



## CONDITIONS AND TERMS OF SALE

The following terms of sale shall be applicable to all sales made by **Absolute Metal Products, LLC**, and its subsidiaries ("AMP") except where it is otherwise expressly agreed in writing. Acceptance of delivery of any or all goods ordered by a buyer ("Buyer") shall constitute assent by the Buyer to these terms of sale collectively.

- PRICES.** The prices quoted may be changed by AMP without notice to reflect AMP's prices at time of shipment, and any increase in transportation, labor or other costs. If a delivered price has been quoted, any charges at destination for spotting, switching, handling, storage and other accessorial services and demurrage shall be borne by Buyer, and any increase or decrease in transportation charges shall be added to or subtracted from the quoted price. AMP reserves the right to correct any errors in specifications or prices.
- SURCHARGES AND TAXES.** Any and all surcharges imposed by AMP's suppliers at the time of shipment shall be paid by Buyer. All prices quoted by AMP are exclusive of all taxes. In addition to the purchase price, Buyer shall pay or reimburse AMP the amount of all sales, use and ad valorem taxes, excises, duties, tariffs, and/or other governmental charges, under any existing or future law, that AMP may be required to pay with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the goods or services covered. The foregoing shall not apply to any taxes the payment or collection of which by AMP is excused by reason of delivery to AMP of valid tax exemption certificates.
- QUANTITIES.** If an item is to be shipped from a producing mill, the producing mill may reserve the privilege of shipping over or under the ordered quantity in accordance with established percentages (as shown in their price books), which will constitute acceptable and complete shipment of the material specified.
- SALE ON CREDIT; TERMS OF PAYMENT.** AMP reserves the right in its sole discretion to approve, conditionally approve or disapprove any request by Buyer for credit. The amount of credit AMP extends to Buyer will be determined by AMP in its discretion and may vary from time to time. Upon AMP's request from time to time, Buyer will provide AMP with current financial information. Buyer grants permission to AMP to obtain independent credit reports and other information from Buyer's trade references and banks and authorizes credit references and banks to release information that may be used to determine creditworthiness, both now and in the future. Buyer represents and warrants that any financial information provided to AMP will be true and correct in all material respects and shall fairly and accurately present the financial condition of Buyer as of the date of such financial statements. Buyer shall notify AMP, in writing, of any error in any invoice within ten (10) days after the Buyer's receipt of such invoice, and, if no such notice from Buyer is received by AMP, the invoice shall be deemed to be correct and payable as delivered to Buyer. Unless otherwise expressly provided by AMP in writing, AMP's terms will be net thirty (30) days from the date of invoice. All sums past due and owing to AMP shall bear interest at the rate of the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law from the invoice date until paid in full. In the event AMP refers any unpaid past due balance to an outside collection agency and/or attorney for collection, Buyer agrees to pay AMP's reasonable attorneys' fees and all other costs of collection. For collection purposes only, the Buyer hereby agrees to exclusive venue in either Minnesota or Arkansas. All payments made by Buyer to AMP shall be applied in the following priority: (a) first to the amounts, if any, due to AMP for attorneys' fees and court costs, (b) second to the amounts, if any, due to AMP in the event of Buyer's default, (c) third to the amount, if any, of interest due to AMP as a result of Buyer's late payment and (d) finally to the balance of the purchase price due to AMP for the goods. To secure Buyer's full and prompt payment of the purchase price for the goods, Buyer hereby grants to AMP a first priority, purchase money security interest in and to the goods and all products and proceeds therefrom. Buyer authorizes AMP to file a UCC financing statement to perfect this security interest at any time.
- DELIVERIES.** Any shipping schedule is approximate. AMP shall not be liable for any delay in delivery or failure to deliver caused for any reason in whole or in part beyond our reasonable control. Should shortages in AMP's supply occur for any reason, AMP may allocate the material in such manner and amount as AMP may determine. Acceptance by Buyer of any goods shall constitute a waiver by Buyer of any claim for damages on account of any delay in delivery of such goods.
- SHIPMENTS.** Unless otherwise expressly stated, shipment may be by carrier or other means selected by AMP. Buyer assumes all risk of loss in transit.
- NUCLEAR APPLICATION EXCLUSION.** Buyer represents and warrants that Buyer will not use, cause to be used or make available for use the goods described herein in any nuclear application including, but not limited to, use in connection with any nuclear reactor, any nuclear power generating system or any nuclear waste (or spent fuel) disposal project. Any subsequent nuclear application of the goods is wholly unauthorized and shall be deemed to be unknown to, unforeseeable to and unintended by AMP.
- SUSPENSION OF PERFORMANCE.** If in AMP's judgment reasonable doubt exists as to Buyer's financial responsibility, or if Buyer is past due in payment of any amount owing to AMP, AMP reserves the right, without liability and without prejudice to any other remedies, to suspend performance, decline to ship or to stop any material in transit, until AMP receives payment of all amounts owing to AMP, whether or not due, or adequate assurance of such payment.
