



TERMS AND CONDITIONS

These Terms and Conditions Apply to the sale of Products

1. **Applicability.** These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the Products by US Liner Company, a division of American Made, LLC ("**Seller**") to Customer ("**Buyer**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Products, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. The accompanying [quotation/confirmation of sale/invoice] (the "**Sales Confirmation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.
2. **Delivery.**
 - a. The Products will be delivered within a reasonable time after the receipt of Buyer's purchase order [, subject to availability of finished Products]. Seller shall not be liable for any delays, loss or damage in transit.
 - b. Unless otherwise agreed in writing by the parties, Seller shall deliver the Products to Customer's location (the "**Delivery Point**") using Seller's standard methods for packaging and shipping such Products. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Products at the Delivery Point.
 - c. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
 - d. ~~If~~ for any reason Buyer fails to accept delivery of any of the Products on the date fixed pursuant to Seller's notice that the Products have been delivered at the Delivery Point, or if Seller is unable to deliver the Products at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Products shall pass to Buyer; (ii) the Products shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Products until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance)-]
3. **Limited Warranty** Seller warrants good and free title in the Product and that the Product will conform to Seller's published specifications, if any exist, or to such other quality standards and/or measurements the parties have attached to this document or subsequently have agreed upon in writing. Seller has based any recommendations to Buyer for the use of the Product upon information that Seller considers reliable, but Seller makes no warranty as to any results Buyer might obtain in Buyer's use(s) for the Product. These warranties extend only to Buyer. **Seller makes no representation or warranty of any kind with respect to Product, express or implied, respecting merchantability or fitness for any particular purpose. Seller makes no other warranties extending beyond the description of the Product, whether used alone or in combination with any other substance or in any process.**
4. **Limitation of Liability** Buyer will examine Product promptly after receipt for damage, defects, short-weight and non-conformance. Buyer must give Seller written notice of the existence of each claim involving Product (whether based in contract, breach of warranty, negligence, strict liability, other tort or otherwise) within thirty (30) days after receipt of the quantity of Product forming the basis for the claim. A failure by Buyer to give such written notice within the applicable time constraint will constitute an absolute and unconditional waiver of all such claims. Buyer assumes all risk of patent infringement by reason of any use Buyer makes of the Product in combination with other substances or in the operation of any process. **Seller's entire liability to Buyer for damages, whether under breach of warranty or any other cause whatsoever, and whether under this contract or otherwise, shall in no event exceed that part of the purchase price applicable to the portion of Product giving rise to Buyer's claim for such damages. In no event will either party have liability to the other for any incidental, consequential, exemplary or special damages.**
5. **Ordering & Limits.** Seller may discontinue any Product sold hereunder at any time, unless Buyer and Seller have otherwise agreed in writing.
 - (a) **Payment & Credit.**
 - (b) Buyer shall pay all invoiced amounts due to Seller within Agreed number days from the date] of Seller's invoice. Buyer shall make all payments hereunder by [wire transfer/check/[OTHER PAYMENT METHOD]] and in US dollars.
 - (c) Buyer shall pay interest on all late payments at the lesser of the rate of [1.5%] per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for ten days following written notice thereof.
 - (d) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.
 - (e) Buyer will make all payments hereunder in cash or in negotiable paper collectible at face value in the funds and at the location indicated on Seller's invoice. If Seller determines that Buyer's financial responsibility has become impaired or otherwise unsatisfactory to Seller, Seller may require advance cash payments, COD, shorter terms, and/or the posting of satisfactory security by Buyer, and may withhold shipments until Buyer complies.
6. **Governmental Constraints.** If a present or future law, governmental decree, order, regulation, or ruling under any existing or future legislation prevents Seller from increasing or revising the price as provided herein, or nullifies or reduces any price or price increase hereunder, upon written notice from one to the other Seller and Buyer will attempt to identify mutually agreeable changes to conform this contract with such law, decree, order, regulation, or ruling. If the parties cannot agree upon and implement such changes within sixty (60) days after such notice, Seller shall thereupon have a right to terminate this contract forthwith by written notice to Buyer.
7. **Price.**
 - a. Buyer shall purchase the Products from Seller at the price[s] (the "**Price[s]**") set forth in Seller's published price list in force as of the date of Buyer's purchase order/that Seller accepts Buyer's purchase order~~].~~ ~~If~~ the Price[s] should be increased by Seller before delivery of the Products to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased price[s] were originally inserted herein, and Buyer shall be billed by Seller on the basis of such increased price[s].]
 - b. All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets
8. **Title & Risk of Loss.** Title and risk of loss to the Product shall pass to Buyer at Seller's point of shipment. Buyer assumes all risks and liabilities arising out of unloading, discharge, storage, handling and use of the Product, or arising out of compliance or non-compliance with federal, state, municipal or local laws and regulations governing or controlling such activity, except to the extent, if any, attributable to Seller's gross negligence or willful misconduct. Seller has no liability for the failure of discharge or unloading equipment or materials used by Buyer, whether or not supplied by Seller. Except to the extent attributable to the Product failing to meet the express warranties set forth in paragraph ~~1~~, Buyer will indemnify, defend and hold Seller harmless from all costs, expenses, damages, judgments or other loss, including costs of investigation, litigation and reasonable attorney's fees, arising out of Buyer's selection, use, sale and further processing of the Product. As collateral security for the payment of the purchase price of the Products, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the [applicable state] Uniform Commercial Code.
9. **Force Majeure.** Either party may suspend performance hereunder (except to pay for Product already received) in the event of: (1) acts of God, fire, explosion, flood, hurricanes; (2) strikes, lockouts or other industrial disturbances or riots; (3) war, declared or undeclared, or acts of terrorism; (4) compliance with any Federal, state, provincial, municipal or military law, regulation, order, or rule,
foreign or domestic, including priority, rationing, allocation or preemption orders or regulations, or cancellation of Seller's or Buyer's license to operate its

