



## Terms and Conditions

The sale of goods to Buyer by Seller is expressly made conditional on Buyer's assent to all terms and conditions contained in any form supplied by Buyer to Seller, including but not limited to, the following terms and conditions:

1. Prices and Taxes. All prices are subject to change, without prior notice to Buyer, to reflect any increase or decrease in Seller's cost resulting in fluctuations in the price of aluminum. Buyer agrees to pay the prices in effect at time of shipment.

In addition to the price of goods sold to Buyer, Buyer shall assume and pay all sales, use, excise, license, property and/or other fees, together with any interest and penalties, relating to the sale of any goods or services to Buyer, and Buyer shall indemnify Seller and hold Seller harmless from any claim or liability for any such tax, along with any interest, penalties or expense in connection with them.

2. Delivery; Risk of Loss. Delivery terms are as stated on the face of this document. Any estimated delivery date shall constitute Seller's best estimate based on scheduling requirements at the time the order is entered. Seller shall not be liable for delivery on any specific date, or within any specified period of time. The standard shipping tolerances are as follows, less than 250 kg +/- 25%; 250 kg to 449 kg +/- 20%; 450 kg to 899 kg +/- 15%; 900kg and over +/- 10% and Buyer agrees to accept orders shipped in accordance with such shipping tolerances. Orders reading DO NOT UNDERSHIP will be subject to double the over shipment tolerance. Orders reading DO NOT OVERSHIP will be subject to double the under shipment. Unless otherwise agreed in writing, Seller reserves the right to make partial shipments. Claims for shortage in quantity or for damage in shipment due to negligence shall be deemed waived unless presented to Seller in writing within ten (10) days after delivery. Title, risk of loss or damages, and other incidents of ownership shall pass to Buyer upon due tender of goods for delivery at the f.o.b. shipping point.

3. Payment Terms. Payment terms shall be those stated on the face of this document. Remittance shall be directed by Seller. Interest at the rate of one and one-half (1-1/2%) per month, or whatever lesser maximum amount is allowed by law, will be paid by Buyer on any unpaid amounts from and after their due dates.

4. Credit Approval. If, during the performance of any order placed by Buyer, the financial responsibility of the Buyer is determined at the sole discretion of Seller to be unacceptable for any reason, or if Buyer fails to make any payments in accordance with the terms hereof, Seller may cancel this order and/or refuse to deliver any undelivered goods, all goods in process, all tools and dies relating to the order, and for all other damages including, but not limited to, loss of profits caused by Buyer's default. The foregoing rights are without prejudice to any other lawful remedy.

5. Warranty. Seller warrants that all goods sold to Buyer shall be free from defects in material and workmanship for a period of thirty (30) days from the date of shipment, and will meet the specifications on the face of this document. THIS EXPRESS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES WHETHER EXPRESSED OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING ANY WARRANTY THAT THE GOODS ARE FIT FOR ANY PARTICULAR PURPOSE. Defective material may be returned to Seller after inspection by Seller and upon receipt of written shipping instructions from Seller. Goods so returned will be repaired or replaced at Seller's option. No freight will be allowed on any credit.

6. Limitation of Liability. Seller's liability is expressly limited to the repair or replacement of defective material. SELLER SHALL NOT BE LIABLE TO BUYER, EITHER DIRECTLY OR BY WAY OF

CONTRIBUTION OR INDEMNITY, FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER or for any loss, damage, or expense directly or indirectly arising from the purchase or use of the material or from any other cause including, but not limited to, property damage, lost profit, damages based on loss of use of the product, or damage for cover.

7. Specifications and Tolerances. Buyer acknowledges that any order placed by Buyer is accepted by Seller with the understanding that the goods will be produced in accordance with specifications and/or blueprints on hand in Seller's files, or furnished to Seller with Buyer's order and specifically agreed to and accepted by Seller in writing. All manufacturing tolerances are to be in accordance with Seller's standards. Seller assumes no responsibility for any changes in specifications and/or blueprints, unless such changes are confirmed in writing by Buyer and agreed to in writing by Seller. Any price variation resulting from such changes shall become effective immediately upon acceptance of such changes.

8. Force Majeure. Seller shall not be liable for any failure or delay of performance under this document in any way from any action, order or requirement of any local, state or federal governmental agency which would curtail or force cessation of Seller's operations intended for use in producing the goods or make such operation economically unfeasible in Seller's opinion, including unavailability of government owned equipment for any reason, and Seller shall not be liable for any failure or delay of performance under this document due to causes beyond its control including, but not limited to, acts of God or public enemy, floods, fires, earthquakes, hostilities, war (declared or undeclared), acts of either general or particular application of any de jure or de facto government or any of its subdivisions, bureaus or agencies, strikes or other labor troubles whether direct or indirect, riots, insurrections, civil commotions, loss or shortage of labor, transportation, raw materials or energy sources, or failure of usual means of supply. Should a failure or delay in Seller's performance occur because of any of the foregoing. Seller shall have the option of either canceling Buyer's order or delaying the performance of the delivery of goods for any reasonable period of time, during which time these terms and conditions shall remain in full force and effect. Seller shall promptly notify Buyer as to the reason for its failure or delay in performance, and as to whether it has canceled Buyer's order or has delayed performance under this document. If performance is delayed, Seller also shall notify Buyer as to the period of time during which the delay is likely to continue. Seller then shall have the further right to allocate its available goods between its own end uses and its customers in such a manner as Seller may consider equitable. Seller's liability for failure or delay in performance for any cause whatsoever, whether beyond Seller's control or not, shall not include incidental or consequential damages.

