

INVESTMENT RECOVERY SALES TERMS and CONDITIONS

Applicability. (a) These terms and conditions of sale ("Terms") are the only Terms which govern the sale of the material ("Material") by Santee Cooper to the ("Buyer"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Material covered hereby, the terms and conditions of that contract shall prevail to the extent they are inconsistent with these Terms. (b) The accompanying Sales Invoice ("Invoice"), these Terms, the Bid Letter (if issued), and the Santee Cooper Equipment Usage form (if approved) (collectively "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its bid or such terms. Performance by Santee Cooper does not constitute Santee Cooper's acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

Pick-Up. The Material will be made available and picked up within a reasonable time after the receipt of Buyer's payment. Unless otherwise agreed in writing, Buyer shall pick up the Materials from the designated Santee Cooper location. Buyer is responsible for making appropriate arrangements to safely remove, disassemble (if necessary), load, and transfer the Material from Santee Cooper's property. Unless approved by Santee Cooper on Invoice or Bid Letter, Buyer must provide all equipment needed for these efforts. Buyer shall be appropriately licensed and trained for the equipment and load under the operator's control. Buyer's loading and transporting equipment shall be in good order and condition, and should be properly insured. Santee Cooper will inform Buyer of the route it should take on Santee Cooper property. If for any reason Buyer fails to pick-up the Material on the date mutually agreed upon by the parties and payment has been made: (i) risk of loss to the Material shall pass to Buyer; (ii) the Material shall be deemed to have been delivered; and (iii) Santee Cooper, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance). In the alternative Santee Cooper, at its option, may refund the purchase price (if payment has been made) to Buyer and resell the Material to another party.

Non-Delivery. The quantity of any Material as recorded by Santee Cooper on the Invoice is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. Santee Cooper shall not be liable for non-delivery of any Material unless Buyer gives written notice to Santee Cooper of the non-delivery within 5 days of the date when the Material was made available for pick-up. Any liability for non-delivery of the Material shall be limited to replacing the Material within a reasonable time or adjusting the Invoice respecting such Material to reflect the actual quantity delivered.

Safety and Compliance with Laws. Buyer shall conduct its loading and hauling operations on Santee Cooper property subject to and in compliance with applicable state, federal, and local laws and such rules and regulations respecting sanitation, health, safety, and the environment. Buyer shall take all necessary or advisable precautions for the safety of all persons or property in connection with its operations. The term "laws" as used herein shall be construed as including administrative rules and regulations. Buyer shall be responsible for complying with changes in regulations and any new regulations that become effective during the Term of the Agreement. Buyer shall provide documentation of compliance with any and all applicable laws and regulations as requested or required.

No Interference with Santee Cooper Operations. While on Santee Cooper property, Buyer shall at all times use commercially reasonable efforts to minimize the possibility of any conflict or interference with the activities, operations, or processes of Santee Cooper.

Title and Risk of Loss. Title and risk of loss passes to Buyer upon payment or start of loading of the Material, whichever occurs first.

Amendment and Modification. These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

Price. Buyer shall purchase the Goods from Santee Cooper at the price listed on the Sales Invoice. All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes.

Payment. Buyer will pay all invoiced amounts due to Seller upon receipt of the invoice and prior to picking-up the material. Payments shall be made by check. Santee Cooper may suspend the delivery of any Materials if Buyer fails to pay any amounts when due. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Santee Cooper.

Disclaimer of All Warranties. MATERIAL IS SOLD AS IS/WHERE IS. SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE MATERIAL INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

Indemnification. Buyer shall indemnify and hold Santee Cooper, its agents and employees harmless from and against all liability claims and demands on account of damages to persons or property, including death to employees of Santee Cooper, Buyer or its suppliers or contractors arising out of or connected with the performance or non-performance of this Agreement caused by the negligence of Buyer, its contractors, suppliers, agents, employees, or other Party affiliated with Buyer. Buyer shall at its own expense, for any and all actions based upon the claims described in this paragraph, pay all attorney fees, costs, and expenses arising therefrom. Further, Buyer shall indemnify Santee Cooper for any and all damage to Santee Cooper's property resulting from Buyer's use of any equipment (including but not limited to Buyer's loading equipment, Santee Cooper's loading equipment, and vehicles).

Limitation of Liability. (a) IN NO EVENT SHALL SANTEE COOPER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY DAMAGE OR LOSS RESULTING FROM BUYER'S LOADING AND TRANSPORT OF THE MATERIAL WHETHER LOADED BY BUYER OR SANTEE COOPER, REGARDLESS OF THE OWNERSHIP OF THE EQUIPMENT USED. (b) IN NO EVENT SHALL SANTEE COOPER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SANTEE COOPER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. (c) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SANTEE COOPER FOR THE GOODS SOLD HEREUNDER OR AS PROVIDED FOR BY LAW, WHICHEVER IS LESS.

Insurance. Without limiting any of the other obligations or liability of Buyer, Buyer during all times in which Buyer is on Santee Cooper property and is loading and transporting the Material shall provide and maintain insurance coverage and provided for with financially sound and reputable insurers as follows: Worker's Compensation as required by the laws of the State of South Carolina, bodily injury by accident is \$500,000 each accident and bodily injury by disease is \$500,000 each employee. General Liability (occurrence form) with a minimum \$1,000,000 limit for bodily injury/property damage. Automobile Liability with a minimum limit of \$500,000 for bodily injury/property damage. All buyers except for individuals not representing any company interest must have automobile insurance. Upon Santee Cooper's request, Buyer shall provide Santee Cooper with a certificate of insurance from Buyer's insurer evidencing the insurance coverage specified in these Terms and the certificate of insurance shall name Seller as an

additional insured. Buyer shall provide Seller with 15 days' advance written notice in the event of a cancellation or material change in Buyer's insurance policy.

Waiver. No waiver by Santee Cooper of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Santee Cooper. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Force Majeure. Santee Cooper shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, governmental actions, war, terrorist threats or acts, civil unrest, national emergency, revolution, strikes or other labor disputes.

Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Santee Cooper. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

Governing Law and Venue. The Agreement will be governed by and construed in accordance with the laws of the State of South Carolina and any legal action associated with the contract must be initiated with any court of competent jurisdiction within the State of South Carolina.

Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Invoice. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Insurance, Compliance with Laws, Governing Law, Submission to Jurisdiction, and Survival.