

GENERAL TERMS AND CONDITIONS SOMIC AMERICA INC.

SCOPE OF APPLICATION

1. These General Terms and Conditions (these "Terms") are applicable to all customers (collectively, the "Customers" and, individually, the "Customer") of SOMIC America Inc., a Delaware Corporation, with its principal address at 1080 Tower Lane, Bensenville, IL 60106 (the "Distributor"), distributing and otherwise dealing in special purpose machines for secondary packaging and their related accessories and spare parts (collectively, the "Products" and, individually, the "Product") manufactured by SOMIC Verpackungsmaschinen GmbH & Co. KG, Germany. These Terms shall apply to all orders submitted to the Distributor and supersede any different or additional terms in any purchase orders submitted by the Customer; any such different or additional terms are hereby rejected and are void unless Distributor has explicitly agreed in writing to such additional terms either by offering such additional or different terms in its purchase proposal or by explicitly acknowledging the different terms proposed by the Customer in writing by an authorized officer.

PURCHASE ORDERS

2. Purchase orders issued by the Customers shall be in writing and are solely for the purpose of requesting delivery dates and quantities. All orders shall be deemed to be accepted by the Distributor only if a written and signed confirmation of order and invoice (collectively "Invoice") confirming acceptance of the purchase order is delivered by the Distributor. In the event that the Invoice deviates with regard to the Products ordered, Product price, manufacturing dates or delivery schedule, such changes shall be deemed accepted by the Customer if the Customer does not object by fax or e-mail within five (5) days of transmission of such order confirmation.

PRICING

3. Unless otherwise agreed upon in writing, the Customer shall purchase the Products for its own account and risk EXW Distributor's named US location (as per INCOTERMS 2000) at the price set forth in the Invoice. In addition to the quoted EXW price, the Customer shall be responsible for payment of all costs, expenses, fees or charges of any nature applicable to the Customer's purchase of the Products, including but not limited to packaging, freight, insurance, loading and unloading, handling and storage as well as duties, customs, sales or use taxes, excise taxes, and any other taxes, unless taxes are measured by the Distributor's income (the "Purchase Price").

TERMS OF PAYMENT

4. **Equipment purchase.** The Distributor shall issue individual Invoices for each shipment. The Distributor shall invoice the Customer in US Dollar upon acceptance of the purchase order. The Customer shall pay sixty (60) percent of the invoiced price by wire transfer to the account designated in the Distributor's Invoice or by check within 10 days of receipt of the Invoice as a down payment ("Down Payment"). Thirty (30) percent of the invoiced price shall be paid in the same manner within 14 days after successful FAT (Factory Acceptance Test) in the Somic Verpackungsmaschinen manufacturing facility in Germany. The remaining ten (10) percent of the invoiced price shall be paid within 14 days after the successful SAT (Site Acceptance Test) at Customer's site.

5. **Spare part purchase.** Unless otherwise agreed in writing, payments are due within fourteen (14) days of the date of the Distributor's Invoice.

6. Unless previously approved in writing by the Distributor, the Customer shall have no right to any deductions, set-offs or to withhold payment for any reason whatsoever.

7. If the Customer fails to pay any Invoice for Products in whole or in part on or after the date required, the Customer shall pay interest of one and one-half (1½) percent per month or the highest finance charge permitted by law, whichever is less. The specification or charging of interest shall not be deemed an agreement to extend credit. Any delay of the payment of the Purchase Price or any part thereof shall delay Delivery as set out below and for custom-made orders or special design might also delay the manufacturing by the same time period. If the Customer shall have failed to pay any Invoice for Products for more than thirty (30) days, the Distributor may refuse to complete orders which have been or will be placed with the Distributor until such outstanding amounts and any interest on such outstanding amounts owing to the Distributor have been paid in full. Notwithstanding the foregoing, the Distributor shall be entitled to all other available remedies at law or in equity, including but not limited to the right to sell the Products to third parties.

8. In case of breach of contract by the Customer before Delivery of the Products as set out below, Distributor shall have no further obligation to deliver the Products and shall have the right to retain the Down Payment.

