



## PURCHASE ORDER TERMS AND CONDITIONS

1. **Acceptance.** This purchase order ("Order") constitutes an offer from Quality Packaging, Inc., a Wisconsin corporation ("QPI") to purchase certain goods from you ("Supplier") that may only be accepted on the exact terms set forth herein, within thirty (30) days of the Order, and no additional terms or modifications shall be accepted unless QPI specifically recognizes and assents to the modification in writing.
2. **Entire Agreement.** The terms and conditions of this purchase order ("Order") and the provisions on the face of this Order constitute the entire contract between QPI and Supplier concerning the items described on the face hereof. Neither waiver, cancellations, nor other modifications of this Order or any provisions hereof nor any representation relating to this contract shall be binding upon QPI unless made in writing and signed by QPI's agent or his authorized representative.
3. **Pricing.** All prices are firm for the term of this Order, and Supplier shall not add charges unless specifically provided for on the face hereof. In the event Supplier reduces the prices QPI shall receive the advantages of such price reductions.
4. **Payments.** Net 60 days, unless stated on the face of this Order. [A 5% cash discount shall apply to invoices paid by the 10th of the month following billing date.]
5. **Delivery.** Time of delivery is of the essence for this Order. QPI may cancel this Order or any unshipped portion, without liability or waiver of any rights and remedies, if delivery is not made in accordance with shipping schedule stated in this Order or in accordance with shipping instructions given by QPI to Supplier.
6. **Shipping Instructions.** All goods are to be shipped [freight prepaid, F.O.B. destination, unless otherwise stated. Where QPI has so authorized in writing, goods may be shipped F.O.B. shipping point, but Supplier shall prepay all shipping charges, route goods by the cheapest common carrier otherwise specified and list said charges as a separate item on Supplier's invoice.]
7. **Default.** QPI shall have the right to cancel this Order, or any part hereof, without cause, or exercise any other remedy provided QPIs of goods by law or in equity including any remedy under the Uniform Commercial Code. QPI's liability if any, shall not exceed costs for labor and material of Supplier incurred at the time of such cancellation less salvage.
8. **Changes.** QPI may from time to time by written instructions or drawings to Supplier make changes, issue additional instructions, require additional work or direct the omission of work previously ordered. Any additional cost resulting from any such changes, additions or alterations will be paid for by QPI.
9. **Inspection.** All items received by QPI pursuant to this Order are subject to QPI's inspection and approval. QPI's inspection or approval shall not relieve Supplier from any warranties or other obligations hereunder. QPI reserves the right to reject all or any part of goods, which do not conform to QPI's specifications. Supplier agrees to replace upon request all materials and/or equipment rejected because of defective workmanship or quality or not in accordance with prints or approved specifications. QPI alone shall be the sole judge of whether the goods are satisfactory. Supplier shall pay all transportation on such rejected materials. Supplier agrees that, if within a period of twelve (12) months of shipment of any items under this Order material or work are found to be defective, whether in QPI's possession or in use at QPI's Customer as part of QPI's product(s) of sale, the items will be replaced free of charge or full purchase price refunded to QPI provided they have been given normal use.
10. **Warranty.** Supplier warrants that in addition to its standard warranty and service guarantee, all goods supplied hereunder shall: (1) be fit and sufficient for the purpose intended; (2) be merchantable, of good quality, and free from defects, whether patent or latent, in design, material or workmanship; (3) shall be free of all liens and encumbrances and any claim of title of any third party; and (4) conform to the standards and specifications stated herein and/or QPIs approved sample.
11. **[Infringements.** Supplier warrants that QPI's purchase and/or use of the goods covered hereby will not result in any claim or infringement, or actual infringement of any patent, trademark, copyright, franchise, or other intellectual property right. Supplier shall indemnify and hold QPI harmless from and against all claims, losses, expenses, damages, causes of action and liabilities of every kind and nature, including without limitation reasonable attorneys' fees, without waiver of Suppliers obligation to indemnify QPI hereunder, arising from or out of any breach of the foregoing warranty.]
12. **Indemnification.** Supplier shall defend, protect, indemnify and save harmless QPI, its present and future officers, agents and employees from and against all damages, liability, claims, losses, and expenses (including reasonable attorneys' fees) arising out of or resulting in any way from any defect in the product(s) covered by this Order of QPI or from any act or omission of Supplier, its agents, employees, or subcontractors, whether based upon claims of negligence, breach of warranty, or strict liability in tort or otherwise. Supplier shall, at its own expense, investigate any and all claims and demands as described above, attend to their settlement or other disposition, defend all actions based thereon, and pay all fees of attorneys and all other costs and expenses of any kind, including without limitation interest on any judgment resulting therefrom, and arising from any such liability, damage loss, claims, demands, and actions as stated above.
13. **Insurance.** Supplier shall maintain such insurance, including but not limited to general commercial and products liability insurance coverage, as will adequately protect QPI against such damage, liabilities, claims, losses, and expenses (including reasonable attorneys' fees). Supplier agrees to submit certificates of insurance evidencing its insurance coverage when and as

