

GENERAL TERMS AND CONDITIONS

1. Delivery of and title to the goods, and each installment thereof, sold here under and risk of loss therefor, shall be deemed to have been made and passed to Buyer as follows:
 - (a) upon delivery to the ocean carrier, if sale is made for shipment from a foreign country on an f.o.b. basis or c.i.f., c&f or c&i United States destination; or
 - (b) upon delivery to truck or railroad carrier, if sale is made for shipment from a United States location to a United States destination, whether f.o.b., c.i.f., c&f or c&i; or
 - (c) upon delivery to Buyer or his agent of a transferable dock receipt or warehouse receipt or of a delivery order, if sale is made ex-dock or ex-warehouse; or
 - (d) at the time or upon the happening of the event provided by law, if the sale is made on any basis other than the foregoing. The date set forth in any applicable document of title shall be conclusive evidence of the date of any delivery or shipment which is effected thereby.
2. Any sums due to Seller hereunder shall be paid regardless of controversies between the parties relating to their goods, whether arising out of this or any other contract.
3. Unless otherwise specified, Seller may deliver and Buyer will accept up to ten (10) percent more or less than the contract quantity.
4. Unless otherwise specified gross shipping weights will govern.
5. (a) If Buyer has not given blanket shipping and routing instructions for all shipments, Buyer is required to give shipping and routing instructions within five (5) days after Seller mails notice of intention to deliver to Buyer. If such shipping instructions are not given within the time specified risk of loss shall be deemed to have passed to Buyer at such time and demurrage, storage and other charges and expenses shall be payable by Buyer, and Seller at its option may pay the same and invoice them to Buyer. In such event Buyer shall remain liable to Seller for damage resulting from its failure to give such instructions.
 - (b) If Seller agrees to defer delivery of any installment at the written request of Buyer, it may immediately bill Buyer therefor and any credit terms set forth in this Agreement shall commence to run as of the date of such invoice. Seller may add to such invoice interest on the contract price of such goods at the rate provided in paragraph six (6) hereof from the due date of such invoice to the date of payment thereof, as well as the storage, demurrage, insurance, handling and other charges and expenses incurred by Seller by reason of the deferral.
6. Buyer shall pay interest from the due date of any invoice to the date of payment thereof at the lower of then applicable maximum legal rate of interest or the then Oklahoma prime rate of interest plus three percent (3%) per annum.
7. If Buyer fails to furnish any instructions with respect to labels, brands, packing, models, colorings, designs, patterns, assortments or any other matter required hereunder, within the time specified herein, Seller may cancel any undelivered portion of the contract and Buyer shall remain liable for any damages sustained by Seller, however, if Seller shall, in writing, agree to accept belated instructions, the period of such delay shall at Seller's option, be added to the delivery date of the applicable goods. In case Buyer does not specify any special inspection or inspector, Seller reserves the right to supply at his option, any inspection he may desire and such shall be accepted by the Buyer as final.
8. (a) Default or delay by Seller in delivering or shipping the whole or any part of the goods sold hereunder shall not affect any other portion thereof, nor shall it affect any other contract between the parties. Seller may deliver or ship such goods in installments, and any delivery or shipment of the whole or any part of such goods made within fifteen (15) days before or after the date or dates specified therefor shall constitute timely delivery or shipment. If Seller fails to ship or deliver thereafter the whole or any part of such goods, Buyer shall have the right to cancel the contract with regard to such unshipped or undelivered goods, remaining liable for the remainder thereof, if any; provided, however, that Buyer shall notify Seller in writing of such cancellation within thirty (30) days after the expiration of such period of grace.
 - (b) If the contract specifies shipment per non-conference line vessel then, in such event, shipping date, as shown on this contract is only approximate and constitutes time of shipment from point of origin but shall not be construed as a guarantee on the part of Seller. Shipment is contingent upon freight space being available within the time specified, with the option to Seller to ship thereafter as soon as freight space shall become available to Seller.
9. Seller shall not be liable for any delay in performance or inability to perform occasioned by any cause beyond its control or beyond the control of its suppliers, manufacturers, mills, processors, or finishers, including, but without limiting the generality of the foregoing fires, strikes, lock-outs, labor difficulties, tornadoes, earthquakes, typhoons, embargoes, floods, delays by carriers, orders, rules or regulations of any foreign and/or domestic governmental authorities, trade associations, or any other agency having control over export or import, voluntary quotas, restrictions, controls, unavailability or shortage or delay of any transportation. Intervention of any such cause or causes shall give Seller the right, without liability to Buyer of any kind, to terminate this contract with respect to all or any portion of the goods affected thereby or, upon removal of the cause, to resume deliveries in such proportions as it may determine, until the entire quantity purchased thereunder has been delivered.
10. The amount of credit extended to Buyer may, from time to time, be changed by Seller, its agent or its factor, or it may be entirely revoked. If the total amount due under the contracts with Buyer exceeds the line of credit as determined by Seller, its agent or its factor, Buyer agrees to pay cash or anticipate payment for any shipment in excess of its credit limit. If Buyer fails to anticipate payment or pay cash, Seller may, upon five (5) days notice in writing, either terminate the contract or contracts with Buyer or sell all or any part of the undelivered goods without notice, at public or private sale, holding Buyer responsible for any loss suffered thereby. Approval of credit for one or more deliveries shall not be deemed to be a waiver of this provision.
