

Specialty Foundry Products, Inc.

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SALES TERMS AND CONDITIONS

These terms and conditions of sale ("Terms and Conditions") apply to all sales of Products and Services (as defined herein) to you, the buyer, ("Buyer"), by Specialty Foundry Products, Inc. ("Seller") unless superseded by the terms of a separate written agreement between Buyer and Seller.

1. **SCOPE AND APPLICABILITY:** All products, materials, supplies or other goods (the "Products") and foundry-related construction work (the "Services") sold by Seller to Buyer shall be made in accordance with and shall be governed by these Terms and Conditions. These Terms and Conditions (a) constitute an offer by Seller to Buyer to sell the Products or Services for the Price (as defined herein) and pursuant to the terms set forth herein and (b) are not an acceptance of the terms or conditions of any offer of the Buyer. Acceptance of this offer is expressly conditioned upon and limited to the provisions of these Terms and Conditions. Acceptance of this offer shall be deemed to occur on the earlier of (A) the mailing or delivery of Seller's order acknowledgment to Buyer, (B) the commencement of the production of manufacturing of all or any portion of the Products or Services, (C) or the shipment or commencement of all or any portion of the Products or Services to the Buyer. In the event of any additional, different or conflicting provision contained in any document of Buyer or Seller relating to the Products or Services, including, but not limited to, any purchase order of Buyer, the Buyer expressly agrees that (i) these Terms and Conditions shall exclusively apply and govern and (ii) that the Buyer's additional, different and/or conflicting provisions shall not become a part of these Terms and Conditions or Seller's offer to sell the Products or Services to Buyer. Buyer and Seller agree and intend that the battle of the forms Section 2-207 of the Uniform Commercial Code shall not apply to these Terms and Conditions, and it is Buyer and Seller's understanding and intent that these Terms and Conditions shall exclusively control the relationship of the parties. These Terms and Conditions constitute a valid, binding contract between Buyer and Seller even in the absence of a signed, written agreement.

2. **PRICE:** The purchase price (the "Price") for the Products and Services shall be the total, gross amount that is set forth on Seller's sales invoice (the "Invoice") that relates to the Products or Services, plus any taxes (as described in Section 4). Buyer hereby grants, pledges and assigns to Seller a security interest in all Products and Services as security for Buyer's prompt and full payment of the Price. All price quotes and sales offers from Seller to Buyer will be in writing and will be valid for a period of thirty (30) days from the date of such quote or offer unless otherwise indicated by Seller.

3. **PAYMENT TERMS:** Unless otherwise stated in Seller's Invoice, Buyer shall pay the Price in full to Seller within thirty (30) days after the date of the Invoice.

4. **TAXES:** In addition to the Price, Buyer shall pay Seller the amount of all taxes, excises or other governmental charges that Seller may be required to pay on the manufacturing, refining, production, packaging, sale or transportation of any Products or Services sold hereunder.

5. **SHIPMENTS:** Unless otherwise agreed, all sales shall be F.O.B., Seller's distribution warehouse. Buyer expressly agrees and acknowledges that Seller shall have the sole and exclusive right, exercisable from time to time and at any time, to determine the carrier(s) (the "Carrier") that will be used to ship from any factory, distribution warehouse or other intermediary storage point and to select the routing of shipments. All freight bills are to be paid by Buyer, unless otherwise agreed. Claims for any damages to goods or materials in transit shall be made solely against the Carrier. No claim of any kind shall be greater in amount than the Price of the Products or Services made the basis of the claim.

6. **TITLE AND RISK OF LOSS:** Seller shall have title to the Products and bear the risk of the loss of the Products at all times until the Products are delivered to the Carrier. Title to the Products and risk of loss of the Products shall be in and remain with Buyer from the date and time that the Products are delivered to the Carrier.

