

## TERMS AND CONDITIONS OF SALE

Unless otherwise explicitly provided in Seller's Offer, these GTCs govern the sale of Goods by Seller to Customer.

1. **Definitions.** For purposes hereof, the following terms and variations thereof have the meanings specified below:

1.1 **"Agreement"** means any agreement entered into by Seller with a Customer and all ensuing and/or related agreements and/or commitments, expressly including, but not limited to, advice issued or given by Seller to a Customer.

1.2 **"Customer"** means the person or entity that purchases any Goods from Seller.

1.3 **"Days"** means all calendar days.

1.4 **"F.O.B shipping point"** means Customer takes delivery of Goods being shipped to it by Seller once the Goods are tendered to the carrier.

1.5 **"Goods"** means goods to be delivered and/or services to be provided by Seller under an Agreement.

1.6 **"GTCs"** means these general terms and conditions of Seller.

1.7 **"Offer"** means every offer Seller makes to a Customer or a potential Customer for the sale of Goods, including the sale of Goods initiated by a Customer or a potential Customer by a purchase order or otherwise.

1.8 **"Seller"** means SABA North America, LLC, a Michigan limited liability company.

### 2. Offer and Acceptance.

2.1 Seller's Offers are made strictly on the provisions of these GTCs and on no others. Acceptance of Seller's Offers is strictly limited to the provisions of these GTCs and no others. These GTCs take precedence over Customer's supplemental or conflicting terms and conditions to which notice of Seller's objection is hereby given. If Customer's offer limits Seller's acceptance to its terms, then Seller's acceptance shall be construed as a rejection and a counter-Offer limited to the terms of these GTCs and no others. Neither Seller's commencement nor performance of delivery of Goods shall be deemed or construed as acceptance of Customer's supplemental or conflicting terms and conditions. Seller's failure to object to conflicting terms or conditions will not change or add to the terms of these GTCs. Customer's acceptance of Goods shall constitute an acceptance of the terms and conditions of these GTCs. In the event that Customer receives a written Offer prior to Customer's acceptance of the Goods, the Offer is accepted upon the earlier of (1) an express acceptance communicated by Customer to Seller, (2) Customer's acceptance of the Goods, or (3) Customer's failure, by 5:00 p.m. EST on the third business day after receipt of the Offer, to object to these GTCs.

2.2 All Offers are made without obligation. Any final term stipulated in an Offer shall be binding on the Customer only. The Seller has the right to withdraw its Offers within 2 days of receiving confirmation of acceptance from the Customer.

2.3 The Seller is under no obligation to make any inquiry of the Customer about its intended use of the Goods or the conditions in which the Goods will be used. The use or reuse of the Goods is at the Customer's risk.

3. **Price.** Unless a price is otherwise agreed in writing, all Goods prices are as stated in Seller's price list effective on the later of the date of Customer's order, Seller's acceptance of Customer's order or Seller's Offer. The Seller reserves the right to pass on to the customer any changes to cost price factors relating to an Agreement, such as the prices of (raw) materials, resources, labor costs, insurance, freight rates, exchange rates, taxes, levies, or other government-imposed measures that occur after conclusion of an Agreement. Seller has the right upon prior written notice to charge reasonable price increases. All prices are stated exclusive of value added tax, other taxes and duties, and of transport and insurance costs, all of which shall be paid by Customer.

4. **Shipment.** Shipment is F.O.B. shipping point only. The Goods shall be deemed delivered, either in a single delivery, or in lots, when Seller tenders them with a carrier or with Customer at the F.O.B. shipping point. Seller has the right to choose the carrier and the means of transportation and, at its option, may deliver the Goods at one time or in portions from time to time. Subject to the provisions of paragraph 6, upon delivery, all risk of loss or damage, and all other incidents of ownership, shall pass to Customer. Customer shall make appropriate arrangements to insure the Goods in accordance with its obligations under Paragraph 12. Seller shall have no obligation to insure the Goods for Customer's benefit. Claims for Goods damaged or lost in transit or for damages due to delays in transit should be made by Customer to the carrier, or to other responsible third parties, but in no event should such claims be made to Seller. If Goods delivered by the Seller cannot be transported to their destination due to circumstances for which the Seller is not responsible, the Seller may store the Goods at the Customer's risk and expense.

