

## TERMS AND CONDITIONS OF SALE

Rev. July 2019

THESE TERMS AND CONDITIONS OF SALE APPLY TO THE SALE OF SELLER'S GOODS AND/OR SERVICES. SELLER'S ACCEPTANCE OF ANY ORDER IS EXPRESSLY MADE CONDITIONAL UPON THE APPLICATION OF THESE TERMS AND CONDITIONS OF SALE TO THE PARTIES' TRANSACTIONS. SELLER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS PROPOSED BY BUYER, INCLUDING, BUT NOT LIMITED TO BUYER'S PREPRINTED FORMS, BOILER PLATE, OR OTHER COMMUNICATIONS. SELLER WILL NOT BE DEEMED TO HAVE WAIVED THESE TERMS AND CONDITIONS OF SALE IF SELLER FAILS TO OBJECT TO PROVISIONS CONTAINED IN BUYER'S COMMUNICATIONS. BUYER'S SILENCE OR ITS ACCEPTANCE OF SELLER'S GOODS OR SERVICES CONSTITUTES BUYER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS OF SALE.

1. **Acceptance.** Any order placed by Buyer is subject to written acceptance by Seller, such as with a sales order acknowledgement. These Terms and Conditions of Sale ("Terms") constitute the sole terms and conditions of any order between the parties unless other written, mutually agreed, terms and conditions have been executed between the parties.
2. **Price.** Unless otherwise agreed to in writing by the parties or by Seller and the ultimate customer of Seller's goods, pricing and charges will be established at the time Seller accepts Buyer's order for goods or services by sales order acknowledgement or as otherwise noted by Seller in writing.
3. **Payment.**
  - (a) Buyer will make payment pursuant to Seller's invoices at the prices provided herein subject to any applicable agreement between the parties such as material re-pricing or alloy cost adjustments or labor or utilities cost adjustments, and subject to any applicable agreement between Seller and the ultimate customer of Seller's goods. All prices are in U.S. dollars or such local currency as the parties may agree. Payments must be made in U.S. dollars or such agreed-upon local currency.
  - (b) Buyer shall submit with each payment a statement, which clearly states, without commingling, Seller's invoice numbers, quantity of goods and amount being paid.
  - (c) Buyer's obligation to make full and timely payment for each shipment will be without rights of set-off. The prices and charges stated do not include state or federal excise, sale or use taxes, if any. All such taxes in effect or hereafter levied which are applicable to the order, are in addition to such prices and will be paid by Buyer. In the event that Buyer fails to pay Seller's invoices when due, Buyer will be obligated to pay Seller, on all amounts so unpaid, interest, at the maximum permissible rate for overdue accounts, from the date such payment was due until the date paid by Buyer. Such interest will be due and payable without demand by Seller.
  - (d) Unless stated otherwise by Seller, payment terms are net thirty (30) days from the date of Seller's invoice. Notwithstanding the foregoing, should Buyer experience a deterioration in its creditworthiness or other reasonable grounds for insecurity arise with respect to Buyer's ability to timely pay, Seller may demand different terms of payment and may, orally or in writing, demand assurance of Buyer's ability to timely pay. Seller may, upon the making of such demand, stop production and suspend shipment hereunder. If, within the period stated in such demand, Buyer fails or refuses to agree to such different terms of payment or fails or refuses to give adequate assurance of Buyer's ability to timely pay, Seller may, at its option, treat such failure or refusal as a repudiation of the portion of the order which has not been fully performed, or may resume production and may make shipment under reservation of possession of a security interest and may demand payment against tender of documents of title. In all cases, acceptance of an order is conditional for a period of up to three business days to confirm Buyer's creditworthiness.

(e) Seller retains all rights at law pertaining to collection of unpaid amounts owed by Buyer under these Terms, and Buyer shall reimburse Seller for all costs associated with such collection activities including reasonable attorney fees.

4. **Delivery.** All delivery or shipping dates are estimates only. Unless otherwise agreed to, all goods are sold:

International: EXW Seller's facility Incoterms®2010. Title and risk of loss or damage will pass to Buyer at the delivery point.

Domestic US: FOB Seller's plant, freight collect. Buyer shall bear all risk of loss or damage to the goods once they have been delivered to Buyer's carrier at Seller's plant.

