

1. APPLICATION OF TERMS AND CONDITIONS. The parties agree that the supply of products (the Products) by Superior Tube Company, Inc. ("Seller") shall be governed by the terms and conditions contained herein and all orders placed by Customer are received with the understanding that they are placed under these terms and conditions (the "Terms and Conditions"). Seller's Order Acknowledgement is based upon the Terms and Conditions and Seller rejects any and all other terms and conditions of sale proposed or discussed by the parties in connection with this transaction. The Order Acknowledgement and these Terms and Conditions which form part of the Order Acknowledgement shall constitute the contract of sale between Customer and Seller (the "Agreement") unless Customer objects to any term, in writing, within (7) days from the date hereof. SELLER HEREBY NOTIFIES CUSTOMER THAT THE TERMS AND CONDITIONS INCLUDED HEREIN ARE THE ONLY TERMS AND CONDITIONS UNDER WHICH SELLER AGREES TO BE BOUND.

2. MODIFICATION/ AMENDMENT. This Agreement may not be amended, changed or modified except by a writing duly executed by Customer and Seller, and it is expressly understood that in the case of Seller, any such writing shall be executed by an authorized representative of Seller.

3. PRICES. Prices are set forth on the Order Acknowledgement and may be subject to change. Seller reserves the right to revise prices if there is a change in quantity, size, analysis, finish or method and time of shipment differing from those specified by the original order.

4. PAYMENT. Customer shall make payment to Seller within thirty (30) days from the date of the invoice. If in the judgment of Seller the creditworthiness of Customer becomes impaired at any time or Seller otherwise becomes insecure, Seller shall have the right to require payment in advance for making any future deliveries of Products and Seller may, upon seven days' written notice to Customer, declare that the unpaid purchase prices of any Products not made when due shall accrue interest at the rate of 18 percent per annum or at the highest interest rate permitted by applicable law, whichever rate is less. At Seller's option, upon any breach or default by Customer hereunder, any outstanding debt obligation or liability of Customer to Seller, under this Agreement or otherwise, shall be immediately due and payable. Time is of the essence with respect to all payments due to Seller from Customer hereunder, and, unless in each instance waived by Seller in writing, timely payment shall be a condition precedent to any subsequent deliveries of Products or other performance by Seller of its duties and obligations hereunder.

5. SHIPMENT/ TITLE/ RISK OF LOSS. All domestic shipments shall be made F.O.B., Seller's facility. All international shipments shall be made Ex Works Seller's facility (Incoterms 2000). Title and risk of loss or damage to any Products shall pass from Seller to Customer upon Seller's delivery of such Products to the carrier designated in the shipping instructions contained herein, or to a carrier reasonably selected by Seller if such shipping instructions do not designate a carrier, for shipment to Customer. Any changes by carrier at destination for spotting, switching, demurrage or other services shall be paid by Customer. Any price quotations contained herein are price terms only, and risk of loss or damages and shipping terms are as separately provided in this Agreement.

6. DEFECTIVE, NONCONFORMING OR REJECTED MERCHANDISE. Customer shall inspect each shipment of Products by Seller to Customer immediately upon receipt, and within thirty (30) days of receipt shall notify Seller of (a) any defects in any of the Products contained in such shipment and (b) any reason (other than any such defects) by which the Customer claims any of such Products are nonconforming goods or for which Customer rejects any of such Products, except that with respect to any claims for shortages, such claims must be made within five (5) days after receipt. If Customer fails to give such notice in the manner provided herein, all Products contained in any such shipment shall be deemed to conform to the contract and Customer shall be deemed to have accepted such Products. If any model or sample was shown to Customer, such model or sample was used merely to illustrate the general type and quality of the Products and not to represent that the Products would necessarily be that type or nature.

In the event Customer so notifies Seller of any defects in any of the Products, Customer shall allow Seller the opportunity to inspect the Products in question, and if requested by Seller, shall return any such Products to Seller. In the event that Seller determines in its sole discretion that any defects in any such Products were not caused by Customer or others after Seller packaged same for shipment to Customer, Seller shall, at its option, replace, repair or provide Customer with a refund or credit for the purchase price. The foregoing shall be Customer's sole remedy with respect to non-conforming goods.

7. CUSTOMER'S INSPECTION. Where source inspection is made by Customer, Customer's inspector shall be deemed to be the agent of the Customer to accept material on Customer's behalf with complete authority to waive specified test or details of test procedure, and to accept material which may deviate from formal specifications.

8. PERMISSIBLE VARIATIONS, SIZE AND QUANTITY. All Products shall be furnished to mill standard manufacturing variations and practices. Quantities supplied shall be subject to customary variations recognized by trade practice or as specified by the order.

