

TERMS AND CONDITIONS OF SALE

All sales by the Nucor entity (or entities) named on the applicable sales order acknowledgement (“Nucor”) are made subject to the following terms and conditions. Nucor expressly rejects any different or additional terms or conditions contained in any documents submitted by Buyer. Nucor’s provision of credit, acceptance of any purchase order and/or sale of any goods are expressly made conditional on Buyer’s assent to these terms and conditions. All orders by Buyer may be accepted only upon issuance of Nucor’s sales order acknowledgement.

1. Except as otherwise agreed in a writing signed by Buyer and Nucor, the applicable Nucor sales order acknowledgement, together with these terms and conditions constitute the entire agreement between Nucor and Buyer relating to the sale of such goods by Nucor. Terms or conditions contained in any document issued by Buyer that in any manner purport to alter, modify, change, suspend, or add to any term or condition contained herein shall be deemed excluded from such Buyer document and waived by Buyer. Nucor and Buyer expressly agree that Nucor may modify these terms and conditions from time to time, and such modifications shall be binding upon Buyer.

2. The purchase price of the goods shall be as stated on the face of the applicable Nucor sales order acknowledgement; provided, however, that if Nucor announces a general price increase, the purchase price shall be revised to include such price increase. Nucor may in its sole discretion add a surcharge to the price of goods predicated upon increases in the cost of raw materials or energy. Such surcharge may be adjusted by Nucor periodically to reflect a change in such costs.

3. Buyer cannot modify, cancel, or otherwise alter orders without Nucor’s written consent. Any such cancellation, modification, or alteration shall be subject to conditions as negotiated at such time, which shall include protection of Nucor against loss.

4. All deliveries are EXW (Incoterms 2000) loaded Nucor shipping facility, freight prepaid or freight collect to destination. If shipped freight prepaid, the charge for freight will be added to the invoice. Neither freight charges nor tax is subject to any discount. Title and risk of loss pass upon delivery. Risk of loss or damage in transit shall be borne by Buyer, and claims shall be made directly with carrier. Buyer may pick up the goods at Nucor’s shipping facility provided Buyer does so within 10 days after the date Buyer is notified of the availability of goods. Nucor reserves the right to ship without further notification at any time after the 10-day period. Buyer shall indemnify and hold harmless Nucor from and against any claims, damages or liabilities suffered by Nucor resulting from any acts or omissions of carrier.

5. Delivery dates are approximate. Nucor shall not be responsible for non-shipment of goods or delays in delivery or performance due to causes beyond its reasonable control, including, but not limited to, acts of God; acts of Buyer; strikes or other labor disturbances; Nucor’s inability to obtain, or material increases in the cost of, fuel, raw materials or parts; delays in transportation; repairs to equipment; fires; or accidents. Acceptance of goods upon delivery shall constitute a waiver by Buyer of any claim for damages on account of non-shipment or delays in delivery or performance.

6. SUBJECT TO STANDARD MANUFACTURING VARIATIONS, NUCOR WARRANTS THAT THE GOODS FURNISHED HEREUNDER SHALL MEET SPECIFICATIONS SET FORTH ON THE FACE OF THE APPLICABLE NUCOR SALES ORDER ACKNOWLEDGEMENT. NUCOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY EXCLUDES ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. No claim for damages for goods that do not conform to specifications will be allowed unless Nucor is given immediate notice after delivery of goods to the first destination to which they are shipped and allowed an opportunity to inspect them. Goods for which damages are claimed shall not be returned, repaired, or discarded without Nucor’s written consent. BUYER’S EXCLUSIVE REMEDY AGAINST NUCOR, AND NUCOR’S SOLE OBLIGATION, FOR ANY AND ALL CLAIMS, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL BE LIMITED TO NUCOR’S REPLACING GOODS THAT DO NOT CONFORM TO SPECIFICATIONS OR, AT NUCOR’S OPTION, REFUNDING THE PURCHASE PRICE. IN NO EVENT SHALL NUCOR HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE GOODS IN QUESTION, NOR SHALL NUCOR HAVE ANY LIABILITY FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

8. Nucor may, at its sole discretion, assign any Nucor credit manager to Buyer’s account. All credit information supplied to Nucor will be available for use by any Nucor affiliate and or subsidiary for the purpose of determining credit worthiness. If, in Nucor’s opinion, Buyer’s credit becomes impaired, Nucor may suspend performance until such time as Nucor has received full payment for any goods already delivered or in process and is satisfied (in its sole discretion) as to Buyer’s credit for future deliveries. If Nucor suspends performance and later proceeds with such order, Nucor shall be entitled to such extension of time for performance as is necessitated by the suspension.

9. All taxes of any kind levied by any federal, state, municipal or other governmental authority, which tax Nucor is required to collect or pay with respect to the production, sale, or shipment of goods sold to Buyer shall be the responsibility of Buyer. Buyer agrees to pay all such taxes and further agrees to reimburse Nucor for any such payments made by Nucor.

10. Checks or payments, whether full or partial, received from or for the account of Buyer, regardless of writings, legends, or notations upon such checks or payments, or regardless of other writings, statements, or documents, shall be applied by Nucor against any amount owing by Buyer with full reservation of all of Nucor’s rights, without an accord and satisfaction of Buyer’s liability.

11. In the event Buyer fails to make payment to Nucor, or any affiliate of Nucor, of any amounts due and owing to Nucor or such affiliate (including any applicable surcharge or freight charge), Nucor shall have the right to terminate any Buyer order or any unfulfilled portion thereof, and Nucor or any affiliate thereof may terminate any other agreement between Nucor or such affiliate and Buyer. Nucor may charge interest on the outstanding balance at an annual rate of 12% or the highest rate allowed by law (whichever is less). Nucor shall have the right to employ an attorney to collect the balance due, and Buyer agrees to pay all collection costs incurred by Nucor, including its reasonable attorneys’ fees.

12. This agreement shall be governed by the laws of the state in which Nucor’s shipping facility is located. Buyer, acting for itself and its successors and assigns, hereby expressly and irrevocably consents to the exclusive jurisdiction of the state and federal courts of that state for any litigation which may arise out of or be related to this agreement. Buyer waives any objection based on *forum non conveniens* or any objection to venue of any such action.

13. Nucor reserves the right to enforce these terms and conditions at any time and none shall be deemed waived unless such waiver is in writing signed by a duly authorized officer of Nucor. All rights and remedies granted herein are in addition to all remedies available at law or in equity.