

General Terms and Conditions of Sale of Cabka North America, Inc

Cabka North America, Inc. is referred to herein as "Seller" and the customer purchasing goods hereunder is referred to herein as "Buyer." Buyer's acceptance of goods sold by Seller shall manifest Buyer's assent to these Terms and Conditions including, but not limited to, SELLER'S EXCLUSION OF IMPLIED WARRANTIES IN SECTION 5 AND THE LIMITATION OF LIABILITY IN SECTION 6. Any proposal by Buyer for additional or different terms or attempt by Buyer to vary any of the terms set forth herein shall not operate as a rejection of these Terms and Conditions but shall be deemed to be a material alteration thereof, and these Terms and Conditions shall be deemed accepted by Buyer without said additional or different terms.

1. CONCLUSION OF CONTRACTS

- 1.1 All offers from Seller are non-binding. Binding contracts are only concluded with Seller's written order confirmation of an offer.
- 1.2 All details and illustrations of Seller in advertising documents and other representations are non-binding. In particular, information regarding the load capacities of products, which Seller published in its specifications, brochures, catalogues or other documents or on the Internet, are only guidelines and are nonbinding. The load capacities may vary depending on the Buyer's use of the products. Information regarding load capacities provided to Buyer is only binding if Seller confirms this in writing. A written confirmation by Seller is issued if a Buyer tests the product in advance in order to check its suitability for the intended purpose.

2. BUYER'S CREDIT

- 2.1 Payment is due 30 days after delivery of the products, unless otherwise agreed in writing.
- 2.2 Seller reserves the right, among other remedies, either to terminate this contract or to suspend further deliveries under it in the event Buyer fails to pay for any one shipment when the same becomes due. Buyer agrees to pay interest on all past due accounts at the rate of eighteen percent (18%) a year (or the maximum lawful rate if lower). Buyer further agrees to pay all costs of collection including reasonable attorneys' fees and court costs. Should Buyer's creditworthiness become unsatisfactory to Seller in Seller's discretion, cash payments or security satisfactory to Seller may be required by Seller for future deliveries and for the goods theretofore delivered.

3. SHIPMENTS

No purchase order shall be binding upon Seller unless Seller has accepted the purchase order in writing. Seller shall choose the mode of dispatch. In addition, the quantity shipped in any month may be limited by Seller to either: (a) the average of the monthly quantities ordered by Buyer for the preceding contract months or (b) the maximum quantity covered by this contract divided by the number of months in the contract. Any quantity not shipped as a result of any such limitation shall be deducted from the total quantity pursuant to any purchase order or contract. Seller shall not be bound to tender delivery of any quantities for which Buyer has not given shipping instructions. If the Buyer does not accept the products within ten (10) working days after notification of the provision of the products, or if the Buyer does not inform Seller of the shipment address within this period, or if the call-off to be carried out fails to take place in the case of orders containing multiple call-offs, Seller shall be entitled to demand immediate payment of the purchase price, along with storage fees to an appropriate extent. In such cases, Seller shall also be entitled to withdraw from the contract. In the case of call-off orders without any

agreement regarding the delivery time, the products are to be accepted no later than six (6) calendar weeks after confirmation of the order. If the Buyer, to the extent necessary, does not properly participate in the transport and thereby misses the time provided for it to load the products onto the transport vehicle, the Buyer shall bear the costs that result from this.

4. 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 a deposit in the amount required by Seller must 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 at Buyer's cost. On such containers being so returned in good condition, a refund of the deposit will be made.

5. LIMITED WARRANTY

Subject to the limitations of Section 6 and unless otherwise provided herein, Seller warrants title and that all goods sold hereunder shall conform to Seller's standard specifications or to the attached specifications, if any. Subject to the preceding sentence and except as otherwise expressly provided herein, SELLER MAKES NO REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO THE GOODS, whether used alone or in combination with other substances. Moreover, BUYER IS SOLELY RESPONSIBLE FOR DETERMINING WHETHER GOODS SOLD HEREUNDER ARE SUITABLE FOR BUYER, TAKING INTO ACCOUNT THE LIKELY STORAGE AND THE USE OF THE GOODS BY BUYER.

