

## Purchase Order Terms & Conditions

Goods purchased from our supplier (Seller) will be confirmed with a Purchase Order from our company (Buyer). The Purchase Order will confirm the verbally transacted contract between the Seller and the Buyer. The Purchase Order and the acceptance of it shall be considered a contract in the state in which Buyer's office shown on the face of the Purchase Order is located, and the contract shall be governed by the laws of that state.

### **General**

The grade provisions and reinspection rules of the grading association (WWPA, WCLIB, SPIB, APA, NLGA, NEMLA or other recognized grading agency) whose stamp appears on the goods sold by the Seller shall be deemed included in and part of the contract except as otherwise set out herein. Any inconsistency between those rules and the terms and conditions contained herein shall be resolved in favor of the terms and conditions contained herein. No other modification of those rules shall be effective unless made in writing and signed by Buyer's authorized representative.

### **Claims and Reinspection**

Claims for shortages, defects, nonconforming goods or errors in shipment shall be made as promptly as practical after delivery to the ultimate destination, except as otherwise provided in the Purchase Order. Failure to inspect, accept or reject the goods or failure to detect defects by inspection shall neither relieve Seller from responsibility for the goods nor impose liabilities on the Buyer.

Any reinspection of the goods sold hereunder shall be conducted and governed by the association which grade stamped the goods. The rules and standards of that association shall govern and shall be the basis for final settlement. The findings of that association shall be binding upon the parties in the event of litigation or arbitration. The expenses of such inspection and survey shall be borne by Seller if the item complained of is found to be more than 5% below grade. If 5% or less, the expense shall be borne by Buyer.

### **Seller's Warranties**

Seller warrants that all goods sold hereunder or pursuant hereto shall conform to the specifications set forth in the Purchase Order and are free from liens and patent infringements. Seller also warrants and represents that all of the goods will be of merchantable quality, free from all defects in design, workmanship and materials, and will be fit for the particular purposes for which they are purchased and that the goods shall be provided in strict accordance with the specifications samples, drawings, designs or other requirements (including performance specifications) approved or adopted by Buyer.

Seller represents and warrants that all goods furnished to Buyer will comply with and be manufactured, priced, sold, and labeled in compliance with all applicable federal, state, and local laws, rules, ordinances, regulations, and codes, including without limitation, environmental protection, labor, consumer product safety regulations and labeling requirements. Seller further represents and warrants that all goods furnished to Buyer shall comply with all United States laws and regulations applicable to trademark, copyright and patent rights.

**Mold**

Seller shall ship only goods free of mold.

**Seller's Liability**

Seller is responsible for the cost of replacing defective and/or nonconforming goods as specified in the Buyer's Purchase Order following rejection by Buyer. Seller shall be liable to Buyer for consequential or incidental damages arising from nonconformity of the goods or delay in shipment and any other breach by Seller.

**Arbitration**

Any controversy or claim arising out of or related to any contracts between Buyer and Seller or breach thereof shall be settled by arbitration under the applicable Rules of the American Arbitration Association, or under the rules of any other organization providing arbitration services which may be agreed upon by the parties, with the place of arbitration being the city in which Buyer's office shown on face of Purchase Order is located. Judgment may be entered upon the arbitration award. In connection with any arbitration proceeding, each party shall pay (a) onehalf of the arbitrator's fees and any administrative charges associated with the proceeding, and (b) all of its own attorney and other professional fees and costs.

**Force Majeure and Cancellation**

In the event of United States or foreign government intervention, trade restrictions, and/or quotas which may delay or prevent delivery of the goods or any part thereof, Buyer, at Buyer's option, may cancel purchase of goods without liability.

In the event any of the goods shall become subject to any governmental fees or duties not presently in effect, or to any increase in any existing fee or duty, including any antidumping duty or countervailing duty, Buyer, at Buyer's option, may cancel the unshipped balance of the goods without liability.

In the event of force majeure, both Buyer and Seller will attempt to over come it and keep each other informed of progress. If a force majeure event continues for one month, Buyer and Seller will attempt to continue with the agreement. Failing agreement, Buyer may terminate the agreement.

**Shipment Default**

Shipment shall mean shipment according to the specified week of shipment in the contract. If Seller fails to make shipment within the agreed period of time because of contingencies specified above, it shall notify Buyer at once. If Seller fails to make shipment within the agreed period for any other reason Buyer, at Buyer's option, may cancel the purchase of goods without liability.

**Indemnification**

Seller agrees to defend, indemnify and hold harmless Buyer from all claims, losses, damages, costs and legal fees of any nature whatsoever, including but not limited to consequential or incidental damages, arising out of or related to any acts or omission, including negligence of Seller, its agents, employees, subcontractors, or any other persons directly or indirectly acting on behalf of them.

The indemnified losses shall include, without limitation, those losses incurred as a result of any violation of any law, regulation, or order; bodily injury, death or property damage; breach of warranty; representation or misrepresentation regarding a product's attributes or performance ability.

**Insurance**

Seller agrees to maintain, in force, insurance coverage for the indemnity obligations set forth above, including contractual liability insurance.

**SetOff**

Buyer and Seller agree that Buyer may deduct and setoff from any sums due and owing Seller amounts equal to the costs, damages and losses that Buyer has incurred as a result of the failure of the goods to comply with the specifications and/or any breach of this or any other contract by Seller.

**Extra Charges**

No extra charges of any kind will be allowed for Buyer's account unless specifically agreed to by Buyer.

The following additional terms and conditions apply to any purchases of goods manufactured outside of the United States.

**Country of Origin**

Seller shall not provide Buyer with any goods which are falsely or fraudulently labeled as to country of origin information or otherwise. Seller agrees not to engage in practices or arrange for purchase of any goods or services from others who engage in practices which aid or abet the transshipment of goods in a manner which conceals the true origin of the goods or which permit the evasion of any quotas on any goods shipped by Seller.

**Changes in Duty and/or Freight Rates**

Any changes, after date of the contract, in rate of duty, United States import taxes, or valuations by United States Customs, shall be for the account of Seller unless otherwise specified. Any change in freight rates between contract date and bill of lading date above and beyond the negotiated price shall be for the account of Seller

**Detention**

Goods are purchased subject to inspection by USDA, or any other United States Government Department, Bureau or Agency with jurisdiction over them. If the goods or any part of them are detained by the United States Government and not released within 60 days for entry, Seller shall be responsible to refund the purchase price, if paid, plus freight charges, insurance and other expenses necessarily incurred by Buyer in connection with the transaction or provide the same material from another source with Buyer's approval.