



TERMS & CONDITIONS OF SALE

Set forth below are Terms & Conditions of Sale ("Conditions") applicable to all purchases of product from Marcal Manufacturing LLC, Nittany Paper Mills LLC, Marcal Paper LLC, Marcal St. Catharines and/or any of their respective affiliates (collectively but not jointly, "Marcal").

I. PRICING AND PAYMENT TERMS

- (a) Prices are for shipments as stock permits, or as soon as shipment may be arranged. **Prices applicable are those in effect at the time of acceptance of an order.** Customer is responsible for all taxes that may be applicable with respect to product purchases unless Customer timely provides Marcal with a valid tax exempt certificate.
- (b) All pricing and allowances must be pre-approved in writing by Marcal. Any deductions taken that have not been pre-approved in writing by Marcal, including any deductions that are not applicable to the promotion timeframe and terms, are in violation of these Conditions. Marcal shall not be liable for any promotional allowances, including, without limitation, POD rebates, hanging allowances, or other rebate claims, with respect to any Order that is not paid in full within the billing terms set forth below or that are submitted by Customer more than 60 days after the date of the promotional event, unless authorized by Marcal in advance in writing. All rebates, allowances and other incentives payable, including with respect to any account based pricing and POD contracts, shall be calculated based on net selling price, defined as gross selling price less all applicable discounts, rebates, allowances, payment discounts, and any other applicable price reduction.
- (c) Standard Billing Terms are **Net 30 days from invoice date**, unless otherwise agreed to by Marcal in writing.
- (d) Unearned cash discounts are in violation of these Conditions and should not be deducted from payment.
- (e) Any deduction taken in violation of these Conditions is an unauthorized deduction and Marcal will seek immediate repayment from Customer. Customer shall pay Marcal's reasonable costs of collection, including attorneys' fees and court costs.
- (f) Delinquent payments and/or unauthorized deductions may result in Marcal suspending Customer's credit, revising Customer's payment terms, requiring advance payment prior to shipment and/or canceling Customer's order(s). Delinquent payments shall be subject to post maturity charges of one and one-half percent per month or the highest rate permitted by law at the point of delivery.

II. ORDER SUBMISSION, ACCEPTANCE AND LEAD TIME REQUIREMENTS

- (a) Minimum order quantity for delivered product is a Full Truck Load, which will be determined by Marcal and typically equals at least 26-30 full size pallets. For delivered product, carriers are chosen by Marcal with normal carrier freight prepaid by Marcal unless otherwise agreed to by Marcal in writing.
- (b) Customers who have been approved in advance by Marcal may be permitted to pick up their orders and manage their freight. Customer Pick-Ups must comply in all respects with applicable Marcal policies and procedures.
- (c) Product must be ordered and shipped in full pallet quantity, unless otherwise agreed to by Marcal in writing.
- (d) Backorders are not automatically generated. In the event there is not sufficient product available at time of shipment to fulfill Customer's entire order, Marcal may ship available product and make cuts for the unavailable product, in which event Customer will need to add product to its next full truckload purchase order.
- (e) All orders are considered received the next business day after the day on which it was received. All orders are subject to acceptance by Marcal based on available inventory. Marcal will endeavor to provide Customer with notice of any required changes to an order, including price and order quantity, within 48 hours of Marcal's receipt of the order. Orders are confirmed when delivery is scheduled by Marcal. Orders placed in quantities in excess of forecasted volumes are subject to review and acceptance in writing by Marcal.
- (f) Orders should be submitted via EDI (Electronic Data Interchange), email or fax and must list all pricing and discounts by SKU. An order will not be released for production or shipment until a Purchase Order has been submitted and accepted by Marcal with correct quantity and pricing as determined by Marcal. Any delay in submission of Purchase Order revisions may result in delayed delivery.