7. **INSPECTION; CLAIMS; BUYER'S REMEDIES:** Buyer shall promptly inspect the Products and Services upon delivery or completion. If Buyer does not accept delivery of the Products, then Seller, at its sole discretion, may charge up to a thirty-five percent (35%) restocking fee. Unless Buyer provides to Seller a written notice of claim of nonconformity within thirty (30) days after such delivery, Buyer's receipt of any Products delivered or Services provided hereunder shall be an unqualified acceptance of, and a waiver by Buyer of any claims with respect to, such Products or Services. Buyer assumes all risk and liability for the results obtained by the use of Products delivered hereunder in the manufacturing processes of Buyer or in combinations with other substances. The sole and exclusive remedies of Buyer, any user of the Products or Services, or any third party are: (a) in any case other than Seller's delivery of nonconforming Products or Services, to receive repayment of the amount paid by Buyer to Seller, provided that such amount is not in excess of the Price; and (b) in the case of Seller's delivery of nonconforming Products or Services, to return the Products (and to the extent practicable any materials provided in conjunction with the Services) and at Seller's sole and exclusive option, to (i) receive repaired or replaced Products or conforming Services or (ii) receive repayment of the amount paid by Buyer to Seller, provided that such amount is not in excess of the Price. No cause of action of Buyer, any user of the Product(s) or Services or any third party concerning, relating to, or arising out of the Products or Services provided hereunder may be commenced later than one (1) year after any such cause of action accrued.

8. **WARRANTIES:** All Products shall conform to manufacturer's specifications at the time of shipment from Seller's distribution warehouse or other intermediary storage point. **ALL PRODUCTS AND SERVICES ARE PROVIDED ON AN "AS IS" BASIS. SELLER**

MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY, STATUTORY OR OTHERWISE, CONCERNING PRODUCTS OR SERVICES SUPPLIED PURSUANT THESE TERMS AND CONDITIONS OR ANY CONTRACT TO WHICH THEY MAY APPLY, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY OF MERCHANTABILITY. THE WARRANTIES GIVEN UNDER THIS SECTION ARE EXCLUSIVELY IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED. ANY WARRANTY, EXPRESS OR IMPLIED, NOT SPECIFICALLY STATED IN THESE TERMS AND CONDITIONS, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR WARRANTY OF MERCHANTABILITY, IS HEREBY EXPRESSLY DISCLAIMED. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER, ANY USER OF THE PRODUCTS OR SERVICES, OR ANY THIRD PARTY FOR LOST PROFITS, LOSS OF BUSINESS, LOST PRODUCTION, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR OTHER DAMAGES WHATSOEVER ARISING OUT OF OR RELATED TO THE USE OR PERFORMANCE OF THE PRODUCTS OR SERVICES, OR FROM THE NON-DELIVERY, DELAYED DELIVERY, DAMAGE TO PRODUCTS, DEFECT IN SERVICES OR OTHERWISE. IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE ACTUAL PRICE PAID BY BY BUYER FOR THE PRODUCTS OR SERVICES. BUYER EXPRESSLY ASSUMES ALL RESPONSIBILITY FOR DETERMINING THE FITNESS OF SUCH PRODUCTS OR SERVICES FOR BUYER'S INTENDED USE. ANY TECHNICAL INFORMATION, PRODUCT LITERATURE, SELLER TECHNICAL ASSISTANCE OR OTHER INFORMATION IS GIVEN TO AND ACCEPTED BY BUYER AT ITS OWN RISK AND IS NOT A WARRANTY BY SELLER TO BUYER.

9. **GENERAL INDEMNITY:** Buyer assumes all risk and liability for, and shall defend, indemnify and hold Seller harmless on an after-tax basis from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses, including reasonable attorney fees and expenses, of whatsoever kind and nature imposed on, incurred by or asserted against Seller, in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, possession, use, selection, delivery, operation, condition, sale, return or other disposition of Products or Services or any part thereof provided to Buyer (including, without limitation, any claim for latent or other defects, whether or not discoverable by Buyer or any other person, any claim for negligence, tort or strict liability, any claim under any environmental protection or hazardous waste law and any claim for patent, trademark or copyright infringement, whether or not caused by or contributed to, or alleged to have been caused by or contributed to, Seller's sole or concurrent negligence or breach of any statutory duty). In this section, "Seller" also includes any director, officer, employee, agent, successor or assign of Seller. Buyer's obligations under this section shall survive the expiration, cancellation or termination of these Terms and Conditions.

