

Terms and Conditions of Sale

Ordering Procedure

To ensure accuracy, all orders must be submitted in writing. Phone orders will be accepted, subject to receipt of a signed written order confirmation within two (2) business days. This is to prevent errors or miscommunication in the entering of phone orders. When ordering please refer to SCAFCO's catalog part number or the current SCAFCO quotation.

You will receive an order acknowledgement via email, fax, or mail. Upon receipt, please review for accuracy and promptly advise of any errors or necessary changes. Orders can be submitted via fax at 509-535-9130 or email at info@SCAFCOgrain.com.

Order Cancellation and Purchaser Default

Orders, once accepted by SCAFCO, may NOT be canceled or modified without SCAFCO's prior written approval. Purchaser's attempt to cancel this Agreement, without SCAFCO's written approval shall be a material default of the Agreement. Further, should Purchaser fail to pay the Remaining Balance, Purchaser shall be a material default of the Agreement. Should Purchaser default in the performance of any obligation under this Agreement, including, but not limited to, unapproved cancellation of the Agreement and/or failure to make timely payment of the Remaining Balance, SCAFCO shall have the right to terminate this Agreement and shall be entitled to retain the Non-Refundable Down Payment as liquidated damages and not as a penalty. Alternatively and in lieu of retaining the Non-Refundable Down Payment, SCAFCO may elect to terminate this Agreement and recover its actual damages resulting from Purchaser's default calculated in accordance with Washington law, in which case SCAFCO may seek an award of such actual damages and may retain an amount equal to the Non-Refundable Down Payment and apply such funds towards satisfaction of any such award for actual damages. If SCAFCO elects to seek actual damages, SCAFCO must provide Purchaser with written notice of such election within 30 days after written notice of termination of the Agreement is given by SCAFCO, and if SCAFCO fails to provide such notice, then SCAFCO shall only be entitled to retain the Non-Refundable Down Payment. SCAFCO, in its sole discretion, may provide Purchaser with a period to cure and/or other alternatives to cure any Purchaser default hereunder, however, any such latitude given by SCAFCO in this regard must be in writing and will not serve to waive its right to terminate the Agreement and retain the Non-Refundable Down Payment.

Purchaser agrees to pay all costs of collection by SCAFCO of any amounts due hereunder, including actual attorney's fees. Purchaser further agrees that, in the event of any action arising out of or related to the Agreement between Purchaser and SCAFCO, and SCAFCO prevails, Purchaser will pay SCAFCO its actual attorney's fees and other costs incurred as a result of or in connection with such action. To the extent Washington law limits the recoverability of attorney's fees, SCAFCO will be entitled to recover its fees up to the maximum allowed by Washington law.

SCAFCO will have the sole discretion and complete right to apply any payment received from Purchaser hereunder in any manner that SCAFCO deems proper. Unless otherwise specified in the remittance advice, SCAFCO may apply payments first to late payment charges, service charges, shipping charges, attorney's fees, or any other applicable charge, in any order, before applying the remainder of any such payments toward Purchaser's principal account.

Discounts

Discounts are offered in accordance with SCAFCO's Sales Program. This program includes preseason discounts, as well as discounts made available directly to SCAFCO Purchasers. Discounts are not retroactive. Discounts are based upon the order value as listed in the current SCAFCO Sales Program.

Cash Discounts; Credit Policy

Standard payment terms are 1% 10 days/Net 30 with credit approval. The payment envelope must show a postmark date on or before the payment due date in order to receive the discount. Cash discounts may not be taken on past due invoices. Purchasers with past due invoices may not take cash discounts on current invoices unless the total past due balance is also paid.

The amount of credit will be based upon information supplied on the "Dealer Information Sheet" and past credit history. Re-submittal of a new "Dealer Information Sheet" may be required if considerable time has elapsed since the most recent business transaction with open terms.

SCAFCO reserves the right to lower or revoke the credit line on accounts over 15 days past due. In such case you will need to re-qualify for open credit terms.

Quoted prices do not include federal, state, or local sales, use, excise, or any other applicable taxes.

Purchasers conducting business in Washington, Idaho, or California must have a current sales tax exemption form on file with SCAFCO in order to avoid paying state sales taxes.