6. LIMITATION OF LIABILITY

- 6.1 Within thirty (30) days after receipt of each shipment of the goods, Buyer shall examine such goods for any damage, defect or shortage. All claims for any cause whatsoever (whether such cause is based in contract, negligence, strict liability, other tort or otherwise) shall be deemed waived unless made in writing and received by Seller within thirty (30) days after Buyer's receipt of the goods, in respect to which such claim is made, or, if such claim is for non-delivery of such goods, within thirty (30) days after the date upon which such goods were to be delivered, provided that as to any such cause not reasonably discoverable within such thirty (30) day period (including that discoverable only in processing, further manufacture, other use or resale) any claim shall be made in writing and received by Seller within one hundred eighty (180) days after Buyer's receipt of the goods, in respect to which such claim is made, or within thirty (30) days after Buyer learns of the facts giving rise to such claim, whichever shall first occur. 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.
- 6.2 BUYER'S EXCLUSIVE REMEDY SHALL BE FOR DAMAGES, AND SELLER'S TOTAL LIABILITY FOR ANY AND ALL LOSSES AND DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER (WHETHER SUCH CAUSE 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 CAUSE ARISES OR, AT SELLER'S OPTION, THE REPAIR OR REPLACEMENT OF SUCH GOODS, AND IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR FOR ANY LOST PROFITS RESULTING FROM ANY SUCH CAUSE. Seller shall not be liable for, and Buyer assumes liability for and shall indemnify and hold harmless Seller from, any claims, suits, actions, expenses, costs (including attorneys' fees), damages and liabilities resulting from or connected with the handling, transportation, possession, processing, further manufacture, other use or resale of the goods including personal injury and property damage irrespective of whether the goods are used alone or in combination with any other substance or material. Transportation charges for the return of the goods shall not be paid unless authorized in writing in advance by Seller.

6.3 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, such advice and the results thereof.

6.4 Buyer expressly agrees that the foregoing exclusive and limited remedies are reasonable and do not cause the remedies available to Buyer to fail of their essential purpose.

7. PATENTS

Subject to Section 6 and unless otherwise expressly provided herein, Seller warrants that the goods sold pursuant to this contract, except for those made for Buyer according to Buyer's specifications, do not infringe any valid U.S. patent. This warranty is given upon the condition that Buyer promptly notify Seller of any claim or suit involving Buyer in which such infringement is alleged and on the condition that, if Seller is affected, Buyer permit Seller to control completely the defense or compromise of any such allegation of infringement. Seller does not warrant that the use of the goods or any material made therefrom, whether the goods are used alone or in combination with any other material, will not infringe a patent. Seller reserves the right to terminate Seller's warranty under this Section 7 at any time with respect to any undelivered goods, it being agreed that in the event of such termination Buyer may, without penalty, thereafter refuse acceptance of such undelivered goods. Buyer assumes liability for, and shall indemnify and hold harmless Seller from, any claims, suits, actions, penalties, expenses, costs, including attorneys' and similar fees, damages and liabilities for alleged infringement of any patent, trademark, trade dress, copyright or similar rights based on or connected with Buyer's use, design or specification of any item covered hereby or Seller's compliance with Buyer's instructions.

8. FREIGHT AND TAXES

All prices quoted to Buyer are exclusive of all sales, use, value-added and similar taxes (collectively, "Sales Taxes"), and all such Sales Taxes are the responsibility and for the account of Buyer. If Seller is required to collect Sales Taxes from Buyer, then Buyer agrees to pay such Sales Taxes concurrently with the payment of the purchase price. Any increase in freight rates paid by Seller on shipments covered by this 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, may, at Seller's option, be added to the price herein specified.

9. LOSS IN TRANSIT

Shipping terms shall be Ex Works (EXW) Seller's plant. Title and risk of breakage, loss or delay in delivery of the goods shall pass to Buyer upon delivery of the goods to a carrier for shipment to Buyer.

10. PRICES AND PACKING

The prices, point of delivery, terms of payment and packing instructions for each shipment of goods shall be in accordance with Seller's schedules and instructions for such goods in effect at the time of each such shipment. Such schedules and instructions may be revised from time to time by Seller. If Seller desires to revise the applicable price, point of delivery or terms of payment for the goods hereunder prior to the shipment date, but it is restricted to any extent against so doing by reason of any governmental law, regulation, order or action, or if the price, point of delivery, or terms of payment in effect under this contract are altered by reason of any governmental law, regulation, order or action, Seller shall have the right to (a) terminate this contract by written notice to Buyer, (b) suspend deliveries for the duration of such restriction or alteration or (c) apply to this contract (as of the effective date of such restriction or alteration) any price, point of delivery, service allowance or terms of payment governmentally acceptable. Any delivery suspended under this section shall be canceled without liability, but this contract shall otherwise remain unaffected.