plant; (5) catastrophic failure of facilities used to manufacture Product, interruption or shortage of transportation, labor, power, fuel or raw materials; (6) total or partial shutdown due to Seller's normal plant turn-around; or (7) any other cause or causes of any kind or character reasonably outside the control of the party failing to perform, whether similar or dissimilar from the enumerated causes (a "force majeure"). In the event a force majeure renders a party unable to perform its obligations under this contract, such party shall give written notice to the other party, with the full particulars including the expected duration of such force majeure promptly after the occurrence of the cause relied on, and upon the giving of such notice such party may suspend its obligations hereunder to the extent affected by such force majeure for the duration of the force majeure, but no longer, and so far as possible, such party will remedy the force majeure with reasonable dispatch. When a force majeure ends, performance shall resume, but such delay shall not, except by mutual agreement, operate to extend the term of this contract or obligate the Seller to make up deliveries or Buyer to purchase quantities so missed. Settlement of strikes or lockouts shall lie entirely within the discretion of the party having the difficulty; the above requirements for remedy of any force majeure with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the employees involved, when deemed inadvisable by the party having the labor difficulty. In the event of a force majeure, Seller has no obligation to purchase material for resale to Buyer, and no liability for cost to cover incurred by Buyer.

10. Termination. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for ten days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors
11. Safety & Health Indemnity. Buyer acknowledges that Seller has furnished to Buyer Material Safety Data sheets, which include warnings together with safety and health information concerning the Product and/or the containers for such Product. Buyer will disseminate such information so as to give warning of possible hazards to persons whom Buyer can reasonably foresee may receive exposure to such hazards, including, but not limited to, Buyer's employees, agents, contractors and customers. Buyer will indemnify, defend and save Seller harmless against any and all liability arising out of or in any way connected with Buyer's failure to disseminate such information, including without limitation, liability for injury, sickness, death and property damage, and costs of investigation, litigation and reasonable attorney's fees. Delivery shall be made FOB Destination/Seller shall make delivery in accordance with the terms on the face of the Sales Confirmation
12. Shortage of Product. During periods when demand for Product exceeds Seller's available supply, whether due to a force majeure or otherwise, Seller may distribute Product among itself for its own manufacturing uses, its customers, and Buyer in such manner as Seller deems fair and practicable. Buyer will accept, as full and complete performance by Seller, deliveries in accordance with such determinations as Seller may make. Except in the case of a force majeure, if not satisfied with Seller's determination, Buyer as its sole remedy shall have a right to terminate this contract without further obligation upon: (i) 10 days written notice; and (ii) payment for all Products received to date.
13. Assignment/Delegation. Buyer may assign/transfer rights and/or delegate duties/obligations hereunder only with the prior written consent of Seller, not unreasonably withheld. Seller may assign this contract and/or rights and delegate obligations under this contract without the consent of Buyer.
14. Integration. These Terms and Conditions apply to all sales by American Made, LLC. and its affiliated companies. No statement of agreement, oral or written, made before or at the signing of this contract shall vary or modify the written terms hereof, and neither party shall claim any amendment, modification or release from any provision hereof unless such change occurs in a writing signed by the other party and specifically identifying it as an amendment to this contract. No modification or addition to this contract shall occur by the acknowledgment or acceptance by Seller of a purchase order, acknowledgment, release or other form submitted by Buyer containing additional or different terms or conditions, and Seller hereby gives Buyer notice of the rejection of such additional terms and conditions. A provision elsewhere in this contract that conflicts with a provision in these general terms and conditions will govern.
15. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
16. UN Convention. The United Nations Convention respecting Contracts for the International Sale of Goods shall not apply to transactions under this contract.
17. Severability. In the event of illegality or invalidity of a provision of this contract under the law of a particular jurisdiction, the parties shall deem that provision

stricken in its entirety; the balance of this contract shall remain in full force and effect.

18. Governing Law. All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania without giving effect to any choice or conflict of law provision or rule (whether of the State of Pennsylvania or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Pennsylvania
19. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Pennsylvania in each case located in the City of Pittsburgh and County of Allegheny and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.
20. Re-Export. Buyer will comply with all U.S. law and regulation respecting the export and/or re-export of Product.