DELIVERY TERMS, PASSING OF RISK

9. Unless otherwise agreed upon in writing, the Distributor shall deliver EXW Distributor's named US location (as per INCOTERMS 2000) with all costs of loading, shipment, insurance or similar charges for Customer's account. The Customer shall, at its own expense, take out transportation insurance covering the value of the Products being delivered with the Distributor as named beneficiary and, on request, verify insurance coverage to the Distributor.

10. For all intents and purposes the delivery point for purposes of these Terms is the delivery point under the applicable INCOTERM and does not refer to the premises of the Customer or end user. Under the EXW INCOTERM (as per INCOTERMS 2000), placing the Products at the disposal of the Customer or another person nominated by the Customer at Distributor's named US location shall constitute delivery ("Delivery") to the Customer, whereupon risk of loss, damage or destruction (the "Risk") is transferred to the Customer.

11. If any other INCOTERM is agreed upon between Customer and Distributor, Delivery shall be subject to the relevant INCOTERM (as per INCOTERMS 2000) and Risk with respect to the Products delivered shall pass from the Distributor to the Customer in accordance with the agreed INCOTERM (as per INCOTERMS 2000).

PASSING OF TITLE

12. NOTWITHSTANDING DELIVERY AND THE PASSING OF RISK IN THE PRODUCTS, OR ANY OTHER PROVISION OF THESE TERMS, TITLE TO THE PRODUCTS SHALL REMAIN WITH THE DISTRIBUTOR AND SHALL PASS ONLY WHEN (i) THE CUSTOMER HAS FULFILLED ITS OBLIGATION TO TIMELY TAKE THE PRODUCTS IN ACCORDANCE WITH THE EXW INCOTERM OR ANY OTHER INCOTERM (AS PER INCOTERMS 2000) AGREED BETWEEN THE DISTRIBUTOR AND THE CUSTOMER AND SPECIFIED IN THE DISTRIBUTOR'S INVOICE; AND (ii) DISTRIBUTOR HAS RECEIVED IN CASH OR CLEARED FUNDS PAYMENT IN FULL OF THE PURCHASE PRICE OF THE PRODUCTS PLUS ANY OTHER COSTS, EXPENSES, FEES OR CHARGES WHATSOEVER WHICH ARE THEN DUE FROM CUSTOMER TO DISTRIBUTOR.

DEFAULT IN ACCEPTANCE

13. If the Customer refuses or fails to take or accept Delivery of the Products when they have been placed at his disposal at the agreed time of Delivery in accordance with the EXW INCOTERM (as per INCOTERMS 2000), or have been duly delivered in accordance with any other INCOTERM (as per INCOTERMS 2000) agreed between the Distributor and the Customer, the Customer is in default of its acceptance.

14. If acceptance of the Products is postponed at the request of the Customer or due to circumstances for which the Customer is responsible, the Products will be deemed to have been delivered and the Risk shall be transferred to the Customer as of the day the Distributor has tendered Delivery under the EXW INCOTERM or any other INCOTERM (as per INCOTERMS 2000) agreed between Distributor and Customer. Payment of any outstanding balance shall be due immediately.

15. If the Customer contrary to the agreed upon conditions does not take or accept Delivery of the Products or if the Customer requests delayed Delivery, then without limiting any other right or remedy available to the Distributor, the Distributor shall have the right to forward the Product to a storage facility or store it itself until actual Delivery or sale, and charge the Customer for all related costs and expenses including, without limitation, storage and insurance.

16. If the Customer does not accept Delivery after the expiration of a reasonable cure period to accept Delivery, the Distributor shall be entitled without prejudice to its other rights and remedies under the purchase agreement between the Distributor and the Customer (the "Purchase Agreement"), following written notice to the Customer, to sell the Products otherwise and shall have the right to be reimbursed for any expenses and lost profits in connection herewith.

17. **Partial Shipments.** The Distributor shall have the right to make partial shipments and to submit separate Invoices to the Customer for each shipment.

18. **Delivery Dates.** Any Delivery dates indicated in the delivery schedules issued by the Distributor or the Invoice, as the case may be, are estimates only. They do not operate to bind the Distributor to ship or deliver the Products on the dates indicated unless specifically so stated in writing to be binding.

19. **Inspection of the Products.** The Customer shall be obligated to inspect the Products immediately upon Delivery to determine whether such Products are in compliance with the specifications and free from defects in materials and workmanship. The Customer is obligated to examine every delivery in every respect for any discoverable lack of conformity with the purchase order.

