



*Designers and Manufacturers of Heat
and Corrosion Resistant Metal Products*

Sales Terms and Conditions

A. Acceptance/Agreement

Any acceptance of this sales acknowledgment form is limited to acceptance of the express terms on the face and back hereof. Any proposal for additional or different terms, or any attempt by the buyer to vary in any degree any of the terms of this offer in buyer's acceptance is hereby objected to and rejected, but such proposals shall not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by the buyer without said additional or different terms. If this sales acknowledgement form shall be deemed an acceptance of a prior offer by the buyer, such acceptance is limited to the express terms contained on the face and the back hereof. Additional or different terms or any attempt by the buyer to vary, in any degree, any of the terms of this sales acknowledgment form shall be deemed material and are objected to or rejected, but this sales acknowledgment form shall not operate as a rejection of the buyer's offer unless it contains variances in the terms of the description, quantity, price or delivery schedule of the goods. The terms, conditions and warranties of this sales acknowledgment form extend to seller and buyer only and do not extend to any other party including but not limited to customers of the buyer.

B. Warranty and Warranty Restrictions

Seller warrants that its products sold hereunder will, at the time of shipment, be free and clear of all liens and encumbrances and will be free from defects in material and workmanship and will conform to seller's applicable specifications, or, if appropriate, to buyer's specifications accepted by seller in writing. Seller shall not be charged with knowledge or acceptance of any specifications imposed upon buyer by any person other than buyer (including but not limited to the buyer's customer), unless such specifications are fully disclosed to seller in writing and accepted in writing by seller. THE FOREGOING WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PURPOSE AND SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR SELLER ANY OTHER LIABILITY IN CONNECTION WITH THE SALE OF SELLER'S PRODUCTS. THE FOREGOING WARRANTY ALSO EXCLUDES ALL WARRANTIES THAT SELLER'S PRODUCTS MEET ANY SPECIFICATIONS IMPOSED UPON BUYER BY ANY PERSON OTHER THAN BUYER (INCLUDING BUT NOT LIMITED TO THE BUYER'S CUSTOMER), WHETHER EXPRESSED OR IMPLIED INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE. No representation or warranty, express or implied, made by any sales representative or other agent or representative of the seller which is not specifically set forth herein shall be binding upon the seller. Seller shall not be liable for any incidental or consequential damages, losses or expenses directly or indirectly arising from the sale, handling or use of the goods or from any other cause relating thereto and seller's liability hereunder, in any case, is expressly limited to the repair or replacement (at seller's option) of goods not complying with this agreement or, at seller's election, to the repayment or crediting of buyer with an amount equal to the purchase price of such goods whether such claims are for breach of warranty or negligence. This warranty extends only to the direct customers of the seller and does not include customers of the buyer.

C. Limitations of Liability; Claims/Notice of Defects

In the event the material to be furnished hereunder is claimed to be defective, the seller shall be given ample opportunity for inspection or, upon request, shall be furnished with a sample of such material. The seller shall be liable only to replace defective products or to allow credit, not to exceed the purchase price, at the seller's option. Seller shall not be liable for special, indirect, incidental or consequential damages. Since the terms, conditions and warranties of this sales acknowledgment form extend only to seller and buyer, seller shall not be liable for any suits, claims, actions, damages or proceedings by any third parties, including but not limited to buyer's customers. The remedies of the buyer and the liability of seller with respect to any contract of sale or anything done in connection therewith, whether in contract, in tort, under any warranty, or otherwise are as set forth herein and are exclusive. All materials shall be furnished subject to the seller's standard manufacturing and commercial variations and practice. Any claim must be made within 30 days after receipt of the materials shipped hereunder. Buyer shall set aside, protect and hold such goods without further processing until seller has an opportunity to inspect and advise of the disposition, if any, to be made of such goods. In no event shall any goods be returned, reworked, or scrapped by the buyer without the express written authorization of the seller.

