

ACW STANDARD TERMS AND CONDITIONS OF SALE

1. **Introduction, Governing Provisions, Rejection of Purchase Orders.** American Cord & Webbing Co., Inc. ("ACW" or "Seller") is a manufacturer and seller of various products. ACW's products are generally incorporated into other products manufactured and/or sold by purchasers of ACW's products from ACW or ACW's distributors. These Standard Terms and Conditions ("Terms") are applicable to purchasers from ACW ("Customers") and sales are made by ACW only on these Terms. The provisions of any purchase order or other offer to purchase from ACW and/or any other terms and conditions, submitted in any manner by a Customer at any time prior to and/or during the purchasing process are **HEREBY REJECTED** and these Terms are proposed as a counter-offer. These Terms are provided to Customers on ACW's website, together with ACW's catalogs and brochures, in paper form including ACW's Acknowledgements, packing slips and invoices, and/or by fax. If a Customer fails to reject the counter-offer of these Terms and/or proceeds with the transaction and/or receives the goods, Customer will have agreed to this counter-offer and these Terms. ACW's Acknowledgement shall control as to goods ordered, prices, quantities, shipping methods and dates. In some instances, such as with orders shipped under ACW's same-day program, Acknowledgements are not sent but these Terms are otherwise available to Customer as provided above.

2. **Taxes and Other Charges.** The amount of any present or future transfer, sales, revenue, excise, tariffs, customs or other duties or taxes, or any other charges imposed on or measured by any transaction between Customer and Seller shall be (or if itemized on the Acknowledgement and/or invoice will have been) added to the prices quoted or invoiced and shall be paid by Customer, unless Customer has provided Seller with an acceptable tax exemption certificate.

3. **Payment; Default.** Customer shall pay the price and any shipping or other charges in full on the terms set forth in the Acknowledgement and/or invoice. If Customer fails to so pay, Customer shall pay late charges on overdue balances at the rate of One and One-Half (1 1/2%) Percent per month and all costs of collection, including attorneys' fees incurred by Seller. In the event of Customer's default or insolvency proceedings, Seller may discontinue shipment and require payment in advance. In such circumstances, Seller may, at Customer's expense, repossess all goods which may be stored with Seller or are in transit for Customer's account, without the necessity of taking any other proceedings, or after such proceedings as may be required by law; Customer acknowledging that all goods so repossessed shall be the property of Seller.

4. **Shipment.** If goods are to be shipped by Seller, prices are exclusive of the costs of shipping and insurance; and unless different terms are stated by Seller on the Acknowledgement and/or invoice, all prices are f.o.b. Seller's place of business. Method and route of shipment will be at the discretion of Seller. All shipments shall be at Customer's risk and shall be insured, if at all, solely at Customer's expense; unless otherwise requested in writing by Customer, Seller shall determine whether, under what terms, and for what amounts shipments shall be insured, and shall make arrangements accordingly. Seller may make delivery in installments and all such installments when separately invoiced shall be paid for when due per invoice, without regard to the date of subsequent deliveries. All goods shall be paid for regardless of any claim relating to other delivered or undelivered goods and shipment of goods in an amount within a range of 10% more or less than the quantities set forth in the Acknowledgement and/or invoice shall be deemed full satisfaction of delivery of such quantities.

5. **Delays and Limitations.** All sales and shipments to be made are subject to: Seller's ability to obtain any necessary materials, components, machinery or parts and/or the goods to be sold; Seller's current production schedules; governmental priorities and other governmental laws, regulations, orders, ordinances and restrictions; strikes, lockouts and shortages of labor; acts of God, pandemics and the elements; and any other causes of delay in production and/or shipment beyond Seller's control. Seller shall attempt to meet any completion and/or shipment date specified on the Acknowledgement and/or otherwise accepted by ACW, but in no event shall Seller otherwise be liable for failure to produce, ship or deliver by such date, and time shall not be of the essence in respect thereto; nor shall Seller be liable to Customer or any third party for indirect or consequential damages due to delays in the production, completion, shipment or delivery of goods whether or not due to causes within Seller's control. Delivery schedules (even under blanket purchase orders) shall be subject to reasonable production scheduling by Seller; prorated reasonably over any applicable period of time; and goods not called out for delivery within any such period shall be invoiced to and paid for by Customer at the end of the period; and in no event shall Seller be obligated to maintain prices if Customer fails to meet the requirements of these Terms or of an Acknowledgement.

