

GCI - TERMS AND CONDITIONS

1. ENTIRE AGREEMENT. These terms and conditions of sale (the "Terms"), together with other sales terms, if any, agreed to by Buyer and Seller in a writing or offered by Seller in writing and accepted by Buyer ("Sales Terms"), contain the entire and exclusive agreement between the parties regarding the sale of goods. The Terms, together with the Sales Terms, if any, are referred to herein as the "Contract". If there is a conflict between the Terms and the Sales Terms, the Sales Terms shall govern. Unless agreed to in writing by Seller, all terms and conditions contained in any prior or subsequent oral or written communication from Buyer, including, without limitation, terms and conditions contained in Buyer's purchase order, which are different from or in addition to the Contract are hereby rejected and shall not be binding on Seller, and Seller hereby objects thereto. No condition, usage of trade, course of dealing, course of performance, understanding or agreement purporting to modify, vary, explain or supplement the terms and conditions of the Contract shall be binding unless hereafter made in writing and signed by the party to be bound, and no modification shall be effected by the acknowledgement or acceptance of purchase order or shipping instruction forms containing terms or conditions at variance with or in addition to those set forth herein. No waiver by either Seller or Buyer with respect to any breach or default or of any right or remedy and no course of dealing, shall be deemed to constitute a waiver of any other breach or default or of any other right or remedy, unless such waiver be expressed in writing signed by the party to be bound. Seller makes no representation to Buyer except as contained in the Contract. Any action by Buyer in furtherance of a sale or purchase of goods from Seller shall constitute acceptance of the Contract. Communications by electronic mail or other written electronic means shall be deemed to be signed by the party sending the message.

2. EXCUSE OF PERFORMANCE. Deliveries may be suspended by either party in the event of any occurrence, beyond the reasonable control of such party, which event makes impracticable the manufacture, transportation, acceptance or use of a shipment of the goods or of a material upon which the manufacture of the goods is dependent. If Seller determines that its ability to supply the total demand for the goods, or obtain any or a sufficient quantity of any material used directly or indirectly in the manufacture of the goods, is limited by reasons beyond its reasonable control, Seller may allocate its available supply of the goods or such material (without obligation to acquire other supplies of any such goods or material) among itself and its purchasers on such basis as Seller determines to be equitable without liability for any failure of performance which may result there from. Deliveries suspended or not made by reason of this section may be cancelled without liability, but the Contract shall otherwise remain unaffected unless the affected party is unable to perform for a period of three (3) months. Suspension of deliveries under this paragraph shall not excuse Buyer from payment for goods already delivered.

3. HARDSHIP CLAUSE. If, during the course of the Contract, Seller's material costs or the costs of the components to produce the goods (including, but not limited to, utilities, packaging, etc.) increase significantly, Seller reserves the right to pass on the entire cost of the increase, or some portion thereof, in the form of a surcharge on all orders to Buyer. Seller shall give Buyer written notice before increasing prices under this clause. Buyer shall have five business days from receipt of notice to reject the price increase, in which case Seller shall have no obligation to deliver the goods. If Buyer does not reject the price increase within five business days of receipt of notice, the price increase shall stay in effect until further notice from Seller.

4. BUYER'S CREDIT. Should Buyer's financial responsibility become unsatisfactory to Seller, Seller may require cash payments or security satisfactory to Seller for future deliveries and for the goods theretofore delivered. Seller reserves the right, among other remedies, to suspend further deliveries in the event Buyer fails to pay for any one shipment in full when same becomes due, and such failure to pay shall be grounds for termination under Section 5.

5. TERMINATION. Except as provided in Section 2, if either party materially breaches an obligation it has to the other party under the Contract, the non-breaching party shall give written notice of breach to the breaching party. The non-breaching party may terminate the Contract if the breaching party has not cured the breach within ten days after receipt of notice by providing written notice of termination. In the event of a termination, all outstanding payment obligations or other indebtedness of Buyer to Seller shall be immediately due and payable. Acceptance by Seller of less than the full amount due shall not be a waiver of Seller's right to payment in full unless agreed to by Seller in writing.

