

MWI - Duer/Carolina Coil Terms and Conditions of Sale

1. **GENERAL:** This agreement contains all the Terms and Conditions of sale and purchase of the products named herein and constitutes the complete understanding of the parties with respect thereto. No modification, extension, or release from any provision hereof shall be effected by mutual agreement, acceptance of purchase order forms, or otherwise, unless the same shall be in writing, signed by the other party, and specifically described as an amendment or extension of this agreement. Buyer must notify Seller at once if the foregoing Terms and Conditions are not acceptable.
2. **PRICE:** Prices are based on existing labor and material costs and are subject to revision if either is revised prior to shipment of total order. Prices include domestic shipment packaging. Additional charges will be quoted for export packaging. Any subsequent change in Buyers purchase order may result in a price change.
3. **TOOLING:** Where a tool charge is made, unless otherwise agreed, such charges shall not be considered as vesting in Buyer any title to such tools. All such tools will remain the property of Seller. If this sale includes products to special specifications or unusual sizes or types, the order is not subject to cancellation except upon payment by Buyer for the special work that has been performed.
4. **TAXES:** Buyer will reimburse Seller for any taxes which Seller may be required to pay or collect under any existing or future law arising out of the sale, purchase, manufacture, delivery, storage, processing, use consumption or transportation of the products covered by this agreement.
5. **WARRANTY:** Claims for errors, deficiencies, or imperfections will not be considered unless made within 10 days after receipt by the Buyer of the products and unless the Buyer promptly discontinues the use of said products. Seller warrants only that its products are of good materials and workmanship. It does not warrant the workmanship of others who may have performed work upon the products covered by the contract. Seller makes no warrants of freedom from patent infringement, of merchantability, of fitness for a particular purpose, or arising from a course of dealing or usage of trade or other like or difference express or implied warranties except as made above. Should Seller be liable to Buyer, or anyone acquiring or using the goods sold hereunder, sellers only responsibility, at its election, shall be to either repair or replace the products delivered or repay the purchase price thereof. In no event will Seller be liable for any proximate, incidental, consequential or other damages and no such damages shall be recoverable.
6. **SHORTAGES, DAMAGE IN-TRANSIT:** Buyer agrees to accept an underrun or overrun on each individual item ordered, not exceeding 10% of quantity ordered, unless special arrangements are made by Buyer and accepted by Seller. If the products received by Buyer shall have been damaged in transit, Buyer shall, within ten (10) days after receipt of such products give written notice of such damage to the agent of the delivering carrier and in order to substantiate a formal claim when and if presented, and Buyer shall send a copy of such notice to Seller. Seller shall only be responsible for damage in transit if the packaging is substantially ill-suited for the product.
7. **DELAY OR NON-PERFORMANCE:** Seller shall not be liable for delay or failure in performance due to any force majeure or similar event including but not limited to fires, floods,

unusually severe weather, strikes, or other differences with workmen, accidents, labor or material or transportation shortages, war (declared or undeclared) riot, governmental orders or regulations, legal interferences or prohibitions, defaults on the part of suppliers, or other causes beyond Sellers reasonable control.

8. SHIPMENT, CANCELLATION OF ORDER BY SELLER: Partial shipments shall be permitted, and Seller may invoice each shipment separately. Shipments and deliveries shall at all times be subject to the approval of the Sellers Credit Department. If Seller shall for any reason be in doubt as to the financial responsibility of Buyer, Seller may decline to make deliveries except on receipt of cash in advance or other security satisfactory to Seller. If Buyer fails to fulfill the terms of payment, Seller may cancel the contract.
9. CANCELLATION OR CHANGES OF ORDER BY BUYER: Orders in process may be cancelled only with Sellers written consent and upon payment of Sellers cancellation charges. Orders in process may not be changed except with Sellers written consent and upon agreement by the parties as to an appropriate adjustment in the purchase price.
10. WAIVER OF BREACH: No waiver by Seller of any breach of these provisions shall constitute a waiver of any other breach.
11. LAWS: To the best of Sellers knowledge and belief, it is in compliance with all local, state and federal laws and Executive Orders, Rules and Regulations issued thereunder, whether now in force or hereafter made effective shall be no greater as a result of this agreement and no greater than required by such laws and Seller expressly disclaims assumptions of any of Buyers obligations under such laws.