

## **S. B. Tanning Company TERMS & CONDITIONS**

These terms and conditions ("Terms and Conditions") shall apply to all orders from S. B. Tanning Company, a Minnesota corporation. In these Terms and Conditions, "the Seller" means the person, firm, or company selling the materials, services and articles, and "the Buyer" means S. B. Tanning Company. The Buyer and Seller hereby agree to the following Terms and Conditions in connection with any Purchase Order(s) ("orders") submitted by Buyer to Seller:

1. Buyer's order constitutes Buyer's offer to purchase the materials, services and articles, herein called "articles" and as described elsewhere in Buyer's order, in accordance with its provisions which include the provisions set forth on the face of Buyer's order, the provisions attached hereto, and the provisions incorporated herein by reference.
2. **SHIPPING INSTRUCTIONS:** (a) On date of shipment, Seller will send the original bill of lading, air bill or express receipt reflecting Buyer's order number, and all other documentation required, including material certification documents or material safety data sheets, along with the packing list for the shipment to Buyer. For international shipments, Notice of Shipment and commercial invoice shall be sent via electronic mail to Buyer's Purchasing Department. (b) Seller will not deliver articles ahead of schedule unless authorized by Buyer. Seller will describe shipments in accordance with the carrier's tariffs to obtain the lowest freight rate. Seller will not insure or declare value on shipments beyond F.O.B. point unless instructed in writing by Buyer. When a shipment is subject to freight rates dependent upon value, Seller will annotate the bill of lading, air bill or express receipt to show that the shipment is released at the maximum value applicable to the lowest rate provided in applicable tariffs. If the value of any single inbound collect shipment exceeds \$50,000, Seller will notify Buyer's Purchasing Department via electronic mail in advance of shipment. Seller will consolidate all shipments to be forwarded on one day unless instructed otherwise by Buyer. (c) Articles furnished in excess of the quantity specified or in excess of any allowable overage may be retained by Buyer at no cost, unless Seller notifies Buyer within 45 days after shipment that it desires the return of excess materials or makes prior arrangements for Buyer's acceptance. Seller will reimburse Buyer for the full cost of returning such over-shipment, including freight and handling, or a minimum charge of \$50.00 whichever is higher. (d) Seller will mail original invoices to Buyer's Accounting Department when articles are shipped. **SELLER MUST STATE SHIPPING POINT ON ALL INVOICES.** Each case or parcel and accompanying packing list of contents must show Buyer's order number and part number. If no packing list accompanies the shipment or the packing list does not identify quantity shipped, Buyer's count will be conclusive on Seller. Buyer will deduct premium charges plus a \$50.00 handling charge for shipments tendered to carriers other than those specified in Buyer's order or as otherwise agreed.
3. **PACKAGING AND EXTRAS:** No charges will be allowed for transportation, packaging, packing or returnable containers unless stated in Buyer's order. All shipments must be packaged and must conform with Buyer's packaging specification referred to elsewhere in Buyer's order, if any, so as to permit efficient handling and to provide protection in shipment. If shipment is tendered to a common carrier for delivery, packaging must also conform to the packaging requirements applicable to such carrier. Damage to any articles resulting from improper packaging will be charged to Seller.
4. **SPECIFICATIONS:** All articles ordered to any governmental agency specifications or to Buyer's specifications will comply with such specifications current as of the date of Buyer's order unless otherwise specified by Buyer.
5. **WARRANTY:** Unless otherwise agreed to in writing by the parties, Seller warrants that articles ordered to specifications will conform thereto and to any drawings, samples or other description furnished or adopted by Buyer. In cases of orders not ordered to specifications, Seller warrants that articles ordered will be fit and sufficient for the purpose documented, and that all articles will be merchantable, of good material and workmanship, and free from defect. Such warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the articles by Buyer and shall run to Buyer, its successors, assigns and customers. Except for latent defects, fraud or such gross mistakes of Seller as amount to fraud, notice of any defect or nonconformity must be given by the Buyer to the Seller within one (1) year after delivery, or one (1) year after receipt of satisfactory qualification test reports, if required hereunder, whichever is later. Buyer may, at its option, either return for credit or refund or require prompt correction or replacement of the defective or nonconforming article or part thereof. Return to Seller of any defective or nonconforming article and delivery to Buyer of any corrected or replaced articles shall be at Seller's expense. Defective or nonconforming articles shall not be corrected or replaced unless specified on Buyer's written order. Articles required to be corrected or replaced shall be subject to the provisions of this clause and the clause hereof entitled "Inspection" in the same manner and to the same extent as articles originally delivered under Buyer's order, but only as to the corrected or replaced part or parts thereof.

