

Standard Terms and Conditions of Lhoist North America of Canada, Inc.

1. Acceptance of orders, whether oral or written, is based upon the express condition that buyer ("Buyer") agrees to all of the terms and conditions contained herein. These terms and conditions are intended by the parties as a final expression to their agreement with respect to such terms and also as a complete and exclusive statement of all terms, unless LHOIST NORTH AMERICA OF CANADA, INC. ("Seller") approves such change in terms and conditions explicitly and in writing signed by an authorized representative of Seller. No modification of these terms and conditions shall be affected by Seller's shipment of goods following receipt of Buyer's purchase order, shipping request, or similar forms containing printed terms and conditions which may be conflicting or inconsistent with the terms and conditions herein.
2. All tariffs, taxes and excises of any nature whatsoever now or hereafter levied by any governmental authority, whether federal, provincial, or local, upon the sales, use, or transportation of any goods to Buyer shall be paid and borne by the Buyer.
3. All transportation costs and expenses for the delivery of any goods delivered by Seller to Buyer shall be for the account of Buyer. The number of net tons of goods delivered by Seller hereunder shall be determined as follows: (i) if delivered in railroad cars, the net weight of each carload shall be the difference between the gross and tare weight of the car and the gross weight shall be established by the carrier's bill of lading or weigh bill, or at Buyer's option and expense, by light weighing the car; or (ii) if delivered by trucks, the net weight of each truck load shall be the difference between the gross and light weight of the truck.. Seller shall establish the gross and light weights by weighing the truck on certified truck scales, which shall be shown on bills of lading, weigh bills or scale records.
4. Title to all goods sold and delivered to Buyer shall pass to Buyer upon delivery thereof to carrier. Delivery to carrier shall constitute delivery to Buyer and thereafter all risk of loss shall be borne by Buyer. Any claim by Buyer against Seller for shortage or damage occurring prior to such delivery shall be made within five (5) days after Buyer's receipt of such goods and shall be accompanied by an original transportation bill signed by the carrier which shall state that the carrier received goods from Seller in the condition claimed. In the event there is a claim against a carrier for shortage or damage occurring after such delivery or for transportation overcharges, Buyer may, and at Seller's request shall, forward such claim to Seller for processing with carrier, together with the original paid transportation bill signed by carrier and noting the shortage or damage if such is claimed. Buyer hereby agrees that Seller's responsibility shall be limited to crediting Buyer only to such adjustments in price as are allowed by carrier to Seller, and to which Buyer under the terms hereof is entitled.
5. Seller warrants that the goods sold to Buyer shall conform to the specifications, if any, attached hereto. **SELLER MAKES NO FURTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY INTENDED USE OR PURPOSE.**

Seller is only selling such right or title to the goods being sold as Seller may have on the date on which Buyer requested delivery of the goods and disclaims any warranty of title to the goods. Buyer, in furnishing specifications to Seller, agrees to indemnify and hold Seller harmless against any claims by way of infringement or the like that arise out of compliance with the specifications. Seller has made no affirmation of fact or promise relating to the goods being sold that has become any basis of this bargain. Further, Seller has made no affirmation of fact or promise relating to the goods being sold that has created or amounted to an express warranty that the goods would conform to any such affirmation or promise.

The goods described in this agreement are sold on an "as is" basis, and Seller disclaims any implied warranties with respect to the goods, except for any express warranties which are contained in this paragraph.

Seller shall not be liable for incidental or consequential losses, damages, or expenses, directly or indirectly arising from the sale, handling, or use of the goods, or from any other cause relating thereto, and Seller's liability hereunder in any case is expressly limited to the replacement (in the form originally shipped) of goods not complying with applicable specifications, or, at Seller's election of the repayment of crediting Buyer with, an amount equal to the purchase price of such goods, whether such claims are for breach of warranty or negligence. Buyer hereby agrees to indemnify and hold Seller harmless for any incidental or consequential losses, damages, or expenses, directly or indirectly arising from Buyer's sale, handling, or use of the goods, or from any other cause relating thereto.