9. Tools/Dies. Any equipment, including jigs, dies, tools, etc (the "Equipment") which Seller constructs or acquires solely for use in the production of the goods described in this document shall be Seller's property and Seller shall at all times have the right to sole and exclusive possession and control of the Equipment. Any charges made by Seller for any Equipment shall not confer on Buyer any right of any kind with respect to Equipment, except the right to have Seller use the Equipment exclusively for the manufacture of the product described in this document for Buyer for a period of two years. Seller shall have the right to make such disposition or use of the Equipment as it considers to be appropriate in its sole and exclusive judgment, including scrapping, the Equipment, unless Buyer pays an Equipment storage fee of \$100 per die/tool per year.

10. Patent Indemnity.

A) BY SELLER. Seller agrees to hold Buyer harmless from liability, including costs and expenses in the event of any claim of direct but not contributory patent infringement arising from the designs or processes of manufacture used by Seller provided such designs or processes originated with Seller and provided that Seller is notified in writing within ten (10) days after any such claim is made and is tendered the defense of any suit instituted against Buyer therefore.

B) BY BUYER. Buyer agrees to hold Seller harmless from liability including any costs and expenses in the event of any claims of patent infringement arising out of the manufacture and/or sale of any article which is manufactured by Seller to Buyer's specifications or requirements.

11. Special Containers/Pallets. Unless otherwise specified, prices do not include the cost of special

containers in which merchandise is packaged and shipped or of special pallets. These articles are the property of the Seller and shall be returned at Seller's expense in accordance with Seller's written instructions.

12. Remittances. Seller may instruct that remittances shall be sent to its bank or other receiving agency or depository. No receiving agency or depository has authority to settle claims for Seller or to accept payment tendered as payment in full. Therefore, Buyer agrees that notwithstanding any endorsements or other legend appearing on Buyer's checks, drafts or other orders for payment of money, they shall not constitute payment in full or settlement of account by virtue of such endorsement or legend, or otherwise.

13. Cancellation. No order received by Seller shall be countermanded, canceled or altered by Buyer, nor shall Buyer otherwise cause the work or shipment to be delayed expect with the prior written consent of Seller and upon the terms and conditions approved by Seller in writing. Orders canceled by such consent are subject to compensation for labor, materials, and overhead, plus fifteen percent (15%). Upon payment of such cancellation charges, all such raw materials and work in process shall be delivered to Buyer f.o.b. Seller's plant.

14. Export Shipments. These additional terms and conditions apply to export shipment only:

A) Notwithstanding warranties stated above, inspection by Buyer and final acceptance are to be at Seller's facility prior to shipment, whether or not Buyer has so inspected the product. Seller shall have no liability or responsibility to Buyer for damages of any kind whatsoever caused by any defect or condition which such inspection should have revealed.

B) Current export regulations of the Canadian Government may require that an export license be obtained to export goods of the type described in the document. It is Buyer's sole responsibility to obtain such license prior to the estimated manufacturing period. Seller shall have no liability whatsoever arising out of delays or added costs resulting from Buyer's failure to fulfill this responsibility.

C) Buyer shall supply an import license if required.

D) The right is reserved to place in storage for Buyer's account any material not shipped promptly.

E) The Seller reserves all rights to any drawback of Canadian Customs Duties, if obtainable.

F) All payments are to be made in the currency indicated by Seller.

G) Any claim or controversy arising out of or relating to this contract, the breach thereof, or the goods described on the face of this document shall be settled by arbitration to be held and conducted in Chatham, Ontario in accordance with the commercial arbitration rules of the applicable arbitration association.

15. Proprietary Data. All drawings, specifications, and technical material submitted by Seller and any extrusion or metallurgical technology developed in the manufacturing process are the property of Seller, are confidential, and shall not be disclosed to or discussed with others. All such drawings, specifications and technical material, and all models or samples submitted to Buyer or in carrying out any transaction based thereon shall be returned to Seller on demand. Drawings and other descriptive matter furnished by Seller are not binding as to detail unless certified correct in writing by Seller in acknowledging an order relating to such goods.

16. Place of Contract. All orders are subject to final acceptance by Seller at its manufacturing facility. The terms and conditions of this document shall apply to and govern any resulting order and in case of any inconsistency between these terms and conditions and those of Buyer's purchase order, Seller's terms and conditions shall prevail. Any contract arising out of the placing of any such order and the acceptance thereof as provided in this document shall be construed in accordance with the laws of the Province of Ontario, Canada.

17. Entire Agreement. The terms and conditions of this document shall constitute the sole and exclusive agreement between Buyer and Seller relating to any resulting order, and they shall not be altered, amended, modified or rescinded except by a writing signed by the Buyer and Seller. No waiver of a breach of any provision of this document shall constitute a waiver of any other breach or of such provision. Buyer may not assign its right and/or obligations under this document without Seller's prior written consent.