- (g) No order changes or cancellations are accepted within the 48 hours directly preceding the requested ship date without written prior approval by Marcal.
- (h) Changes to orders must be requested via email or fax to the Marcal Customer Service Department. The specific number of the original Purchase Order must be referenced. Change requests must list Marcal SKU number, any applicable price change, any additional items, and any existing items to be cancelled, with revised total order weight, cube and case quantity. All changes must be approved by Marcal in advance and Marcal will confirm accepted changes via email to Customer. If extensive changes are requested to an existing order, it is recommended that Customer request that the existing Purchase Order be canceled and a new Purchase Order be submitted.
- (i) Unless otherwise agreed by Marcal, all sales are FOB Marcal's shipping point, and title and risk of loss and damage transfers to Customer at that point. Notwithstanding the foregoing, with respect to dispenser products, Marcal retains title to all dispensers where the purchase price is subsidized (whether in the form of a discount, rebate or otherwise), for three (3) years after delivery of the dispensers to the end user (or such longer period as may be set forth in a Dispenser Lease Agreement entered into between Marcal and Customer) and if any products other than Marcal products are used with the dispensers then Marcal shall have the right to repossess the dispensers and neither distributor nor end user shall have any right to compensation with respect to such repossessed dispensers.
- (j) Required Information for Order Placement includes:

- UPC number	- Product Description	- Customer Ship to Address
- Purchase Order Number	- Customer Bill to Address	- Mode of Transportation
- Quantity by SKU	- Total Order Quantity	- Delivery contact information
- Requested delivery date	- Requested pick up date	
- Delivery Appointment Required	- Correct price per SKU	
- (k) The order acknowledgement will provide a target shipment date. Promise dates are subject to change based on order availability. Standard lead time is at least 10 business days unless otherwise specified.
- (l) Customer pick-up's are by appointment only, Monday through Friday, during Marcal's normal business hours (8 am- 6 pm EST). Customers must schedule their pick-up at least 72 hours ahead of the intended pick-up date. Customer pick-ups that are not picked up at the date and time agreed are subject to rescheduling based on Marcal availability and shall not be considered late by Customer.
- (l) Marcal shall have no liability to Customer in the event Marcal is delayed or prevented from delivering product to Customer due to reasons outside its reasonable control, including Acts of God, fire, strikes or other labor disputes, delays in transportation, inability to acquire raw materials, labor or services on commercially reasonable terms, governmental or other regulatory actions, unplanned shutdowns or malfunctions, pandemics, or other similar causes.
- (m) Customer acknowledges and agrees not to export or provide products to any person, entity or destination in violation of applicable laws and regulations.

III. CREDIT APPROVAL

- (a) To avoid delays in the release of orders, Customers should promptly complete and submit Marcal's Credit Application Form and provide Marcal with all requested financial information prior to order placement.
- (b) All shipments are subject to continued Marcal credit approval, which may be revised or suspended by Marcal in its discretion.

IV. CUSTOMER PRODUCT RETURNS/REFUSALS AND CHARGES

- (a) Marcal warrants only that Marcal has good title to the products and that the products sold to Customer shall conform in all material respects to Marcal's then current Specifications at the time of delivery and shall be sold to Customer free and clear of liens and encumbrances. MARCAL MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, AND EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT IS MARCAL LIABLE FOR NORMAL WEAR AND TEAR, ABUSE, TAMPERING, ALTERATION, ABNORMAL USAGE, MISUSE, ACCIDENTS, IMPROPER INSTALLATION OR MAINTENANCE, OR FAILURE TO COMPLY WITH OPERATIONAL INSTRUCTIONS AND/OR WARNINGS INCLUDED WITH ANY PRODUCT, ITS PACKAGING OR DISTRIBUTED OR PUBLISHED BY MARCAL. WITH RESPECT TO DISPENSER PRODUCTS, END USER IS RESPONSIBLE FOR THE INSTALLATION, USE, MAINTENANCE, AND REMOVAL OF ALL DISPENSERS AND SHALL ADHERE TO ALL MARCAL SPECIFICATIONS IN THE OPERATION OF THE DISPENSERS. ANY CLAIM RELATED TO DISPENSERS SHALL BE VOID AND OF NO EFFECT IF CUSTOMER USES ANY TOWEL, TISSUE OR HANDCARE PRODUCTS WITH A MARCAL DISPENSER OTHER THAN PRODUCTS MANUFACTURED/DISTRIBUTED BY MARCAL.

