

ADDITIONAL CONDITIONS OF SALE

1. **APPLICABLE LAW:** This contract shall be governed and construed in accordance with the laws of the State of North Carolina.
2. **LATE CHARGES, COSTS, ANTICIPATION:** Buyer shall pay interest at the rate of 1.5% per month on all overdue contract or invoice balances. Buyer further agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by Seller in collecting overdue contract of invoice balances or in otherwise enforcing the terms and provisions of this contract. Anticipation shall not be allowed until ten (10) days after date of invoice. No anticipation allowed on dating in excess of regular terms of sale.
3. **CREDIT:** In case any bills shall not be paid when due, all sums owing under this and other contracts between Buyer and Seller shall, at the option of Seller on its factor, at once become due, irrespective of the terms of sale, and Seller may defer delivery under this and such other contracts until such sums shall be paid and for a reasonable time thereafter. If the total amount due or to become due under the contracts between Buyer and Seller exceeds the credit limit for Buyer, which may be fixed or varied from time to time, in the sole discretion and opinion of Seller or its factor, Buyer agrees to pay cash before delivery for any future shipment in excess of such credit limit. Seller shall be entitled to revoke Buyer's credit and to sell to Buyer on a cash only basis, in Seller's sole discretion. Upon failure by Buyer to make any payment under this Paragraph 3 within ten (10) days after demand in writing (or if Buyer shall become insolvent, call a meeting of its creditors, or make an assignment or trust for the benefits of creditors or if bankruptcy, insolvency, reorganization or arrangement proceedings shall be commenced by or against Buyer) Seller shall have the option to cancel this and other contracts between Buyer and Seller and exercise all remedies provided under this contract and by law.
4. **SECURITY INTEREST AND LIEN:** Buyer grants to Seller a security interest and lien upon all goods and property of Buyer in the possession of Seller, now and in the future, (including goods billed and held and including goods in the possession of any parent, subsidiary or affiliate of Seller), to secure all present and future obligations of Buyer to Seller, including without limitation the obligations arising out of this contract. Acceptance of a note, bill, acceptance or additional security, shall not constitute a waiver of Seller's security interest and lien upon such goods. In the event Buyer fails to pay or perform any obligation to Seller when due, Seller shall have the option to sell all or any part of the goods subject to the foregoing security interest and lien at public or private sale after ten (10) days written notice to Buyer, mailed to Buyer by registered mail, at Buyer's last-known address. Seller shall be entitled to purchase all or any part of the goods at such sale and the proceeds of sale shall be applied first to the costs of sale, including reasonable attorneys' fees, and then to Buyer's obligation to Seller. Buyer shall be responsible for any deficiency existing after application of the proceeds. The security interest and lien provided for herein shall be in addition to all liens and remedies in favor of Seller provided by law.
5. **BUYER'S INSOLVENCY, ETC.:** If Buyer shall become insolvent, call a meeting of its creditors, or make an assignment or trust for the benefit of creditors or if bankruptcy, insolvency, reorganization or arrangement proceedings shall be commenced by or against Buyer: (1) Seller may stop the goods in transit; (2) Buyer shall not accept delivery of any goods; (3) title to and ownership of the goods shall remain in Seller; (4) if title to any of the goods has passed, Seller may rescind such transfer of title; (5) Buyer shall at Seller's written request, return the goods or any part thereof to Seller freight prepaid; (6) risk of loss shall remain in Buyer until Seller regains possession of the goods.
6. **DELAY IN DELIVERY:** The Seller shall not be liable for any default in, delay, reduction or failure of, delivery due to cause beyond its control including, without limitation, default, delay, reduction or cancellation of shipments of necessary raw materials, defaults, failures or delay by strikes of any kind, lockouts, disputes or disagreements resulting in work stoppages, plant shutdown or slowdown at the mill of Seller or elsewhere, embargoes, government regulations, military services, war, delays by carriers, lack of shipping facilities, unavoidable casualties, fires, floods, storms, explosions, epidemics, civil disturbances, acts of God or public enemy or any other causes or conditions in addition to the foregoing which are beyond the Seller's control. In any such circumstances, Seller may without liability on Seller's part, cancel or terminate the contract or parts thereof or suspend and thereafter, upon removal of the difficulty or cause of such default in, delay, reduction or failure of, delivery, resume delivery of all or part of the goods remaining undelivered and shall continue at a rate proportionate to the original specifications thereafter until the entire quantity purchased hereunder has been delivered, and Buyer shall accept such deliveries, provided that if such delay in delivery exceeds twenty days. Buyer may demand delivery of the goods so delayed by providing Seller with a written demand by registered or certified mail and if said goods are not shipped by Seller within ten days after receipt of such demand, this contract shall be deemed terminated without liability on Seller's part, as to said goods.