6. WEIGHTS AND CONTAINERS. Seller's weights shall govern unless proved to be in error. Where returnable containers are used in shipment, title to such containers shall remain in Seller, and Seller may require that a deposit be made at the time payment is tendered for the goods. Such containers must be kept in good condition, must not be used for any material other than the goods shipped therein and must be returned within sixty (60) days from date of shipment. Upon return of such containers in good condition, a refund of the deposit will be made. Seller may assess Buyer for the cost of containers that are not returned.

7. SHIPMENTS. Seller shall not be bound to tender delivery of any quantities for which Buyer has not given shipping instructions. Unless otherwise provided in the Sales Terms, risk of loss shall transfer at Seller's plant of manufacture. In addition, unless otherwise provided in the Sales Terms, title to the goods shall transfer to Buyer simultaneously with risk of loss.

8. LIMITED WARRANTY. Subject to Section 9 and unless otherwise expressly provided in the Sales Terms, Seller warrants title and that the goods shall conform to Seller's standard specifications or to any specifications provided by Seller to Buyer in writing. Subject to the preceding sentence and except as otherwise expressly provided herein, SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO THE GOODS, whether used alone or in combination with any other material.

9. LIMITATION OF LIABILITY. (a) Buyer waives all claims of any kind regarding the goods unless made in writing and delivered to Seller within ten (10) business days after receipt of the goods. Failure of Seller to receive written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Buyer of such claim irrespective of whether the facts giving rise to such claim shall have then been discovered or of whether processing, further manufacture, other use or resale of the goods shall have then taken place. Transportation charges for the return of the goods shall not be paid unless authorized in advance by Seller.

(b) BUYER'S EXCLUSIVE REMEDY FOR ANY CLAIM AGAINST SELLER SHALL BE FOR DAMAGES, AND SELLER'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS FOR LOSSES AND DAMAGES ARISING OUT OF THIS CONTRACT (WHETHER SUCH CLAIM IS BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE GOODS IN RESPECT TO WHICH SUCH CLAIM ARISES OR, AT SELLER'S OPTION, THE REPAIR OR REPLACEMENT OF SUCH GOODS, AND IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES RESULTING FROM ANY SUCH CLAIM. Upon transfer of title to Buyer, Seller shall not be liable for, and Buyer assumes liability for, all subsequent personal injury and property damage connected with any of the following: the handling, transportation, possession, processing, further manufacture, other use or resale of the goods, whether the goods are used alone or in combination with any other material (together, "Subsequent Uses"). Buyer shall indemnify and hold seller harmless from any and all claims arising from any Subsequent Use. Any action arising under the Contract or from any Subsequent Use must be commenced within one (1) year after the cause of action has accrued.

(c) If Seller furnishes technical or other advice to Buyer, whether or not at Buyer's request, with respect to processing, further manufacture, other use or resale of the goods, Seller shall not be liable for, and Buyer assumes all risk of liability from, following such advice.

10. FREIGHT AND TAXES. Any increase in freight rates paid by Seller on shipments covered by the Contract and hereafter becoming effective and any tax or governmental charge or increase in same (excluding any franchise or income tax or other tax or charge based on income) (a) increasing the cost to Seller of producing, selling or delivering the goods or of procuring materials used therein or (b) payable by Seller because of the production, sale or delivery of the goods, such as sales tax, use tax, retailer's occupational tax, gross receipts tax, value added tax, may, at Seller's option, be added to the price herein specified.

11. ASSIGNMENT. Buyer shall not (by operation of law or otherwise) assign its rights or delegate its performance hereunder without the prior written consent of Seller, and any attempted assignment or delegation without such consent shall be void.

12. MISCELLANEOUS. THE VALIDITY, INTERPRETATION AND PERFORMANCE OF THIS CONTRACT AND ANY DISPUTE CONNECTED HERewith SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF GEORGIA, without reference to its conflict of laws provision. The parties consent to the exclusive jurisdiction of courts in the State of Georgia for any claims arising under this Contract. Buyer agrees to pay all costs and expenses, including reasonable attorney's fees, incurred by Seller in the collection of any sum payable by Buyer to Seller. Seller shall be entitled to interest on any overdue sum at the lesser of the rate of 1.5% per month or the maximum amount allowed by applicable law.