- (b) Claims made against Marcal in connection with defective products are subject to inspection by Marcal, may only be made with respect to products that are in new and unaltered condition with any packaging intact, and must be made in writing and received by Marcal within thirty (30) days after delivery or pick-up (as applicable) for all products other than proprietary Transcend® dispensers, or they are waived by Customer. Proprietary Transcend® dispensers have a lifetime warranty (subject to the terms in these Conditions and any applicable Dispenser Lease Agreement) and claims made with respect to Transcend® dispensers must be made in writing to Marcal. Claims for short shipments or damages that can be observed at the time of delivery or pick-up (as applicable) must be cited on the Bill of Lading signed by the Customer or made in writing and received by Marcal within forty-eight (48) hours after delivery or pick-up (as applicable), or they are waived. Customer's sole remedy for any claims shall be limited to refund, replacement or repair of the product subject to the claim, at Marcal's discretion. Any legal action against Marcal in connection with the sale of products to Customer, under any theory, must be commenced within one (1) year of the date of invoice for such products or such action is barred notwithstanding any other statute of limitations.
- (c) Product returns and refusals are accepted only when product is materially damaged prior to Customer delivery or pick-up (as applicable), incorrect SKU is delivered or product is delivered to the incorrect shipping address. Customer must notify Marcal of a return or refusal at the time of delivery or pick-up. If refusal does not meet these conditions, all charges associated with refusal will be borne by the Customer. Returns of other items are subject to approval by Marcal and will be at the cost of the Customer, including a 15% restocking fee plus the full cost of freight.
- (d) Notwithstanding anything herein to the contrary, in no event shall Marcal be liable for (i) lost profits or any special, incidental, indirect or consequential damages, even if Marcal is advised of the possibility of the same, or (ii) any amount in excess of the purchase price paid by Customer to Marcal for the products. Marcal has the right to change its products or discontinue support of any products at any time.
- (e) Return credits will be granted at the applicable net selling price (sale price less all rebates, discounts, incentives and allowances) for the product.
- (f) Ten business days lead time is required on all authorized returns to arrange transportation.
- (g) A Return Authorization # (RMA#) is mandatory for a return. Customer must contact Marcal Customer Service. Marcal Customer Service will obtain authorization from a Sales Vice President to obtain the Return Authorization # and will supply it to Customer.
- (h) Marcal will accept responsibility of freight charges incurred only as a result of an authorized refusal or return. An RMA # must be secured from Marcal in advance. Contact your Marcal Sales Representative for details.
- (i) Customer charges, not pre-approved in writing, are in violation of these Conditions and should not be deducted from payment. Any deduction taken in violation of these Conditions is an unauthorized deduction and Marcal will seek immediate repayment from Customer. Any unauthorized deductions may result in Marcal suspending Customer's credit limit, revising Customer's payment terms, requiring advance payment prior to shipment and/or canceling Customer's order(s).
- (j) In the event any products include graphics, branding or other material provided by Customer, Customer is fully responsible for compliance with all applicable laws governing labeling and packaging using such material and for ensuring all such material does not infringe the rights of any third party. Customer agrees to defend, indemnify and hold harmless Marcal from and against all actions, claims, costs and expenses arising out of or related to the use of such material. All sales of custom products are final.

V. GENERAL PROVISIONS

- (a) These Conditions bind Customer regarding the purchase of product from Marcal and supersede all prior agreements, proposals and discussions between Customer and Marcal with respect to the purchase of products from Marcal, other than a written agreement signed by an authorized officer of both Marcal and Customer. These Conditions are deemed accepted by Customer upon placement of any order for product from Marcal and any terms or conditions appearing or incorporated in any purchase order or other document issued by or on behalf of Customer that differ from the terms and conditions set forth in these Conditions shall be deemed rejected and are ineffective, unless in each case, a duly authorized officer of Marcal agrees to be bound by such additional, different or inconsistent terms or conditions in a writing signed by such officer that expressly references this Paragraph.
- (b) Marcal reserves the right to amend or modify these Conditions at any time without prior notice. The current version of these Conditions may be found at Marcal's website (www.marcalpaper.com/termsandconditions.pdf) and is otherwise available upon request. No waiver of any provision of these Conditions shall be valid unless the same is in writing and signed by Marcal.
- (c) These Conditions represent the entire agreement between Marcal and Customer with respect to the terms set forth herein and are subject to New Jersey law. All claims related to product supplied by Marcal to Customer must be brought in the State and Federal Courts in New Jersey.