10. **SELLER'S REMEDIES:** In the event Buyer fails to accept any proper shipment or delivery hereunder, or fails to make prompt payment of the Price for any Products or Services covered by these Terms and Conditions, or in the case of the bankruptcy or insolvency of Buyer or the appointment of a receiver for Buyer or in the event that a petition in bankruptcy is filed by or against the Buyer, then Seller shall be excused from tendering any Products or Services not already delivered or completed hereunder and Seller at its sole option and without prejudice to any other legal rights and remedies may (a) invoice any or all undelivered or incomplete Products or Services at Seller's convenience and recover from Buyer the Price thereof, plus interest at the highest legal rate from the date on which such Products or Services should have been delivered or performed hereunder, together with all carrying charges, and Seller shall not be obligated to deliver such Products or perform such Services until full payment, including interest and carrying charges shall have been made, (b) cancel all obligations of Seller, (c) dispose of any or all undelivered Products, with or without notice, with Buyer paying all damages and expenses resulting to Seller therefrom, (d) stop shipments and deliveries of any and all Products which may then be in transit and retake title and possession thereof and dispose of the same with or without notice in any market at the best price obtainable and hold Buyer liable for all damages and loss resulting therefrom, (e) immediately and with or without notice stop performance of any Services provided or performed hereunder, (f) require Buyer to return, at Buyer's sole expense, any Products provided by Seller to Buyer for which any amount owed to Seller is past due, (g) repossess, by itself or its agent, any and all Products or other materials provided to Buyer for which any amount owed to Seller is past due, (h) enter the premises where such Products and/or materials are located and remove them, (i) use such premises without charge to store or show the Products and/or materials for resale up to 90 days, and (j) may demand that Buyer cease using such Products or Services, including any equipment that in any way utilizes Seller's Services. In addition, Buyer shall pay all costs, expenses and damages incurred by Seller because of Buyer's default or its actions under this section, including, without limitation any collection agency and/or attorney fees and expenses, and any costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Products or Services provided to Buyer. Notwithstanding any of the foregoing, Seller may sue to enforce Buyer's performance of its obligations and/or may exercise any other right or remedy then available to Seller at law or in equity.

11. **INTEGRATION, AMENDMENT:** These Terms and Conditions constitute the entire agreement between the parties with respect to the matters set forth herein, superseding all terms, promises, warranties and conditions. Salesmen, representatives or local brokers have no authority, actual or apparent, to make or modify these Terms and Conditions. In no event shall these Terms and Conditions be deemed to be amended, modified or changed in any manner whatsoever (including but not limited to by reason of trade usage or course of dealing) except and unless Seller provides its written agreement to such amendment, modification or change. Buyer may not assign any portion of these Terms and Conditions without receiving the prior written consent of Seller.

12. **FORCE MAJEURE:** Seller shall not be responsible for any delay in performance or nonperformance as a result of any cause beyond its control, including without limitation, government actions, shutdowns, strikes, labor disputes, accidents, pandemic or community illness, breakdowns, inability to secure transportation or materials, fires, floods, weather conditions, delays in transportation, or inability to obtain, at reasonable prices, utilities or operating materials or machinery.

13. **APPLICABLE LAW:** These Terms and Conditions are governed in all respects, including but not limited to integration, interpretation, construction and performance, in accordance with the laws of the State of Alabama. Pursuant to these Terms and Conditions, Buyer, its employees, agents and assigns hereby unconditionally and irrevocably consent to jurisdiction and venue in the Circuit Court for Jefferson County, Alabama in any action arising out of or related to Seller's sale, shipment, provision and/or installation of Products or Services, including but not limited to actions brought by third-parties against Buyer or Seller.

14. **NO WAIVER:** Except as otherwise set forth herein, no failure of Seller to exercise any of its rights hereunder shall constitute a waiver of said right, nor shall Seller's waiver of any right hereunder constitute a waiver of any other right, nor shall any waiver by Seller constitute a continuing waiver. Except as otherwise set forth herein, no waiver by Seller shall be binding unless executed in writing by Seller.

15. SEVERANCE CLAUSE: In the event one or more of the provisions contained in these Terms and Conditions or any part thereof shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, and these Terms and Conditions shall be construed as if the invalid, illegal or unenforceable provision had never been contained therein. The remaining provisions of these Terms and Conditions shall continue in full force and effect.