20. **Notification.** If the Customer does not notify the Distributor in writing within five (5) days after receipt of the Products at the delivery point that the Products are defective or otherwise non-conforming with the purchase order, specifying the manner in which such items are non-conforming, defective or damaged, then the Products shall be deemed to have been accepted by the Customer and the Customer shall no longer have the right to reject the Products in whole or in part for defects which could have been discovered during diligent inspection at the time of Delivery in accordance with these Terms.

SECURITY INTEREST IN CUSTOMER'S CONTRACTS, ASSIGNMENT OF PURCHASE PRICE

21. As security for the payment of any and all obligations and liabilities of the Customer to the Distributor under the Purchase Agreement including, without limitation, the payment of the Purchase Price, the Customer hereby gives, grants and assigns to the Distributor a first priority security interest in the Products following Delivery thereof to the Distributor ("Collateral") and a continuing security interest in and against all of the Customer's right, title and interest whether now existing or hereafter arising in, to and under all of the contracts (the "Customer Contracts") with its customers, distributors and sub-distributors, together with all rights to receive payment and/or performance thereunder and all other rights and interests now existing or hereafter arising in connection with the Customer Contracts, and all proceeds of any thereof.

22. The Distributor may request the Customer to deliver to the Distributor, in form and substance satisfactory to the Distributor, and duly executed as required by the Distributor, financing statements and other security interest perfection documentation in form and substance satisfactory to the Distributor, duly filed under the Uniform Commercial Code (the "UCC") in all jurisdictions as may be necessary, or in the Distributor's opinion, desirable, to perfect the Distributor's security interest and lien in the Collateral, in order to establish, perfect, preserve and protect the Distributor's security interest as a legal, valid and enforceable security interest and lien, and all property or documents of title, in cases in which possession is required for the perfection of Distributor's security interest.

23. The Distributor may request the Customer to deliver to the Distributor, in form and substance satisfactory to the Distributor, and duly executed as required by the Distributor, an assignment of Customer's right to the Purchase Price for any order.

24. Notwithstanding the grant of security interest or the assignment of the Purchase Price hereunder, the Customer shall at all times remain liable under the Customer Contracts to perform all of its duties and obligations thereunder to the same extent as if this security interest had not been granted. The Distributor shall not have any obligation or liability under the Customer Contracts by reason of, or arising out of the agreement between the Distributor and the Customer or be obligated to perform any of the obligations or duties of the Customer thereunder or to make any payment or to make any inquiry of the sufficiency of any payment received by the Distributor or to present or file any claim or to take any other action to collect or enforce any payment assigned under the Purchase Agreement. Until such time as the Distributor shall notify the Customer of the revocation of such power and authority, the Customer will, at its own expense, endeavor to collect, as and when due, all amounts due under the Customer Contracts, and otherwise enforce its rights and remedies under the Customer Contracts, including the taking of such action with respect to such collection or enforcement as the Distributor may reasonably request or, in the absence of such request, as the Customer may deem advisable. However, upon a failure by the Customer to fulfill all of its obligations under the agreements between the Distributor and the Customer including, without limitation, a failure to pay the Purchase Price to the Distributor, the Distributor may, in addition to its other rights contained in the agreements or as a secured party under the UCC or under any other applicable law, (i) notify the Customer's customers, distributors or sub-distributors, as applicable, to make direct payment to the Distributor of any amounts due, or to become due to the Customer under the Customer Contracts; (ii) enforce collection of any of such amounts and otherwise enforce the Customer's rights under the Customer Contracts by suit or otherwise; and/or (iii) sell the Customer Contracts at public or private sale, in whole or in part, and have the right to bid and purchase at said sale, applying proceeds therefrom to the Customer's obligations hereunder.

25. Unless otherwise agreed in writing, spare part purchases shall not require any security interest. Also, the Distributor may waive such security interest if the Customer furnishes an irrevocable letter of credit, stand-by letter of credit or bank guarantee in favor of and acceptable to the Distributor.

FORCE MAJEURE

26. If performance by the Distributor is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labor disputes, act of God or any other causes beyond the control of the Distributor, the Distributor shall be excused from performance to the extent that the Distributor is prevented, hindered or delayed by these causes.