Any claim by Buyer with reference to the goods sold hereunder for any cause shall be deemed waived by the Buyer unless submitted to Seller in writing ten (10) days from the date Buyer received such goods or in the case of a breach of the express warranty under Paragraph 5 hereof within ninety (90) days from the date Buyer received such goods.

Seller shall not be liable under the express warranty contained in this Paragraph if any loss or damage is caused by improper application or use of the goods or if the goods are not applied and used according to the Seller's current printed directions and specifications free copies of which are available to Buyer or any other third party upon request.

6. Seller reserves the right to require payment for the goods in advance or satisfactory security, if the financial responsibility of Buyer becomes unsatisfactory to Seller, as determined by Seller in its sole discretion. If Buyer fails to make payment or fails to comply with any provisions hereof, Seller may, at its option, in addition to other remedies, cancel any unshipped portion of its order, and all sums owing from Buyer to Seller shall forthwith at Seller's option become due and payable, and Seller may bring an action at law or equity for any or all sums due or to become due from Buyer to Seller; and Buyer shall be liable to Seller for all of Seller's costs of collection, including, but not limited to, reasonable attorneys' fees, prejudgment interest at the maximum rate which the law allows, and post judgment interest at the maximum rate which the law allows. The exercise of any rights hereunder shall not be deemed a waiver by Seller of any other existing rights which Seller may have under applicable laws.
7. If the performance of any obligation of Seller hereunder is prevented, hindered or delayed by reason of acts of God or the public enemy; accidents, fires or floods; strikes, work stoppages, slowdowns; shortage of cars, fuel, electric power or labor; delays in transportation; plant closure; compliance with any governmental order or regulation; inability to obtain on reasonably acceptable terms any public or private license, permit or other authorization; curtailment or suspension of activities to remedy or avoid an actual or alleged, present or prospective enforcement of federal, provincial or local environmental standards; or any other similar or dissimilar contingency beyond the control of Seller, then Seller shall be excused from such performance during the continuance of such contingency; provided that Seller notifies Buyer as promptly as is reasonably possible (i) of Seller's inability to perform and (ii) when, in Seller's reasonable judgment, full performance is likely to be resumed.
8. If extraordinary circumstances beyond the Seller's reasonable control significantly increase Seller's cost of performance of its obligations hereunder, upon the request of Seller, the parties shall adjust the conditions of related to Seller's obligations hereunder in order to reasonably alleviate the effect of such extraordinary circumstances. If the parties do not reach an agreement with regard to adjusted conditions occasioned by such extraordinary circumstances within thirty (30) days following the Seller's notification of the request, then Seller shall have the right, at its sole discretion, to terminate any obligation to Buyer upon thirty (30) days' notice to Buyer.
9. The purchase price shall be adjusted for all costs incurred by Seller hereunder in order to comply with any Federal, State or local law, regulation or order enacted, changed or amended after the date of the placement of any order by Buyer including, without limitation, fuel and other taxes, laws, regulations or orders relating to health, safety, conservation, reclamation, environmental protection, pollution control and air, water and soil standards but specifically excluding any and all income taxes. Seller warrants that, to its knowledge, it is currently in compliance with all applicable laws, regulations or orders (except where noncompliance would not have a material adverse effect on Seller's performance of its obligations hereunder), and the costs incurred hereunder for such compliance whether or not actually incurred have been included in the initial price. In the event that any Federal, State or local law, regulation or order is enacted, changed or amended after the date of the placement of any order by Buyer, Seller shall determine prospectively the fully assessed cost per ton to Seller (as reasonably determined by Seller in its sole discretion based on generally accepted accounting principles) of complying with such laws, regulations or orders and advise Buyer of such costs, verified by adequate supporting documentation which shall be subject to audit upon Buyer's written request. The amount so determined shall be added to the payment price as an adjustment to become effective as and when such costs are incurred by Seller. For any such audit Seller shall produce evidence of actual costs within twelve months from institution of the additional charge and will either invoice or credit Buyer as appropriate for the difference between Seller's initial assessment and the results of the final determination of the audit.

