

1. **APPLICATION OF CONDITIONS.** All sales of products to the purchaser and conditions herein and all orders are received with the understanding that they are placed under those terms and conditions
2. **MODIFICATION.** This agreement may not be amended changed or modified except by a writing duly executed by Buyer and Seller, and is expressly understood that in the case of Seller any such writing shall be executed by an authorized representative of Seller
3. **PRICES.** Prices are subject to change without notice. All orders are accepted subject to Seller's price in effect at the time of shipment. Seller reserves the right to revise prices if there is a change in quantity, size, analysis, finish or method and time of shipment differing from those covered in the original order.
4. **PAYMENT.** Buyer shall make payment to Seller in the manner set forth herein. If in the judgment of Seller the creditworthiness of Buyer becomes impaired at any time or Seller otherwise becomes insecure, Seller shall have the right to require payment in advance for making any future shipments and Seller may, upon seven days' written notice to Buyer, declare the unpaid purchase prices of any Products not made when due shall accrue interest at the rate of 18 percent per annum or at the highest interest rate permitted by applicable law, whichever rate is less. At Seller's option, upon any breach or default by Buyer hereunder any outstanding debt obligation or liability of Buyer to Seller, under this agreement or otherwise, to be immediately due and payable. Time is of the essence with respect to all payments due to Seller from Buyer hereunder, and, unless in each instance waived by Seller in writing, timely payment shall be a condition precedent to any subsequent deliveries of Products or other performance by Seller of its duties and obligations hereunder.
5. **SECURITY INTEREST.** Seller shall have, and Buyer hereby grants to Seller, a security interest in all of the Products, and in any proceeds thereof, to secure payment of the purchase price of the Products, and Seller shall have all of the rights and remedies of a secured party under the Uniform Commercial Code in force in the jurisdiction where Seller seeks to enforce any of such rights or remedies. If requested by Seller, Buyer shall sign and deliver to Seller such documents, in a form acceptable to Seller, as Seller may require in order to confirm or perfect its security interest in the Products and proceeds thereof.
6. **RISK OF LOSS.** All risk of loss or damage to any Products shall pass from Seller to Buyer upon Seller's delivery of such Products to the carrier designated in the shipping instructions contained herein, or to a carrier reasonably selected by Seller if such shipping instructions do not designate a carrier, for shipment to Buyer. Any changes by carrier at destination for spotting, switching, demurrage or other services shall be paid by Buyer. Any price quotations contained herein are price terms only, and risk of loss or damages and shipping terms are as separately provided in this agreement.
7. **DEFECTIVE, NONCONFORMING OR REJECTED MERCHANDISE.** Buyer shall inspect each shipment of Products by Seller to Buyer immediately upon arrival at the Shipments destination, and within thirty days of each such arrival shall notify Seller of (a) any defects in any of the Products contained in such shipment and (b) any reason (other than any such defects) by which the Buyer claims any of such Products are nonconforming goods or for which Buyer rejects any of such products, except that with respect to any claims for shortages, such claims must be made within five days after receipt. If Buyer fails to give such notice in the manner provided herein, all Products contained in any such shipment shall be deemed to conform to the contract and Buyer shall be deemed to have accepted such Products. If any model or sample was shown to Buyer, such model or sample was used merely to illustrate the general type and quality of the Products and not to represent that the Products would necessarily be that type or nature.
- In the event Buyer so notifies Seller of any defects in any of the Products, Buyer shall allow Seller the opportunity to inspect the Products in question, and if requested by Seller, shall return any such Products to Seller. In the event that Seller determines in its sole discretion that any defects in any such Products were not caused by Buyer or others after Seller packaged same for shipment to Buyer, Seller shall, at its option, either exchange, repair or provide Buyer with a refund or credit for the purchase price.
8. **BUYER'S INSPECTION.** Where source inspection is made by Buyer, Buyer's inspector shall be deemed to be the agent of the Buyer to accept material on Buyer's behalf with complete authority to waive specified test or details of test procedure, and to accept material which may deviate from formal specifications.
9. **PERMISSIBLE VARIATIONS, SIZE AND QUANTITY.** Seller does not accept responsibility for size ordered to cleanup to finished dimensions unless such size has been recommended in writing by Seller. All Products shall be furnished to mill standard manufacturing variations and practices, and Seller retains the right to modify or change composition, design and appearance of the Products if in its judgment that is desirable. Quantities supplied shall be subject to customary variations recognized by trade practice.