5. **Delays.** Seller will use reasonable efforts to fill each order in accordance with the estimated delivery or shipping date, but Seller will not be responsible for any delays in filling orders nor liable for any losses or damages resulting from such delays. Orders will not be subject to cancellation for such delays.
6. **Force Majeure.** Seller will not be liable for failure in the performance of any of its obligations hereunder caused by anything beyond the reasonable control of Seller, including, but not limited to, accidents, labor disputes or disruptions, strikes, terrorist acts, shortages of labor, materials, fuel or power, fires, floods or other acts of God, acts or omissions of Buyer, delays in transportation or lack of transportation facilities, priorities required, requested or granted for the benefit of the Federal or any state government, restrictions imposed by law or any rules or regulations thereunder, or any cause beyond Seller's reasonable control, whether similar to or dissimilar to the foregoing.
7. **Packaging and Transportation.** Unless otherwise agreed by the parties in writing, Seller shall package the goods in accordance with applicable industry standards. The agency and method of transportation of the goods and the routing of the goods to the delivery point will be designated by Seller. If Seller complies with Buyer's request with respect to the use of any agency or method of packaging or transportation or any routing other than that which would otherwise be designated by Seller, all packing, marking, shipping, transportation and other charges which are in excess of the charges which would otherwise be incurred by Seller will be for Buyer's account and Buyer agrees to pay such amounts in accordance with the payment terms in these Terms.
8. **Shipments; Shipping Weights.**
- (a) Seller may make partial shipments and may invoice for each such partial shipment separately. Each partial shipment will be deemed to be a separate sale, however, delay in delivery of any partial shipment will not relieve Buyer of its obligation to accept delivery of any remaining shipments.
- (b) Seller's shipping weights will govern for each shipment. Should Buyer dispute the shipping weight of any shipment, Buyer will promptly notify Seller in writing of the reasons for such dispute and provide to Seller all necessary documents to substantiate the difference.
9. **Inspection, Acceptance or Rejection.** Within seven (7) days after Seller's delivery of goods or completion of services, Buyer must inspect and accept or rightfully reject goods or services and notify Seller of any non-conformity. Unless Seller receives notice of Buyer's rightful rejection within seven (7) days after Seller's delivery of goods or services, the goods or services shall be deemed to have been accepted. Rightfully rejected goods or services shall be repaired, corrected, or replaced in accordance with Section 10 (Warranty), and such repair, correction, or replacement shall constitute Buyer's sole remedies and Seller's sole obligations with respect to goods or services rightfully rejected by Buyer.

**10. Warranty.**

(a) Seller warrants that the goods delivered to Buyer will conform to the agreed upon specifications for a period of twelve (12) months from the date Seller delivers the goods. Seller warrants that any services provided to Buyer or for Buyer's benefit will conform to the agreed upon specifications for a period of ninety (90) days from the date of Seller's completion of the services.

(b) Notwithstanding any longer statute of limitations, if Buyer has a warranty claim, Buyer must provide written notification to Seller of the warranty claim (i) promptly (but no later than ten (10) days) after discovering the warranty claim and (ii) within the warranty period. Buyer's failure to adhere to the foregoing timing requirements shall preclude Buyer from any remedies for such warranty claim. Buyer must also return the non-conforming goods to Seller in accordance with Seller's return material authorization process per Section 19. Seller shall bear the transportation costs associated with Buyer's return of non-conforming goods. Seller may at its option, participate in the failure investigation of any allegedly non-conforming goods or services on Buyer's property or wherever the goods or result of the services are located and shall be entitled to repair, correct or replace non-conforming goods or services at such site or at Seller's designated facility.

(c) Seller's warranty shall not apply to any goods or services which have been subjected to accident, misuse or unauthorized alteration. Seller's warranty, as previously noted, is limited to the agreed upon specifications and Seller is not responsible for any other specifications for the goods or services or characteristics of the goods or services, including latent anomalies in conforming goods or services.

(d) THE WARRANTIES SET FORTH IN SECTION 10 ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO WARRANTY IS OFFERED BY SELLER ON ANY GOODS OR SERVICES WHICH ARE DEVELOPMENTAL OR SAMPLES.

(e) If Buyer adheres to the requirements in Section 10, Seller will, at its option, repair, correct or replace at no cost to Buyer any goods or services which prove to be non-conforming with the warranty in Section 10(a).

(f) Repair, correction or replacement in the manner provided above shall constitute Buyer's sole remedies and Seller's sole obligations under this warranty. Seller shall have no liability for other direct, special, indirect, incidental or consequential damages, including, but not limited to, tear down or rebuild of engines or other higher assemblies and machining or other value add services.