- WARRANTY.** AMP warrants only that the goods will conform to their description as stated in the invoice, subject to tolerances and variations described in the following paragraph. **AMP MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, STATUTORY OR OTHER, AND SPECIFICALLY DISCLAIMS AND EXCLUDES ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, AMP MAKES NO WARRANTY OF ANY KIND THAT THE GOODS WILL MEET BUYER'S OR ANY OTHER PERSON'S REQUIREMENTS.**
- TOLERANCES AND VARIATIONS.** All goods shall be subject to tolerances and variations consistent with usual trade practices regarding dimensions, straightness, section, composition and mechanical properties and normal variations in surface and internal conditions and quality and shall also be subject to deviations from tolerances and variations consistent with practical testing and inspection methods.
- INSPECTION.** Materials must be examined by Buyer immediately upon receipt to determine correctness of shipment as to quantity, size, length, and condition. Buyer must not cut, fabricate or otherwise use material without such examination.
- CLAIMS.** If, upon inspection by Buyer as provided above, any goods received by Buyer are nonconforming, damaged, visibly defective or if the quantities received by Buyer do not agree with the quantities indicated on the shipping documents, Buyer must note that on the delivery receipt. If goods are found to be nonconforming or damaged when unpacking and if Buyer intends to assert any claim against AMP on this account, Buyer shall, within 30 days after receipt of such goods, furnish AMP detailed written information of such damage, nonconformance, defect or shortage. Buyer's failure to so inform AMP or Buyer's use of the material shall be Buyer's acknowledgment that AMP has satisfactorily performed. AMP will not honor any claims for damages caused by Buyer's improper storage of the goods.
- LIMITATION OF LIABILITY.** Buyer's exclusive remedy, and AMP only liability arising out of this contract, shall be replacement or repair of the goods, or credit of the purchase price paid by Buyer, whichever such remedy AMP shall select. If AMP elects to repay the purchase price, Buyer must return the goods to AMP immediately. Except for nonpayment by Buyer, any action arising out of this contract must be commenced within one year from the date of delivery. **In no event will AMP be liable for incidental or consequential damages, indirect damages, punitive damages, or damages for loss of revenue or profit, business interruption, or business opportunity.**
- TOOLS, DIES AND FIXTURES.** Unless otherwise expressly provided, any tools, dies or fixtures which may be developed for use in the production of the goods covered shall be owned by AMP or any producing mill, as AMP may elect, even though Buyer is charged in whole or in part for the cost of such tools, dies and fixtures.
- FORCE MAJEURE.** AMP shall be excused for any failure or delay in the performance of any of its obligations to Buyer if such failure or delay is due to a strike, work stoppage, labor dispute, material shortage, utility outage, delay in transportation, fire, flood, earthquake, severe weather, act of God, pandemic, accident, trade sanction, embargo, act of war, act of terror, condition caused by national emergency, new or changed law, production schedules of the producing mill, unavailability of materials, causes which abnormally increase the cost of performance, or any act or cause beyond the reasonable control of AMP, and whether affecting AMP or its agents, subcontractors, dealers or suppliers, for as long as such circumstances prevail. In such event, AMP will as soon as practicable notify the Buyer of any actual or anticipated failure or delay.
- PATENT INFRINGEMENT.** If any of the goods are to be furnished to Buyer's specifications, Buyer agrees to indemnify AMP and its successors and assigns, against all liabilities and expenses resulting from any claim of infringement of any patent or other proprietary right in connection with the production of such goods.
- GOVERNMENT CONTRACTS.** Unless otherwise expressly notified in writing, Buyer's order has not been placed under a prime contract with the U.S. Government or a subcontract thereunder and none of the clauses contained in the government procurement regulations are incorporated herein.
- COMPLIANCE WITH LAWS.** AMP agrees that its sale of the goods will comply with all applicable federal, state and local laws and regulations.
- CANCELLATION.** A contract may be cancelled or modified only by written agreement between the parties. Buyer's insistence upon cancelling or suspending fabrication or shipment, or Buyer's failure to furnish specifications when required, may be treated by AMP as a breach of contract by Buyer, and AMP may cancel any unshipped balance without prejudice to any other remedies AMP may have.
- SET-OFF.** Buyer authorizes AMP to apply toward payment of any monies that become due AMP hereunder any sums which may now or hereafter be owed to Buyer by AMP or by any subsidiary or affiliated company of AMP.
- GOVERNING LAW.** This contract and all other agreements with respect to any and all sales by AMP shall be governed by Illinois law, and the state or federal courts located in Cook County, Illinois, shall have exclusive jurisdiction with respect to any disputes related hereto or thereto, which jurisdiction may be waived at AMP's sole discretion.
- ENTIRE AGREEMENT.** The terms set forth herein constitute the sole terms and conditions upon which AMP offers goods for sale. No other terms, conditions, or understandings, whether oral or written shall be binding upon AMP, unless hereafter made in writing and signed by an authorized representative of AMP. AMP hereby specifically objects to any different or additional terms that may be contained in Buyer's purchase order.

STEEL, ALUMINUM, NICKEL, BRASS AND COPPER

THE ABOVE PRODUCTS, IN THEIR NATURAL STATE, DO NOT PRESENT AN INHALATION, INGESTION OR CONTACT HEALTH HAZARD; HOWEVER, PROCESSING OPERATIONS (INVOLVING THESE MATERIALS) SUCH AS WELDING, BURNING, SAWING, BRAZING, GRINDING AND MACHINING MAY PRESENT A RESPIRATORY, SKIN OR EYE HAZARD. SEE MATERIAL SAFETY DATA SHEETS FOR FURTHER INFORMATION.

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