



1. **CONTRACT DEFINED.** This Contract between Shipper ("Seller") and Consignee Customer ("Buyer") covering the shipment evidenced by this Bill of Lading ("Contract"), includes these Conditions of Sale insofar as they are not inconsistent with any applicable written contract between them.

2. **PRODUCT QUANTITY.** Seller will not be required to deliver a quantity of Product exceeding that specified in the Contract. If no monthly quantity is specified, Seller may limit the quantity to be delivered in any month to the lesser of the pro rata amount of the specified quantity or, after the initial 90 days, the average of the monthly quantities delivered during the expired months of the Contract.

3. **DELIVERIES.** Deliveries of each Product will be made only at the FOB point specified in the Contract or otherwise indicated by Seller for such Product and Seller will select the origin of shipment and the carrier. The quantity of all bulk rail and truck deliveries will be determined by Seller by outage tables with corrections for temperature or by weighmaster's certificate as appropriate and Seller's quantity determination will govern. Buyer will promptly unload each delivery at its own risk and expense (including any demurrage or detention charges).

4. **PRICE AND PAYMENT TERMS.** For each Product, the price, FOB point and terms of payment will be as specified for that Product in the Contract or otherwise quoted by Seller and such price is subject to change at any time by Seller giving notice to Buyer. Any tax (other than income), duty or other governmental charge now or hereafter imposed on the Product or any raw material used in manufacturing the Product (or on Seller, or required to be paid or collected by Seller by reason of the manufacture, transportation, sale, or use of such Product or raw material) will be paid by the Buyer in addition to the price. If no terms of payment are specified or quoted, then payment terms will be net 30 days from invoice date. If Buyer gives satisfactory evidence that it can purchase a product of like quality and quantity produced in the United States (including its territories or possessions) at a price and under terms and conditions similar to those of the Contract and Seller elects not to meet the lower price, all quantities actually purchased by Buyer at the lower price will be deducted from the applicable remaining quantity obligation. If Seller elects to meet the lower price, Seller may withdraw its lower price at any time by giving notice to Buyer.

5. **WARRANTIES.** Seller warrants that each Product will meet specifications designated as such in the Contract or in Seller's applicable publications but reserves the right to change the specifications or properties of any Product at any time on at least 30 days' notice. If the change is not acceptable, Buyer may terminate the Contract with respect to the changed Product by giving notice. Seller also warrants that it will comply with all applicable laws and governmental regulations and orders. SELLER MAKES NO OTHER WARRANTIES, WHETHER OF MERCHANTABILITY, FITNESS OR OTHERWISE, AND NONE WILL BE IMPLIED.

6. **EXCUSES FOR NONPERFORMANCE.** Either Seller or Buyer will be excused from the obligations of the Contract to the extent that performance is delayed or prevented by circumstances (except financial) reasonably beyond its control or by fire, explosion, mechanical breakdown, strikes or other labor trouble, plant shutdown, unavailability of or interference with the usual means of transporting the Product or compliance with any law, regulation, order, recommendation or request of any governmental authority. In addition, Seller will be so excused in the event it is unable to obtain raw materials and on terms it deems to be reasonable, any material necessary for manufacturing the Product. If, because of such circumstances, there should be a shortage of any Product from any of Seller's sources, Seller will not be obligated to purchase Product in order to perform the Contract and may apportion its available Product among all its customers and its own internal uses in such manner as it, in its sole judgment, finds appropriate. Quantities of Product consequently undelivered will not constitute a breach of Seller's quantity obligation.

7. **LIABILITIES - CLAIMS - INDEMNIFICATION.** Seller will have no liability for, and Buyer will indemnify Seller against, all claims, loss, liability and expense on account of any injury or death of persons, including Buyer's employees, or damage to property, including Buyer's, arising out of Buyer's unloading, storage, handling or use of any Product except to the extent caused by Seller's negligence and this indemnity obligation of Buyer will survive termination of the Contract. Neither Seller nor Buyer will have any liability to the other for any claim (except for indebtedness of Buyer to Seller) arising out of or in connection with the Contract unless claimant gives the other party notice of the claim, setting forth fully the facts on which it is based within sixty (60) days of the date such facts were discovered or reasonably should have been discovered. Seller's liability, whether or not based on negligence, will not exceed the purchase price of the Product involved in the claim and neither Party will be liable for any special, incidental or consequential damages.

8. **REMEDIES.** If Buyer fails to pay any indebtedness to Seller (whether or not under the Contract) Seller may, in addition to any other remedies, suspend deliveries, change terms of payment or terminate the Contract by notice to Buyer. Buyer's obligation to perform will not be limited by any previous waiver by Seller.

9. **NOTICES.** Notice by either Seller or Buyer will be made only by letter or telegram addressed to the other Party at its address in the Contract and will be considered given as of the time it is deposited with the U.S. Postal Service or the telegraph company, postage or charges prepaid.

10. **ACCEPTANCE, ENTIRETY AND RELEASE.** Seller's acceptance of Buyer's order or proposal is expressly conditional on Buyer's assent to the terms of the Contract and Seller rejects any terms of Buyer's order or proposal which differ or are added to or form a basis for the terms of the Contract. Buyer's assent is conclusively presumed by Buyer's acceptance of Product delivery. This Contract, as of its beginning, contains the complete and exclusive agreement of Seller and Buyer concerning the Product, terms and conditions, and supersedes all prior agreements, understandings or representations (oral or written) between the parties concerning the Product, and, except for any indebtedness of Buyer to Seller, each releases the other from all claims arising in connection with any such prior contract.

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