11. If Buyer is in default in payment on this or any other contract with Seller, Seller shall have the right to defer shipment of all or part of any undelivered portion of this contract until such default is cured by Buyer, or to terminate this or any other contract with Buyer, whereupon all sums owing from Buyer to Seller shall immediately become due and payable and Buyer shall be liable for any damages suffered by reason of such default.
12. (a) Prices set forth herein are predicated on current duties, imposts and special levies, if any, in the countries of origin or destination of the goods and shall be increased in an amount equal to any applicable increase therein. All stated prices do not include any Federal, State or Local taxes. All such taxes are the responsibility of the Buyer. If Seller is obligated to pay such taxes, Buyer shall reimburse Seller therefor promptly.
 - (b) Any change in insurance premiums, terminal or other shipping charges, which may be established after the date of this contract shall be for Buyer's account. Ocean and/or land transportation expenses, if included in the price; is as per current tariff at the date hereof, and any change therein is for Buyer's account.
13. Any claims for warranty, damage, loss, or of any other nature must be presented to Seller in writing within ten (10) days after delivery has been tendered, giving full details. Unless foregoing is complied with all claim rights are forfeited. Proper exceptions must be taken by Buyer at time of delivery from dock or common carrier in accordance with the terms and conditions of the Bill of Lading covering shipment. Where necessary, proper notification of claim for loss or damage must be made to insurance underwriters within ten (10) days after known loss or damage. Claims must not be deducted from invoices. Notwithstanding the foregoing, cutting, processing, or in any manner changing the form of such goods shall constitute acceptance thereof and waiver of any such claim. No goods, defective or otherwise, are returnable without prior written authorization of Seller.
14. Seller shall not be responsible for infringement of any patent, trademark, copyright, or similar property right claimed by third parties with respect to goods originated or chosen by Buyer and Buyer hereby agrees to indemnify and hold Seller harmless against and from any liability, loss or damage which it may incur by reason of any such alleged infringement; Buyer shall reimburse Seller for any sums of money which it may expend to defend itself against any such claim and for any judgement or award which may be entered against it.
15. In the event of a breach or repudiation of this contract by Seller, its liability shall be limited to the difference between the contract price of the goods and the market value thereof on the delivery date. Seller shall in no event be liable for direct or consequential damage or any other nature, including, but without limiting the foregoing, loss of profit and goodwill, except that if the goods sold are "consumer goods", damages for bodily injuries may be recoverable. Buyer hereby expressly waives any other measure of damages.
16. Any action or proceeding relating to or concerning this contract, or any breach thereof, must be commenced within one year after the asserted claim or cause of action shall have accrued (whether or not the party asserting such claim or cause of action had any knowledge or notice thereof) and, if no action or proceeding is commenced within such one year period, the party in whole favor of the claim or cause of action arises shall be deemed to have waived the same.
17. No agent, employee or representative of Seller has any authority to bind Seller to any representation or warranty concerning the goods sold under this agreement, and, if such a representation or warranty has been made, it shall not be enforceable by Buyer unless specifically set forth in this contract.
18. No right, duty or claim of Buyer arising under this contract shall be assignable, delegable or transferable in whole or in part without the express written consent of Seller.
19. Any reference on the face of this contract to an attachment(s) makes such attachment(s) a part of this sales contract and subject to the terms and conditions therein.
20. Seller reserves the right to cancel any sizes, sections or items not coming within manufacturing program of the producer. Cancellation of certain sizes, sections, or items by the Seller due to the above reasons shall in no way affect the balance of the contract. Buyer may not cancel or modify his orders or request the privilege of making any changes in specifications except in writing and with the express consent of Seller and subject to such conditions as will save Seller harmless from any loss by reason thereof.
21. This contract supercedes all representations, agreements, understandings and order forms and confirmations of Buyer to Seller or their respective agents, whether made or issued before or after this contract. The provisions of this contract cannot be waived, changed, modified or terminated except in writing signed by the party against whom enforcement of any waiver, change, modification or termination is asserted.
22. Any controversy or claim arising out of, or relating to this contract or any breach thereof, shall be settled by arbitration in the city and State of Oklahoma in accordance with the rules, then in effect by the American Arbitration Association. The party demanding arbitration shall appoint one arbitrator and the other party shall appoint an arbitrator. The two arbitrators so appointed shall appoint a third arbitrator. Judgement upon the award of the arbitrators may be entered in the Courts of any state having jurisdiction thereof. In any arbitration proceeding arising under this contract, the arbitrators shall not have the power to change, modify or alter any express condition, term or provision of this contract, or to render an award which has such effect, and to that extent the scope of their authority is so limited. The parties consent that any notice to arbitrate or any notice in connection with such arbitration and any process or notice of motion or other application to a court, may be served outside the State of Oklahoma by registered mail or by personal service.
23. (a) Where a Letter of Credit is required, such must be in the possession of Seller in form acceptable to Seller within five (5) days from date of contract, otherwise contract may be terminated at option of Seller.
 - (b) An acceptance by the Seller of (or negotiation against) a Letter of Credit established by the Buyer does not in any way alter any terms and conditions of this contract, even though the Letter of Credit stipulates different terms and conditions from those herein shown.
24. Any notice or consent required to be given to either party in connection with any of the terms or provisions of this contract shall not be deemed to have been sufficiently given, unless it is in writing and sent by mail, postage prepaid, to the other party at the address given on the face hereof, or such other address as such party shall notify in the manner herein provided.
25. This contract shall be governed by and interpreted in accordance with the laws of the State of Oklahoma.