10. **SELLER'S RIGHT OF RESALE.** If Buyer breaches or repudiates any provision hereof or fails to comply with this agreement, Seller shall have the right to resell any undelivered Products ordered by Buyer, together with any Products ordered by Buyer, together with any reclaimed by Seller or as to which Seller may agree to accept return. Any such resale may be public or private, at wholesale or retail, and may be held on one or more occasions and under such procedures, terms and conditions as Seller may determine in its sole discretion. In the event of any such resale, Buyer shall pay to Seller the amount by which the purchase price set forth herein exceeds the amount received by Seller in any public or private sale, plus all expenses of resale and all incidental expenses or damages incurred by Seller as result of Buyer's breach or repudiation. The parties agree that five days' written notice of any such resale is reasonable notice to Buyer of such resale.
11. **RELATIONSHIP OF PARTIES.** The relationship between Seller and Buyer is solely that of vendor and vendee, and Buyer is not and shall not be construed to be a partner, joint venturer, employee, agent, representative of or with Seller for any purpose whatsoever. Buyer does not and shall not have any right or authority whatsoever to assume or to create obligation or responsibility, express or implied, on behalf of or in the name of Seller or to bind Seller in any manner.
12. **TAXES.** Any tax imposed by any law on the sales of Products made or sold by Seller shall be in addition to and a part of the sales price thereof.
13. **FORCE MAJEURE.** In the event that Seller is unable to carry out its obligations hereunder due to acts of God or of the public enemy, war, insurrection, mob violence, civil commotion or riots, strikes, lockouts, labor disputes, fires, floods, earthquakes, epidemics, quarantine restrictions, freight embargoes, shortages of labor or material, unusual delays in transportation, lack of shipping facilities, unavoidable casualty, accidents, abnormal amounts of inclement weather or unusually severe weather, changes in governmental policy, laws or regulations (including but not limited to impositions of quotas or limitations of shipments), or any other cause or causes beyond the control of Seller or the suppliers, whether hereinabove specified or not, Seller shall be permitted to extend the time of performances of its obligations to such extent as may be necessary to enable Seller and its suppliers to complete performance in the exercise of reasonable diligence after the cause or causes of delay have been removed. In the event any such delay continues for a period of more than six months, either party may terminate this agreement by so notifying the other party in writing.
14. **CHANGES AND CANCELLATIONS.** Should the Buyer desire to cancel, revise, or suspend this order for reasons beyond Buyer's control, Seller shall discuss the matter promptly with Buyer and the parties shall do all possible to make a mutually satisfactory agreement. In cases where the material has been manufactured partially or completely for Buyer's requirement and the mill is unable to cancel, Buyer will be informed of charges incurred to Buyer's account and Buyer agrees to pay such charges promptly.
15. **LIMITATIONS OF LIABILITY.** In no event shall the amount of Seller's liability for any breach or default hereunder exceed the purchase price paid or payable by Buyer to Seller for the Products and in no event shall Buyer be entitled to claim compensation for special, incidental or consequential damages for defective goods or services, late delivery or nondelivery, nor shall Seller be liable for Buyer's loss of profits or loss of any other kind or description whatsoever. **BUYER ACKNOWLEDGES THAT SELLER HAS NOT MADE AND SHALL NOT MAKE OR BE LIABLE UNDER ANY GUARANTIES, WARRANTIES, OR REPRESENTATIONS, EXPRESS OR IMPLIED, IN ANY MANNER OR FORM WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN OR IN A WRITING DELIVERED BY SELLER TO BUYER, AND SELLER SHALL NOT DIRECTLY OR INDIRECTLY, BE RESPONSIBLE OR LIABLE FOR ANY CLAIM, LOSS, DAMAGE, LIABILITY, COST, OR EXPENSE IN CONNECTION WITH, ARISING OUT OF OR RELATING TO THE PRODUCTS, EXCEPT AS EXPRESSLY SET FORTH HEREIN.**
16. **RETENTION OF RIGHTS.** The parties acknowledge and agree that Seller and its suppliers have acquired various patents, trademarks, trade names, and trade secrets with respect to Products, and that matters relating to manufacture, production and distribution of Products constitute confidential information and trade secrets of Seller and its suppliers and are not commonly known or accessible to the trade. No right, title, or interest in or to Products generally, or in any patents, trademarks, trade names, confidential information, or trade secrets relating to Products shall pass to Buyer under this agreement, and no right is given to or acquired by Buyer to use or duplicate same, in part or in whole, and Buyer shall receive such confidential information and trade secrets in confidence and trust, without revealing same to any other person or entity.
