

TERMS & CONDITIONS

GENERAL TERMS & CONDITIONS OF SALE

(READ CAREFULLY, EACH AND EVERY TERM AND CONDITION HEREINAFTER SET FORTH IS INCORPORATED BY REFERENCE INTO AND FORMS AN INTEGRAL PART OF YOUR CONTRACT WITH BLAIR RUBBER COMPANY.)

1. CONTRACT

Your order will become a binding contract on the terms and conditions hereinafter set forth upon (a) our written acceptance of your order; (b) our shipment of any unit of the items ordered by you; or (c) other conduct by us recognizing the existence of a contract with you. The contract of sale between us is governed by and to be construed in accordance with these General Terms and Conditions of Sale and the provisions of the Uniform Commercial Code, as adopted in the State of Ohio. In case of conflict between these General Terms and Conditions of Sale and the Uniform Commercial Code, these General Terms and Conditions of Sale shall prevail. The contract shall be governed by and construed in accordance to the laws of the State of Ohio, and all lawsuits arising out of or in any way relating to this contract shall be brought in a court of competent jurisdiction in Summit County, Ohio, and you hereby consent to the exercise of personal jurisdiction by such court with respect to any such procedures.

2. MODIFICATION

No amendment, variation, alteration, or change of the contract between us shall be valid or enforceable unless in writing duly signed by us.

3. ASSIGNMENT

The contract shall be binding upon you and is to inure to your and our benefit and that of our respective successors and assigns, but you shall not have the right to transfer or assign the contract, in whole or in part, without our prior written consent.

4. DELIVERY, RISK OF LOSS

Ownership and risk of loss will be determined by the freight terms.

5. WARRANTY; WARRANTY DISCLAIMERS AND LIMITATIONS

We warrant exclusively to you as our customer that the Products manufactured by us and sold by us as first grade materials are free from design and manufacturing defects. Before using our Products, you must make sure that our Products meet your requirements and are suitable for your use.

THE WARRANTY SET FORTH HEREINABOVE IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, EVEN IF SUCH PURPOSE SHOULD BE KNOWN TO US AND EVEN THOUGH WE PUBLISH LITERATURE PERTAINING TO THE USE OR DIRECTIONS FOR USE OF OUR PRODUCTS. WE MAKE NO OTHER WARRANTY, EXPRESS OR IMPLIED. NOBODY REPRESENTING US, IRRESPECTIVE OF WHETHER HE OR SHE IS ONE OF OUR DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES OR AGENTS, HAVE AUTHORITY TO MAKE ANY WARRANTY OR REPRESENTATION, EXCEPT THE WARRANTY SET FORTH HEREIN ABOVE.

YOUR REMEDIES RELATING TO OUR BREACH OF WARRANTY ARE SET FORTH HEREINBELOW.

OUR LIABILITY FOR BREACH OF WARRANTY IS LIMITED TO THE REPLACEMENT OF THE DEFECTIVE PRODUCTS MANUFACTURED BY US AND SOLD BY US TO YOU, AND IN NO EVENT SHALL OUR LIABILITY EXCEED THE PURCHASE PRICE RECEIVED FROM YOU. WE SHALL NOT BE LIABLE FOR DAMAGE OR LOSS RESULTING FROM THE HANDLING, USE OR FURTHER PROCESSING OF OUR PRODUCTS, WHETHER BY THEMSELVES OR TOGETHER WITH OTHER MATERIALS. UNDER NO CIRCUMSTANCES WILL WE HAVE ANY LIABILITY FOR CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES BY REASON OF ANY ACT OR OMISSION ARISING OUT OF OR IN CONNECTION WITH OUR PRODUCTS, OR THE SALE, DELIVERY, INSTALLATION, MAINTENANCE, OPERATION, PERFORMANCE, OR USE OF OUR PRODUCTS, INCLUDING, BY WAY OF EXAMPLE AND NOT BY WAY OF LIMITATION, DAMAGES, EXPENSES, ALL LOSSES INCURRED BY REASON OF LOSS OF USE, LOST REVENUES, LOST PROFITS, DAMAGE TO EQUIPMENT OR FACILITIES, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS OR FACILITIES, COST OF REPLACEMENT PRODUCTS, DOWN TIME, AND ANY SIMILAR OR DISSIMILAR DAMAGES, EXPENSES, OR LOSSES, IRRESPECTIVE OF WHETHER ANY SUCH LIABILITY IS BASED ON CONTRACT, TORT, OR OTHER LEGAL OR EQUITABLE PRINCIPLES.

The Warranty does not extend to any third party.

This warranty is subject to the condition precedent that you notify us in writing as set forth below upon discovery of any alleged defect in our Product and cease its use and/or fabrication.

6. WARRANTY CLAIM PROCEDURE

You must file your claim for breach of warranty with us in writing, within ten (10) days of discovery of the alleged defect, describing the defect in detail and specifying the Product which allegedly has such defect by category, type, size, quantity, number of your purchase order, as well as our date of shipment. You grant us a right to have one of our representatives inspect the allegedly defective Product manufactured by us. Upon our request, you agree to ship to us, at your expense, sample quantities determined by us of the alleged defective Product. If we find that your claim has been timely filed and our Products were defective in design or manufacture, we shall send you a written ACKNOWLEDGEMENT OF CLAIM in which we will instruct you to, in our discretion, return to us the Products subject to the alleged defect (freight collect via common carrier specified by us or freight prepaid if returned via any other carrier), or we will state that we shall replace the defective Products or we will refund you a specified amount of the purchase price received by us for such Products. In case we reject your claim, we shall so notify you in writing. PLEASE BE ADVISED THAT FAILURE TO FOLLOW THIS WARRANTY CLAIM PROCEDURE SHALL CONSTITUTE A WAIVER OF ANY CLAIM FOR BREACH OF WARRANTY.

7. FINANCIAL DISTRESS

In the event of bankruptcy, receivership, insolvency, reorganization or similar arrangement, voluntary or involuntary, for, by or on behalf of your creditors initiated by or against you, we may, at our option, cancel this contract at any time without any liability, and recover any Products for which payment is still due.

8. FORCE MAJEURE

No failure or omission by us in the performance of any obligation under the contract shall either be deemed a breach or create any liability for damages or other relief, if the same shall arise from any cause or causes beyond the reasonable control of the party whose performance of obligations under the contract is interfered with by such force majeure, including, by way of example and not by way of limitation, acts of God, floods, fires, explosions, storms, earthquakes, acts of public enemy or rebellion, insurrection, riot, sabotage, invasion, epidemic, quarantine, accidents, strikes, lock-outs, labor disputes or other industrial disturbances or any order, rule, act, action, law or regulation or the withholding of any necessary action by any governmental agency, transportation embargoes or delays or the reduction of or delays in deliveries of any product or material, or causes of similar nature. In case such interference by force majeure shall not cease within a reasonable period of time, we shall have the right to cancel the contract without any liability to you.

9. ENTIRE AGREEMENT

Your purchase order as accepted by us and these General Terms and Conditions constitutes the entire contract between us regarding the sale of our product covered by your purchase order and supersedes and cancels any and all prior communications, promises, representations, agreements, or contracts, whether formal or informal, with respect to your purchase order and the products sold under the contract, including, without limitation, any provisions in, on the reverse of or attached to, your purchase order, other than quantities, price and delivery date(s).

10. DESIGNATION OF PARTIES

The terms “you” and “your” as used in these General Terms and Conditions shall be deemed to refer to the customer of Blair Rubber Company.

The terms “we,” and “our” as used in these General Terms and Conditions shall be deemed to refer to Blair Rubber Company.