Except where Seller specifically agrees otherwise in writing, the stated delivery date, whether stated orally or in writing, is approximate only, shall not constitute a deadline, and shall not be regarded as final. Seller shall not be liable for any loss or expense (consequential or otherwise) incurred by Customer or a third party due to Seller's failure to deliver on the stated delivery date unless: (1) Customer provides Seller with written notification of Seller's failure to deliver the Goods on the stated delivery date, (2) Seller fails to deliver the Goods within a reasonable time thereafter, and (3) the cause of Seller's failure to deliver the Goods is not a case of Force Majeure. The Seller shall not be in default for failing to deliver by a stated delivery date before expiration of the unused reasonable term following a stated delivery date, including if the default sets in by operation of law without notice of default or written reminder or notification.

5. **Payment Terms.** For approved accounts, payments must be made without applying any kind of discount or offset within 30 days after the invoice date. Invoices shall be dated the day of delivery. Customer may not set-off any amounts due to Customer against any amount due to Seller. All payments must be made in the invoiced currency and shall not be deemed to have been made until received by Seller at its offices. A failure to make a payment when due constitutes a default. In the event of a default, Customer's entire account, including all outstanding indebtedness, shall become immediately due and payable without notice or demand. On any past due invoice, including accelerated account, Seller may impose interest at a rate of 1.5% per month or portion thereof, until such amounts are paid in full. If Customer fails to make each payment when it is due, Seller reserves the right to change or withdraw credit and thereby suspend or cancel performance under any or all purchase orders in which Seller has extended credit to Customer. In the event of default by Customer, Customer shall be liable to Seller for its costs, fees, and expenses, including, but not

limited to, attorney's fees, courts costs and fees, and collection costs. Customer's payments shall be applied first to the settlement of costs, then to the settlement of interest, and thereafter to the settlement of outstanding invoices, in chronological order, even if Customer states that the payment should be applied in a different manner. For all other accounts, the terms of payment shall be set forth in an addendum to the GTCs and shall be subject to Seller's express approval. With respect to these accounts, Seller may require that Customer provide adequate assurance of performance, satisfactory security or a cash deposit or payment in advance of any delivery.

### 6. Title/Security.

6.1 Title to the Goods shall be retained by Seller, as a vendor's lien, until such Goods are paid for in full by Customer. Customer hereby grants Seller and Seller hereby reserves a purchase money security interest in and to the Goods sold to Customer together with all proceeds thereof to secure Customer's performance and payment. Customer agrees upon Seller's request to do all acts and execute all documents reasonably necessary to assist Seller's perfection and maintenance of any such security title and right of possession, including, but not limited to, executing and filing documents with the appropriate governmental agency.

6.2 The Customer shall treat the Goods upon which Seller has a vendor's lien and purchase money security interest under paragraph 6.1 with due care. The Customer will insure the Goods against all disasters, on the basis of the invoice value. The Customer will provide the Seller with the names and addresses of the insurers and with copies of the policies, at the Seller's earliest request. In the event of theft, damage to, or loss of the Goods, the Customer's entitlements toward the insurer under the insurance policy will pass to the Seller.

6.3 In the event of non-compliance by the Customer, the Seller will be entitled to take back delivered Goods upon which Seller has a vendor's lien and purchase money security interest under paragraph 6.1, or to have a third party retrieve the Goods on its behalf. The Customer therefore hereby authorizes the Seller to access the sites and/or buildings where the Goods are held, or to have a third party access these sites and/or buildings on its behalf. Any expenses incurred by the Seller in taking back the Goods will fall to the Customer.

6.4 The Customer is under an obligation to immediately notify the Seller in the event that third parties claim rights on Goods delivered by the Seller upon which Seller has a vendor's lien and purchase money security interest under paragraph 6.1, or when it comes to Customer's attention that third parties intend to claim rights on the aforementioned Goods.

