

TERMS AND CONDITIONS OF SALE

All sales shall be evidenced by a written sales order confirmation issued by Pharr Yarns, LLC (the "Company"). The terms and conditions of sale in Company's written sales order confirmation shall be the sole and exclusive terms and conditions of sale and no purchase order shall be effective or otherwise binding upon Company in absence of a signed written agreement by Company expressly agreeing to be bound by the terms of any such purchase order. Any purchase order issued by Customer shall be deemed to incorporate the terms and conditions of sale set forth in Company's sales order confirmation as the sole and exclusive terms and conditions of sale. Customer expressly agrees that the terms and conditions of sale set forth in Company's sales order confirmation are the sole and exclusive terms and conditions of sale and no other terms and conditions of sale shall be effective unless expressly agreed to in a signed writing by Company notwithstanding anything to the contrary in any purchase order, confirmatory memorandum or other document evidencing such sale.

1. **PAYMENT:** All invoices are payable in United States dollars. No discount may be taken unless specified on face of Company's invoice. Customer shall have no authority to assert any offsets against an invoice, except as expressly agreed by Company in a signed writing or as set forth in a credit memo issued by Company. On all invoices not paid by the maturity date set forth on the face of the Company's sales order confirmation (and if no such terms are stated on the face, the terms shall be net thirty (30) days), Customer shall pay a late fee of 1.5% per month (but not to exceed the maximum rate allowed by law) from and after the maturity date of said invoice. Any check or remittance received from or for the account of Customer may be accepted and applied by Company or its factor against any indebtedness or obligation owing by Customer, as shown by the books and records of Company or its factor, without prejudice to or the discharge of the remainder of any such indebtedness or obligation regardless of any condition, proviso, statement, legend or notation appearing on, referring to or accompanying such check or remittance. Any delivery not in dispute shall be paid for regardless of any controversy relating to other delivered or undelivered merchandise.

2. **CREDIT AND DEFAULT:** Customer represents and warrants to Company that it is solvent at the time this contract is made and Customer hereby makes a continuing representation and warranty of its solvency at the time of each tender or delivery hereunder. In the Event of a Default by Customer of these terms and conditions of sale, Company may elect its rights and remedies under the Uniform Commercial Code including, but not limited to the following: (a) cancel this and/or any other contracts (or any part thereof) with Customer (Customer remaining liable for damages); (b) defer any shipments or other tenders hereunder; (c) declare forthwith due and payable all outstanding invoices to Customer under this or any other contract; (d) bill at contract price (on a cash before delivery basis if Company so elects) all or any part of the yarn covered by this or any other contracts (Company to have the right to assort, specify and/or complete the manufacture of any of such yarn) and require Customer to specifically perform the contract by taking in and paying for such yarn; in the case of yarn not yet completed, Company shall have the additional right to require payment at the contract price sixty (60) days prior to tender of such yarn; (e) sell all or any part of the yarn covered by this or any other contract, without notice, at public or private sale; Customer to be responsible for the costs and expenses of such sale including: (i) five percent (5%) of the contract price to cover Company's additional overhead, and (ii) any deficiency. (Company shall account to Customer, subject to Company's security interest, for any excess and Company shall have the right to purchase such yarn at any such sale); (f) obtain damages from Customer equal to the difference between the market price of yarn covered by this or any other contract as of the date of default, breach or repudiation and the contract price plus five percent (5%) of the contract price to cover Company's cost of reselling and additional overhead; (g) sell in

the open market, at auction or otherwise, any material or supplies purchased for the contract either as raw stock, top or sliver and Customer shall be liable for any loss, and/or damage; and/or (h) recover Company's reasonable attorney's fees.

