

## GRASCHE USA, INC.

### TERMS AND CONDITIONS OF SALES (Effective December 1<sup>st</sup> 2010)

1. **ACCEPTANCE.** GRASCHE USA, INC. ("COMPANY") has sold the products described on the front side hereof ("Products") pursuant to the terms and conditions of sale stated herein and to no others. All contrary or additional terms and conditions of purchase or sale stated in Purchaser's purchase order or any other commercial document prepared by or for Purchaser have been and are hereby expressly rejected by Company and deemed waived by Purchaser.
2. **PRICES.** Unless otherwise specified prices are quoted F.O.B. warehouse, Hickory, North Carolina and are valid for thirty days. Company reserves the right to increase prices to reflect substantial increases in Company costs.
3. **TAXES.** Quoted prices do not include sales, use, excise, privilege, or any similar tax shall be paid by the party purchasing Company's products ("Purchaser") or, in lieu thereof. Purchaser shall upon request provide the Company a tax exemption certificate acceptance to the appropriate taxing authorities.
4. **CANCELLATION.** An order once placed with and accepted by the Company can be cancelled by the Purchaser only with written consent of the Company and upon terms that will indemnify the Company against any loss.
5. **DELIVERY.** Unless otherwise agreed, all deliveries are F.O.B. Company's warehouse in Hickory, North Carolina (current INCO Terms). Delivery schedules represent Company estimates only. The Company will not be reliable for any delay in the performance of orders or contracts, or in the delivery or shipment of products or for any damages suffered by the Purchaser by reason of such delay. Company reserves the right to over or under ship all quantities by maximum 10%
6. **PAYMENT.** For all orders the net purchase price must be paid within in thirty (30) days of the date of invoice. Invoices paid in full within ten (10) days after the date of invoice are entitled to a two percent (2%) discount. Invoices not paid within thirty (30) days after the date of the Company's invoice will be subject to a ten dollar (\$10.00) rebilling fee for each rebill and also to carrying charges in the amount of one and one-half percent (1-1/2%) per month on any over due unpaid balance, together with rebilling charges. Purchaser will be charged with a thirty dollar (\$30.00) fee for each check returned by Purchaser's bank. The Company's invoice shall constitute an "evidence of indebtedness" to N.C. Gen. Stat. section 6-21.2 relating to the recovery of attorney's fees. Purchaser shall reimburse the Company for the cost of collection, including reasonable attorneys' fees, of any overdue amount owed by Purchaser to the Company, and such collection shall also be subject to the carrying charges.
7. **RISK OF LOSS.** All risk of loss to products shall pass to the Purchaser upon delivery by the Company of such products to a common carrier.
8. **LIMITED SIX MONTH WARRANTY.** Company warrants that the Products sold to Purchaser shall be free from defects in material of workmanship, and Company will repair, or in its sole discretion, replace, any product or part thereof found to be defective in material or workmanship, provided, such product or part is shipped freight prepaid to and received by Company within six (6) months after the date of shipment by Company.

This limited warranty does not cover normal maintenance nor normal wear and tear, use under circumstances exceeding specifications, abuse, unauthorized repair or alteration, lack of proper maintenance or damage caused by natural causes such as fire, storm or flood. This limited warranty is Purchaser's exclusive remedy. COMPANY SHALL NOT IN ANY EVENT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN WHERE COMPANY HAS BEEN ADVISED OF
9. **POSSIBILITY OF SAME.** Except as otherwise provided company shall not be liable for transportation, labor or other charges for adjustments, repair, and replacements of parts, installation, or other work which may be done upon or in connection with the products sold.

NO EXPRESSED OR IMPLIED WARRANTIES, WETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR OTHERWISE, OTHER THAN THOSE EXPRESSLY SET FORTH ABOVE (WHICH ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES) SHALL APPLY TO THE PRODUCTS.
9. **CLAIMS.** Within ten (10) business days after receipt by Purchaser of products sold, Purchaser must give written notice to the Company of any claim by it based upon the conditions, quality, or grade of the products sold or of any claimed nonconformity with the Purchaser's specifications, which notice must indicate the basis of Purchaser's claim in detail. The failure of Purchaser to comply with this paragraph 9 shall constitute irrevocable acceptance of the products sold by the Purchaser and bind him to pay to Company the full price of the product.
10. **SAFETY DEVICES.** In operating the products, Purchaser shall use all safety devices and guards on the products and follow all procedures recommended by the Company. Should Purchaser fail to do so, Purchaser will indemnify and hold Company harmless from any risk, liability, or obligation to persons injured directly or indirectly in connection with the operation of the products.
11. **SECURITY AGREEMENT.** Until Purchaser has paid in full for all products sold, Purchaser grants to the Company a continuing security interest in all such products and to the proceeds thereof. Purchaser shall execute and deliver any financing statements and other documents that the Company may reasonably require for the perfection of such security interest and Purchaser hereby authorizes the Company to do all other acts reasonably necessary for the establishment, perfection, preservation, and enforcement of its security interest.
12. **LIMITATIONS.** Any action by Purchaser under or relating to this Agreement or the products sold must be commenced within one (1) year after such cause of action has accrued.
13. **CHOICE OF LAW.** This Agreement and any dispute or claim relating to it or the Products sold shall in all respects be governed by and construed according to the laws of the State of North Carolina.
14. **CHOICE OF FORUM, VENUE, AND CONSENT TO JURISDICTION.** The federal civil courts sitting in Iredell County and the state civil court setting in Catawba County shall constitute the exclusive, alternative forums for the adjudication of any and all disputes or controversies arising out of or relating to this Agreement or the Products sold. Purchaser and Company consent to the exercise of jurisdiction over them by such courts with respect to any such dispute or controversy, and Purchaser and Company waive any objection to the assertion or exercise by such courts of such jurisdiction.
15. **ENTIRE AGREEMENT.** Purchaser and the Company acknowledge that these Terms and Conditions of Sale, together with Company's invoice, constitute the entire agreement between the Purchaser and the Company with regards to the sale or transfer of the products sold. These Terms and Conditions of Sale may not be amended, modified, or supplemented except by written agreement executed by the Purchaser and the Company. The provisions of this Agreement are hereby deemed by the parties to be severable.