6. **Testing Methods, Quality Control.** Goods sold to Customer may have been subject to random testing for compliance with specifications, or samples and/or as to load bearing strengths ("quality control"). Customer acknowledges the random nature of such testing and that goods not tested may not meet quality control standards. Customer acknowledges that it would be impracticable for Seller to expand such testing in light of the prices for the goods and that such prices are consideration for such limitation of such testing methods and the reliability thereof. Test results provided to Customer do not constitute a guaranty as to quality control or as to suitability of the goods for any particular use. Disclaimers contained in test results provided to Customer are incorporated herein by reference. Although Seller may offer its advice to Customer as to use applicability, Customer agrees that it is solely responsible for the specifications of the goods and the suitability of the application and use of the goods by Customer or any other party.

7. **Seller's Warranties and Claims.** Seller warrants only that the goods shall be free from defects in material and workmanship and shall substantially conform at the time of delivery (a) either to the description of the goods contained on an Acknowledgement and/or invoice or to any samples of the goods provided by Seller to Customer and (b) to any written specifications of Seller or specifications supplied by Customer and expressly agreed to by Seller in writing, subject to section 6 above as to quality control; which warranty shall continue in effect only for a period of thirty (30) days after shipment by Seller. **ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE, OR OTHERWISE, ARE DISCLAIMED AND EXCLUDED; ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE ARE DISCLAIMED AND EXCLUDED; AND ALL IMPLIED WARRANTIES AGAINST INFRINGEMENT OF ANY UNITED STATES OR FOREIGN PATENT, TRADEMARK, COPYRIGHT, TRADE NAME OR SIMILAR COMMON OR CIVIL LAW RIGHT ARE DISCLAIMED AND EXCLUDED.** Any claim for breach of warranty must be submitted to Seller prior to acceptance of goods as set forth in section 8 below or it shall be waived; and any claim of defect in material or workmanship must be made in writing as set forth in section 8 within the warranty period. In the event of a breach by Seller of the above express warranty, the liability of Seller for such breach shall, at Seller's option, be limited to the repair or replacement of the defective goods or the issuance of a credit to Customer for the price of the defective goods. Seller shall have no other obligation or liability of any kind, and it is agreed that the price stated for the goods is consideration for the limitation of Seller's liability for a breach of the above express warranty. In no case shall Seller be liable for the value or cost of any property, device, equipment or merchandise, including, without limitation, any property or merchandise into which the goods are incorporated or installed, or any special, incidental or consequential damages based upon breach of any warranty, breach of contract, negligence, strict tort or any other legal theory including, without limitation, loss of profits, loss of savings or revenue, loss of use of goods, cost of capital, cost of any substitute goods, down time, or the claims of any third party, including purchasers from Customers and end users for personal injury, death and damage to property. The above warranty shall not apply to defects arising from or attributable in whole or in part to specifications provided by Customer. Seller's warranty as set forth above shall not be expanded nor shall Seller's liability be

other than as so provided due to the fact that Seller has participated in any way in the determination of the specifications for the goods; and, in any event, Seller's awareness of the use to which any goods are to be put shall not expand its liability as limited herein; as in the cases of third party specifications, utilization of goods for any particular purpose or as components of other goods, **IT IS THE RESPONSIBILITY OF CUSTOMER TO TEST THE GOODS FOR EACH APPLICATION.** Any legal action for breach of warranty must be commenced within twelve (12) months following delivery of the goods. **THESE REMEDIES CONSTITUTE CUSTOMER'S EXCLUSIVE REMEDIES AGAINST SELLER FOR BREACH OF WARRANTY OR ANY OTHER CLAIM WITH RESPECT TO THE GOODS.**

8. **Inspection, Returns.** Customer agrees that it will have five (5) days from the date of receipt of goods to inspect same for defects and that such period is a reasonable amount of time to conduct such inspection. If Customer does not notify Seller of any such defects within such period, then the goods shall be deemed to have been accepted by Customer and Seller shall be deemed to have performed all of its obligations hereunder. Goods may not be returned for any reason other than breach of the warranty stated above, and, if so returnable, may be returned only under these conditions. Prior to returning any goods, Customer shall obtain written authorization by submitting to Seller a written request for authorization, a detailed statement of its claim and a sample of the goods which Customer claims do not conform to the express warranty hereunder. If return is authorized, Customer shall receive written authorization or a return label; as goods returned without a written authorization or a return label will be refused. All costs of returning goods must be prepaid by Customer. Seller may refuse goods shipped collect, and Seller reserves the right to charge back and set off all transportation costs. Authorization for return does not imply acceptance for credit of all or part of the returned goods, but rather indicates Seller's willingness to inspect the goods in question. Upon authorized return, Seller will conduct such inspection and determine disposition of returned goods along with any defective goods still being held by Customer. Returned goods found by Seller not to involve a breach of the above warranty may be subject to reasonable handling charges. All transportation costs for the reshipment of returned goods to Customer and for the shipment of replacement goods, if any, shall be the responsibility of Customer. Risk of loss in transit for goods returned to Seller shall be upon Customer, and if any replacement goods are shipped to Customer shall be insured, if at all, solely at Customer's expense, and, unless otherwise requested in writing by Customer, Seller shall, in its sole discretion, determine whether, under what terms, and for what amounts, such shipments shall be insured, and shall make arrangements accordingly.