All rights and remedies of Company under this contract shall be in addition to all other rights and remedies of Company under the Uniform Commercial Code or under other applicable law, all of which rights and remedies shall be non-exclusive and cumulative and may be exercised or asserted as Company shall elect. Approval of credit for one or more deliveries shall not be deemed a waiver of the provisions of this paragraph. Any property of Customer, including but not limited to merchandise billed and held (whether paid for or not) at any time in Company's possession, or the possession of any parent, subsidiary, affiliate or agent of Company, either as principal or agent shall be deemed held as security for, and may, at Company's option, be set off against, any and all of Customer's obligation to Company or to any parent, subsidiary, affiliate, principal or agent of Company.

3. DELIVERIES: (a) Delivery or tender of delivery of any installment within fifteen (15) days after date specified on Company's confirmation of this order shall be deemed timely delivery. Thereafter, shipment or tender of delivery prior to receipt of written cancellation by Customer shall constitute good delivery. (b) The terms of delivery shall be as specified in the Company's sales order confirmation. Title shall pass to Customer, in accordance with the terms of delivery specified on Company's sales order confirmation and Article 2 of the Uniform Commercial Code, subject to: (i) Company's rights under Article 2 of the Uniform Commercial Code, including, but not limited to the rights to withhold or refuse delivery, stop in transit and/or reclaim; and (ii) Company's security interest in property in the possession, custody or control of Company in accordance with paragraph 2 above. With respect to yarn for which payment is to be made on or before delivery, title passes only upon receipt of full payment. In the instance of yarn held subject to Customer's instructions, or for which Customer has failed to supply shipping instructions, or in any case where Company, in its sole discretion, determines that any part of the yarn purchased by Customer should be held for Customer's account, Company may invoice the yarn and Customer agrees to make payment at the maturity of the invoice so rendered. Yarn invoiced and held at any location, for whatever reason, shall be at Customer's risk and expense (and Company may charge storage at prevailing rates). If Company has a blanket policy insuring against loss, such yarn shall be included thereunder, Customer may be charged the premium allocable thereto, and in the event of loss, if Customer has paid for such yarn, Company may tender to customer, as customer's sole remedy, customer's pro rata portion of any loss paid by the insurer. (c) All freight, express and delivery charges shall be paid as a separate item by Customer and shall not be subject to discount. (d) Company will make every effort to limit quantity to weight specified. However, delivery of a quantity which does not vary more than five percent (5%) of the contract weight greater or less than contracted for shall constitute compliance under this contract and payment shall be made on the actual pounds invoiced. (e) Partial deliveries shall be accepted by Customer and paid for at contract prices and terms. All sample requirements furnished on this order shall be charged by the Company and paid by Customer at contract price. Delay in delivering samples or other sample requirements shall not constitute a breach of this agreement. Any defect in quality or delay in delivery shall not affect the balance of this contract. Where Customer has declared or manifested an intention that it will not accept delivery in accordance with the provisions of this contract, no tender shall be necessary, but Company may, at its option, give notice in writing to Customer that the Company is ready and willing to deliver in accordance with the provisions of the contract and such notice shall constitute a valid tender of delivery.

Company shall not be liable if any aspect of performance by Company under this contract is delayed or prevented due to casualty, accident, labor disturbance, embargo, lack of shipping facilities, delay or inability to obtain supplies, labor, raw materials or energy through Company's

usual and regular sources, fires, floods, war, governmental requests, requirements or regulations or by Company's acceptance of governmental contracts or subcontracts, acts of God or any cause or circumstance whatsoever (whether like or unlike the foregoing) beyond Company's control. In such event, Company may, in its discretion: (i) extend Company's time for performance for a time which is reasonable under all of the circumstances; (ii) cancel all or any portion of this and any other contracts with Customer; or (iii) apportion Company's available supply among its customers in any reasonable manner. If embargo or lack of shipping facilities prevents or delays shipment of any yarn ready for shipment, Company may immediately invoice the yarn, at which time title to the yarn shall pass to Customer (subject to Company's rights referred throughout this contract), and Company shall hold the yarn for the account of Customer, who shall pay the invoices rendered when due. Customer shall not be entitled to damages for late delivery or nonperformance unless Customer actually purchases the same merchandise elsewhere at a fair market price which is higher than the price payable to the Company under this contract.