7. **DELIVERY, TENDER AND PASSAGE OF TITLE:** (a) Where goods are sold otherwise than F.O.B. destination, delivery to any carrier customarily used by the public for delivery, or to the Buyer or its agent, shall constitute delivery to the Buyer. Seller may, at its option, make delivery at some point other than the mill where the goods are manufactured and add to the mill price a reasonable charge for transportation to such point of delivery. In the absence of shipping instructions, the mailing of the customary invoice shall constitute delivery. Goods invoiced and held by Seller for whatever reasons shall be held at the Buyer's risk and expense. Notwithstanding this provision, such goods whether located on Seller's premises or elsewhere, shall be included at invoiced value under whatever general property insurance policies Seller carries to the same extent that Seller's own goods are insured. (b) Any shipment or tender made within fifteen days after date or period specified for delivery in the contract shall constitute a good delivery or tender. Buyer agrees that delay in delivery in excess of fifteen days or defect in quality shall entitle Buyer to cancel only that portion of the goods which is so delayed in delivery or defective in quality. (c) Any delivery not in dispute shall be paid for separately regardless of dispute as to other delivered or undelivered goods. Upon breach by Buyer as to any installment, Seller, at its option, may treat such breach as severable or as a breach of the entire contract. (d) Except as otherwise provided herein and in those instances where goods are shipped "C.O.D." or subject to a letter of credit, title passes upon delivery to Buyer as above provided. (e) Where agreed delivery dates cover two or more months, delivery shall be in substantially equal amounts each month unless otherwise stated.
8. **CLAIMS AND ALLOWANCES:** Seller shall not be liable for normal manufacturing defects nor for customary variations from quantities or specifications. If Buyer claims goods are defective in quality, they must be properly and promptly offered to Seller for examination in the same condition as when delivered by Seller to Buyer. If Buyer fails to afford Seller full opportunity for such examination (by redelivery to Seller if requested) Buyer shall not be entitled to make or have any deduction, allowances, claim or cause of action based upon or relating to such goods. Seller may, in its sole discretion, replace any goods which are not in accordance with the contract, and such replacement, if made by Seller, shall be Buyer's sole and exclusive remedy for defective or nonconforming goods. Claims of any kind or nature, except for latent defects, are also specifically barred unless made in writing within thirty (30) days after delivery of goods and prior to cutting, processing or altering of goods in any manner from the original condition of delivery. Claims for latent defects are barred unless made in writing within ninety (90) days after the date of invoice. The limit of Seller's liability for defective goods or non-conforming goods (if Seller elects not to replace the goods as described above) shall be limited to the differences, if any, between the contract price and the fair market value of the goods on the date of delivery. **IN NO EVENT SHALL THE BUYER BE ENTITLED TO CLAIM ANY OTHER DAMAGES OR CONSEQUENTIAL DAMAGES FOR DEFECTIVE OR NONCONFORMING GOODS OR FOR LATE DELIVERY OR NO DELIVERY, AND IN NO INSTANCE SHALL BUYER BE ENTITLED TO RECOVER DAMAGES FOR LOST PROFITS OR CONTEMPLATED USE OR PROFIT OF ANY DESCRIPTION.** Seller reserves the right to make delivery of either five percent (5%) over or under the specified quantity except where the goods are specially made or delayed to the Buyer's specifications in which event a ten percent (10%) variance will be allowed. Seller's failure to deliver within these variances shall not relieve Buyer from the obligation to pay for material actually delivered.
9. **ASSORTMENTS:** If Buyer does not select coloring, designs or patterns, furnish assortments or complete specifications within the time specified in the contract, or if not specified fifteen (15) days prior to initial delivery date, Seller may, at any time thereafter cancel the contract or bill the Buyer for all or any part of the unsorted goods in the grey at the contract finish goods price; or bill the Buyer for such goods as Seller may assort from patterns and/or colors as the Seller may then have available for delivery; either of which will constitute full performance by the Seller. If Seller permits Buyer to complete assortments or specifications subsequent to the times specified. Seller may delay deliveries such time as may be necessary and Buyer shall pay any additional costs resulting therefrom.
10. **DESIGN PROTECTION, CONFINED PATTERNS, TRADEMARKS AND TRADE NAMES:** No rights in patterns and designs of goods covered by this contract pass to the Buyer except as an integral part of goods, and the Buyer, as a special inducement to the Seller, agrees not to copy or cause to be copied or reproduced, either directly or indirectly, any such patterns or designs. If Seller expressly agrees to confine any goods in patterns to Buyer, such goods may nevertheless be sold by Seller to the export trade, and to domestic customers who do not compete with Buyer. No right to the use of any trademark or trade names of Seller passes to Buyer under this contract and Buyer agrees to refrain from using, either directly or indirectly, any of Seller's trademarks or trade names, unless specifically authorized in writing by the Seller.
