

TERMS AND CONDITIONS OF SALE

Additional terms and conditions referred to on the face hereof and upon which this sale is made and to which Buyer and Seller agree are as follows:

WARRANTY: Seller warrants that the Goods will conform to Seller's specifications.

DISCLAIMER OF FURTHER WARRANTIES: Except set forth above, there is NO WARRANTY, representation or condition OF ANY KIND, express or implied (INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE GOODS FOR ANY USE CONTEMPLATED BY BUYER) concerning the Goods and none shall be implied by law.

LIMITATION OF LIABILITY AND REMEDIES: SELLER SHALL NOT BE LIABLE, AND BUYER WAIVES ALL CLAIMS AGAINST SELLER, FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER OR NOT BASED UPON SELLER'S NEGLIGENCE OR BREACH OF WARRANTY OR STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. BUYER'S EXCLUSIVE REMEDY FOR ANY CAUSE OF ACTION UNDER THIS CONTRACT IS A CLAIM FOR DAMAGES AND IN NO EVENT WILL DAMAGES OR ANY OTHER RECOVERY OF ANY KIND AGAINST SELLER EXCEED THE PRICE OF THE SPECIFIC GOODS AS TO WHICH THE CLAIM IS MADE. Seller will not be liable to Buyer for any loss, damage or injury to persons or property resulting from the handling storage, transportation, resale or use of the Goods in manufacturing processes, or in combination with other substances, or otherwise.

FORCE MAJEURE: Neither party will be liable for non performance or delay in performance due wholly or partly to any cause not in its control or not avoidable by reasonable diligence. Upon the occurrence of any such contingency, the party so affected may suspend or reduce deliveries during the period of such contingency, and the total quantity deliverable under this Contract will be reduced by the quantities so omitted. The following, while not an exclusive listing, will not be considered within a party's control or avoidable by reasonable diligence: labor controversies; court decrees; inability to use the full capacity of plants or facilities as a result of governmental action, machinery malfunctions or breakdowns; and inability to obtain fuel, power, materials necessary to produce the Goods, labor, containers or transportation facilities without litigation or the payment of penalties or unreasonable prices, or the acceptance of unreasonable terms and conditions.

QUANTITY: Buyer agrees that the ordered quantity reflected in this invoice is merely an estimate and Seller reserves the right to vary the order quantity by ten percent (10%). The purchase price will be determined by multiplying the unit price by the quantity actually shipped.

SHORTAGES: If, for any reasons, shortages occur in Seller's supply of the Goods, or materials necessary to produce the Goods. Seller may, without obligation to obtain similar goods or such materials from other sources, allocate all Goods among its customers, in a manner and amount that, in Seller's judgement is fair and reasonable. Seller may deduct the quantity not shipped because of this allocation from the quantity ordered.

FREIGHT: RISK OF LOSS PASSES TO BUYER WHEN THE GOODS ARE DELIVERED TO THE CARRIER AT SHIPPING POINT. If Seller is to pay freight, Seller may initially designate the means of transportation and routing, and if Buyer requires a more expensive means of routing. Buyer will pay any extra cost involved.

HANDLING, LOADING, UNLOADING AND CONTAINERS: Buyer acknowledges that the goods may require special handling, storage, transportation, treatment or use to comply with applicable safety and environmental laws and will take all reasonable action to comply with these laws and avoid spills or other damages to persons, property or the environment. Buyer certifies that containers and allied equipment presented by it at Seller's shipping point will be fit for the Goods. Seller may refuse to load if it believes that the quality of the Goods will be prejudiced or that any unsafe condition exists. Buyer will (1) unload and release all transportation equipment promptly so Seller incurs no demurrage, other expense or loss, (2) comply with instructions Seller may give for return of this equipment, and (3) pay any invoice for this demurrage, other expenses or loss within 10 days. Buyer will not make any agreement with any railroad that will adversely affect the mileage compensation paid by such railroad to Seller for railcars owned by or under lease to Seller.

PAYMENT TERMS: BUYER CREDIT: Net 30 days from date of invoice. Credit terms may be decreased, cancelled or limited by Seller, both as to time and amount, at any time without notice and the price of any part of the material deliverable under this Contract shall, at Seller's option, be payable in cash before shipment or on offer of delivery. Seller shall not be obliged to make any shipment when Buyer is in default to Seller under this or any other contract. Buyer shall make no deductions (including those for alleged damages) from payments due hereunder.

COST OF COLLECTIONS: Any cost incurred by Seller for the collection of any amounts due on this account including, but not limited to, Attorney's fees and court costs shall be borne by the Buyer.

TAXES: All increases in, and all new, taxes, excises or other governmental charges (except taxes based on Seller's net income) imposed on production, sale or transportation of the Goods after the date of this contract which Seller is required to pay will be added to the price.

CLAIMS: Buyer will test and inspect the goods for compliance with this Contract within a reasonable time after each shipment and if Buyer fails to notify Seller within 45 days after its receipt of any shipment, and before any part of the Goods (except for reasonable test and inspection quantities) has been changed from its original condition that the Goods are defective or short in any respect, Buyer will have waived any rights or claims against Seller. Seller's invoice weights, volumes, sizes and tares established in good faith will govern unless proved erroneous. Variations of 1% or less from invoice quantity of shipment will be disregarded.

NOTICES: All notices under this Contract must be in writing and mailed or delivered to the appropriate address set forth at the beginning of this Contract.

MISCELLANEOUS: No modification, waiver or discharge of this Contract shall bind either party unless signed by its authorized representative. If either party assigns this Contract (other than to an affiliate) by operation of law or otherwise, without the consent of the other party, this other party may declare this Contract void. The validity, performance, construction and effect of this Contract will be governed by Mass. law. All technical advice, recommendations and services of Seller are intended for use by persons having skill, at their own risk, and Seller assumes no responsibility and Buyer hereby waives all claims against Seller, for results obtained or damages accrued from the use of Seller's advice, recommendations and services. Buyer will indemnify and hold Seller harmless from and against all damages, costs and expenses resulting from special marking of the Goods or containers in accordance with Buyer's requests.