11. RETENTION OF TITLE

Buyer reserves ownership in the products delivered to the Buyer until complete payment of all claims arising from the contractual relationship from the business relationship between Seller and the Buyer at the time of delivery or at a later time (hereinafter referred to as "Reserved Goods"). The Buyer shall be entitled to resell the Reserved Goods, as long as Seller does not revoke this authorization. The Buyer shall not be permitted to engage in a pledge, transfer by way of security or assignment by way of security. The Buyer shall be obligated to secure the rights of Seller as a conditional seller when reselling the Reserved Goods on its part. The Buyer assigns the claims of the Buyer arising from the resale of the Reserved Goods in advance to Seller; Seller accepts this assignment. Notwithstanding the assignment and Seller's right of collection, the Buyer shall be entitled to collect as long as it fulfills its obligations with respect to Seller and Seller's claim to compensation is not endangered. At Seller's request, the Buyer must provide Seller with the information required for the collection of the assigned claims and must notify its debtors of the assignment. If the value of the collateral exceeds the claims of Seller to be secured by more than 10%, Seller shall be obligated, at its option, to release collateral to this extent at the request of the Buyer. The Buyer must inform Seller immediately of any enforcement measures taken by third parties against the Reserved Goods or the claims assigned in advance and must provide Seller with the documents necessary for an intervention. As soon as the Buyer has discontinued payments or an application for the opening of insolvency proceedings against its assets has been filed, it shall be obligated to immediately send Seller a list of the Reserved Goods subject to retention of title, even if they have been processed, and a list of the claims to the third-party debtors, together with copies of the invoice. The Buyer grants Seller an irrevocable right of access to all storage areas at any time to enable Seller to take an inventory of the goods and to mark them if necessary. The Buyer shall be obligated to adequately insure any products co-owned or solely owned by Seller against all material risks. The insurance coverage must be proven to Seller upon its request. In the event of a default of payment by the Buyer, or in the event of a significant breach of duties of care and custody by the customer, Buyer shall have the right to repossess the products already delivered. If Seller

asserts this right, it shall only be regarded as withdrawal from the contract if Seller expressly declares such withdrawal in writing. The Buyer shall bear the costs associated with the removal of products. In all other respects, irrespective of the Buyer's payment obligation, Seller shall otherwise be entitled to sell returned products by means of private contract or public auction.

12. EXCUSE OF PERFORMANCE

12.1 Deliveries may be suspended by Seller in the event of: Act of God, war, terrorist attack, riot, pandemic, fire, explosion, accident, flood or sabotage; lack of adequate fuel, power, raw materials, labor, containers or transportation facilities; compliance with governmental requests, laws, regulations, orders or actions; breakage or failure of machinery or apparatus; national defense requirements or any other event, whether or not of the class or kind enumerated herein, beyond the reasonable control of Seller; or in the event of labor trouble, strike, lockout or injunction (provided that Seller shall not be required to settle a labor dispute against its own best judgment); which event makes impracticable the manufacture, transportation, acceptance or use of a shipment of the goods or material upon which the manufacture of the goods is dependent.

12.2 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 hindered, limited or made impracticable, 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 (including Buyer) on such basis as Seller determines without liability for any failure of performance which may result therefrom.

12.3 Deliveries suspended or not made by reason of this section may be canceled by Seller without liability.

13. 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, which consent Seller may withhold in its absolute discretion, and any attempted assignment or delegation without such consent shall be void.

14. 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 Missouri without regard to conflicts or choice of law principles. The Convention for the International Sale of Goods shall not apply to the sale and purchase of goods hereunder. This contract constitutes the full understanding of the parties, a complete allocation of risks between them and a complete and exclusive statement of the terms and conditions of their agreement. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain or supplement the terms or conditions of this contract shall be binding unless hereafter made in writing and signed by Seller, 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 Seller with respect to any breach or default or of any right or remedy and no course of dealing shall be deemed to constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver shall be expressed in a writing signed by Seller. Notwithstanding any statute of limitations that might otherwise be applicable, any suit or action relating to the goods or the sale of goods hereunder or otherwise based upon or

relating to, these terms and conditions or the document of which these terms and conditions are a part or any alleged breach thereof must be brought no later than one (1) year after the action accrues or be forever barred (except suits or actions for recovery of the goods or payment therefor). If any provision herein becomes invalid or illegal in whole or in part, such provision shall be deemed amended, as nearly as possible, to be consistent with the intent expressed herein, and if such amendment is impossible, that provision shall fall by itself without invalidating any of the remaining provisions not otherwise invalid or illegal. The parties have expressly required that these terms and conditions and all documents and notices relating to them be drafted in English.