### 7. Quality and complaints

7.1 Immediately on delivery, the Customer shall count, measure, weigh, and inspect the Goods for visible defects, and for invisible ones which are easily detected, prior to storage or use. Following receipt of the Goods, these will be deemed to be in line with the Agreement, unless Goods later turn out to have defects that are not easy to detect.

7.2 The Customer must accept the usual 10% tolerances regarding quantities, dimensions and weights.

7.3 Complaints concerning quantities, dimensions, weights, visible defects and easily detectable invisible defects must be submitted to the Seller immediately if the nature of the Goods allows and, in all other cases, in writing to the Seller within 14 days of the delivery of the Goods.

7.4 If Goods delivered by the Seller turn out to have a defect that is not easy to detect, the Customer must lodge a written complaint with the Seller within 14 days after the Customer should in all reasonableness have detected the defect.

7.5 The Customer can no longer claim that the Goods delivered by the Seller are not consistent with the Agreement if the Customer has failed to lodge the complaint on time as specified in paragraphs 7.3 and 7.4.

7.6 If the Goods are not consistent with the Agreement, the Seller will only be required to either deliver the missing part, repair the Goods, replace the Goods, or refund the invoice amount to the Customer upon return of the Goods, wholly at the Seller's discretion and on the condition that the Customer has performed a timely and thorough inspection and lodged a complaint as specified in paragraphs 7.3 and 7.4.

7.7 Legal claims and statements of defense by the Customer based on facts justifying the claim that the Goods delivered by the Seller are not consistent with the Agreement will expire 1 year after delivery of the Goods to the Customer.

7.8 The Customer is required to adhere to the Seller's instructions regarding the storage or return of Goods that are to be replaced or repaired. The Customer continues to bear the risk of loss of the Goods.

7.9 Complaints shall in no event entitle the Customer to suspend its payment obligations.

7.10 Notwithstanding any provision of these GTC's to the contrary, all of Seller's warranties regarding any Goods shall terminate on the expiration date set forth on the specific labeling on any of the Goods.

### 8. Product Liability.

8.1 The Seller's recommendations and instructions for use of Goods, including technique, are based on Seller's current knowledge and the present state of the art. Customers and users should independently evaluate Goods in accordance with their own requirements and intended use. The Seller rejects responsibility, and shall not be liable to Customer or any third party in the event any Goods are used contrary to Seller's instructions and/or recommendations for use.

8.2 If the Customer resells Goods supplied by the Seller, or if the Customer processes such Goods in new products which the Customer subsequently sells, the Customer will be required to take out adequate product liability insurance. The Customer agrees to promptly provide the Seller with a copy of the relevant product liability insurance policy upon the Seller's request.

9. **Anticipatory Repudiation.** If the financial condition of Customer at any time becomes unsatisfactory to Seller, in Seller's sole discretion, or if Customer fails to make a payment when due, then, in addition to any other rights Seller may have, Seller may: (1) defer or decline to make any delivery or deliveries hereunder, or condition any such delivery upon the provision of satisfactory security or cash deposits or payments in advance; or (2) rescind the parties' agreement and recover any damages that may have arisen as a result of Customer's breach. The parties agree that Seller is

not obligated to demand adequate assurances of future performance as a prerequisite to exercising its rights under this paragraph.

**10. LIMITED WARRANTY AND DISCLAIMER OF OTHER WARRANTIES.** SELLER WARRANTS TO BUYER THAT PRODUCTS OF ITS OWN MANUFACTURE MEET ITS SPECIFICATIONS UPON DELIVERY AND THAT SUCH PRODUCTS ARE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP UNDER THE INTENDED USE AND SERVICE FOR A PERIOD ENDING ON THE EXPIRATION DATE SET FORTH ON THE LABELING OF THE SUBJECT GOODS. WITH RESPECT TO QUANTITIES, DIMENSIONS, AND WEIGHTS, THE PRODUCTS ARE NOT DEFECTIVE IF THE PRODUCTS ARE WITHIN THE 10% TOLERANCE ACCEPTED IN THE INDUSTRY, UNLESS APPLICABLE LAW MANDATES A LESSER PERCENTAGE TOLERANCE, INCLUDING ZERO. THIS WARRANTY DOES NOT APPLY TO DEFECTS CAUSED BY SHIPPING DAMAGES, DEFECTS CAUSED BY THE UNINTENDED USE OF THE PRODUCTS, OR DEFECTS CAUSED BY NEGLIGENCE, ACCIDENT OR ORDINARY WEAR AND TEAR. THIS WARRANTY DOES NOT EXTEND BEYOND THE ORIGINAL WARRANTY PERIOD NOTWITHSTANDING THAT THE PRODUCTS MAY HAVE TO BE REPAIRED OR REPLACED BY SELLER ON ONE OR MORE OCCASIONS DURING THIS PERIOD.