Effective September 16, 2024 (the "MACT Effective Date"), the "National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants" regulation, published at 88 Fed Reg. 805 (the "Lime MACT Regulation"), became effective. Under the Lime MACT Regulation, new emissions controls for hydrogen chloride, mercury, organics, and dioxins and furans have been imposed upon Seller with compliance required by (i) September 16, 2027 for lime kilns in operation prior to the MACT Effective Date, and (ii) immediately for lime kilns placed in operation on or after the MACT Effective Date. Notwithstanding that the Lime MACT Regulation became effective prior to the date of the placement of any order by Buyer, to the extent Seller has incurred or is expected to incur increased costs in the performance of its obligations hereunder in order to comply with the Lime MACT Regulation, the price shall be adjusted pursuant to the procedure set forth as stated within this Section above.

10. Buyer acknowledges and agrees that it is purchasing the goods from Seller for use in its operations, and that Buyer will not resell the goods to third parties at any time without the express written consent of Seller.

11. Buyer may not return either goods or orders or both once accepted by Buyer without Seller's prior written consent. If Seller consents to the return of goods hereunder, a cancellation charge shall be charged to Buyer at the rate of ten percent (10%) of the total cost of the goods sold hereunder.
12. Unless otherwise stated, where bagged products are quoted or sold by weight, the weight shown shall include the containers.
13. Seller's obligation to perform hereunder is subject to the availability of goods sold hereunder at Seller's plant at the time shipment is required, and, in the event of shortage, Seller shall be obligated to sell and deliver only Buyer's pro rata share of goods available.
14. Prices quoted on annual contracts, if accepted within thirty (30) days by Buyer, shall be subject to revision unilaterally by Seller upon Seller's written notice thirty (30) days prior to the effective date of such revision.
15. Buyer shall not disclose any information related to the transaction between Buyer and Seller to any person, except to Seller's personnel as may reasonably be necessary to enable Seller to exercise its rights and perform its obligations. Notwithstanding the foregoing, Buyer may disclose any confidential information to the extent that disclosure is compelled in connection with legal or government proceedings or requests, or if the Buyer is required to report or disclose such confidential information by law or pursuant to the rules or regulations of any regulatory authority having jurisdiction over the Buyer; provided, however, that should such disclosure be compelled or reporting required, the Buyer shall give notice to the Seller, as promptly as is reasonably practicable, before any such disclosure or reporting in order to permit the Seller to contest such disclosure or reporting.
16. Buyer and Seller acknowledge that the transaction contemplated hereunder bears a reasonable relation to the Province of British Columbia and agree that the internal law, and not the law of conflicts, of the Province of British Columbia will govern the rights and duties of Buyer and Seller hereunder.
17. **Seller is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment and otherwise treat qualified individuals without discrimination based on their status as protected veteran or individual with a disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.**
18. These Standard Terms and Conditions reflect the negotiations of the Buyer and Seller. Language used herein shall be deemed to be the language chosen by the Buyer and Seller to express their mutual intent and no rule of strict construction shall be applied.
19. Whenever possible, each provision herein shall be interpreted in such a manner as to be effective and valid under applicable law; but if any provision herein is held to be prohibited by or invalid under applicable law, such prohibition or invalidity shall be effective only to the extent of such prohibition or invalidity without invalidating the remainder of the agreement between Buyer and Seller.
20. Buyer shall not assign any rights or obligations hereunder without Seller's prior written consent. The transaction between Buyer and Seller shall inure to the benefit of and be binding upon the Buyer and Seller and their respective permitted successors and assigns.