Invoicing; Additional Terms

Invoices will be issued upon shipment. Purchasers are expected to pay from invoices in accordance with the stated payment terms. Upon request SCAFCO will provide monthly statements. A service charge will be assessed on all past due balances as permitted by state law, not to exceed 2% per month.

Minimum Order: Processing and handling costs necessitate a minimum \$5.00 handling charge for all orders with a net value of less than \$100.00.

Back Orders: Back orders will be shipped as they become available. Contact SCAFCO Customer Service for alternative shipping options or if cancellation is desired.

Order Rescheduling: SCAFCO will issue the invoice if the Purchaser requests a delay in shipment of an order of more than two weeks from the original scheduled shipment date.

Order Cancellation: Cancelled orders for non-standard products or lengths are, at SCAFCO's sole discretion, subject to a cancellation fee of 100% of the net order value. Refer to SCAFCO's catalog to determine standard products and lengths.

Appointment Rescheduling: If the loading appointment for an order is missed, it will be moved to the next available loading date. Based on the size of the order and at SCAFCO's discretion, storage charges of up to \$500 per week may be applied.

Late Shipments: SCAFCO accepts no liability for:

(i) failure to ship within the acknowledged shipment date; or (ii) defaults or delays resulting from any acts or circumstances beyond its reasonable control.

Damaged Goods: It is the Purchaser's responsibility to check all shipments thoroughly upon receipt. If damage is discovered, it must be noted on the freight delivery receipt before signing. The Purchaser must make necessary claims against the respective freight line. All damage claims must be submitted to the freight line within 30 days of delivery receipt. The Purchaser must notify SCAFCO within 72 hours after receipt of damaged product or any shortages.

Insurance: Purchaser warrants that it has and will maintain insurance coverage adequate for the work being performed, specifically including but not limited to the following: (1) Occurrence-based commercial general liability insurance (including contractual liability and products and completed operations coverage) with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000; and (2) Workers compensation insurance as required by law.

Waiver: Waiver by SCAFCO of any term or condition of this Agreement or of any breach hereof by Purchaser, shall not be construed as a waiver of any other term, condition or breach. Nor shall any failure or delay by SCAFCO to exercise any right hereunder operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof, or any additional right(s) that SCAFCO is entitled to hereunder.

Shipping

Standard shipping terms are Ex Works (Incoterms 2010) Spokane, WA. The Purchaser is responsible for making shipping arrangements either with a local carrier or via will-call. On full semi-truck loads of products, contact SCAFCO for special freight rates.

Products become the property of the Purchaser upon shipment from the factory. It is Purchaser's responsibility to file claims for possible damage or loss. If freight damage occurs, the Purchaser should accept shipment after noting the damage on the delivery receipt. Upon re-ordering replacement parts, it is the Purchaser's responsibility to promptly contact the carrier and file a claim. Purchaser, prior to signing for the shipment, should ensure that the proper number of pieces has been received. If there appears to be product shortages, promptly contact SCAFCO Customer Service.

Delayed Shipment: If shipment date is delayed by Purchaser more than fifteen (15) days SCAFCO may, in its sole discretion, increase the prices to reflect: (i) SCAFCO's then current pricing; and/or (ii) impose storage charges for products and equipment manufactured by SCAFCO or third-party products and equipment that are part of this order and are being held/stored by SCAFCO. Purchaser shall make payment in the total amount of such increases prior to shipment.

Product Returns

Please contact SCAFCO for a Return Authorization prior to returning any product. SCAFCO will not accept product returns without a valid Material Return Authorization. All returned product will be subject to a minimum 20% restocking charge. If the returned product is not in saleable condition, the cost of returning it to saleable condition will be deducted from the credit. COD shipments will not be accepted. The amount of credit issued for returned product will be based upon the net invoice amount, less applicable restocking charges. Proof of purchase (i.e. the original SCAFCO invoice) is required before issuance of any credit. Credits issued are at SCAFCO's sole discretion.

Manufacturers of electric motors provide warranty service only through authorized service centers. SCAFCO will not be responsible for motor repair or replacement.

Service Problems

For service problems it is recommended that the Purchaser physically observes the problem and/or e-mails photographs before calling SCAFCO for assistance. The preferred course of action is for the call to be initiated by someone that has visited the jobsite and directly observed the problem.

