS.** No modification of this Order shall be binding unless in writing and signed by an authorized representative of each party; provided, however, MM Solutions may at any time, at its sole discretion, make changes to any Product, including the source of supply of any components thereto, that do not adversely affect the performance of the Product. If Buyer requests that MM Solutions incorporate a design or engineering change into a Product, such request shall include a description of the proposed change sufficient to permit MM Solutions to evaluate it. The evaluation shall be in writing and shall state the impact of the requested change on the existing delivery schedule and cost. MM Solutions shall not be obligated to proceed with a requested change until the parties have agreed on the changes to the Product, specifications, estimated delivery schedule and pricing, and any other material matters.
5. **DELAYS AND CANCELLATIONS.** "Delay/Cancellation Costs" include all labor, materials, overhead, general and administrative costs, restocking charges, surcharges levied on material by outside suppliers, sub-vendor cancellation charges, excess inventory charges, value of storage space, inventory tax charges, banking and finance charges, scrapping and disposal fees, and other harm, costs and charges incurred directly or indirectly by MM Solutions in connection with a delay or cancellation of an order for any Products or Services. Cost will be determined according to the then-current cancellation and production policy of MM Solutions. Buyer is not entitled, without the prior written consent of MM Solutions (which may be withheld or conditioned in its sole discretion), to cancel or delay a delivery of any Products or Services for all or any part of an Order. MM Solutions may treat as a cancellation any proposed delay greater than 60 days. If MM Solutions consents to the cancellation or delay, Buyer shall pay a cancellation or delay charge in an amount determined by MM Solutions in its sole discretion to reflect all applicable Delay/Cancellation Costs, including, at a minimum, a storage charge, inventory carrying costs, financing costs associated with the finished Products or Services, work in process and raw materials, and costs of inactive labor, from the original request date until the time of delivery or performance. In the case of cancellation, the charge may also include a reasonable and equitable profit. If work on an Order requires material from Buyer or a third party selected by Buyer, and MM Solutions does not timely receive material that strictly conforms to its requirements, including physical properties and dimensions, MM Solutions may delay performance of or cancel the Order without liability, and Buyer shall compensate MM Solutions for all Delay/Cancellation Costs, including for costs incurred and time expended working on non-conforming material.



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6. **AUDIT.** Unless otherwise agree to in writing by an authorized representative of MM Solutions, Buyer shall have no right to audit any books or records of MM Solutions, and Buyer shall have no right to enter into any facility owned or controlled by MM Solutions without prior written consent.
7. **BUYER'S FINANCIAL CONDITION.** Buyer must supply a completed, signed credit application. MM Solutions shall have the right, by written notice, to suspend performance, terminate any agreement of the parties, cancel any order, modify any payment terms, or require full or partial payment or adequate assurance of performance from Buyer, without liability for MM Solutions, in the event of a material adverse change in the Buyer's financial condition or if reasonable grounds for insecurity arise with respect to Buyer's performance of any agreement, evidence of which might include, among other things, (i) the failure by Buyer to make a payment to MM Solutions when due, (ii) Buyer's inability to obtain financing, (iii) a reduction in Buyer's credit rating by a recognized rating agency, (iv) Buyer's insolvency, (v) the filing of a bankruptcy by or against Buyer (whether voluntary or involuntary), (vi) the appointment of a receiver or trustee for Buyer, (vii) the execution by Buyer of an assignment for the benefit of creditors, or (viii) any other event which raises reasonable doubts as to Buyer's creditworthiness. The modifications MM Solutions may make to payment terms include, without limitation, shortening the payment period, requiring advance payment, or requiring payment of cash on delivery or prior to production. MM Solutions shall notify Buyer in writing of any modifications to payment terms, which may be made retroactive to include amounts then accrued but unpaid. MM Solutions reserves the right to cancel Buyer's credit at any time for any reason, without notice. The foregoing remedies are in addition to any other rights and remedies of MM Solutions under any agreement and applicable law
8. **WAIVER.** A waiver of any term or condition of the Order must be in writing. No such waiver shall be construed as a waiver of any other term or condition, or as a waiver of any subsequent breach of the same term or condition, and no failure to enforce a term or condition shall effect any waiver of all or part of such term or condition.
9. **TERMINATION.** Either party may terminate the Order upon written notice with immediate effect if: (a) the other party commits a material breach of this Order and fails to remedy this breach within thirty (30) days of written notice requiring it to do so; or (b) the other party makes an assignment for the benefit of its creditors or a proposal under any applicable bankruptcy or insolvency legislation, is declared bankrupt or insolvent, has a trustee, receiver or receiver manager, liquidator or other officer with similar powers appointed for all or any material part of its property, or is the subject of an order or resolution for its winding up.
10. **EXAMINATION; SUITABILITY CLAIMS.** Buyer acknowledges that it should examine each shipment promptly upon arrival. MM Solutions will recognize no claims for any cause after Products have been changed in any manner (except for reasonable test quantities). It is Buyer's responsibility to determine whether Products are suitable for the contemplated use, whether or not such use is known to MM Solutions. Buyer waives all claims of which MM Solutions has not been notified in writing within five (5) days after the arrival of Products at destination.
11. **WARRANTIES.** Unless otherwise provided herein, MM Solutions warrants title and that all Products sold hereunder shall conform in material respects to the Order. Except as otherwise expressly stated herein, MM Solutions MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO ANY GOODS, PRODUCTS, OR SERVICES.



