

ALLOY PRODUCTS CORP.

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GENERAL TERMS AND CONDITIONS OF ACCEPTANCE AND SALE

1. **ACCEPTANCE AND FULFILLMENT OF ORDERS.** All orders are subject to acceptance by seller at its offices. The acceptance and fulfillment of orders and agreements by Seller are contingent upon and subject to accidents, breakdowns, strikes, sabotage, riots, insurrection, war, delays, interruptions in or failure of sources to supply materials and equipment, labor and transportation, acts of God, or other causes and conditions, whether of like or different nature, affecting Seller, and to orders, contracts, priorities, directives, requisitions or requests of the federal or state governments. Whether or not voluntarily assumed.
2. **TAXES AND FEES.** Prices stated herein do not include any manufacturers, sales, use or other excise taxes, charges or duties, and the amount of any thereof which Seller is required to pay or collect will be invoiced to Buyer. Buyer shall pay all such taxes, charges and duties arising by reason of this order and all other taxes, charges and duties of whatever nature assessed upon the goods and/or services described on the front side hereof (hereinafter referred to as "Articles"). Buyer shall also pay any collection fees and reasonable attorneys' fees incurred by Seller in collecting payment of the purchase price and any other amounts for which Buyer is liable under the terms and conditions hereof.
3. **PRICES.** The prices stated herein are F.O.B. Seller's plant and are based on the quantities specified, for delivery in a single lot unless otherwise agreed upon. Such prices are subject to adjustment by Seller for any change made by Buyer and approved by Seller in quantities, delivery or other terms hereof, or for any general price revision made by Seller.
4. **PAYMENT.** Terms are 1% 10 days - net 30. Buyer agrees to pay the maximum interest allowable under state law on any late payments.
5. **DELIVERY.** If no shipment schedule is specified at the time of this acceptance, shipment shall be made at Seller's discretion.
6. **SHIPMENT: RISK OF LOSS: TITLE.** Unless otherwise specified by Buyer, Seller shall place the Articles in the possession of such a carrier and make such a contract for their transportation as may be reasonable, having regard for the nature of the Articles and good commercial standards. Buyer shall bear all expenses paid or incurred by Seller in delivering the Articles. Risk of loss of the Articles shall pass to Buyer at the time the goods are tendered for shipment. Title to the Articles shall remain with Seller until payment is received by Seller.
7. **WARRANTY.** Seller warrants the Articles to be free from defects in materials and workmanship at time of shipment and to be in compliance with the pertinent, applicable industry standards. **EXCEPT AS EXPRESSLY STATED HEREIN, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, OF THE EQUIPMENT OR SERVICES FURNISHED BY ALLOY PRODUCTS. ALLOY PRODUCTS CORP. SPECIFICALLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY OF FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. THERE ARE NO WARRANTIES, WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.** Seller's liability and Buyer's remedies under this warranty shall be solely limited to repair, replacement or credit, at Seller's option, with respect to Articles returned to Seller at Buyer's expense within one (1) year after shipment. Seller shall not be liable, under any circumstances, for consequential or incidental damages, including, but not limited to, personal injury, labor costs or loss of profits.
8. **PATENT INDEMNITY.**
 - A. In the event any Article furnished hereunder not made to Buyer's specifications is claimed to infringe any United States patent issued at the time of delivery, Seller agrees, at its option: (1) to procure for Buyer the right to use the Article, or (2) to modify or replace the Article so as to avoid infringement, or (3) to accept redelivery of the Article and reimburse Buyer for the purchase price and any reasonable transportation expenses incurred by Buyer. Should any litigation be instituted against Buyer based on a claim that any Article in the condition received from Seller infringes any United States patent, Seller will undertake the defense thereof on Buyer's behalf and pay any damages and costs awarded therein against Buyer, provided Seller is given prompt written notice and is furnished with copies of all demands, process and pleadings; and provided Buyer cooperates fully in giving Seller authority. Information and assistance shall be at Seller's expense for such defense, as well as control over the defense and any negotiations with regard to settlement.