IN ORDER TO INVOKE ITS REMEDIAL RIGHTS UNDER THIS WARRANTY WITH RESPECT TO PRODUCTS WITH NON-LATENT DEFECTS, THE BUYER MUST FOLLOW THE PROCEDURES SET FORTH IN SECTION 7.3. IN ORDER TO INVOKE ITS REMEDIAL RIGHTS UNDER THIS WARRANTY WITH RESPECT TO PRODUCTS WITH LATENT DEFECTS, THE BUYER MUST FOLLOW THE PROCEDURES SET FORTH IN SECTION 7.4. FAILURE TO PROVIDE TIMELY, WRITTEN NOTIFICATION OF DEFECTS CONSTITUTES A WAIVER OF ANY CLAIM WITH RESPECT TO SUCH PRODUCTS. EXCEPT WITH RESPECT TO LATENT DEFECTS, PRODUCTS ARE DEEMED TO SATISFY THE TERMS OF THE WARRANTY AND TO BE FREE FROM DEFECTS AS SOON THE PRODUCTS ARE USED OR PLACED IN STORAGE.

THE PURCHASER'S EXCLUSIVE REMEDY UNDER THIS WARRANTY SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCTS UNLESS SELLER, IN ITS SOLE DISCRETION, AND UPON SUCH TERMS AS SELLER MAY REASONABLY ESTABLISH, INSTEAD ELECTS TO REFUND THE INVOICE VALUE OF THE PRODUCTS. WHETHER THE REMEDY IS REPAIR, REPLACEMENT OR REFUND, BUYER IS RESPONSIBLE FOR ALL COSTS INCURRED IN SHIPPING DEFECTIVE PRODUCTS TO SELLER. IN NO EVENT SHALL ANY LIABILITY OF SELLER EXCEED THE PURCHASE PRICE OF THE PRODUCTS, AND SELLER SHALL NOT BE LIABLE TO BUYER, ITS AFFILIATES OR A THIRD PARTY FOR INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE SALE OR USE OF THE PRODUCTS. WITH RESPECT TO CREDIT SALES, A BUYER'S OBLIGATION TO MAKE CREDIT PAYMENTS IS NOT TOLLED, SUSPENDED OR OTHERWISE EFFECTED IN THE EVENT THAT THIS WARRANTY IS BREACHED. SELLER SHALL NOT BE LIABLE TO BUYER, ITS AFFILIATES OR A THIRD PARTY FOR ANY DAMAGES ARISING OUT OF THE USE OF ANY PRODUCT OR PRODUCTS IN ANY MANNER CONTRARY TO SELLER'S INSTRUCTIONS.

**THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATIVE, AGENT, OR OTHER CONSTITUTENT OF SELLER HAS AUTHORITY TO MODIFY, EXPAND, OR EXTEND THIS WARRANTY, TO WAIVE THE LIMITATIONS OR EXCLUSIONS HEREIN, OR TO MAKE ANY DIFFERENT OR ADDITIONAL WARRANTIES WITH RESPECT TO THE PRODUCTS.**

**11. Indemnification.** Customer will indemnify, defend and hold harmless Seller, its shareholders, officers, directors, employees, agents and representatives from and against all claims, costs, damages, and liabilities that are excluded and/or waived, or that are intended to be excluded and/or waived, under the terms and conditions stated herein. If Seller manufactures Goods pursuant to Customer's designs, drawings, specifications and/or instructions, or using Customer's models, molds, samples and/or forms, Customer will defend, protect and hold harmless Seller, its shareholders, officers, directors, employees, agents and representatives against any suit or proceeding in law or in equity if it is based on a claim that the Goods infringe upon a third party's intellectual property rights.

