



## GENERAL TERMS AND CONDITIONS FOR THE SALE OF GOODS

### 1. Applicability.

(a) These terms and conditions of sale (these "**Terms**") are the only terms that govern the sale of the goods ("**Goods**") by any of the Innotex Packaging Solutions Group-affiliated companies, including, but not limited to: Summit Plastics, Inc., d/b/a "Summit Films" or other similar variations of same ("**Summit**"), ClearView Packaging, LLC, d/b/a "ClearView Packaging – Albany" or other similar variations of same ("**ClearView - Albany**"), or Fredman Packaging, LLC, d/b/a "ClearView Packaging – Milwaukee" or other similar variations of same ("**ClearView - Milwaukee**"), as identified on the Order Confirmation (as defined below) (in each case, the "**Seller**") to the buyer of the Goods as identified on the Order Confirmation (as defined below) ("**Buyer**"). Collectively, Buyer and Seller are referred to as the "**Parties**" and each individually as a "**Party**."

(b) The accompanying order confirmation (the "**Order Confirmation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. This Agreement supersedes any of Buyer's general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Seller expressly rejects Buyer's general terms and conditions of purchase, and fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions or serve to modify or amend these Terms. Acceptance of the Order Confirmation by Buyer is a prerequisite to the purchase of the Goods and shall operate as an acceptance of these Terms which are expressly incorporated into the Order Confirmation. Notwithstanding anything herein to the contrary, if a written contract signed by both Parties is in existence covering the sale of the Goods (a "**Master Agreement**"), then the Master Agreement shall prevail to the extent of any inconsistency with these Terms.

### 2. Order Cancellation Policies.

(a) Where Summit is the Seller, Buyer may cancel any Order Confirmation for Goods for no penalty up until the time that such Goods have been produced by Summit. Thereafter, Buyer must accept such order pursuant to the terms of this Agreement;

(b) Where ClearView - Albany or ClearView - Milwaukee is the Seller:

(i) Buyer may not cancel any Order Confirmation that includes a Good which is a film product; provided, however;

(ii) Buyer may cancel any Order Confirmation that does not include a Good which is a film product for no penalty until the time that such Goods have been produced or procured by ClearView or ClearView - Milwaukee, as the context so requires. Thereafter, Buyer must accept such order pursuant to the terms of this Agreement; and

3. Delivery.

(a) The Goods will be delivered within a reasonable time after the receipt of Buyer's purchase order, subject to availability of the Goods, and allowing a reasonable amount of time for shipment. Delivery dates given by Seller are estimates only and are subject to shipping variations and requirements. Seller shall not be liable for any delays, loss, or damage in transit.

(b) Unless otherwise agreed in writing by the Parties in the Order Confirmation, Seller shall deliver the Goods to Seller's Location as identified on the Order Confirmation (the "**Delivery Point**") using Seller's standard methods for packaging and shipping such Goods. Buyer shall take delivery of the Goods within three (3) business days of Seller's written notice that the Goods have been delivered to the Delivery Point. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point. Buyer is responsible for fees associated with not taking timely delivery of the Goods, such as storage fees.

(c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

4. Quantity. If Seller delivers to Buyer a quantity of Goods more or less than the quantity set forth in the Order Confirmation in excess of the following percentages:

(a) Where Summit is the Seller, up to ten percent (10%) or as otherwise stated in writing in such Order Confirmation;

- (b) Where ClearView - Albany is the Seller:
  - (i) 20% for an Order Confirmation containing 15,000 plastic bags (each a “Unit”) or less; and
  - (ii) 15% for an Order Confirmation containing 15,001 Units or greater; and
- (c) Where ClearView - Milwaukee is the Seller:
  - (i) 20% for an Order Confirmation containing less than: (A) 50,000 Units; (B) 50,000 logo-printed impressions; or (C) 1,000 lbs. of printed film; and
  - (ii) 15% for an Order Confirmation containing greater than or equal to: (A) 50,000 Units; (B) 50,000 logo-printed impressions; or (C) 1,000 lbs. of printed film.

Buyer shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods at the price set forth in the Order Confirmation adjusted *pro rata*.

5. Title and Risk of Loss. Unless otherwise agreed in writing by the Parties in the Order Confirmation, title and risk of loss pass to Buyer upon delivery of the Goods at the Delivery Point (“**Delivery**”). As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the state law-equivalent Uniform Commercial Code of that state in which Buyer is formed, incorporated, or organized.

6. Amendment and Modification. Except for Sections 3(b), 5, 8(b), and 9(a), hereof, these Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each Party.