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6. **INSPECTION:** All articles shall be subject to inspection and testing at all times and places, including the period of manufacture, by Buyer and, if Buyer's order is placed under a contract with a governmental agency, the government. If any inspection or test is made on Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer and government inspectors. Such inspections and tests shall be performed in such a manner as not unduly to delay the work. All articles are also subject to final inspection and acceptance at Buyer's plant notwithstanding any payments or other prior inspections. Such final inspection shall be made within a reasonable time after delivery. All articles manufactured as footwear safety components must be lot tested prior to shipping according to applicable industry standards (ASTM, CSA, and EN).
7. **RELEASE OF NEWS INFORMATION AND ADVERTISING:** Seller shall not, without the prior written consent of Buyer: (a) make any news release, public announcement, denial or confirmation of all or any part of the subject matter of Buyer's order, or any phase of any program hereunder; or (b) in any manner advertise or publish the fact that Buyer has placed an order.
8. **TERMINATION:** Buyer shall have the right to terminate Buyer's order or any part thereof within 10 days of order placement, or from order confirmation, whichever is greater (a) Without "Cause" (as defined below) -- in case of termination by Buyer of all or any part of Buyer's order without Cause, any termination claim must be submitted to Buyer within sixty (60) days after the effective date of termination. The provisions of this subparagraph shall not limit or affect the right of Buyer to terminate Buyer's order for Cause and shall not apply to a termination for Cause. (b) For Cause -- Cause is defined as Seller's failure to make a delivery in accordance with the agreed delivery date or schedule or otherwise failure to observe or comply with any of the other instructions, terms, conditions, or warranties applicable to Buyer's order or failure to make progress so as to endanger performance of Buyer's order or in the event of any proceedings by or against Seller in bankruptcy or insolvency or appointment of a receiver or trustee or an assignment for the benefit of creditors. Buyer may, in addition to any other right or remedy provided by Buyer's order or by law, terminate all or any part of Buyer's order by electronic mail or other written notice to Seller without any liability by Buyer to Seller on account thereof for Cause. Buyer may require a financial statement from Seller at any time during the term of Buyer's order for the purpose of determining Seller's financial responsibility. In the event of termination for Cause, Buyer may produce or purchase or otherwise acquire articles elsewhere on such terms or in such manner as Buyer may deem appropriate and Seller shall be liable to Buyer for any excess cost or other expenses incurred by Buyer.
9. **PATENT INDEMNITY:** Seller hereby indemnifies Buyer, its successors, assigns, agents, customers and users of the articles against loss, damage, or liability, including costs and expenses, including attorneys' fees, which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement of any patent rights in the manufacture, use or disposition of any articles supplied hereunder, provided Buyer shall notify Seller of any suit instituted against it and, to the full extent of its ability to do so, shall permit Seller to defend the same or make settlement in respect thereof. Buyer does not grant indemnity to Seller for infringement of any patent, trademark, copyright or data rights.
10. **EXCUSABLE DELAYS:** Neither party shall be liable for damages for delay in delivery arising out of causes beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In the event a delay is caused by the delay of a sub-Seller of Seller and such delay arises out of causes beyond the reasonable control of both Seller and the sub-Seller, and without the fault or negligence of either of them, Seller shall not be liable to Buyer for damages unless the articles or services to be furnished by the sub-Seller were obtainable from the other sources in sufficient time to permit the Seller to meet the required delivery schedule. Seller will notify Buyer in writing as soon as possible, but definitely within ten (10) days following the beginning of circumstances causing any delay.
11. **ASSIGNMENT:** Neither Buyer's order nor any rights or obligations of Buyer's order may be assigned by Seller nor may Seller subcontract in whole, or substantially in whole, the performance of its duties hereunder without, in either case, Buyer's prior written consent. The terms and conditions of Buyer's order shall bind any permitted successors and assigns of Seller. Any consent by Buyer to assignment shall not be deemed to waive Buyer's right to recovery and / or set off of claims arising out of this or any other transactions with Seller, its divisions, affiliates or subsidiaries, or to settle or adjust matters with Seller without notice to permitted successors and assigns.