**12. Insurance.** Customer shall exercise due care over the Goods and insure the Goods against damage or loss on the basis of the invoice value. Upon Seller's earliest request, Customer shall provide Seller with the names of the insurers and with copies of the relevant policies. Customer shall maintain insurance coverage sufficient to cover its other obligations under these Terms and Conditions of Sale, including, without limitation, its obligations to third parties under the warranty provisions set forth in paragraph 10. If Customer purchases Goods with the intent to resell the Goods either as purchased, as modified, or as processed or incorporated into a new product, then Customer must purchase adequate product liability insurance coverage and provide Seller with a copy of the relevant policy upon Seller's earliest request.

**13. Taxes.** Customer shall pay any and all taxes applicable to the sale, purchase, lease, storage ownership, or use of the Goods, regardless of whether such taxes are invoiced by seller. Seller will charge, and Customer will pay, all applicable sales and use taxes, except and to the extent that Customer provides Seller with a valid sales tax exemption certificate.

**14. Specially Manufactured Goods.**

14.1 Unless explicitly agreed otherwise, the Seller has the right to produce for third parties any specially manufactured Goods which the Seller produces for the Customer.

14.2 Samples of specially manufactured Goods must be inspected by the Customer within 14 days of their receipt by the Seller. If the Seller has not received notice of rejection within 14 days, the samples shall be deemed to have been approved.

14.3 Unless explicitly agreed otherwise, all samples, drawings, and all other equipment and instructions relating to the production of specially manufactured Goods are, and shall remain, the property of the Seller.

14.4 Drawings, knowledge, and designs which the Seller makes available to the Customer may not be copied, disclosed or revealed to third parties without the Seller's written consent. They must be returned to the Seller immediately after use. For each infringement of this paragraph, the Customer shall incur a fine equal to the lesser of \$50,000 or the maximum amount allowed under applicable law, which amount shall be payable immediately on demand, plus a further fine equal to the lesser of \$5,000 or the maximum amount allowed under applicable law, for each day that such infringement

continues, without prejudice to the Seller's right to other damages and/or remedies under applicable law.

**15. Intellectual Property Rights and Obligations.** To the extent that Seller divulges technical information and/or expertise to Customer, such information and expertise is divulged in confidence in order to mutually assist Customer and Seller and shall not be publicly disseminated, or used by Customer without Seller's prior written consent. To the extent that any designs, drawings, specifications, instructions, models, molds, samples and/or forms are issued to Customer, such property is not to be reproduced, or revealed to third parties without Seller's prior written consent. Such property shall be immediately returned to Seller when the purpose for which it was issued has been served.

**16. Force Majeure.**

16.1 Should any cause beyond Seller's control including the circumstances constituting Force Majeure as described in paragraph 16.2, prevent Seller's performance, the Seller will be entitled to terminate an Agreement in full or in part, without incurring any liability to Customer or any third party for damages.

16.2 Shortcomings due to circumstances for which the Seller cannot be held responsible, including, without limitation, an act of God or public enemy, war, threat of war, unrest, civil disturbance, governmental action or inaction, government regulations or orders, fire, flood, embargo, quarantine, epidemic, labor stoppages, strikes or other disruptions, blockades, lock-outs, delay in clearing customs, breakdowns at Seller's (or its affiliate's) production facilities, transport problems including, without limitation, mechanical failure of transportation equipment while in transit, accident, unavailability of labor, materials, power or communication, disruptions in supplies of raw materials/semi-manufactures, the failure of sub-suppliers/contractors to fulfill their commitments, or to do so on time, government-imposed current or future regulations that impede or limit the use of the Goods, import/export/transit bans, natural and/or nuclear disasters, terrorist acts and/or attacks, unusually severe weather or other cause similar or dissimilar, beyond the control of the Seller shall be deemed to be a case of Force Majeure.