LIMITED WARRANTY

27. The Distributor warrants solely that newly manufactured Products sold to the Customer under these Terms shall have the characteristics specified in the Distributor's specifications for such Products as set forth in the confirmation of order, and shall be free from defects in workmanship and materials under normal use and service in accordance with the Distributor's instructions and specifications. Without limitation, the following are not covered by this warranty: rubber parts, glass, ordinary wear and tear, and wear and tear of spare parts. Warranty is excluded for the delivery of any used Products.

28. If the Distributor delivers an item made in accordance to drawings or specific details etc. by the Customer, the Customer bears the risk that the Products can be used for the intended purpose.

29. If any failure to conform to these warranties is reported to the Distributor in writing within twelve (12) months after the date of Delivery of the Products by the Distributor to the Distributor, upon being satisfied of the existence of such non-conformity, will correct the same by requiring or causing the repair, replacing the non-conforming Product or refunding the Purchase Price therefore, as the Distributor may elect in its sole discretion. All other remedies are excluded.

30. If Delivery is delayed without default of the Distributor or if the Customer is in default of acceptance of the Products, the warranty expires (12) months after the date the Products were ready for dispatch from the manufacturer's premises.

31. The warranty for replaced or repaired items expires at the same time as the warranty of the main Product.

32. The duration of warranty for parts and spare parts is six (6) months from the date of Delivery. Any further warranty is strictly excluded.

33. The Distributor acquires the ownership of items replaced in connection with a valid warranty claim.

34. The Customer shall give the Distributor the opportunity to verify the defect mentioned in the Customer's notice. If the Customer does not fulfill this obligation or makes changes to the Product without permission of the Distributor, he forfeits any rights regarding such defect.

35. The notification regarding a defect is deemed to be an order to repair such defect. The mere investigation of the warranty claim by the Distributor shall not be deemed to be the acceptance of a warranty claim.

36. If the verification process regarding the defect shows that the Product has no defect or such defect is not covered by warranty, the Customer shall pay the costs of the Distributor regarding the verification and repair charged at the current rates of the Distributor for individual orders.

37. If the Distributor fails to obey its warranty liability at all or within a reasonable time or if the remedy fails, the Customer shall notify the Distributor and give the Distributor a reasonable time period to cure. Only after fruitless expiration of such cure period the Customer may have the right to reduce the Purchase Price, cancel the Purchase Agreement or do the repair itself or have the Product repaired on the Distributor's behalf and account. If the defects have been rectified successfully by the Customer or a third party, all claims of the Customer against the Distributor in connection with the defect shall be satisfied upon the Distributor reimbursing the Customer for his expenses.

38. EXCEPT FOR THE WARRANTIES SET FORTH ABOVE THE DISTRIBUTOR OR ANY OF ITS SUBCONTRACTORS, SALES REPRESENTATIVES OR OTHER AGENTS MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, OR ANY RELATED SERVICES PERFORMED BY THE DISTRIBUTOR OR ANY OF ITS AGENTS OR SUBCONTRACTORS IN CONNECTION WITH ANY ORDER, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, WHICH OTHER WARRANTIES ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

LIMITATION OF LIABILITY

39. THE DISTRIBUTOR SHALL NOT BE LIABLE FOR PERSONAL INJURY AND PROPERTY DAMAGE RESULTING FROM THE IMPROPER HANDLING, MODIFICATION, MISUSE OF THE PRODUCTS BY THE CUSTOMER OR ANY OTHER PERSON FOLLOWING DELIVERY BY THE DISTRIBUTOR. IN NO EVENT SHALL THE DISTRIBUTOR BE LIABLE TO ANY PERSON FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR GOODWILL, LOSS-OF-USE DAMAGES OR ADDITIONAL EXPENSES INCURRED, WHETHER PURSUANT TO A CLAIM IN CONTRACT, TORT OR OTHERWISE AND WHETHER IN AN ACTION FOR BREACH OF WARRANTY OR OTHERWISE.

40. THE CUSTOMER MAY NOT BRING ANY ACTION ARISING OUT OF OR IN CONNECTION WITH ANY TRANSACTION COVERED BY THESE TERMS UNLESS SUCH ACTION IS COMMENCED WITHIN SIX (6) MONTHS AFTER THE CAUSE OF ACTION HAS ACCRUED.

