



TRAPANI ENTERPRISES LLC. / GRAYPACK BOTTLING AND PACKAGING, LLC  
174 Crawford Rd. Statesville, NC 28625  
STANDARD TERMS OF SALE 1.

- 1- **Parties.** This document sets forth the standard terms of sale between Graypack Bottling and Packaging, LLC (“GBP”) (“Seller”) and the individual or company listed at the end of these Terms of Sale to \_\_\_\_\_ (“Buyer”).
- 2- **Controlling Terms.** These terms and conditions shall supersede any provisions, terms and/or conditions contained on any confirmation order or other writing or telephonic or other oral communication the Buyer may give or receive, and the rights of the parties shall be governed exclusively by the provisions, terms and conditions of this document.
- 3- **Warranties.** The Seller, at its sole option, shall repair or replace any products or parts thereof which are found to be defective in material and/or workmanship as follows:
  - a. Within six months from date of installation, warranty is limited to parts only,
  - b. This Warranty specifically excludes items that are subject to deterioration due to normal wear (e.g. seals, bearings, cams, etc.). The Warranty also excludes damage or malfunction caused by (i) improper repair by anyone other than an approved technician of Seller, accident or vandalism; (ii) failure of Buyer to properly maintain the product; (iii) unauthorized alterations; or (iv) misuse.
  - c. Any warranted parts are subject to Seller’s inspection prior to warranty repair or warranty replacement.
  - d. Warranties will not be honored if there is any money due to Seller from Buyer. The Seller’s obligation with respect to products or parts shall be limited to replacement or repair F.O.B. Statesville NC, and in no event shall Seller be liable for consequential or special damages, or for transportation, installation adjustment, or other incidental expenses which may arise in connection with such products or parts. Service on products after the expiration of the warranties provided in this paragraph shall be in accordance with and governed by a separate Maintenance Agreement between Seller and Buyer.
- 4- **DISCLAIMER OF WARRANTIES.** SELLER MAKES NO WARRANTIES BEYOND THOSE SET FORTH IN PARAGRAPH “3” OF THIS DOCUMENT. SPECIFICALLY, SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER EXPRESS OR IMPLIED WARRANTY NOT SET FORTH IN PARAGRAPH “3” OF THIS DOCUMENT. THE GUARANTIES SET FORTH IN PARAGRAPH “3” OF THIS DOCUMENT DO NOT APPLY TO DAMAGE RESULTING FROM IMPROPER USE OF THE PRODUCT(S) OR BUYER’S FAILURE TO MAINTAIN THE PRODUCT(S) ACCORDING TO SELLER’S RECOMMENDED SPECIFICATIONS.

Buyer: \_\_\_\_\_

**5. Consequential Damages Excluded.** IN NO CASE SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT, OR ANY OTHER LEGAL THEORY. Such damages include, but are not limited to, loss of profits, loss of savings or revenue, loss of use of business equipment or any associated equipment, cost of capital, cost of any substitute equipment, facilities or services, downtime, the claims of third parties including customers and injury to persons and property. Buyer and Seller agree that this exclusion of consequential damages shall remain in full force.

**6. Nonconformity.** All products made by the Seller are to be inspected before shipment, and should any of such products prove defective due to faults in manufacture, or fail to meet the written specifications accepted by the Seller, the Buyer shall not return the products and accept delivery of the products, but shall notify the Seller immediately, stating full particulars in support of their claim, and the Seller will either replace the goods or adjust the matter fairly and promptly, but under no circumstances shall the Seller be obligated for consequential or other damages, losses or expenses in connection with or by reason of the use or inability to use products purchased for any purpose.

**7. Time for Making Claims.** Unless agreed to by the parties in writing in advance of shipment, claims for defective merchandise, shortages, delays, or failures in shipment or delivery, or for any other cause, shall be deemed waived and released by the Buyer, unless made in writing within ten (10) days after arrival of the merchandise.

**8. Conditions.** All orders or contracts are accepted with the understanding that they are subject to the Seller's ability to obtain the necessary parts on materials, and all orders or contracts as well as shipments applicable thereto are subject to the Seller's current manufacturing schedules, and government regulations, orders, directives, and restrictions that may be in effect from time to time.

**9. Materials.** Materials furnished by the Seller are to be within the limits and of the sizes published by the Seller and subject to the Seller's standard tolerances for variations.

**10. Seller's Right of Possession.** The Seller shall have the right, in addition to all others it may possess, at any time, for credit reasons or because of the Buyer's default or defaults, to withhold shipments, in whole or in part, and to recall goods in transit, retake some and repossess all goods which may be stored with the Seller for the Buyer's account, without the necessity of taking any other proceedings, and the Buyer consents that all the merchandise so recalled, retaken or repossessed shall be come the absolute property of the Seller, provided that the Buyer is given full credit therefrom. The foregoing shall not be construed as limiting in any manner any of the rights or remedies available to Seller because of any default of the Buyer under the Uniform Commercial Code as in force and effect in the State of North Carolina.

Buyer: \_\_\_\_\_

**11. Taxes.** Prices on the specified products are exclusive of all city, state and federal excise taxes, including, without limitation, taxes on manufacture, sales, receipts, gross income, occupation, use and similar taxes. Wherever applicable, any tax or taxes will be added to the invoice as a separate charge to be paid by the Buyer.

**12. Payment Terms.** A Ninety percent (90%) deposit is due with the order. An additional ten percent (10%) is due prior to shipment. The balance is prior installation.

**13. Shipment.** All prices are F.O.B., our factory, Statesville, NC. Method and route of shipment are at our discretion, unless the purchaser supplies explicit instructions. All shipments are insured at the Buyer's expense and made at the Buyer's risk. Identification of the goods to the contract shall occur as each shipment is placed in the hands of the of the carrier.

**14. Delays.** The Seller will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of goods, or for any damages suffered by the Buyer by reason of such delay, when such delay is, directly or indirectly, caused by, or in any manner arises from, floods, accidents, civil unrest, acts of God, war, governmental interference or embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays, or any other cause or causes (whether or not similar in nature to any of the hereinbefore specified) beyond its control.

**15. Cancellation.** An order once placed with and accepted by Seller can be cancelled only with Seller's consent and upon terms that will indemnify Seller.

**16. Purchases for Resale.** If Buyer purchases goods from Seller with the intent to resell the goods to third parties, Buyer represents and warrants that it will provide an executed copy of this document to any prospective or actual purchaser(s) of the goods.

**17. Governing Law.** This Agreement will be governed by, and interpreted and construed in accordance with, the laws of the State of North Carolina, without regard to the principles of conflict of laws, and will be binding on the parties to this Agreement in the United States and worldwide. Any suit or proceeding relating to this Agreement will be commenced exclusively in the state or federal courts located in Iredell County, North Carolina, and each party to this Agreement irrevocably consents to the exclusive jurisdiction and venue of such courts.

**18. Attorney Fees.** Seller will be entitled to recover from Buyer all costs and expenses, including reasonable legal fees and court costs in the collection of any sums due from Buyer.

[SIGNATURES FOLLOWING PAGE]

Buyer: \_\_\_\_\_

**SELLER:**

**GRAYPACK BOTTLING AND PACKAGING, LLC & TRAPANI ENTERPRISES LLC.**

**By:** \_\_\_\_\_

**Print  
Name:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Print  
Name:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**BUYER:**

\_\_\_\_\_

**Print  
By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**Print  
By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Dated:** \_\_\_\_\_