9. SELLER'S RIGHT OF RESALE. If Customer breaches or repudiates any provision hereof or fails to comply with this Agreement, Seller shall have the right to resell any undelivered Products ordered by Customer, together with any reclaimed by Seller or as to which Seller may agree to accept return. Any such resale may be public or private, at wholesale or retail, and may be held on one or more occasions and under such procedures, terms and conditions as Seller may determine in its sole discretion. In the event of any such resale, Customer shall pay to Seller the amount by which the purchase price set forth herein exceeds the amount received by Seller in any public or private sale, plus all expenses of resale and all incidental expenses or damages incurred by Seller as result of Customer's breach or repudiation. The parties agree that five days' written notice of any such resale is reasonable notice to Customer of such resale.

10. RELATIONSHIP OF PARTIES. The relationship between Seller and Customer is solely that of vendor and vendee, and Customer is not and shall not be construed to be a partner, joint venturer, employee, agent, representative of or with Seller for any purpose whatsoever. Customer does not and shall not have any right or authority whatsoever to assume or to create obligation or responsibility, express or implied, on behalf of or in the name of Seller or to bind Seller in any manner.

11. TAXES. Any tax imposed by any law on the sales of Products made or sold by Seller shall be in addition to the sales price and shall be the responsibility of Customer. The amount of such taxes, if any, will be added to the price of the Products in effect at the time of shipment thereof and shall be reflected in the invoices issued pursuant to this Agreement.

12. FORCE MAJEURE. In the event that Seller is unable to carry out its obligations hereunder due to acts of God or of the public enemy, war, insurrection, mob violence, civil commotion or riots, strikes, lockouts, labor disputes, fires, floods, earthquakes, epidemics, quarantine restrictions, freight embargoes, shortages of labor or material, unusual delays in transportation, lack of shipping facilities, unavoidable casualty, accidents, abnormal amounts of inclement weather or unusually severe weather, changes in governmental policy, laws or regulations (including but not limited to impositions of quotas or limitations of shipments), or any other cause or causes beyond the control of Seller, whether hereinabove specified or not, Seller shall be permitted to extend the time of performances of its obligations to such extent as may be necessary to enable Seller to complete performance in the exercise of reasonable diligence after the cause or causes of delay have been removed. In the event any such delay continues for a period of more than six (6) months, either party may terminate this Agreement by so notifying the other party in writing. In the event this Agreement is terminated due to a force majeure event, Seller shall have no liability to Customer with respect to such termination.

13. CHANGES AND CANCELLATIONS. Should the Customer desire to cancel, revise or suspend this order for reasons beyond Customer's reasonable control, Seller shall discuss the matter promptly with Customer and the parties shall use commercially reasonable efforts to reach a mutually satisfactory agreement. In cases where such agreement cannot be reached or the material has been manufactured partially or completely for Customer's requirement, Customer will be informed of charges incurred to Customer's account and Customer agrees to pay such charges promptly.

14. SELLERS LIMITED WARRANTY. Seller warrants that at the date of delivery, it has good title to all Products sold to Customer hereunder, free and clear of all liens, encumbrances and adverse claims. Seller warrants to Customer that at the date of delivery, the Products supplied pursuant to this Agreement will conform to the specifications for such Products and be free from defects in material and workmanship.

15. WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY.

THE ABOVE WARRANTIES ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED AND INCLUDING THOSE OF MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE, AND INFRINGEMENT. IN NO EVENT SHALL THE AMOUNT OF SELLER'S LIABILITY FOR ANY BREACH OR DEFALUT HEREUNDER EXCEED THE PURCHASE PRICE PAID OR PAYABLE BY CUSTOMER TO SELLER FOR THE PRODUCTS, AND SELLER WILL IN NO EVENT BE LIABLE TO CUSTOMER FOR ANY EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT OR LOSS OF USE, RESULTING FROM ANY BREACH OF WARRANTY CONTAINED HEREIN OR RESULTING FROM ANY ACTION BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OR FORM OF ACTION IN CONNECTION WITH THE MANUFACTURING, STORING, PROCESSING, PACKING, CRATING AND DELIVERY OF PRODUCTS PURSUANT TO THIS AGREEMENT; AND THE OBLIGATIONS OF SELLER SET FORTH IN SECTION 6 OF THIS AGREEMENT SHALL BE CUSTOMER'S EXCLUSIVE REMEDY UNDER THIS AGREEMENT WITH RESPECT THERETO.

17. RETENTION OF RIGHTS. The parties acknowledge and agree that Seller and its suppliers have acquired various patents, trademarks, trade names and trade secrets with respect to Products, and that matters relating to manufacture, production and distribution of Products constitute confidential information and trade secrets of Seller and its suppliers and are not commonly known or accessible to the trade. No right, title or interest in or to Products generally, or in any patents, trademarks, trade names, confidential information or trade secrets relating to Products shall pass to Customer under this Agreement, and no right is given to or acquired by Customer to use or duplicate same, in part or in whole, and Customer shall receive such confidential information and trade secrets in confidence and trust, without revealing same to any other person or entity.