requested by QPI. [ADDITIONAL LANGUAGE: Supplier shall maintain, at a minimum, Commercial General Liability insurance on an occurrence basis, covering bodily injury and property damage liability with a limit of not less than \$1 million per occurrence and Products Liability insurance on an occurrence basis, covering bodily injury and property damage liability with a limit of not less than \$1 million per occurrence. QPI shall be named as an additional insured on Supplier's Commercial General Liability and Products Liability policies. QPI shall be entitled to receive thirty days written notification of any cancellation or substantial modifications to such insurance.]

14. Governing Law/Venue. This Order shall be governed by and construed in accordance with the internal laws of the state of Wisconsin. Any suit, action or proceeding with respect to this Order must be brought in the courts of Fond du Lac County, Wisconsin or in the United States courts located in Fond du Lac County, Wisconsin, as either party may elect. [VENUE ALTERNATIVE: Dispute Resolution. If any claim, controversy or dispute between the parties, their agents, employees, officers, directors, or affiliated agents ("Dispute") cannot be settled through negotiation, it shall be resolved by arbitration under the then current rules of the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Sections 1-15, not state law, shall govern the arbitrability of all Disputes. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses or the arbitrator. The arbitration shall occur in Fond du Lac County, Wisconsin.]

15. Force Majeure. QPI may delay delivery or acceptance occasioned by causes beyond its control. Supplier shall hold delayed products at QPI's direction. QPI is responsible only for Supplier's direct additional costs in holding the products or delaying performance of this Order. Supplier will be excused if delivery is delayed by the occurrence of unforeseen events, provided Supplier promptly notifies QPI of the events and gives QPI a revised delivery schedule within thirty (30) calendar days of the original contracted delivery date. If a delay exceeds thirty (30) days from the original delivery date, QPI may cancel this Order without liability or costs. [ALTERNATIVE: Except for failure to make payments when due, neither party will be liable to the other by reason of any failure in performances of this Order if the failure arises out of the unavailability of third-party communication facilities or energy sources, acts of God, acts of the other party, acts of governmental authority, fires, strikes, delays in transportation, riots or war, or any cause beyond the reasonable control of that party.]

16. Severability. In the event that any provision of this Order conflicts with the law under which this Order is to be construed or if any such provision is held invalid by a court with jurisdiction over the parties to this Order, such provision shall be deemed to be restated or redacted to reflect as nearly as possible the original intention of the parties in accordance with applicable law, and the remainder of this Order shall remain in full force and effect.

17. Amendments. Any amendments, additions, deletions or changes to this Order are subject to approval by QPI and no payments shall be made thereunder pending acceptance in writing from QPI and, as supported by changes in writing to this Order.

18. Confidentiality. Supplier shall not, without first obtaining QPI's written consent, disseminate the fact that Supplier has furnished or has contracted to furnish QPI with the items covered hereby nor, except as is necessary for performance of this Order, nor shall Supplier disclose any of the details connected with this Order to third parties.

19. Notice. Any notice required or permitted to be given hereunder shall be in writing and shall be sufficiently given if sent by facsimile, registered or certified mail to recipient at the address set forth on the last paragraph hereof, or at such other address as recipient shall designate.

20. Assignment And Setoff. This Order may not be assigned or transferred by Supplier without the prior written consent of QPI. All claims for monies due or to become due to Supplier from QPI shall be subject to deduction by QPI for any setoff or counterclaim arising out of this Order.

21. Waiver. No waiver shall be implied by QPI's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege granted to QPI hereby. No express waiver by QPI shall be construed as waiving any breach hereunder or the performance of any of the terms or conditions hereof not specified in the express waiver, and then only for the time and to the extent stated therein. One or more waivers of any covenant, terms, or condition hereof shall not be construed as a waiver of a subsequent breach of the same covenant, term, or condition.

22. Binding Effect. This Order shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.

END OF TERMS AND CONDITIONS



851 Sullivan Drive  
P.O. Box 1720  
Fond du Lac, WI 54935  
Phone: (920) 923-3633 / Fax: (920) 923-2749