D. Force Majeure Clause

Fulfillment of this order is contingent upon the availability of materials. Seller shall not be liable for any delay in delivery or for nondelivery in whole or in part caused by the occurrence of any contingency beyond the control of either the seller or suppliers to the seller including but not limited to war, sabotage, acts of civil disobedience, failure or delay in transportation, act of any government or agency or subdivision thereof, judicial action, labor dispute, fire, accident, explosion, epidemic, quarantine, restrictions, storm, flood, earthquake or acts of God, shortage of labor, fuel, raw material or machinery or technical failure where seller has exercised ordinary care in the prevention thereof. If any contingency occurs, seller may allocate production and deliveries among seller's customers.

If the seller, in its sole discretion, determines that seller's performance hereunder would result in a loss to seller on this sale, as computed under seller's normal accounting procedures, because of causes beyond the seller's control, then the seller may terminate this agreement in whole or in part without liability for any delay in the delivery of or failure to deliver the goods sold hereunder.

E. Confidential Information

All drawings, diagrams, specifications and other materials furnished by the seller and identified as confidential relating to the use and service of articles furnished hereunder and the information therein, are proprietary to the seller. Such materials have been developed at great expense, and they contain trade secrets of the seller. Buyer may not reproduce or distribute such materials except to buyer's employees who may use the articles as part of their duties. All such materials relating to the article supplied directly by seller (except information as may be established to be in the public domain or disclosed pursuant to judicial government action) shall be received in confidence, and buyer shall exercise reasonable care to hold such information in confidence.

All information received by the seller from the buyer shall be deemed not to be confidential and not to involve any trade secrets unless such information is clearly identified as confidential/trade secret information by the buyer and a responsible officer of the seller has specifically signed a confidentiality agreement relating to such information. Salesmen and other representatives of the seller are not authorized to accept any information from the buyer in confidence.

F. Credit

All invoices paid after due date will be assessed the late payment service charge of 18% per annum or the maximum allowed by applicable law, whichever is lower. If, in the seller's judgment, the financial condition of the purchaser at the time merchandise is ready for shipment does not justify the terms specified, the seller reserves the right to change these terms or to require full or partial payment in advance. Seller, may at any time, suspend performance of any order or require payment in cash, security or other adequate assurance satisfactory to seller when, in seller's opinion, the financial condition of buyer or other grounds for insecurity warrant such action. All sales are subject to the approval of seller's credit department.

G. Prices

The prices will be adjusted to the seller's price in effect at the time of shipment. If there is a delay in completion of shipment of this order due to any change requested by the purchaser or as a result of any delay on purchaser's part in furnishing information required for completion of the order, the price agreed upon at the time of acceptance of the order is subject to change. Prices are F.O.B. carrier's equipment at our factory and are exclusive of all taxes.

H. Risk of Loss

Delivery shall occur and risk of loss shall pass to the buyer upon delivery of the material to the carrier at the point of shipment. Transportation shall be at buyer's sole risk and expense, and any claim for loss or damage in transit shall be against the carrier only.

I. Delivery

The promised delivery date is the best estimate possible based upon current and anticipated manufacturing capabilities of when the product will be shipped. Seller assumes no liability for loss, damage or consequential damages due to delays.

J. General Provisions

Any cause of action arising from this agreement, or breach of it, must be commenced within one year after the cause of action occurs. Seller has the right to correct any stenographical or clerical errors in any of the writings issued by it. The terms and conditions of sale and any description on the face of the seller's order acknowledgment form constitute a complete and exclusive statement of the terms and conditions of the state of the goods by seller to buyer. There are no other promises, conditions, understandings, representations or warranties. This agreement may be modified only in a writing signed by the seller. No waiver of any right will be effective against seller unless supported by consideration and expressly stated in the writing signed by the seller. The failure of seller to enforce any right will not be construed as a waiver of seller's right to performance in the future. Buyer may not assign any rights to, or delegate any performance owned under, the agreement without the written consent of seller. Seller shall have the right to credit toward the payment of any monies that may become due seller hereunder and any sums which may now or hereafter be owed to buyer by seller.