18. ASSIGNMENTS. Customer's rights, claims, duties and responsibilities under this Agreement may not be assigned, delegated or otherwise transferred in any manner without the prior express written consent of Seller in each instance.

19. TERMINATION. In the event of failure of either party to keep, perform or observe any material term, covenant, or condition of this Agreement which failure is not remedied within thirty (30) days after receipt of written notice or if the non-performing party has not commenced a cure within thirty (30) days and thereafter prosecuted same to completion within a reasonable time, the other party shall have the right, in addition to any other rights or remedies it may have, to cancel this Agreement upon written notice thereof to the defaulting party. Seller may terminate this Agreement immediately in the event of any assignment for the benefit of creditors or offer to make an extension to creditors by Customer; the insolvency (as such term is defined to the Uniform Commercial Code) of Customer; the commencement of any proceedings under any bankruptcy laws by or against Customer; the suspension or liquidation of Customer's usual business; or any transfer (either voluntary or involuntary) of a substantial part of Customer's property or assets other than in the ordinary course of business; provided, however that in the event of any such termination, the terms and conditions of this Agreement shall continue to be binding upon the parties in connection with all Products shipped by Seller to Customer.

20. NOTICES. Any notice required or permitted to be given under this AGREEMENT shall be in writing and shall be deemed to have been given upon personal delivery, or forty-eight hours after mailing by certified or registered United States mail, return receipt requested, postage prepaid, addressed in accordance with the addresses set forth herein, or such other addresses of which notice is so given.

21. LITIGATION. It is hereby irrevocably agreed that all actions, suits or proceedings between Seller and Customer arising out of, in connection with or relating to this Agreement or the interpretation, performance or breach of this Agreement shall be litigated in the State or Federal Courts in the Commonwealth of Pennsylvania, except that Seller may institute and prosecute to judgment in any court of competent jurisdiction an action, suit or proceeding to effect collection of any monies due Seller from Customer and Customer shall reimburse Seller for all costs and expenses (including attorneys' fees) incurred by Seller in so doing. Customer consents to the jurisdiction of the Commonwealth of Pennsylvania, waives the right to transfer or change venue of any litigation commenced in any of such courts, and waives personal service of all process upon Customer on the condition that all such process is served personally or by registered or certified mail addressed to Customer at Customer's last known address.

22. GOVERNING LAWS. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Pennsylvania notwithstanding conflicts of laws provisions to the contrary. Each party agrees that suit may be instituted at any federal court in the Eastern District of Pennsylvania or in State Court in Lehigh County in the Commonwealth of Pennsylvania and each waives any objection which such party may now or hereafter have to the laying of the venue of any such action, suit or proceeding, and irrevocably submits to the jurisdiction of any such court.

23. SEVERABILITY. If any provision of this Agreement, or any portion of any such provision, is held to be unenforceable or invalid, the remaining provisions and portions shall nevertheless be carried into effect.

24. WAIVERS. Any action or proceeding relating to or concerning this Agreement, or any breach thereof, must be commenced within one year after the claim or cause of action accrues and, if no action or proceeding is commenced within such one year period, the party in whose favor the claim or cause of action arises shall be deemed to have waived same. All rights and remedies of the parties are separate and cumulative, and no one of them, whether exercised or not, shall be deemed to be to the exclusion of any other rights or remedies and shall not limit or prejudice any other legal or equitable rights or remedies which the parties may have. Except as otherwise provided in this Paragraph 24, the parties shall not be deemed to waive any of their rights or remedies under this Agreement relating to any Products, unless such waiver is in writing and signed by the party to be bound, and no delay or omission on the part of either party in exercising any right or remedy shall operate as a waiver of such right or remedy. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.

25. HEADINGS. The headings contained in this Agreement are for convenience only and are not a part of this Agreement, and do not in anyway interpret, limit or amplify the scope, extent or intent of this Agreement, or any of the provisions of this Agreement.

26. ENTIRE AGREEMENT. Customer hereby agrees and accepts that these Terms and Conditions constitute binding obligations of Customer and Seller and, together with the Order Acknowledgement, comprise the entire agreement between them. These Terms and Conditions shall only be amended or modified by a document in writing signed by a duly authorized representative of both Seller and Customer. In the event that a purchase order contains terms that conflict with these terms and conditions, these terms and conditions shall govern. SELLER HEREBY NOTIFIES CUSTOMER THAT THE TERMS AND CONDITIONS INCLUDED HEREIN ARE THE ONLY TERMS AND CONDITIONS UNDER WHICH SELLER AGREES TO BE BOUND.