**11. Limitation of Liability.** In no event will Seller be liable for any direct damages beyond those stipulated under Sections 9 and 10, nor shall Seller be liable for any incidental, consequential, indirect, special, contingent, or punitive damages arising out of or relating to: (i) any breach of contract or warranty, tort (including negligence and strict liability), or other theories of law with respect to goods sold or services rendered by Seller, or undertakings, acts or omissions relating thereto; (ii) the tender of non-conforming goods or services; (iii) breach of any other provision of any order or Seller's performance in connection therewith; or (iv) any claim of any kind arising out of or relating to any order or Seller's performance in connection therewith. In any event, Seller's liability to Buyer shall not exceed the purchase price of the goods or services on which such liability is based. Buyer assumes all other liability for any loss, damage or injury to persons or property arising out of, connected with or resulting from the use of the goods or services, either alone or in combination with other products or services.

**12. Indemnity.** Buyer agrees to indemnify and hold Seller harmless from third party product liability claims, losses, damages, or expenses (including reasonable costs of defending any proceedings) arising out of or resulting from (i) the design, testing or machining of the goods or services by Buyer or third parties (including Buyer's responsibility to test the goods after machining by Buyer or Buyer's

designated machining subcontractors) or (ii) the goods or services having been altered, modified or improperly installed, operated, used or maintained by Buyer or Buyer's customers or any third party.

13. **Termination.** Buyer may not terminate an order without the prior written consent of Seller. If Seller consents to such termination, termination charges computed by Seller will be assessed in connection with such termination, and shall be due and payable not later than thirty (30) days after submittal of said termination charges. Without liability to Buyer, Seller may terminate any agreement, contract or order or related orders in the event that Buyer breaches any of the foregoing and fails to remedy any such breach within ten days of Seller's transmission to Buyer of written notification describing the breach.
14. **Changes.** Any changes requested by Buyer as a condition of entering into an order or subsequent to entry into an order which change the basis of Seller's quote, including these Terms, will be subject to the consent of Seller and subject to an equitable price or delivery adjustment, or both, as determined by Seller.
15. **Confidentiality.** Unless otherwise agreed to in a non-disclosure agreement executed by the parties, (i) Seller will not be bound by any obligations of confidentiality or non-disclosure and (ii) all information disclosed by Seller to Buyer is confidential information and Seller agrees to protect such information for a period of two years following Seller's last shipment of goods or provision of services to Buyer.
16. **Intellectual Property & Infringement.**
  - (a) Intellectual Property: No right, title, or interest in and to any development, invention, or work of authorship, conceived or developed by Seller during the course of performance hereunder, is conveyed to Buyer. Seller does not grant to Buyer, and nothing contained herein will obligate or be construed to obligate Seller to grant to Buyer, any license under any patents or other intellectual property owned by Seller. Except for data that Seller has agreed to provide as a deliverable, or data customarily provided by Seller for quality control purposes (which Buyer must keep confidential and use solely for such purposes), Seller shall not be required to deliver any data concerning its manufacturing processes.
  - (b) Infringement: Buyer agrees to defend, indemnify and hold harmless Seller, its officers, employees or agents from any liability, damages, costs or expenses (including court costs and reasonable attorney's fees) arising out of any actual or alleged infringement of any third party copyright, patent, trade secret, trademark, or other intellectual proprietary right arising out of Seller's use of any design, drawing or specifications provided or approved by Buyer.
17. **Tooling.** Unless otherwise agreed by the parties, title to and ownership of tooling listed as a deliverable in a line item in Buyer's order and paid for by Buyer shall vest in Buyer. Buyer shall be responsible for funding replacement tooling when the normal life of the tooling is exhausted. If Seller does not receive an order from Buyer for goods or services requiring the use of such tooling for a period of one year, Seller may, by written notice to Buyer at Buyer's last known address, request Buyer to make disposition thereof at Buyer's expense. If Buyer fails to issue disposition instructions to Seller within forty five (45) days of such notice, Seller may make any use or dispose of such tooling without liability or obligation to Buyer. Seller may remove any embedded intellectual property which it either owns or is controlled under applicable export control laws prior to returning any Buyer owned tooling.
18. **Trade Compliance.** Goods, services and information supplied by Seller are subject to U.S. import and export laws and regulations and may be subject to EU and other applicable countries' export/import rules and regulations as well. For shipments outside of the U.S., if Seller agrees to be responsible for obtaining the appropriate export license(s) necessary to permit shipment of the goods or performance of the services, including applications for agreements relating to defense services, Buyer will cooperate with Seller in obtaining such export licenses at Seller's request; moreover, Seller shall handle the export of such goods at Buyer's sole expense through Seller's selected and approved export freight forwarder by freight collect or, if Buyer does not have an account with Seller's export freight forwarder, as billed