7. Inspection.

(a) Buyer shall visually inspect the Goods within five (5) business days of receipt (the “**Inspection Period**”). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods (as defined below) during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. “**Nonconforming Goods**” means only the following: (i)

Goods Delivered are different than the Goods identified in the Order Confirmation; or (ii) the label or packaging of the Delivered Goods incorrectly identifies its contents.

(b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion: (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price (defined below) for such Nonconforming Goods, together with any reasonable third-party shipping and handling expenses actually incurred and paid by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to the Delivery Point. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 7(b) are Buyer's exclusive remedies for Nonconforming Goods. Except as provided under Section 7(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

#### 8. Price.

(a) Buyer shall purchase the Goods from Seller at the prices (the "**Prices**") set forth in Seller's quoted price in force as of the following dates prior to Buyer's submission of their purchase order to Seller and as memorialized in the Order Confirmation:

(i) Where Summit is the Seller, for the tenth (10<sup>th</sup>) day prior to Buyer's submission of its purchase order; and

(ii) Where ClearView – Albany or ClearView - Milwaukee is the Seller, for the 30<sup>th</sup> day prior to Buyer's submission of its purchase order.

(b) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs, and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel, or real or personal property or other assets. Unless otherwise designated in the Order Confirmation, the Price includes standard packaging, but excludes transportation and insurance costs which are the responsibility of the Buyer.

#### 9. Payment Terms.

(a) Unless otherwise agreed in writing by the Parties in the Order Confirmation, Buyer shall pay Seller all invoiced amounts due within thirty (30) days

after the date of Seller's invoice. All payments hereunder shall be in U.S. dollars and made by either: (i) electronic funds transfer (EFT); or (ii) by credit card. In the event Buyer elects to pay any amount by credit card, Buyer agrees that a nonrefundable credit card processing fee in the amount of four percent (4%) of the payment amount (per transaction) will be charged and added to the total amount due. The processing fee reflects third-party merchant costs and administrative expenses associated with credit card acceptance and is not a surcharge where prohibited by applicable law.

(b) Buyer shall pay interest on all late payments at the lesser of the rate of one and one-half percent (1.5%) per month or the highest rate permissible under applicable law. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for three (3) business days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy, or otherwise.

10. Limited Warranty. Seller warrants to Buyer that:

(a) the Goods will materially conform to Seller's published specifications in effect as of the date of manufacture for a period of 120 days from the date of manufacture of the Goods (the "**Warranty Period**"); and

(b) Buyer will receive good and valid title to the Goods, free and clear of all encumbrances and liens.

The warranty under this Section 10 do not apply where the Goods have been: (i) subjected to abuse, misuse, neglect, negligence, accident, abnormal physical stress or environmental conditions, use contrary to any instructions issued by Seller, or improper testing, installation, storage, handling, repair, or maintenance; (ii) reconstructed, repaired, or altered by anyone other than Seller or its authorized representative; or (iii) used with any third-party product, hardware, or product that has not been previously approved in writing by Seller.

11. Buyer's Exclusive Remedy for Breach of Warranty. During the Warranty Period:

(a) Buyer shall notify Seller, in writing, of any alleged warranty claim within ten (10) business days from the date Buyer discovers, or upon reasonable inspection should have discovered, such alleged claim (but in any event before the expiration of the applicable Warranty Period);

(b) Buyer shall ship the relevant Goods back to Seller within ten (10) business days of the date of its notice to Seller, at Seller's expense and risk of loss, to Seller's facility located at the Delivery Point for inspection and testing by Seller;

(c) If Seller's inspection and testing reveals, to Seller's reasonable satisfaction, that such Goods do not conform with the limited warranty set forth herein, Seller shall in its sole discretion, and at its expense (subject to Buyer's compliance with this 11), either (i) repair or replace such Goods, or (ii) credit or refund the Price of such Goods less any applicable discounts, rebates, or credits; and

(d) If Seller exercises its option to repair or replace, Seller shall, after receiving Buyer's shipment of such Goods, ship to Buyer, at Seller's expense and risk of loss, the repaired or replacement Goods to Buyer's business location, as communicated to Seller.

(e) Buyer has no right to return for repair, replacement, credit, or refund any Goods except as set forth in this 11. In no event shall Buyer reconstruct, repair, alter, or replace any Goods, in whole or in part, either itself or by or through any third party.