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12. **CHANGES:** Buyer may at any time, by a written notice, make changes in the specifications, designs or drawings, samples or other description to which the articles are to conform, in methods of shipment and packaging, or place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under Buyer's order, whether changed or not changed by any such order, an equitable adjustment shall be made in the price or delivery schedule, or both, and Buyer's order modified in writing accordingly. Any claim by Seller for an adjustment must be made in writing within thirty (30) days of the receipt of any such notice, provided, however, that Buyer may, in its discretion, receive and act upon any such claim so made at any time prior to final payment under Buyer's order. Nothing in this clause shall excuse the Seller from proceeding without delay to perform Buyer's order as changed.
13. **INFORMATION:** (a) Drawings, data, design, inventions, computer software and other technical information supplied by Buyer shall remain Buyer's property and shall be held in confidence by Seller. Such information shall not be reproduced, used or disclosed to others by Seller without Buyer's prior written consent, and shall be returned to Buyer upon completion by Seller of its obligations under Buyer's order or upon demand. (b) Any information which Seller may disclose to Buyer with respect to the design, manufacture, sale or use of the articles covered by Buyer's order shall be deemed to have been disclosed as part of the consideration for Buyer's order, and Seller shall not assert any claim against Buyer by reason of Buyer's use thereof.
14. **BUYER'S PROPERTY:** (a) All property used by Seller in connection with Buyer's order which is owned, furnished, charged to or paid for by Buyer including, but not limited to, materials, tools, dies, jigs, molds, patterns, fixtures, equipment, drawings and other technical information, specifications, and any replacement thereof, shall be and remain the property of Buyer subject to removal and inspection by Buyer at any time without cost or expense to Buyer and Buyer shall have free access to Seller's premises for the purpose of inspecting or removing such property. All such property shall be identified and marked as Buyer's property, used only for Buyer's order and adequately insured by Seller at its expense for Buyer's protection. Seller shall assume all liability for and maintain and repair such property and return the same to Buyer in its original condition, reasonable wear and tear excepted, and when such property is no longer required hereunder. Seller shall furnish Buyer with a list thereof and shall comply with any Buyer disposition instructions applicable thereto. Buyer shall not be obligated to pay any invoices for tooling until the first article produced therefrom shall have been received and accepted. Notwithstanding the foregoing, upon written notice to Buyer and to the extent such use will not interfere with Seller's performance of this or other orders from Buyer in effect at the time Seller enters into a direct contract with a governmental agency, Seller shall have the right to use Buyer's property in the manufacture of end items for direct sale to a governmental agency to the extent such governmental agency has the right under its prime contracts with Buyer to authorize such use by Seller, provided that, to the extent practicable, Seller prominently identifies each such end item as being manufactured by Seller for direct sale to such governmental agency. (b) Materials, excluding government property, furnished by Buyer on other than a charge basis in connection with Buyer's order shall be deemed to be held by Seller as bailee thereof. Seller agrees to pay Buyer's replacement cost for all such material spoiled or otherwise not satisfactorily accounted for over and above 2% thereof allowable for scrap loss.
15. **GRATUITIES:** Seller warrants that neither it nor any of its employees, agents or representatives has offered or given any gratuities to Buyer's employees, agents or representatives with a view toward securing Buyer's order or securing favorable treatment with respect thereto.
16. **UTILIZATION OF MINORITY OWNED BUSINESS, WOMEN-OWNED BUSINESS, AND DISABLED VETERAN OWNED BUSINESS CONCERNS:** In support of U.S. government policy as declared by the U.S. Congress, and as consistent with the efficient performance of Buyer's order, Seller agrees to consider subcontracting to minority owned businesses, women-owned businesses, and disabled veteran owned business concerns, and to use reasonable efforts to place subcontracts hereunder with such sub Sellers when it can be done at prices no higher than are obtainable elsewhere, observing exemptions and preferential orders established by applicable U.S. government regulations.
17. **COMPLIANCE WITH LAWS:** To the extent applicable hereto, Seller shall comply with: the Fair Labor Standards Act of 1938 (29 U.S.C. 201-219); the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45); and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); as well as all laws prohibiting the use of convict labor, all laws protecting human rights, laws and regulations concerning wage, labor and hours worked of Seller's employees and contractors, laws involving health and safety of Seller's working environments, laws involving environmental protection and compliance, laws in connection with required documentation and compliance with such applicable laws, and all other federal, state, and local laws; regulations and orders issued under any applicable law. Seller warrants that the equipment to be furnished hereunder complies with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651-678) and the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263 b-n) and all applicable regulations and standards thereunder.