SAFETY STANDARDS

41. The Customer shall comply with all laws, rules, regulations and industry standards existing with respect to the Products and the performance by the Customer of its obligations hereunder in the jurisdictions where the Customer carries on activities under these Terms and where Products are resold or distributed from time to time. The Customers shall not export the Products unless such export complies with any applicable export laws and regulations; resellers shall be obligated to obtain export authorization from the Distributor in writing prior to export.

PROPRIETARY RIGHTS AND TRADEMARKS

42. The Customer hereby recognizes the Distributor's absolute right, title and interest in all patents, trademarks, trade names, logos, copyrights and all other proprietary interest incorporated as any part of either the Products or other material received from the Distributor.

CONFIDENTIALITY

43. The Customer acknowledges that the Distributor would be irrevocably damaged if the know-how, trade secrets, patentable and unpatentable designs, specifications and inventions, and other technical and manufacturing information and any information relating to the Distributor's customers, accounts, sales, business, operations and affairs pertaining to or in any way relating to the Products which are made available to the Customer by the Distributor (hereinafter called "Confidential Information") were disclosed to or utilized on behalf of any person, firm or business entity which competes or may compete with the Distributor. The Customer agrees that it will hold and use the Confidential Information in the same manner as it deals with its own confidential information and trade secrets, and that it will not divulge nor permit any of its employees, agents or authorized representatives to divulge any Confidential Information to any other person, firm or business entity, and the Customer shall further restrict circulation of the Confidential Information within its organization except to the extent necessary to fulfill the purposes of the Purchase Agreement. The Customer agrees that it will not use the Confidential Information in any way which is adverse to the interest of the Distributor or inconsistent with these Terms.

44. **Equitable or Injunctive Relief.** Whenever the Customer or any of its employees, agents or authorized representatives attempts to use or dispose of any Confidential Information or to manufacture or produce any of the Products or any products which incorporate or relate to the Confidential Information in a manner contrary to these Terms, or otherwise breaches the obligations of Sections 42 and 43 of these Terms or when such an attempt, act or breach appears imminent, the Distributor shall be entitled to equitable or injunctive relief to restrain the Customer, its employees, agents, authorized representatives or any other person participating in such present or threatened attempt, act or breach, and shall be entitled to pursue any other remedies available at law or in equity for such present or threatened attempt, act or breach, including, without limitation, the recovery of damages.

INDEMNIFICATION

45. The Customer shall indemnify and hold harmless the Distributor and the Distributor's officers, directors, employees, suppliers and agents (each a "Distributor Indemnified Person") against any losses, claims, damages, liabilities, penalties, actions, proceedings or judgments of any kind whatsoever (including all reasonable legal and attorneys' fees and expenses) to which a Distributor Indemnified Person may become subject out of claims by anyone including but not limited to the Customer's customers or any third party, related to or arising out of any damages sustained by such party which are not caused by any defects of the Products.

REVISIONS

46. The Distributor shall notify the Customers in advance of any changes, revisions, amendments or modifications of these Terms and such changes shall become effective as of such date without any further action by any party. Any and all revisions made by the Distributor must be made in writing.

ENTIRE AGREEMENT, MODIFICATIONS OR WAIVERS

47. These Terms shall be the complete and exclusive statement of the agreements between the parties with respect to the subject matter hereof and supersede any oral or written communications or representations or agreements relating thereto. No changes, modifications or waivers regarding these Terms shall be binding unless in writing and signed by an officer of the Distributor.

GOVERNING LAW / JURISDICTION

48. These Terms shall be governed by the laws of the State of New York without giving effect to its conflicts-of-laws rules or principles. Customer and Distributor each consents to the jurisdiction of the courts of New York and irrevocably agrees that all actions or proceedings arising out of, in connection with or directly or indirectly relating to a transaction covered by these Terms shall be litigated in such courts.

SEVERABILITY

49. If any provision of these Terms is held invalid or unenforceable, such provision shall thereupon be deemed modified only to the extent necessary to render the same valid or eliminated from these Terms, as the situation may require, and these Terms shall be enforced and construed as if such provision had been included herein as so modified or eliminated, as the case may be.