9. **Assumption of Risk.** The Terms and the counter-offer contained herein are for only the sale of the goods and no bailment of any kind is intended or created, either express or implied in respect to any property delivered to Seller. Any property left by Customer or any other party with Seller or delivered to Seller by Customer or any other party is at the sole risk of Customer and/or the owner thereof; and Seller will not be liable for any loss of or damage to said property under any circumstances including, but not limited to fire, theft or vandalism, and any negligence, gross negligence or omissions of Seller and notwithstanding any asserted or actual breach by Seller. Customer shall indemnify and hold Seller harmless from and against any and all claims of or liability for damages, costs, losses and expenses, including attorneys' fees incurred by Seller arising from any and all liability or any claim, action or suit brought or alleged by any party in respect to any such loss of or damage to such property.

10. **Technical Data.** Technical data, including but not limited to specifications, formulae, know-how, techniques, drawings, estimates, tests and test results, quotations, illustrations, bulletins, literature and other papers and documents, if any, in print or electronic form ("Technical Data"), shall remain Seller's property. Seller reserves all proprietary and authorship rights in the Technical Data and in the goods, which may not be copied, reproduced, transmitted or communicated to any third party without Seller's consent except to Customer's employees who are required to use the Technical Data as part of their duties.

11. **Indemnification.** If Seller manufactures goods to Customer's specifications; or if Customer or its customers incorporate Seller's goods in any other goods; or if Seller's goods are modified or altered in any way by any party; or if any party misuses, misapplies, damages or is guilty of negligence in relation to the goods; then Customer agrees to hold Seller harmless and indemnify it against any loss, cost, damages or liability paid or incurred by Seller: (a) from third party claims for personal injuries or property damage, whether direct or indirect, actual or alleged, consequential or otherwise, notwithstanding any actual or alleged defect or hazard inherent in the goods or negligence of Seller, its agents, employees or subcontractors; or (b) resulting from any recall, inspection, testing, replacement or correction of the goods, whether required by governmental authority or otherwise; or (c) resulting from the violation of any law, regulation, rule, order or restriction of any governmental authority resulting from or incident to the goods; or (d) resulting from any actual or alleged infringement of any United States or foreign patent, trade-mark, trade-name, trade secret, copyright or similar common or civil law right of a third party resulting from or incident to the goods; and any costs of defense, attorneys' fees, inspectors' fees and/or costs of testing incurred by Seller incident to any of the foregoing.

12. **Distributors; Third Party Purchasers.** Without limiting the generality of section 11 above, in the event Customer is a distributor of Seller's products or otherwise sells or delivers Seller's goods to any other party (a "Third Party Purchaser"), then Customer shall (a) deliver to such Third Party Purchaser a copy of these Terms and of all written specifications and test results which Seller shall have provided to Customer in respect to subject goods, including all disclaimers and limitations of liability, all of which shall be applicable to such Third Party Purchasers; (b) not alter in any way Seller's specifications, test results, disclaimers and limitations of liability; and (c) hold Seller harmless and indemnify it against any loss, cost, damages or liability paid or incurred by Seller arising from or related to Customer's failure to comply with this section 12, including attorneys' fees incurred by Seller.

13. **Cancellation, Suspension or Modification by Customer.** Purchase orders from a Customer, as acknowledged in any manner by Seller, may be cancelled, suspended or modified only with Seller's written consent, and upon terms that will indemnify Seller against loss arising from such cancellation, suspension or modification, as determined by Seller.

14. **Cumulative Rights and Remedies of Seller.** These Terms shall be binding upon and inure to the benefit, as appropriate, of Seller and Customer as well as their respective successors and assigns. All rights of and remedies available to Seller hereunder shall be cumulative and in addition to all rights and remedies available to Seller under all applicable laws including, without limitation, the Uniform Commercial Code as in effect in Rhode Island. No waiver of any right or remedy available to Seller in any instance shall constitute a waiver of any right or remedy subsequently.

15. **Applicable Law.** Transactions between Seller and Customer shall be governed by the laws of the State of Rhode Island and shall be considered contracts made in that state. Customer may bring suit against Seller only in said state, and for purposes of suit by Seller against Customer, submits itself to the jurisdiction of that state.

16. **Arbitration.** At Seller's sole election, all claims, disputes, demands and controversies arising under, out of, in connection with or in relation to transactions between Seller and Customer and contracts between them may be submitted to and be determined by arbitration in the State of Rhode Island in accordance with the rules of the American Arbitration Association then in effect.