4. EXCLUSION OF WARRANTIES: CUSTOMER AGREES THAT THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, GIVEN BY COMPANY BEYOND THE DESCRIPTION ON THE FACE OF COMPANY'S WRITTEN SALES ORDER CONFIRMATION. COMPANY EXPRESSLY EXCLUDES ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, FASTNESS OF COLOR, UNIFORMITY OF SHADE FROM LOT TO LOT, BREAKING, STRENGTH, SHRINKAGE, YIELD, ABSENCE OF MINOR CONTAMINATION, PHYSICAL OR CHEMICAL QUALITIES OR VARIATION IN THICKNESS, SIZE OR COUNT, OR TPI OF YARN. IT IS THE SOLE RESPONSIBILITY OF CUSTOMER TO ASCERTAIN THE SUITABILITY OF THE YARN FOR ANY USE BY HIS OWN SAMPLING AND TESTING. CUSTOMER ACKNOWLEDGES THAT COMPANY HAS NOT MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY, DESCRIPTION, DURABILITY OR SUITABILITY OF THE GOODS WHICH CUSTOMER HAS PURCHASED FROM COMPANY. Company shall not be liable for normal manufacturing defects nor for customary variations from specifications. Customer understands and agrees that yarn made in part or wholly of man-made fibers is sold subject to the inherent imperfections in such man-made fibers, including without limitation its potential for pilling or causing pilling. Customer further acknowledges that exact matches of colors are not guaranteed, nor is percentage or type of sizing, wax or lubricant used. Yarn may vary in shade, lubrication, sizing or wax content, and Company assumes no responsibility for such variations. Company assumes no responsibility for imperfections due to insufficient removal of gums, waxes, yarn sizing materials, tint, lubricant or other stains which can be removed in boil off, scouring, dyeing or other finishing process, nor for latent defects inherent in the raw materials used.

5. CLAIMS: (a) All claims must be in writing and state with particularity the basis for customer's claim. All claims relating to weight or excessive moisture or lubricant content must be made within ten (10) days from date of delivery or such claims shall be forever barred. All claims concerning weight or moisture content shall be referred to Pharr Yarn's Quality Control Department, whose test reports shall be made on previously unopened cases or other containers of yarn and these tests shall be conclusive. (b) All claims relating to count, twist or shade variations or other elements of quality must be made within forty-five (45) days from date of delivery or such claims shall be forever barred. In no case will any claim be considered after yarn has been dyed, woven, knitted, tufted or processed in any manner. (c) Within thirty (30) days after receipt of written notice of claim for defects in yarn, Customer shall make the yarn available at a point in the Continental United States convenient to and without cost to Company. Company may, in its discretion, examine and accept such yarn for return or make allowances agreeable to both parties. If the yarn is accepted for return, Company, at its option, may either refund the amounts paid by Customer for such yarn or replace the same within a reasonable time in full satisfaction of all claims of

Customer. (d) The limit of Company's liability for defective yarn shall be the difference in value on the contract date of delivery between the yarn specified and the yarn actually delivered. (e) The limit of liability of Company for late or non-delivery shall be the difference, if any, between the contract price and the fair market price on the contract date of delivery of the yarn to be delivered. (f) **IN NO EVENT SHALL CUSTOMER BE ENTITLED TO CLAIM CONSEQUENTIAL OR INDIRECT DAMAGES, AND IN NO EVENT SHALL DAMAGES INCLUDE LOSS OF PROFIT ON CONTEMPLATED USE OR LOSS OF PROFIT OF ANY DESCRIPTION.**

6. **WEIGHT DETERMINATION:** Yarn shall be billed at scale weight and moisture content may not exceed those in ASTM current Standard Table of Commercial Moisture Regains for Textile Fibers, or it may be billed on a standard moisture regain basis as provided in that ASTM standard, and in either case including processing lubricants and oils but net of packaging and wrapping materials.