to Buyer by Seller. Seller will have no liability to Buyer in the event that an export license is not approved or is later withdrawn or suspended. Seller may, in its sole discretion, agree to engage in a “routed transaction”, in which case Buyer shall provide all documents and take all actions requested by Seller to comply with U.S. export requirements. Buyer agrees to comply with applicable import and export regulations whether administered by the Office of Defense Trade Controls, US Department of State, Bureau of Export Administration, the Department of Commerce, Office of Financial Asset Control (OFAC) or any other agency of the United States Government which provide inter alia that the goods or services shall not be re-sold, diverted, re-exported or disposed of in other than the country of ultimate destination without the prior approval of the United States Department of State or Commerce or other agency of the United States Government, whichever is applicable. Buyer agrees to provide Seller any documentation Seller reasonably requests to comply with the regulations. For shipments within the U.S., it is the responsibility of Buyer or other exporter to comply with all U.S. export control laws and regulations.

19. **Return Material Authorization Process.** All requests by Buyer to return goods to Seller must be initiated through Seller’s responsible account representative. If Buyer has provided the appropriate information to Seller, Seller will issue a return material authorization (“RMA”) number to Buyer within five (5) working days of Seller’s receipt of the appropriate information from Buyer. The parties will agree to any special instructions associated with the return of such product at the time the RMA number is issued by Seller.
20. **Insurance.** Buyer shall at all times carry sufficient, relevant insurance coverage to cover potential claims at its own expense, including Commercial General Liability Insurance with coverage of no less than US\$5,000,000 per occurrence for death, bodily injury, and property damage and Aircraft Product Liability Insurance covering products and services for the aerospace industry, if applicable, in an amount not less than US\$10,000,000 per occurrence and not less than US\$10,000,000 per grounding. Seller retains the right to require a reasonable increase, consistent with industry standards, in the above stated insurance limits at any time. Such policies shall be written by an insurer with an A.M. Best rating of A, Class VIII. At Seller's request, Buyer shall provide Seller with a certificate of insurance evidencing such coverage currently in force, and will provide updated certificates, in a timely fashion, as policies are renewed thereafter.
21. **Assignment & Waiver.** These Terms and any accepted orders shall be binding on Buyer and Seller. Buyer may not assign orders without the prior written consent of Seller. Seller may assign any order in whole or in part, without the consent of Buyer. No provision hereof and no breach of any provision will be deemed waived by reason of any previous waiver of such provision or of any breach thereof.
22. **Amendment.** These Terms and any accepted orders may be modified only by a writing signed by an authorized representative of Seller.
23. **Severability.** The invalidity, in whole or in part, of any provision in these Terms will not affect the remainder of such provision or any other provision. If any provision or application of these Terms is invalid or unenforceable, then a suitable and equitable provision will be substituted for such provision in order to carry out, so far as may be valid and enforceable, the intent and purpose of these Terms including the invalid or unenforceable provision.
24. **Survival.** The provisions entitled or regarding Limitation of Liability, Trade Compliance, Intellectual Property & Infringement, Confidentiality, Warranty, Indemnity and all other sections providing for limitation of or protection against liability of Seller shall survive termination, cancellation or expiration of any contract or any order.
25. **Applicable Law.** These Terms and all accepted orders will be governed by, and interpreted in accordance with, the laws of the Commonwealth of Pennsylvania, excluding those relating to choice or

conflicts of law. Any and all disputes between the parties that may arise pursuant to an order or these Terms will be heard and determined before an appropriate federal or state court located in Allegheny County, Pittsburgh Pennsylvania. Buyer waives any and all objections that it may have as to personal jurisdiction or venue in any of the aforementioned tribunals. The rights and remedies set forth herein are exclusive and in lieu of any other rights or remedies at law.

26. **Government Orders.** It is recognized by the parties that in instances where work is being performed under orders for the U.S. Government or Prime Contractors contracting with the U.S. Government, applicable FAR/DFARS or other Government regulatory clauses may apply if accepted by Seller. In the event of a conflict between and such Government clauses and these Terms, these Terms shall take precedence.
27. **Access.** Buyer may enter Seller's facility(ies) which are performing an order only on reasonable notice during normal business hours, subject at all times to Seller's safety rules and rules pertaining to limitations necessary to comply with applicable import and export regulations and protection of the confidential and proprietary information of Seller or its customers.