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18. NOTICE TO BUYER OF LABOR DISPUTES: (a) Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of Buyer's order, Seller shall immediately give notice thereof, including all relevant information, with respect thereto, to Buyer. (b) Seller agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of Buyer's order.
19. EFFECT OF INVALIDITY: The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision.
20. RIGHTS, REMEDIES AND WAIVER: The rights and remedies provided Buyer shall be cumulative, and in addition to any other rights and remedies provided by law or equity. A waiver of a breach of any provision hereof shall not constitute a waiver of any other breach. The laws of the state shown in Buyer's address, printed on the face of Buyer's order, shall apply in the construction hereof.
21. DISPUTE RESOLUTION AND GOVERNING LAW.
- A. ARBITRATION. The parties will use their best efforts to amicably settle any dispute in connection with Buyer's order and these Terms and Conditions. Failing such amicable settlement, and except for the right to injunctive relief as described in Section 21(B) below, all disputes, claims and controversies between the parties arising under or in connection with Buyer's order or these Terms and Conditions or the making, performance or interpretation thereof will be settled by arbitration. The arbitration proceedings will be conducted in the English language in Minneapolis, Minnesota; under the international arbitration rules of the International Centre for Dispute Resolution to the extent such rules are not inconsistent with the provisions of this arbitration provision. The arbitrator(s) will have the right to award specific performance of this Agreement. The decision of the arbitrator(s) will be in writing and final and binding on all parties. Judgment upon the award of the arbitrator may be entered in any court having jurisdiction thereof. During any arbitration proceeding, Buyer and Seller will fully perform their respective obligations under the Buyer's order and these Terms and Conditions.
- B. ATTORNEYS' FEES. The non-prevailing party will pay all costs and expenses, including reasonable attorneys' fees, the prevailing party incurs in any action brought to enforce any provision of the order or these Terms and Conditions or to enjoin any violation of this the order or these Terms and Conditions.
- C. GOVERNING LAW. The Convention on Contracts for the International Sale of Goods (CISG) will not apply to this Agreement. This Agreement will be governed by and construed under the laws of the State of Minnesota, United States of America, without applying its conflict of law rules.
22. BUYER APPROVALS AND REVIEWS: The review or approval by Buyer of any work hereunder or of any designs, drawings, specifications or other documents prepared hereunder shall not relieve Seller of any of its obligations under Buyer's order nor excuse or constitute a waiver of any defects or non-conformities in any articles furnished under Buyer's order or change, modify or otherwise affect any of the provisions of Buyer's order, including, but not limited to, the prices and delivery schedules contained in Buyer's order.
23. TAXES: Seller is liable for and shall pay all taxes, impositions, charges and exactions imposed on or measured by Buyer's order except those Buyer specifically agrees or is required by law to pay and which are separately stated on Seller's invoice. Prices shall not include any taxes, impositions; charges are exactions for which Buyer has furnished an exemption certificate.
24. TIME: Time is of the essence in the performance of Buyer's order by Seller. On-time delivery is considered to be with 3 +/- days of the required delivery date as stated on the order.
25. TITLE: Except if title has heretofore passed to Buyer or Buyer's customers under other provisions of Buyer's order, title to the articles shall pass to Buyer upon delivery of the articles to the F.O.B. point.

