

TERMS AND CONDITIONS

1. Acceptance: These terms and conditions, together with those in the Purchase Order, Sales Offer, Packing Slip, Order Confirmation, or Agreement to which they are attached ("**Agreement**"), take precedence over Buyer's additional or different terms and conditions and constitute the entire understanding between the parties relating to the Products sold or purchased hereunder.
2. Effective Date: This Agreement is effective when the deposit and Buyer Purchase Order are received by Seller. Once effective, this Agreement is non-cancellable and Buyer understands and agrees that it is obligated to purchase all of the Product set forth in the Purchase Agreement.
3. Product: "Product" or "Products" means the capsules, closures and/or labels of the size, style, decoration, amount and packing that are set forth in the Agreement.
4. Price, Price Adjustment: Prices quoted are F.O.B. Seller's manufacturing plant, unless otherwise noted in the Agreement. Quoted price of Products is good for **30** days only. Product prices shall be increased or decreased by the percentage equal to the percentage change in the applicable metal price during the aforesaid period. Product prices shall also be increased to the percentage change during any of the aforesaid periods in the exchange rate for U.S. dollars to Euros and, if applicable, Canadian dollars. Furthermore, any extraordinary circumstances beyond the reasonable control of either party that materially affects the prices of Seller of any of the components of the Product.
5. Storage: Seller will store the Product at no additional charge to Buyer in its warehouse located at 140 Dodd Ct., American Canyon CA 94503, ("warehouse"), for three (3) months to one (1) year from the Agreement effective date based on negotiation of Agreement. Product warehoused for more than one year will be billed at \$8.00 per pallet per month plus a \$10 per pallet fee when readied for delivery.
6. Delivery, Delivery Fees: Seller shall deliver the Product(s) F.O.B. Seller's manufacturing plant via a carrier selected by the Seller. Seller will arrange to have a third party transportation company deliver the Product to Buyer at the agreed upon schedule. Alternatively, Buyer may pick up its Product at the warehouse. If Buyer elects this option it will be billed a \$10 per pallet fee for all Product that is moved by forklift. If the Product does not require a forklift to move it, there will be no pick-up charge.
7. Payment Terms: Buyer will be billed in accordance with the Agreement, whether or not Buyer takes delivery of the Product on the scheduled delivery date. However, if Buyer takes delivery of the Product early, Seller will invoice Buyer upon delivery of the Product. All invoices are due upon receipt unless otherwise negotiated. Late payments will incur interest at the rate of 10% per annum. The payments due under this Agreement are non-refundable and Buyer agrees to make all payments on the terms and schedule set forth in this Agreement whether or not it takes delivery of the Product.
8. Right to Inspect: Buyer may inspect the Product during regular working hours on regular working days upon reasonable notice or by appointment.
9. Insurance: Seller will insure the Product when stored at its warehouse. Seller will not insure the Product during or after transportation of the Product to the Buyer. Buyer is solely responsible for insuring the Product as soon as it leaves the Seller's warehouse.
10. Force Majeure: A Party's failure to perform its obligations under this Agreement, except any obligation to pay money, will be excused to the extent the performance is prevented by fire, flood, earthquake, act of God, explosion, war, labor dispute, interruption of electricity, violence, any governmental law, order, regulation or ordinance or any other event beyond the reasonable control of the Party. The Party affected by the interfering condition shall give prompt, written notice to the other Party, and will resume performance promptly once the interfering condition has abated. However, any shipment made by Seller that is in transit before receipt by Seller of written notice from Buyer that the latter cannot accept such shipment shall be delivered to and paid for by Buyer.
11. General Provisions: This Agreement contains the entire agreement between the parties, and supersedes all prior negotiations, drafts, and other understandings the parties may have had concerning the subject matter hereof. The provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the heirs, successors, executors, and administrators of the parties. This Agreement may not be amended or modified except by written documents signed by all parties. Whenever possible, each provision of this Agreement shall be interpreted so as to be effective and valid under the law. If any provision of this Agreement is held to be prohibited by, or invalid under, applicable law, the remainder of this Agreement shall continue in full force and effect. This Agreement may be executed in counterparts, and each such counterpart shall be deemed to be an original instrument. All such counterparts together shall constitute one and the same Agreement. The Agreement may be signed by facsimile or email signature. In any action to enforce any provision of this Agreement, the prevailing party shall be awarded its costs and attorneys' fees in addition to all other damages incurred by it. This Agreement shall be governed by, and construed in accordance with, the law of the State of California, without giving effect to principles of laws.

12. Warranty, Limitation of Liability:

- (a) Seller warrants that Products sold to Buyer shall, for a period of twelve (12) months from date of sale:
 - (1) conform to specifications set by Seller
 - (2) be of merchantable quality; and
 - (3) conform to all valid laws and regulations affecting the Products that are established or promulgated by applicable governmental agencies in the country of manufacture.
- (b) Products that do not conform to this warranty shall be replaced by Seller at no additional cost to Buyer, excluding Buyer's cost of the contents thereof and the costs of recovery and disposition of such non-conforming Products, provided that:
 - (1) seller is advised of the alleged defect within ninety (90) days of the delivery date, and
 - (2) the alleged defect is not attributable to neglect or improper use, storage and/or handling by Buyer or third party.
- (c) Seller specifically disclaims all other implied or express warranties. In no event shall Seller be liable for any consequential, incidental, indirect, or special costs or damages from any allegedly non-conforming Products, including, but not limited, lost profits or business.

13. Disclosures: In connection with the offer to purchase of good or services from Seller, the Buyer may disclose to the Seller confidential business information of the Buyer or its customers, including, but not limited to, the identity of the Buyer's customers, prices, product designs and proposed product designs. The Seller agrees to maintain the confidentiality of this information and not to disclose it to third parties and not to use this information for any purpose unrelated to the sale of goods and services by the Seller to the Buyer pursuant to these conditions and this Agreement.

14. Trade Terms. The interpretation of all trade terms used in this Agreement shall be governed by the provisions of INCOTERMS 2010.

15. Arbitration, Jurisdiction, Venue: Any dispute, controversy, or claim arising from the offer to purchase and the purchase of goods or services by the Buyer from the Sellers shall be resolved by final and binding arbitration administered by Judicial Arbitration and Mediation Service, ("JAMS"). The arbitrator may grant injunctions or other relief in the dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court of competent jurisdiction. If any party prevails on a statutory claim which affords the prevailing party's attorneys' fees, the arbitrator may award reasonable attorneys' fees and costs to the prevailing party. Arbitration shall be conducted in accordance with JAMS Arbitration Rules and Procedures ("JAMS Rules") provided, however, that the arbitrator shall allow the discovery required by applicable law in arbitration proceedings, including, but not limited to, discovery available under the applicable state and/or federal arbitration statutes. To the extent that any of the JAMS Rules or anything in this arbitration section conflicts with any arbitration procedures required by applicable law, the arbitration procedures required by applicable law shall govern. The arbitrator shall issue a written award that sets forth the arbitrator's conclusions.