16.3 Seller's performance will be deemed permanently impossible if the performance in question cannot be fulfilled within 60 days after the start of the Force Majeure circumstances.

16.4 If the Seller's performance can be fulfilled within 60 days after the start of the Force Majeure circumstances, compliance will not be deemed permanently impossible, meaning that neither the Seller, nor the Customer will be entitled to terminate an Agreement. The Seller's obligations under an Agreement will be deferred until the Force Majeure circumstances have ceased to exist, without the Seller being held liable for payment to Customer of damages or lost profit.

**17. Conditions.** Seller's obligations hereunder will be dependent upon Seller's ability to obtain the necessary raw materials. In addition, the parties' agreement is subject to Seller's current manufacturing schedules, and governmental regulations, orders, directives and restrictions that may be in effect from time to time.

**18. Rescission/Cancellation.** In the event that Seller exercises its rights under this agreement or under applicable law to rescind or cancel the agreement, Customer shall compensate Seller for all of Seller's damages, including but not limited to out-of-pocket costs and lost profits. In addition, Customer shall return all delivered Goods to Seller within a reasonable time after being notified of the rescission or cancellation. Customer shall retain the risk of loss or damage with respect to such Goods until such time as Seller receives and approves the Goods. This paragraph does not apply where Seller cancels the GTCs in response to a case of Force Majeure. In the event Customer cancels or rescinds an Agreement for a reason other than Seller's breach thereof, Customer shall, upon receipt of invoice from Seller, pay Seller the contract price for all Goods with respect to which delivery has been completed prior to Seller's receipt of the notice of cancellation or rescission, and any and all other amounts to which Seller is entitled under this agreement or applicable law.

**19. Evidence**

19.1 In the absence of comprehensive evidence to the contrary, the Seller's administrative records will be decisive as regards the financial extent of the reciprocal commitments under Agreements entered into with the Seller.

19.2 In the absence of comprehensive evidence to the contrary, the quantities, measures, and weights stated in invoices, waybills, and/or packing slips between the Customer and the Seller shall be deemed to be accurate.

**20. Exclusive Agreement and Merger.** The terms and conditions stated herein are intended by Customer and Seller as a final expression and as a complete and exclusive expression of the terms and conditions of the parties' agreement. The terms and conditions stated herein supersede and replace any prior agreement and/or understanding relating to the subject matter hereof, including without limitation any terms or conditions contained in a purchase order, acknowledgement form, or the like sent by Customer to Seller. Except as expressly provided herein, this agreement may not be modified, rescinded, cancelled or any term or breach waived, except by a writing executed by duly authorized officers of Customer and Seller.

**21. Severability.** These terms and conditions shall not be construed against the party preparing them, but shall be construed as if all parties jointly prepared these terms and conditions of sale and any uncertainty or ambiguity shall not be interpreted against any one party. If any provision hereof is determined to be illegal, invalid or unenforceable under any present or future laws, such provision shall be fully severable and the terms and conditions herein shall be construed and enforced as if such provision had never been made a part hereof. The remaining provisions herein shall remain in full force and effect and shall not be affected by the severance.

**22. Non-Waiver.** Seller's failure to insist upon the performance of any term or condition herein shall not be deemed a waiver of any of Seller's rights or remedies hereunder, nor of its right to insist upon the performance of the same or any other term or condition herein in the future. All rights and remedies of Seller set forth herein are in addition to, and shall not exclude, any rights or remedies that Seller may have by law.

**23. Applicable Law and Jurisdiction.** The rights and obligations of the parties under this agreement shall be governed by the domestic law of the State of Michigan excluding its choice of law principles, and shall not be governed by the provisions of the U.N. Convention on Contracts for the International Sale of Goods. Customer consents to the personal jurisdiction of the State of Michigan, and consents that the exclusive venue for resolution of any conflict between Customer and Seller shall be Kent County Circuit Court or the United States District Court for the Western District of Michigan.

**24. Date of Commencement.** These GTCs enter into force and effect on February 1, 2017.