

Condition and Terms of Sale

The following terms of sale shall be applicable to all sales, made by Elite Stainless Steel, Inc. except where it is otherwise expressly agreed in writing. Acceptance of delivery of any or all goods ordered by a purchaser shall constitute assent by the purchaser to these terms of sale.

Prices - 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 you, and any increase or decrease in transportation charges shall be added to the quoted price. We reserve the right to correct any obvious errors in specifications or prices.

Taxes – Any taxes which, under any existing or future law, we may be required to pay or collect with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the goods or services covered shall, if not separately shown, be added as a separate item to the quoted price, and shall be paid by you to us on demand. The foregoing shall not apply to any taxes, the payment or collection of which by us is excused by reason of delivery to us of valid tax exemption certificates.

Quantities – If it is indicated that any item is to be shipped from a producing mill, the producing mill may, on certain commodities reserve the privilege of shipping over or under the ordered quantity in accordance with established percentages, which will constitute full and complete shipment of the material, specified.

Terms of Payment – Unless otherwise expressly provided, payment shall be due 30 days from date of each invoice, without discount. Any cash discount, which may be expressly provided, applies only to the sale price of the goods at the shipping point, and does not apply to any charges made for taxes, storage, loading or transportation. Buyer agrees to pay all related collection costs incurred by seller.

Deliveries – Any delivery schedule indicated is based on our present estimate of the time required to ship after receipt of your order and in case of any item which it is indicated is to be shipped from a producing mill upon current production schedules of the producing mill. In the event of any delay in our performance due in whole or in part to any cause behind our reasonable control, we shall have such additional time for our performance as may be reasonably necessary under the circumstances. Acceptance by you of any goods shall constitute a waiver by you of any claim for damages on account of any delay in delivery of such goods.

Suspension of Performance – If in our judgment reasonable doubt exists as to your financial responsibility, or if you are past due in payment of any amount owing to us, we reserve the right, without liability and without prejudice to any other remedies, to suspend performance, decline to ship, to stop any material in transit, until we receive payment of all amounts owing to us, or adequate assurance of such payment whether or not due.

Shipments – Unless otherwise expressly stated, carrier or other means may select shipment by us.

Warranty – WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM AND EXCLUDE ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Tolerances and Variations – All goods shall be subject to tolerances and variations consistent with usual trade practices.

Claims – If any goods received by you are damaged, or if the quantities received by you do not agree with the quantities indicated on the shipping documents, and if you intend to assert any claim against us on this account you shall mark an exception on your receipt to the carrier and shall, within 10 days after receipt of such goods, you shall afford us a reasonable opportunity to inspect such goods. Any action for our breach of this contract must be commenced within 3 days after the cause of action shall accrue, and you may maintain no such action, which is not commenced within such period.

Limitation of Liability – Your exclusive remedy for breach of contract as to any term hereof, and our only liability for any such breach, shall be replacement or repair of such goods, or repayment to you of the purchase price paid by you for such goods, whichever such remedy we shall select, and if we elect to repay the purchase price of any such goods and so advise you, you must return such goods to us immediately. In no event will we be liable for incidental or consequential damages.

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 us or any producing mill, as we may elect, even though you are charged in whole or in part for the cost of such tools, dies and fixtures.

Patent Infringement – If any of the goods are to be furnished to your specifications, you agree to indemnify us and our successors and assigns, against all liabilities and expenses resulting from any claim of infringement of any patent in connection with the production of such goods.

Government Contracts – Where you have indicated that your order is placed under a prime contract with the United States Government or a subcontract there under and have designated any one or more of the clause contained in the Armed Services Procurement Regulations as presently in effect, such clauses so designated are incorporated herein only to the extent they are required by any Federal statute or regulation or by the terms of your prime contract or subcontract.

Compliance With Laws – Any clause required to be included in a contract by any applicable law, or by any administrative regulations having the effect of law, is hereby incorporated herein.

Cancellation – A contract may be cancelled or modified only by written agreement between us, except as otherwise provided in “Government Contracts” hereof. Your insistence upon canceling or suspending fabrication or shipment, or your failure to furnish specifications when required, may be treated by us as a breach of contract by you, and we may cancel any unshipped balance without prejudice to any other remedies we may have.

Set-Off – You authorize us to apply toward payment of any monies that become due us hereunder any sums, which may now or hereafter be owed to you by us.

Entire Agreement – The terms set forth herein constitute the sole terms and conditions upon which we offer goods for sale. No other terms, condition or understanding, whether oral or written shall be binding upon us, unless hereafter made in writing and signed by our authorized representative. Any purchase order you issue to us shall constitute you unconditional agreement to be bound exclusively by the foregoing Conditions and Terms of Sale. We hereby specifically object to any different or additional terms that may be contained in your purchase order.

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Company Name of Purchaser _____

Officer of Company _____

Acceptance (sign) _____

Date _____