Warranty Claims

Material Return Authorization requests for defective product must include specifics about the defective part; i.e. the nature and description of the claimed defect, as well as the date of original shipment of the defective product. The return request must also clearly state if a repair or replacement is being requested under the warranty. Upon SCAFCO's verification of a defect under the SCAFCO warranty, SCAFCO will, at its sole option, repair or replace the defective product. Transportation costs in shipping the defective product to the

factory or manufacturer (if required), returning the repaired or replacement product to the original installation site and cost of installation shall be borne by the purchaser.

Please review SCAFCO Grain Systems' current [Warranty](#).

All motors are warranted by the manufacturer; contact the motor manufacturer's authorized service center for warranty assistance. If the operator's manual provided by SCAFCO does not include the manufacturer's warranty information or a listing of authorized service centers, please call SCAFCO for a current service center bulletin.

Purchaser, must ensure that its customer, if applicable, provides the details regarding a warranty claim before submitting a return authorization request. Incomplete requests will only delay the processing of warranty claims.

Warranty Related Back Charges: If nonconformance is the fault of SCAFCO, SCAFCO maintains the option to refund the purchase price, repair or replace said materials, or authorize field correction to be performed by Purchaser at a predetermined cost. SCAFCO shall not be liable for any back charges. In the event that SCAFCO, in its sole discretion, agrees to pay a portion of any back charges, the following must have occurred: (a) written notification to SCAFCO, of the alleged nonconformance, within ten (10) days of delivery; (b) an opportunity for SCAFCO to inspect the condition, (c) an opportunity for SCAFCO to correct the condition; and (d) a fully executed written agreement concerning price of remediation work.

Pass-Through Warranty: The products and equipment included in the above quotation that are acquired by SCAFCO from or through a manufacturer, distributor or other third-party will carry the original manufacturer's pass-through warranty, if any, and be subject to the original manufacturer's warranty policies, including warranty service procedures and repair/replacement turn-around times. SCAFCO does not warrant such equipment.

Force Majeure

SCAFCO shall not be liable for delays or failures to perform its obligations due to strikes, lockouts, labor disputes, court orders, acts of God, inability to obtain labor or materials, government restrictions, national emergency, regulations or controls, regional epidemic or global pandemic, hostile government action, civil commotion, war, acts of terrorism, fire or other causes beyond its reasonable control, (a "Force Majeure Event"). SCAFCO shall promptly notify Purchaser if it is delayed or unable to perform its obligations due to a Force Majeure Event. For as long as the obligations of either party are affected by a Force Majeure Event, such obligations shall be suspended until the Force Majeure Event no longer affects SCAFCO's performance.

Limitation of Liability

IN NO EVENT SHALL SCAFCO BE LIABLE FOR, AND PURCHASER SHALL MAKE NO CLAIM FOR, ANY AND ALL SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOST PROFITS, WHETHER IN CONTRACT, NEGLIGENCE, TORT, OR ON ANY OTHER BASIS OR THEORY, ARISING OUT OF OR RELATED TO THE MATERIALS, EQUIPMENT, OR SERVICES PROVIDED BY SCAFCO UNDER THIS AGREEMENT, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND PURCHASER HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE SCAFCO UPON ANY CLAIM FOR ANY AND ALL SUCH SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOST PROFITS, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR. IN ANY EVENT, SCAFCO'S TOTAL LIABILITY FOR ANY REASON WHATSOEVER SHALL NOT EXCEED THE TOTAL PRICE PAID BY PURCHASER TO SCAFCO PURSUANT TO THIS AGREEMENT.

Indemnification

PURCHASER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SCAFCO, ITS AGENTS, CONSIGNEES, EMPLOYEES AND REPRESENTATIVES FROM AND AGAINST ALL EXPENSES, LOSSES, CLAIMS, DEMANDS, OR CAUSES OF ACTION OF WHATEVER KIND BY ANY AND ALL THIRD PARTIES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, BREACH OF EXPRESS OR IMPLIED WARRANTY, FAILURE TO WARN, OR STRICT LIABILITY, AND FROM AND AGAINST ANY AND ALL SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOST PROFITS, ARISING OUT OF, BY REASON OF, OR IN ANY WAY CONNECTED WITH, ACCIDENTS, OCCURRENCES, INJURIES OR LOSSES TO OR OF ANY PERSON OR PROPERTY, WHICH MAY OCCUR IN ANY WAY DUE TO OR RESULTING FROM, IN WHOLE OR IN PART, THE DESIGN, PREPARATION, MANUFACTURE, CONSTRUCTION, COMPLETION, WARNING OR FAILURE TO WARN, OR OF