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12. **TECHNICAL ADVICE.** Any technical advice furnished before or after delivery in regard to the use of Products is furnished on the basis that it represents the best judgment of Seller under the circumstances, without further warranty or representation. The Products are used at Buyer's sole risk.
13. **LIMITATION OF LIABILITY.** Buyer agrees that Seller's liability with respect to any nonconforming products or any performance or delay or failure of performance hereunder is limited, at Seller's option, (a) to repayment, or if not paid, to credit of the purchase price, (b) to replacement, or (c) to repair, of that part of said Products that is the subject of the cause on which the claim is based. In no event shall Seller be liable for special, incidental, indirect, consequential, or punitive damages, or for any loss, cost, expense, or damage in an amount exceeding consideration actually paid to Seller under the Order. Unless otherwise specified herein or in a separate writing between the parties, any action, regardless of form, arising out of an Order or any sale of Products or Services must be brought within one year of the date of delivery of the applicable Products or Services or the date of the event giving rise to the purported claim, whichever is earlier.
14. **BUYER PERFORMANCE; RETURNS.** Upon acceptance of any Order, Buyer shall be obligated to purchase from MM Solutions the full quantities of Products or Services specified in each Order. Cancellation or modification of all or part of any Order is subject to the prior written consent of MM Solutions in each instance. If returns are allowed, no claims will be recognized in regard to Products disposed of or returned without Seller's advance written consent, and no shipping costs on returns will be paid unless previously authorized in writing by Seller. Buyer will be liable for any loss or damage to any Product until its delivery at Seller's facility. Seller reserves the right to impose restocking fees.
15. **TOOLING; SPECIALLY-MANUFACTURED GOODS.** Items that might be defined as Products hereunder which are tooling, specs, drawings, engineering instructions, data, material, equipment, software, processes, facilities and tooling, including but not limited to jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, manufacturing aids, other special equipment or the like, and replacement items, now existing or hereafter created to be used to produce custom-designed Products for Buyer, are and remain Seller's sole property and will remain in Seller's possession and control except to the extent that title is specifically transferred in writing from Seller to Buyer. Buyer's purchase price is a contribution toward design, engineering, manufacturing, and other special costs of such tooling. Seller will use such specific tooling exclusively to make goods purchased by Buyer, but Seller reserves the right to use, modify, sell, or destroy such tooling without notice after the lapse of eighteen (18) consecutive months without receipt of an acceptable purchase order for the standard minimum run of any Products.
16. **CONFIDENTIAL INFORMATION.** Subject further to the provisions of any subsequent written confidentiality agreement signed by the Parties, Buyer agrees that, except as otherwise instructed in writing by MM Solutions, Buyer shall not use or disclose any confidential information of MM Solutions except as specifically permitted herein. Confidential information includes, without limitation, all information designated by MM Solutions as Confidential; all information or data concerning MM Solutions Products and Services (including the discovery, invention, research, improvement, development, manufacture or sale thereof) or general business operations (including costs, forecasts, profits, pricing methods and processes); information obtained through access to any MM Solutions information assets systems, including but not limited to computers, networks and voice mail; and any other information that is of such a nature that a reasonable person would believe it to be confidential. Buyer agrees that it will maintain the confidential information in confidence and will use such information only for the purposes of any Order. Confidential information may be disclosed by Buyer within its organization only to specific employees who have a need to know such information for the purposes of the Order and inform those employees of these Terms and



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Conditions. Buyer will not transmit or disclose confidential information to others without the prior written consent of MM Solutions. Buyer warrants that it will not divulge, disclose or in any way distribute or make use of confidential information and that it will not manufacture, repair (or enable a third party to repair), alter modify, decompile, disassemble, reverse engineer, translate or create derivative works of the Products or processes of MM Solutions. Upon the earlier of: (i) termination, (ii) expiration; or (iii) completion of the Order, buyer will return to MMS any MMS confidential information, including all copies thereof. Any Confidential Information provided hereunder shall be provided "AS IS" with no representation or warranty.