7. **BEAMS, WARPS, ETC.:** All spools, bobbins, tubes, section beams, loom beams, beam racks, beam cases and other special shipping units owned by Company shall remain Company's property and shall be included in invoice at theoretical weight, but Company guarantees actual weight will be within 2% of theoretical weight. Customer shall be responsible for their loss or damage from any cause and within forty-five (45) days from the date of shipment shall reship said articles in good condition to Company, freight prepaid, unless otherwise agreed to. For any such property damage or not reshipped within said time, Customer shall pay Company the cost of replacement.

8. **INTELLECTUAL PROPERTY:** Company, at its option, may cancel this or other contracts with Customer for the delivery of any products, the manufacture, sale or use of which, in Company's opinion, infringes any patent, trademark or other intellectual property under which Company is not licensed. Customer agrees to hold Company harmless against all damages and expenses arising from claims for infringement of intellectual property rights on materials specifically produced upon Customer's order and against all damages or expenses arising from any infringement or from any misuse of any trade name, trademark, symbol, identification of material content or other labeling used by Company at Customer's instructions.

9. **TECHNICAL ADVICE:** Company may, upon Customer's request, furnish technical advice with respect to the use of yarns sold hereunder, to the extent that Company has such advice conveniently available. However, it is expressly understood by Customer that Company is under no obligation to furnish technical advice and Customer further understands that such advice is given by Company and accepted by Customer at Customer's sole risk. Under no circumstances shall Company be responsible to Customer, or liable, for the advice or assistance given or the results thereof.

10. **NOTICES:** All communications provided for hereunder shall be in writing, and if to Company, mailed or delivered to Company at the address stated on the face hereof, or to such other address as Company or its agent may designate, or if to Customer, mailed or delivered to Customer at its address designated on the face of this contract or at such other address as Customer may hereafter designate.

11. **ENTIRE AGREEMENT; CHANGES:** This contract contains all of the terms and conditions of the contract between Customer and Company, and supersedes any and all other prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof. It may not be altered nor modified by Customer except in writing, signed by the Company. No waiver by either party of any default shall be deemed a waiver of any subsequent default. There are no options, warranties or conditions, express or implied, statutory or otherwise, except those herein specifically contained.

12. ASSIGNMENT: No rights of Customer under, or arising out of, this contract may be assigned without the express written consent of Company or Company's agent.

13. GOVERNING LAW AND ARBITRATION: This contract and each Purchase Order and Agreement or any other matter between the parties shall be governed and construed in accordance with the laws of the State of North Carolina, without giving affect to any conflict of law provisions. Both parties acknowledge expressly that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract, Agreement or any Purchase Order or any other matter between the parties. Both parties agree that if they cannot resolve a dispute arising from this contract agreement, purchase order or any other matter they will submit the dispute to binding arbitration under the Rules of the American Arbitration Association to be heard by one (1) arbitrator in Charlotte, North Carolina. In the event that this arbitration provision is unenforceable or otherwise waived by the parties, each party hereto submits to the exclusive jurisdiction in the State and Federal courts having jurisdiction in Mecklenburg County, North Carolina and irrevocably waive any defenses to such venue including any defense based upon the principals forum non conveniens.

14. RETENTION OF TITLE: Customer hereby agrees to grant Company all retention of title rights applicable in their respective country. In the event of an act of insolvency by the customer, Company shall have authority to retake, sell or otherwise deal with and/or dispose of all or any part of the Company's goods in unopened condition at the time of the insolvency; Company and its agents and employees shall be entitled at any time, upon reasonable notice, enter upon the property upon which the goods are stored to inspect the goods; Customer shall store or mark the unopened goods in a manner reasonably satisfactory to Customer indicating that title to the goods covered remains vested in the Company; and Customer shall insure the goods for their full replacement value.

15. FUTURE TRANSACTIONS: Except to the extent a future transaction is governed by a signed contract between the parties, the terms and conditions hereof, including, without limitation, the arbitration provision, shall govern all future transactions.