 - B. **THE FOREGOING REPRESENTS SELLER'S ENTIRE AND EXCLUSIVE OBLIGATION WITH RESPECT TO ANY CHARGE OF PATENT INFRINGEMENT AND IS IN LIEU OF ANY STATUTORY WARRANTY RELATING TO INFRINGEMENT. SELLER SHALL HAVE NO RESPONSIBILITY INsofar as ANY ARTICLE IS MODIFIED BY BUYER OR IS MADE OR MODIFIED BY SELLER IN ACCORDANCE WITH BUYER'S ORDER, AND BUYER SHALL WHOLLY INDEMNIFY SELLER FOR ALL DAMAGES, COSTS OR EXPENSES, INCLUDING ATTORNEYS' FEES, PAID OR INCURRED BY SELLER IN CONNECTION WITH ANY CLAIM OF INFRINGEMENT OF A PATENT, COPYRIGHT OR TRADEMARK, TRADE SECRET, OR OTHER PROPRIETARY RIGHT WHICH ARISES OUT OF SELLER'S COMPLIANCE WITH BUYER'S SPECIFICATIONS. SELLER SHALL ALSO HAVE NO RESPONSIBILITY WITH REGARD TO ANY SETTLEMENT, ADMISSION OR PROMISE MADE BY BUYER WITHOUT SELLER'S PRIOR WRITTEN CONSENT, NOR SHALL SELLER BE LIABLE FOR ANY INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING LOSS OF PROFITS, CLAIMED TO HAVE BEEN SUSTAINED BY BUYER OR ANY USER OF AN ARTICLE ARISING OUT OF ANY CLAIM OF INFRINGEMENT.**
- C. Seller may be entitled to indemnity from certain of its suppliers, and the rights and options vested in Seller shall extend to such suppliers and may be exercised by them.
9. **TRADEMARKS.** Buyer warrants that any trademark Buyer requests Seller to affix to any Article is owned or authorized for use by Buyer.
10. **CLAIMS, CANCELLATION, MODIFICATION, SUSPENSION.** All claims must be made within one (1) year after receipt of the Article with respect to which the claim is made. Cancellation, modification, suspension, or delay in shipment of Buyer's order will not be accepted on terms which will not fully indemnify and reimburse Seller against loss; such indemnity to include recovery of all direct costs incurred, including normal indirect and overhead charges and a normal profit. No change proposed by Buyer more than forty-five (45) days prior to shipment in any terms and conditions shall be valid or binding upon Seller unless approved in written by Buyer's president, director of manufacturing or purchasing agent. **SELLER GENERALLY WILL BE UNABLE TO APPROVE ANY CHANGE PROPOSED BY BUYER LESS THAN FORTY-FIVE (45) DAYS PRIOR TO SHIPMENT, AND IN NO EVENT MAY BUYER CANCEL, MODIFY, SUSPEND OR DELAY SHIPMENT IF NOTICE OF SUCH PROPOSED CHANGE IS NOT RECEIVED BY SELLER AT LEAST FORTY-FIVE (45) DAYS PRIOR TO SHIPMENT.**
11. **CONTRARY TERMS; ENTIRE AGREEMENT.** Buyer's order is accepted only on the terms and conditions contained herein, and the provisions of any purchase order or other writing inconsistent herewith shall not constitute a part of the contract of sale. If any of the terms and conditions hereof are not acceptable to Buyer, Seller must be notified promptly. This writing is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms and conditions thereof.
12. **NOTICE.** Any notice shall be considered given when deposited in the United States mail, postage prepaid, addressed to the other party at the address given herein.
13. **WAIVER.** No claim or right arising out of a breach of this agreement can be discharged in whole or part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
14. **SETOFF.** Seller may setoff any amount due from Buyer, whether or not under this agreement, against any amount, which may become due to Buyer hereunder.
15. **ASSIGNMENT.** Buyer shall not assign its rights under this agreement or any interest therein without Seller's prior written consent.
16. **CONTROLLING LAW.** This transaction shall be governed by, and this agreement shall be construed and enforced in accordance with the Laws of Wisconsin. If any provision, clause or part, or the application thereof under certain circumstances is held invalid, the remainder of this agreement or the application of such provision, clause or part under other circumstances shall not be affected thereby.