17. **INTELLECTUAL PROPERTY.** Intellectual Property or "IP" shall mean all inventions, patents, works of authorship, copyrights, trademarks, designs, processes, mask works, trade secrets, domain names, proprietary technical information and other similar proprietary information tangible and intangible, whether or not registered or not registered or registrable. Pre-existing IP means IP conceived or developed prior to or independent of performance of the Order. Buyer and Seller will retain full right, title and interest in and to any Pre-existing IP. All IP created or developed, if any, in connection with the performance of the Order shall be deemed the sole property of MM Solutions. Any IP provided hereunder shall be provided "AS IS" with no representation or warranty. To the degree any Products or services provided hereunder include an intellectual property component, Buyer hereby grants a perpetual, nonexclusive, worldwide, paid-up license of the same to MM Solutions and warrants that it has the right to do so. Buyer shall hold harmless and indemnify MM Solutions against any expense or loss resulting from infringement or any violation of any patents, copyrights, trademarks, or any other intellectual property rights, arising from, or out of, compliance with Buyer's design specifications or instructions.
18. **PUBLICITY.** Buyer shall not, with the advance written approval of Seller, which may be granted or withheld in the sole discretion of Seller, publicly make reference or otherwise disclose that Seller has furnished or agreed to furnish Products/Services under the Order or otherwise.
19. **FORCE MAJEURE.** If the performance by either party hereto is delayed or prevented by an act of God, fire, explosion or other similar circumstances beyond the reasonable control of that party then the due time for performance will be extended by a reasonable period corresponding to the duration of the delay. Seller reserves the right to cancel the Order without liability if the delay continues or is expected to continue beyond a reasonable amount of time. Seller shall not be liable for any shipment delays or other failure to perform hereunder beyond the reasonable control of Seller which affects Seller or any of Seller's suppliers or subcontractors, including, but not limited to, delays caused by unavailability or shortages of Products or Product components from Seller's suppliers; natural disasters, acts of war; acts or omissions of Buyer; fire, strike, riot, or governmental interference; unavailability or shortage of materials, labor, fuel or power through normal commercial channels at customary and reasonable rates; failure or destruction of plant or equipment arising from any cause whatsoever; or transport failures.
20. **WORK OFF SELLER'S PREMISES.** In the event of any work in connection herewith by Seller off Seller's premises, Buyer shall take (or cause its representatives, agents, and customers to take) all necessary precautions to prevent the occurrence of any injury to any person or property, including personnel and property of Seller, during the progress of such work and shall indemnify and hold Seller harmless from all claims, losses, and liabilities relating to damage, injury or death to any person or property whatsoever.
21. **EXPORT CONTROLS AND RELATED REGULATIONS.** Seller shall notify Buyer of the export controls applicable to all Products, and Buyer agrees to alert Seller of any export controls it knows apply to the Products. Such notices shall include the following information for each invoice line item: (a) country of origin, (b)



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Harmonized Tariff System number, (c) Export Control Classification Number (ECCN), and (d) the export controls applicable to the items. Supplier agrees to indemnify Buyer for any loss, cost, or expense that Buyer suffers if Supplier's provision of such information is inaccurate or incomplete, subject to the limitations on liability herein. Buyer represents and warrants that it is not designated on, or associated with, any party designated on any of the U.S. government restricted parties lists, including without limitation, the U.S. Commerce Department Bureau of Industry and Security ("BIS") Denied Persons List; Entity List or Unverified List; the U.S. Treasury Department Office of Foreign Assets Control ("OFAC") Specially Designated Nationals and Blocked Persons List; or the U.S. State Department Directorate of Defense Trade Controls ("DDTC") Debarred Parties List. Buyer shall comply with all applicable U.S. economic sanctions and export control laws and regulations, including without limitation, the regulations administered by OFAC, the Export Administration Regulations administered by BIS, and the International Traffic in Arms Regulations administered by DDTC. Seller may terminate this Order and discontinue any ongoing supply to or business with Buyer immediately, without notice and without liability, upon Seller becoming aware that Buyer is named on any restricted party list. In the event Buyer exports or re-exports the Goods, Buyer is herewith informed that export shipment or diversion to certain countries may be prohibited by U.S. law or the law of other countries) without special permits or entirely, and Buyer shall have full and sole responsibility for obtaining all necessary approvals, licenses and permits and to pay all fees, duties, penalties and the like which may be required by any regulatory or government body upon export. Buyer agrees to abide by the rules and regulations of the U.S. Department of Commerce, Office of Export Administration, when exporting or reexporting the Goods, Software, spare parts or other items sold or licensed hereunder.