**(f) THIS SECTION 11 SETS FORTH THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 10.**

**12. WARRANTIES DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 10, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY: (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER INDIVIDUAL OR ENTITY ON SELLER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 10 OF THIS AGREEMENT.**

13. Limitation of Liability.

**(a) IN NO EVENT SHALL SELLER OR ANY OF ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND**

**(C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.**

**(b) SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED ONE (1) TIMES THE TOTAL OF THE AMOUNTS PAID TO SELLER PURSUANT TO THIS AGREEMENT IN THE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM OR \$1,000,000.00, WHICHEVER IS LESS.**

14. Compliance with Law; Indemnification.

(a) Buyer shall at all times comply with all laws applicable to the operation of its business, this Agreement, Buyer's performance of its obligations hereunder, and Buyer's use, sale, and disposal of the Goods. Without limiting the generality of the foregoing, Buyer shall: (a) at its own expense and risk, ensure full compliance with all applicable Extended Producer Responsibility ("EPR") laws, regulations, and programs governing packaging products in the states of California, Colorado, Maine, Maryland, Minnesota, Oregon, and Washington, as well as any other state that enacts similar requirements during the term of the Agreement; (b) at its own expense, maintain all certifications, credentials, licenses, and permits necessary to conduct its business relating to the purchase or use of the Goods; and (c) not engage in any activity or transaction involving the Goods, by way of shipment, use, or otherwise, that violates any law.

(b) Seller may, at Buyer's written request, provide to Buyer non-binding technical data regarding the Goods including, but not limited to, the composition, weight, or recyclability of any packaging, packaging component, paper product, food-service ware, shipping or e-commerce packaging, or other material supplied by Seller to Customer that is within the scope of an applicable EPR Law (the "**Covered Packaging**") as such data is maintained in Seller's ordinary course of business, each in furtherance of Buyer's compliance and reporting obligations outlined in Section 14(a); provided, however, Seller makes not representation that such information is or would be sufficient for such of Buyer's compliance or reporting obligations.

(c) Seller is not providing, and Buyer acknowledges that it is not relying upon, any legal or regulatory advice. Buyer must obtain its own counsel regarding the scope and applicability of any applicable laws including, but not limited to, any applicable EPR laws.

(d) Buyer shall promptly provide to Seller any reasonable information Seller requests to enable Seller to respond to any agency, producer, or third-party audit inquiries related to EPR compliance.

(e) \_\_\_\_\_ Customer shall defend, indemnify, and hold harmless Seller, its affiliates, and their respective directors, officers, employees, and agents from and against any and all claims, demands, liabilities, penalties, fines, assessments, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to: (i) Buyer's actual or alleged failure to comply with applicable EPR Laws or the obligations set forth in this Section 14; (ii) Buyer's errors or omissions in any data or documentation provided to Seller, any governmental authority, or any producer responsibility organization, stewardship organization, or similar entity approved or recognized under an applicable EPR law; or (iii) any enforcement action, audit finding, or third-party claim based on Buyer's role as the entity bearing financial and/or operational responsibility for Covered Packaging (e.g., brand owner, licensee, importer, distributor, filler, reseller, or other responsible party) under the hierarchy established by the applicable EPR law or on the characteristics of Buyer's products.

15. Termination. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for 30 days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

16. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement by Seller operates or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder by Seller precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege by Seller.

17. Confidential Information. All non-public, confidential, or proprietary information of Seller, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

18. Force Majeure. Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in

fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("**Impacted Party**") reasonable control, including, the following force majeure events ("**Force Majeure Events**"): (a) acts of God; (b) flood, fire, earthquake, epidemics or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) order or action by any governmental authority or requirements of law; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other events beyond the reasonable control of the Impacted Party.

19. Assignment. Buyer's rights, interests, or obligations hereunder may not be assigned, transferred, or delegated by Buyer without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

20. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

21. No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement. Nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

22. Governing Law. This Agreement is governed by, and construed in accordance with the laws of the State of New York without giving effect to any conflict of laws provisions thereof that would result in the application of the laws of a different jurisdiction.

23. Jurisdiction.

(a) Where Summit is the Seller, all legal proceedings shall be instituted in the state or federal courts sitting in and for the State of Mississippi, County of Pike;

(b) Where ClearView - Albany is the Seller, all legal proceedings shall be instituted in the state or federal courts sitting in and for the State of New York, County of Albany; and

(c) Where ClearView - Milwaukee is the Seller, all legal proceedings shall be instituted in the state or federal courts sitting in and for the State of Wisconsin, County of Milwaukee.

Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such applicable courts.

24. Notices. All notices shall be in writing and addressed to the parties at the addresses set forth on the face of the Order Confirmation or to such other address for either party as that party may designate by written notice. All notices must be delivered by nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested).

25. Severability. If any term or provision of this Agreement is determined to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

*[Acknowledgement appears on following page]*

ACKNOWLEDGED AND ACCEPTED BY:

CUSTOMER:

Company Name: \_\_\_\_\_

Signature: \_\_\_\_\_

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

Print Title: \_\_\_\_\_

Date: \_\_\_\_\_