DELIVERY OR NONDELIVERY OF ITEMS, INCLUDING, BUT NOT LIMITED TO, SUCH AS ARE CAUSED BY PURCHASER OR ANY SUBCONTRACTOR OR END USER OF PURCHASER. IMMEDIATELY UPON RECEIPT FROM SCAFECO OF WRITTEN NOTICE OF ANY SUIT OR CLAIM RELATING TO ANY RISK DESCRIBED IN THIS SECTION AND UPON WRITTEN REQUEST BY SCAFECO, PURCHASER SHALL ASSUME THE DEFENSE OF THE LITIGATION. IN ANY EVENT, PURCHASER SHALL PAY FOR OR REIMBURSE SCAFECO FOR ALL COSTS AND EXPENSES, INCLUDING ATTORNEYS' FEES, ARISING OUT OF ANY SUIT OR CLAIM RELATING TO ANY RISK DESCRIBED IN THIS SECTION. IF REQUESTED BY SCAFECO, PURCHASER SHALL MAINTAIN POLICIES OF LIABILITY INSURANCE, DECLARING SCAFECO AS A NAMED INSURED, IN SUCH AMOUNTS AS SCAFECO SHALL DESIGNATE, TO PROTECT SCAFECO FROM ALL THE RISKS DESCRIBED IN THIS SECTION. SUCH POLICIES OF INSURANCE SHALL NOT BE CANCELABLE EXCEPT UPON TEN (10) DAYS' WRITTEN NOTICE TO SCAFECO. UPON REQUEST, PURCHASER SHALL FURNISH PROOF OF SUCH INSURANCE TO SCAFECO.

Governing Law

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Washington without giving effect to any choice or conflict of law provision or rule that would cause the application of Laws of any jurisdiction other than those of the State of Washington.

Any legal suit, action or proceeding arising out of or based upon this Agreement, the other transaction documents or the transactions contemplated hereby or thereby may be instituted in the federal courts of the United States of America or the courts of the State of Washington in each case located in the municipality of Spokane, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or any proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

WARNINGS

Please take notice of the following warnings, some of which may or may not apply to Purchaser's particular project or intended use.

- 1) GRAIN PRESSURE CAN AND MAY CAUSE PERFORATED PLANK DRYING FLOORS TO DEFORM ESPECIALLY WITH HIGHER EAVE HEIGHTS. THIS DEFORMATION DOES NOT REFLECT A FAILURE AND IS NOT WARRANTED BY THE FLOOR MANUFACTURER.
- 2) Our grain bins are designed to store materials that discharge in a free flowing, concentric, funnel-flow manner. If the product to be stored does not meet these requirements, eccentric discharge, bridging and packing can occur which may result in silo structural damage/failure, injury, or death. Special unloading and/or fluidizing equipment designed specifically for the non-flowable materials will be necessary to insure consistent flow of the product from the silo. Failure to use proper unloading equipment will void the SCAFECO structural warranty. If conditions change during use/operation of the silo contact SCAFECO for factory approved solutions.
- 3) The sweep auger listed in this quotation will vary in performance based on grain consistency and condition as well as bin/silo floor conditions. Capacities listed are optimum based on dry, clean, corn, and ideal conditions. The sweeping process will be complete after one or two revolutions. For commercial sweep augers it is recommended that the center portion of the sweep be used first and then add on sections in sequence, per revolution, until the entire sweep has been assembled and the bin unloaded to avoid damage to the auger per the manufacturer's manual. After completion of the sweep process a minimum grain layer of 2"-3" (50 mm - 75 mm) will remain for manual sweeping. Although the sweep auger components are warranted against defects in material and workmanship for one year, when installed and operated according to manufacturer's instructions, SCAFECO does NOT warranty sweep auger performance. If sweep auger is left in silo after clean out, it must be removed from the center well sweep pivot and laid next to unload system. Left installed in sweep pivot during filling and emptying can result in damage to center well.
- 4) If side discharge is used for truck load out, the grain needs to be discharged through the center sump to achieve a concentric cone before the filling process can be repeated. Failure to do this could result in unwanted stresses on the bin which could cause reshaping or bin failure.