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26. **STOP WORK:** (a) The Buyer may, at any time, by written order to the Seller, require the Seller to stop all or any part of the work called for in Buyer's order for a period of ninety (90) days after the order is delivered to the Seller, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the stop work order, the Seller shall immediately comply with its terms and take all reasonable steps to minimize the cost allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop work order is delivered to the Seller, or within any extension of that period to which the parties agree, the Buyer shall either cancel the stop work order or terminate the work covered by the order as provided in the default or the termination for convenience clause herein. (b) If a stop work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Seller shall resume work. The Buyer shall make an equitable adjustment in the delivery schedule and / or contract price and Buyer's order shall be modified, in writing, accordingly, if (1) the stop work order results in an increase in the time required for, or in the Seller's cost properly allocable to, the performance of any part of the order; and (2) the Seller asserts a claim for the adjustment within thirty (30) days after the end of the period of work stoppage. Such claim shall be subject to the Buyer's agreement that the facts justify the action and the Buyer may receive and act upon the claim asserted at any time before final payment under the order. (c) If a stop work order is not canceled and the work covered by the order is terminated for the convenience of the Buyer, the Buyer shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. (d) If a stop work order is not canceled and the work covered by the order is terminated for default, the Buyer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.
27. **HAZARDOUS MATERIALS:** Seller shall notify Buyer of every article ordered hereunder which contains material hazardous or injurious to the health or physical safety of persons or the environment, even though said hazard or injury may only occur due to mishandling or misuse of the article. In addition, Seller shall identify the hazardous or injurious material and notify Buyer of the effects of such material on human beings and the physical manifestations that could result. For each article so identified, Seller shall supply Buyer warning labels or instructional material, including Material Safety Data Sheets, appropriate to inform persons coming in contact with such materials of the hazard and its effects, material contents and recommended remedial actions.
28. **RESTRICTED SUBSTANCE STANDARDS / CALIFORNIA PROPOSITION 65:** Seller is responsible for reviewing and meeting standards listed on the American Apparel and Footwear Association restricted substance list for raw materials, components, and finished footwear sold to Buyer. This list is located on the American Apparel and Footwear Association website at <https://www.wewear.org/rs/>. The restricted substance list is updated every 6 months; therefore, Seller is responsible for reviewing and complying on an ongoing basis. Seller is also responsible for complying with the California Safe Drinking Water and Toxic Enforcement Act of 1986 (California Proposition 65). Information on California Proposition 65 can be found on the California Office of Environmental Health Hazard Assessment at <http://www.oehha.ca.gov/prop65.html>. If Seller is unable to meet either provision, Seller is responsible for notifying Buyer immediately.
29. **RECALL, INSURANCE & INDEMNIFICATION:** Seller shall indemnify and hold Buyer harmless against all damages and expenses incurred by Buyer as a result of Buyer being required (a) to recall from Buyer's customers or others any articles furnished hereunder or an end product employing any such articles as a part or component thereof and (b) to repair, replace or refund the purchase price of such articles or end product, provided that such recall and such repair, replacement or refund is based upon a defect, whether of design or manufacture in the articles furnished by Seller or the failure of such articles to conform to any standard to which such articles are required by law to conform or the failure of the articles to conform to any specification or standard to which it is ordered which creates the reasonable possibility of injury to persons or property. In the event that Seller's articles are not the sole cause for such action by Buyer, then Buyer shall apportion its costs, damages and expenses in such manner as it shall determine in its sole judgment is reasonable and equitable.

Buyer shall not be required to consult with, or seek Seller's concurrence in, the reporting by Buyer to any administrative or regulatory body, of any information which Buyer obtains indicating that the articles furnished by Seller either fail to conform to any standard required by law, or constitute or create of themselves or within the end product of which they are a part or component, a situation requiring recall or notice as defined by the applicable law. Seller hereby releases and discharges Buyer from any liability for any error or omission in the reporting of such information unless such error or omission is attributable to the willful conduct of Buyer.

Seller shall prepare, maintain and file with the appropriate authority such records and reports as pertain to the manufacture, sale, use and characteristics of the articles furnished to Buyer hereunder as may be required by any federal, state or local law or regulation concerning the manufacture, sale or use of the articles or the end products of which the

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articles may be a part or component and shall provide Buyer with copies of such records as Buyer may require and permit Buyer access to Seller's records to permit Buyer to ascertain Seller's compliance hereunder.

Seller shall at all times maintain Product Liability Insurance with combined single limit bodily injury and property damage of not less than \$1 million per occurrence. Such policies shall include endorsements to (1) include Buyer, its directors, officers, agents, and employees as additional insured's, and (2) waive the right of recovery or subrogation and against Buyer, its directors, officers, agents, and employees. No cancellation or material change in the policies shall become effective except on thirty (30) days' advance written notice thereof to Buyer. All insurance coverage shall be at the sole cost and expense of Seller and all deductibles shall be assumed by, for the account of, and at the Seller's sole expense. Seller shall furnish evidence of such insurance satisfactory to Buyer, and shall not deliver articles under any of Buyer's orders until all of the insurance required herein shall have been obtained by Seller.

29. ANTI-TRUST CONSIDERATIONS: Seller represents that the prices charged for the articles covered by Buyer's order are the lowest prices charged by Seller to buyers of the same class as Buyer under conditions similar to those specified in Buyer's order and that prices comply with applicable government regulations in effect at time of quotation, sale or delivery. Seller agrees that any price reduction made in the articles covered by Buyer's order subsequent to its placement but prior to payment therefor will be applicable to it.

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