

TERMS AND CONDITIONS OF SALE

Please read these terms and conditions carefully. They materially affect the parties' obligations. Seller is bargaining for and will do business only on the terms and conditions on this form.

- 1. Acceptance; Contrary Terms; Entire Agreement:** All orders for goods and/or services ("Articles") are subject to acceptance by Seller at its office. 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. Seller's acceptance is conditional on assent to these terms and conditions and if any of these terms and conditions are not acceptable to Buyer, Seller must be notified promptly. This writing is intended by the parties to be the final expression of their agreement and is intended also a complete and exclusive statement of the terms and conditions thereof. No modification of any term and condition will be valid or binding upon Seller unless approved by Seller in writing.
- 2. Excuse From Performance.** Seller is excused from performance if performance is rendered impracticable by any accident; breakdown; riot; war; delay, interruption in or failure of sources or subcontractors to supply material and equipment; strike, labor or transportation problem; act of God; other causes and conditions, whether of like or different nature, that are beyond Seller's reasonable control; and orders, contractors, priorities, directives, requisitions or requests of the federal or state governments whether or not voluntarily assumed.
- 3. Taxes and Fees.** Unless otherwise specified, prices stated do not include any manufactures, sales, use or excise taxes, charges or duties. Buyer will pay all such taxes, charges and duties. Buyer will also pay Seller any collection fees and reasonable attorney's fees incurred by Seller in enforcing this agreement of defending against any claim for breach of agreement.
- 4. Prices.** Unless specifically held open for a length of time on Seller's Quotation, all prices are subject to change without notice and any unshipped balances on purchase orders will be invoiced to and paid by Buyer at prices in effect at the time of shipment.
- 5. Terms of Payment.** Terms of payment are net 30 days, for those that qualify for credit terms, from the date of Seller's invoice.
- 6. Credit and Security.** Shipments and delivery shall at times be subject to the approval by Seller of the Buyer's credit and the Seller reserves the right, even after partial shipment or partial payment on account, to require from the Buyer satisfactory security for the due performance of the Buyer's continuing obligations. Upon request of the Seller, the Buyer shall provide such security to the Seller as may be requested.
- 7. Risk of Loss; Shipment.** Unless otherwise specified on this invoice, all shipments are F.O.B. Seller. Risk of loss will pass to Buyer at the time the Articles are tendered for shipment. Shipping dates on any purchase order or material release are estimates only. Seller will use every reasonable effort to meet the estimated shipping date, subject to Buyer's prompt provision of all necessary, complete, and correct specifications, information and data, but Seller shall not be held responsible for failure to meet such estimated date. If Buyer requires special production services for unusual shipments, an additional charge shall be imposed, as agreed upon by the parties. All acknowledgements are based on Buyer accepting overrun and under run not exceeding 10% of quantity ordered.
- 8. Exclusive Warranty.** Seller warrants the Articles to be free from defects in material and workmanship. THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 9. Limitation of Remedies and Damages.** Seller's liability and Buyer's sole and exclusive remedy hereunder will be limited to repair, replacement or credit, at Seller's option, with respect to Articles returned to Seller at Buyer's expense within 30 days after Buyer's receipt of the Article. SELLER WILL NOT BE LIABLE, UNDER ANY CIRCUMSTANCES, FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LABOR COSTS OR LOST PROFITS RESULTING FROM THE USE OF OR INABILITY TO USE THE ARTICLES OR FROM THE ARTICLES BEING INCORPORATED IN OR BECOMING COMPONENT OF ANY OTHER ARTICLE.
- 10. Exclusion of Tort Remedies.** This is a commercial sales transaction. The parties want it to be governed by Article 2 of the Uniform Commercial Code and related commercial legal principles. NEITHER PARTY WILL HAVE ANY NEGLIGENCE OR OTHER TORT LIABILITY TO THE OTHER, OR TO ANY THIRD PARTY, ARISING FROM ANY BREACH OF THIS AGREEMENT.

11. **Trademarks.** Buyer warrants that any trademark Buyer request Seller to affix to any Article is owned or authorized for use by Buyer.
12. **Tools.** All dies, tools, patterns and the like involved in the manufacture of the Articles are and shall remain the property of Seller, even though the cost thereof is included as part of the price quoted above. Tools will be maintained for a period of 2 years from the date of order.
13. **Claims, Cancellation, Changes.** All claims for error in weight or quantity or freight damage must be made within 14 days of receipt of Article with respect to which the claims is being made. Seller reserves the right to accept or reject any such claim in whole or in part. Cancellation, modification, suspension, or delay in shipment of Buyer's order will not be accepted on terms that will not fully indemnify and reimburse the Seller against loss. Such indemnity will include recovery of all direct costs incurred, including normal indirect and overhead charges and a normal profit. No change proposed by buyer in any terms and conditions will be valid or binding upon Seller unless approved in writing by Seller's duly authorized personnel. SELLER GENERALLY WILL BE UNABLE TO APPROVE ANY CHANGE PROPOSED BY BUYER LESS THAN 45 DAYS PRIOR TO SHIPMENT, AND IN NO EVENT MAY BUYER CANCEL, MODIFY, SUSPEND OR DELAY SHIPMENT IF NOTICE OF SUCH CHANGE IS NOT RECEIVED BY SELLER AT LEAST 45 DAY PRIOR TO SHIPMENT.
14. **Notices.** Any notices relating to this agreement must be in writing and will be considered given when deposited, postage prepaid, in a Untied State Post Office or authorized deposit and addressed to the other party.
15. **Setoff.** Seller may set off any amount from Buyer, whether or not under this agreement, against any amount due Buyer hereunder.
16. **Assignment.** Buyer may not assign any of its rights, duties or obligations under this agreement without Seller's prior written consent. Any attempted assignment without Seller's consent, even if by operation of law, will be void.
17. **Corrections.** Clerical and stenographic errors are subject to correction.
18. **Controlling Law.** The validity, construction and enforcement of this agreement will be governed by and interpreted under the local, domestic law of the State of Michigan, including with our limitation, its provisions of the Uniform Commercial Code.

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Dear Valued Customer,

Beta Steel would like to take this opportunity to clarify our procedures and policies for processing customer complaints. We strive for complete customer satisfaction, problems do occasionally arise.

Consequential Damages: Beta Steel will evaluate all claims and complaints against published Beta Steel LLC standards terms and conditions. For your convenience our terms and conditions are posted on our website, www.betasteel.com. Should any condition be found which is outside these standards, we will provide reimbursement up to the invoice value of the material involved. Our liability shall not exceed the purchase price of the material. Claims for consequential damages shall not be allowed.

Limitation of Time Period: Our written claims policy states that claims will not be considered unless made with 14 days after receipt of material. Circumstances may require an extension of this time period, but in no case should we consider claims for material received more than one year ago.

Return of Materials: Our written policy is that no defective or nonconforming goods shall be returned, repaired, or disposed of without our written consent. Should there be a question as to material acceptability; an appropriate sample should be submitted to our Sales or Quality Representative. The sample must include a complete description to the problem, any laboratory analysis, and other pertinent information necessary to properly identify the root cause. Should analysis of the sample dictate, we will authorize the return of material, scrapping of the material, or other measure as appropriate.

Thank you for your continued support.

Scott Bernstein

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