17. **ASSIGNMENTS.** Buyer's rights, claims, duties and responsibilities under this Agreement may not be assigned, delegated, or otherwise transferred in any manner without the prior express written consent of Seller in each instance.
18. **TERMINATION.** In the event of any breach or default by the other party in any of the terms or conditions of this agreement, or any other contract or arrangement between the parties, either party may immediately terminate this agreement by giving written notice to the other party. This agreement shall immediately terminate without notice by or to, or other action by, either party in the event of any assignment for the benefit of creditors or offer to make an extension to creditors by Buyer; the insolvency (as such term is defined to the Uniform Commercial Code) of Buyer; the commencement of any proceedings under any bankruptcy laws by or against Buyer; the suspension or liquidation of Buyer's usual business; or any transfer (either voluntary or involuntary) of a substantial part of Buyer's property or assets other than in the ordinary course of business; provided, however that in the event of any such termination, the terms and conditions of this agreement shall continue to be binding upon the parties in connection with all Products shipped by Seller to Buyer.
19. **NOTICES.** Any notice required or permitted to be given under this agreement shall be in writing and shall be deemed to have been given upon personal delivery, or forty-eight hours after mailing, be certified or registered United States mail, return receipt requested, postage prepaid, addressed in accordance with the addresses set forth herein, or such other addresses of which notice is so given.
20. **ATTORNEYS' FEES.** In the event any action is initiated for any breach of or default in any terms or conditions of this agreement, then the party in whose favor judgment shall be entered shall be entitled to have and recover from the other party all costs and expenses (including attorneys' fees) incurred in such action and any appeal therefrom.
21. **LITIGATION.** It is hereby irrevocably agreed that all actions, suits or proceedings between Seller and Buyer arising out of, in connection with or relating to this agreement or the interpretation, performance or breach of this agreement shall be litigated in the State or Federal Courts in the County of Chester in the State of Pennsylvania, except that Seller may institute and prosecute to judgment in any court of competent jurisdiction an action, suit or proceeding to effect collection of any monies due Seller from Buyer and Buyer shall reimburse Seller for all costs and expenses (including attorneys' fees) incurred by Seller in so doing. Buyer consents to the jurisdiction of such State of Pennsylvania, waives the right to transfer or change venue of any litigation commenced in any of such Courts, and waives personal service of all process upon Buyer on the condition that all such process is served personally or by registered or certified mail addressed to Buyer at Seller's last known address.
22. **GOVERNING LAWS.** This agreement shall be governed by and interpreted in accordance with the laws of the State from which the Products are shipped.
23. **SEVERABILITY.** If any provision of this agreement, or any portion of any such provision, is held to be unenforceable or invalid, the remaining provisions and portions shall nevertheless be carried into effect.
24. **WAIVERS.** Any action or proceeding relating to or concerning this agreement, or any breach thereof, must be commenced within one year after the claim or cause of action accrues and, if no action or proceeding is commenced within such one year period, the party in whose favor the claim or cause of action arises shall be deemed to have waived same. All rights and remedies of the parties are separate and cumulative, and not one of them, whether exercised or not, shall be deemed to be to the exclusion of any other rights or remedies and shall not limit or prejudice any other legal or equitable rights or remedies which the parties may have. Except as otherwise provided in this Paragraph 24, the parties shall not be deemed to waive any of their rights or remedies under this agreement relating to any Products, unless such waiver is in writing and signed by the party to be bound, and no delay or omission on the part of either party in exercising any right or remedy shall operate as a waiver of such right or remedy. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.
25. **HEADINGS.** The headings contained in this agreement are for convenience only and are not a part of this agreement, and do not in anyway interpret, limit or amplify the scope, extent or intent of this agreement, or any of the provisions of this agreement.
26. **CONFLICTING PROVISIONS.** The printed provisions of this agreement shall be construed as consistent with and cumulative to any other provisions typed, written or otherwise filled in and agreed to by both parties, but if such construction is unreasonable such other provisions shall prevail to the extent of any consistency with such printed provisions.