11. **WARRANTY DISCLAIMER: SELLER MAKES NO IMPLIED WARRANTIES, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, WITH RESPECT TO THE GOODS WHICH ARE THE SUBJECT OF THIS CONTRACT OR WITH RESPECT TO SELLER'S PROCESSING OF SUCH GOODS. EXCEPT TO THE EXTENT THAT AN EXPRESS WARRANTY IS STATED IN THIS CONTRACT, SELLER MAKES NO EXPRESS WARRANTIES WITH RESPECT TO THE GOODS WHICH ARE THE SUBJECT OF THIS CONTRACT OR WITH RESPECT TO THE PROCESSING OF SUCH GOODS. NO VERBAL STATEMENT BY SELLER'S AGENTS OR EMPLOYEES, MADE BEFORE OR AFTER THE EXECUTION OF THIS CONTRACT, AND NO SAMPLES SUBMITTED TO SELLER OR TO BUYER, SHALL BE CONSTRUED AS CREATING ANY WARRANTIES, EXPRESS OR IMPLIED.**
12. **ARBITRATION:** Any claim, controversy or dispute arising out of this contract or any modifications hereof shall, except as otherwise stated below, be settled by arbitration between the parties (without the intervention of others by consolidation of proceedings or otherwise) in the State of North Carolina, as determined by Seller, in its sole discretion, which arbitration shall be conducted in accordance with the rules of the General Arbitration Council of the Textile Industry or the rules of the American Arbitration Association, as Seller, in its sole discretion, shall elect, and judgment upon the award rendered may be entered in any court having jurisdiction thereof. The arbitrator sitting in any controversy arising hereunder shall not have the authority to modify or alter any express provision or condition of this contract, or render an award which, by its terms has the effect of modifying any express provisions or condition hereof. Notwithstanding the foregoing, Seller in its sole discretion, may elect to waive arbitration and have any claim, controversy or dispute resolved by a court of competent jurisdiction. Seller may elect to waive arbitration by: (a) providing written notice to Buyer of such waiver within thirty (30) days after Seller has received Buyer's written demand for arbitration or, (b) Seller's institution of litigation in a court of competent jurisdiction. If Seller elects to waive arbitration, then any controversy or dispute between Seller and Buyer, if not resolved voluntarily by the parties, shall be resolved by litigation in a court of competent jurisdiction rather than by arbitration. Unless Seller elects to waive arbitration, any such claim, controversy or dispute shall be settled by arbitration as described above. Buyer consents to the personal and subject matter jurisdiction of the state and federal courts of North Carolina with respect to any claim arising out of this contract or any goods or services provided by Seller to Buyer or related to the enforcement of the arbitration provisions of this contract.
13. **ACCORDANCE AND SATISFACTION:** Any check or remittance received from or for the account of the Buyer may be accepted and applied by Seller or its factor against any indebtedness or obligations owing by Buyer as shown by the books and records of Seller or its factor, without prejudice to or the discharge of the remainder of any such indebtedness or obligation, regardless of any condition, proviso, statement, legend or notation appealing on, referred to or accompanying such check or remittance.
14. **RESALE WARRANTY:** The Buyer warrants that all goods covered by this contract are purchased for resale as tangible property or to be incorporated as a component or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing, sponging, or refining.
15. **PRICE ADJUSTMENT:** Any increase in Seller's costs due to increase in cost of labor, raw materials or due to government legislation, regulation, rule or directive providing for tax or other assessment on any materials, goods, sales, use or process, or providing for any regulation, or control of Seller's operations, purchases, materials, labor, costs, sales or business, or due to any delay caused by any such governmental legislation, regulation, rule, order or directive may be added to the price specified herein as to any undelivered portion of this contract.
16. **WAIVER:** No waiver by either party, whether express or implied, of any provision of this contract or any breach or default by either party, shall constitute a continuing waiver or waiver of any other provision or provisions of this contract and no such waiver by either party shall prevent such party from enforcing any and all provisions of this contract as to any subsequent breach or default by the other party under any provisions of this contract.
17. **CUMULATIVE RIGHTS:** All rights and remedies of Seller under this contract are in addition to Seller's other rights and remedies provided by law and are cumulative, not alternative.
18. **SEPARABILITY:** If any provision of this contract is or becomes, at any time, under any law, rule or regulation, unenforceable or invalid, no other provision of this contract shall be attached thereby and the remaining provisions of this contract shall continue with the same effect as if such unenforceable or invalid provisions shall not have been inserted in this contract.