22. **US GOVERNMENT CONTRACT PROVISIONS.** In accordance with the Federal Acquisition Regulation (FAR) and the Department of Defense (DoD) FAR Supplement (DFARS), when the Products or Services furnished are for use in connection with a U.S. Government DoD Prime Contract or higher-tier contract, in addition to all terms of this Order, the Buyer must provide all FAR and DFARS clauses and provisions as required by the terms of the prime contract, or by operation of law or regulation.

23. **INTERNATIONAL TRADE.** Seller makes no representation with respect to the country of origin, qualification for duty preference or similar program, specific Harmonized Tariff Schedule Number, export jurisdiction, U.S. Munitions List category, Export Control Classification Number, or export authority of any

Product. Seller retains all of its duty drawback rights, and any attempt by Buyer to transfer any such rights will be void. Buyer shall not, itself or by any freight forwarder, customs broker or other agent or third party under Buyer's direction or control, designate Seller as the U.S. Principal Party in Interest (as defined in the U.S. Foreign Trade Regulations, 15 CFR Part 30) or file the Electronic Export Information with U.S. Bureau of Census ("EEI"), unless otherwise agreed in writing by an authorized representative of Seller. If Buyer files an EEI without the prior written consent required by the preceding sentence, then: (i) the EEI will be considered to have been made without Seller authority or permission, and any false statements to the government will be considered to have been made by Buyer or its agent, as applicable, (ii) any affected transaction will be considered to be a routed export transaction, such that Buyer or its agent will be considered the U.S. Principal Party in Interest and exporter of record (as defined by the Foreign Trade Regulations and the Export Administration Regulations) for those transactions, (iii) Buyer shall assume all of the responsibilities of the exporter of record for any such transactions; and (iv) Seller will have no responsibility as the exporter of record. Buyer represents that it is not, and to the best of Buyer's knowledge, its customers, its customers' end-users and its agents are not subject to any U.S. or other government sanction or restriction that would prohibit the sale or export by Seller of the Products or Services. Upon MMS request, Buyer shall provide all end-user and end-use information of which it is aware or which it could obtain with commercially reasonable efforts. Buyer shall comply strictly with all applicable U.S. export laws and regulations, and Buyer shall assist Seller in complying and documenting compliance with any applicable U.S. export laws, regulations and executive orders. Regardless of any statements on Buyer's purchase order or other documents to the contrary, Seller



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shall not be the importer of record (as that term is defined by U.S. law at 19 USC 1484, or equivalent provision of non-U.S. law) with respect to a transaction governed by this Agreement, unless otherwise agreed in writing by an authorized representative of Seller.

24. **RESTRICTION OF HAZARADOUS SUBSTANCES (“RoHS”).** Seller is aware of the European Union Directive 2002/95/EC and its requirements on the restriction of the use of certain hazardous substances in electrical and electronic products and equipment. All internal process material fabrication, machining and finishing operations controlled by Seller are fully compliant. However, if Buyer specifies the material and type of finish used, then Buyer is solely responsible for compliance, as Seller does not have material specification control. If Buyer has questions concerning the directive or requires assistance in material selection for compliance, Seller will work with Buyer to determine the best alternatives necessary for correct selections.
25. **NOTICES.** Any notice, approval, or consent required or permitted hereunder shall be in writing, effective only upon receipt by the party being served, and deemed to have been duly given if sent by confirmed e-mail, mailed by registered, certified mail, or delivered by overnight courier service with tracking capabilities to the respective address of parties as set forth in the Order (or other such addresses a party may designate by (10) days prior written notice).
26. **SEVERABILITY.** If any part of the Order is found by any competent authority to be invalid or unenforceable, that part will be amended or excised to achieve as nearly as possible the same economic effect as the original provision and the remainder of the Order will remain in full force and effect.
27. **SURVIVAL.** Upon expiration, completion, or termination of any Order, all rights, duties, and obligation which by their nature should remain in force beyond the expiration, completion, or termination of the Order shall remain in force as needed to give effect to the understanding of the parties.
28. **INDEPENDENT CONTRACTORS.** The relationship between Sellers and Buyer is one of independent contractors and neither party will at any time or in any way represent itself as being an employee, dealer, agent, or other representative of the other party, or as having authority to assume or create obligations or otherwise act in any manner on behalf of the other. Each party manages and controls its own assets and business independently, and has ultimate authority over such assets and business. Each party is responsible for all income, FICA, other payroll, and unemployment taxes in accordance with applicable law, and for the filing of all tax returns and associated forms and reports that may be required in connection with such tax obligations.
29. **ASSIGNMENT.** The Order and the obligations hereunder may not be assigned or transferred without the advance written consent of the other party.
30. **APPLICABLE LAW.** Colorado Law will govern interpretation of the Order and any dispute between the parties, and the parties submit to the jurisdiction and venue of the courts of competent jurisdiction sitting in Larimer County, Colorado.