

CHAMPAGNE METALS, LLC'S TERMS AND CONDITIONS OF SALE

These Terms and Conditions (the "Agreement") shall govern all sales of services and products by CHAMPAGNE METALS, LLC ("Seller") to its customers (hereinafter "Purchaser") whether resulting from a quotation, estimate, written purchase orders, phone orders, electronic data interchange, or any other means (collectively, the "Orders"). Please read these terms and conditions carefully. These terms and conditions materially affect the parties' obligations. Seller will do business only on the terms and conditions set forth herein.

1. **Acceptance; Contrary Terms; Agreements Of Sale.** The Terms and Conditions set forth herein shall become part of any offer to sell goods, materials, and/or services. Any term and/or condition of an Order, that is different from, in addition to, or inconsistent with the terms and conditions contained in this Agreement shall not be binding on Seller or applicable to the metal processing or shipment of material which is the subject of this Agreement, is expressly rejected and shall not become a part of the Order. Seller makes sales of its metal processing services and products only under the terms and conditions of this Agreement unless otherwise agreed to in writing by a duly authorized representative of Seller. Purchaser agrees that the existing condition of material supplied by Purchaser have been engineered or designed solely by Purchaser to withstand the metal finishing treatment necessary to obtain the results specified by Purchaser in the Order. Seller's receipt of Purchaser's conflicting form or any document related to an Order which contains terms and conditions different from or additional to those in this Agreement or the offer submitted by Seller irrespective of materiality is hereby objected to and shall be excluded from the agreement between Seller and Purchaser unless Seller agrees to such changes in writing. Purchaser further acknowledges that Seller has not provided Purchaser with any engineering or design services. Purchaser is relying solely upon its own engineering and design in placing an Order with Seller.

2. **Payment Terms.** Purchaser will pay Seller's invoices net thirty (30) days after receipt by Purchaser of such invoice unless otherwise indicated therein. Acceptance or processing of Orders shall be subject to approval by Seller's credit department. If Purchaser falls to comply with payment terms set forth in Seller's invoice, Seller may suspend and/or defer processing under any Order made by Purchaser, revise the payment terms or price for processing, or cancel the remaining unprocessed Orders in addition to any other remedy which Seller may be entitled. Seller may also require satisfactory assurance(s) of performance from Purchaser prior to completing and/or delivering an Order. Any tax, duty, or freight charge which Seller is obligated to pay or collect will be for the account of Purchaser and may be added to the contract price. Seller retains a lien on all goods and materials until receipt of payment in full.

3. **Title. Risk of Loss. Returns.** Title to and risk of loss of all shipments of finished goods and materials passes to Purchaser upon delivery to carrier at Seller's facility. All shipment and freight costs will be charged to Purchaser, unless otherwise stated on a quotation signed by an authorized representative of Seller. Any additional Inspection of goods and materials is solely at Purchaser's expense. Purchaser must obtain a return authorization number and return instructions from Seller prior to returning any goods or materials not complying with Purchaser's Order. Seller shall not accept any return that does not have a return authorization number and that was not rejected at delivery. Purchaser assumes responsibility for inspecting at the time of delivery, whether delivery occurs at Purchaser's facility or elsewhere, and promptly notifying Seller of any nonconformity to Purchaser's finishing and treatment specifications. Purchaser agrees that time is of the essence.

4. **Late Fees/Costs of Collection.** All invoices unpaid beyond terms of sale are subject to an interest charge of 1.5% per month or the maximum interest rate permitted by applicable law. Purchaser agrees to all costs of collection, including Seller's reasonable attorney fees and cost if referred to an attorney for collection.

5. **Limited Warranty.** Seller warrants that the treatment and/or finishing of the parts by Seller will fairly meet Purchaser's written specifications therefor at the time of Order, and that the metal finishing will be conducted in a good and workmanlike manner. Seller's warranties for workmanship shall be limited to workmanship defects solely attributable to Seller which arise within 90 days from the date Purchaser takes delivery. All other warranties, excluding those disclaimed or limited herein, shall be limited solely to the warranties provided by the original manufacturer or supplier of the goods or materials and under no circumstance shall Seller's obligation exceed such warranty provided by the original manufacture or supplier of the goods or materials. Purchaser further acknowledges that Seller has not provided Purchaser with any engineering or design services. Purchaser is relying solely upon its own engineering and design in placing an Order with Seller. It is Purchaser's sole obligation to determine if the goods, materials or services ordered from Seller meet Purchaser's requirements and intended uses.

IT IS HEREBY ACKNOWLEDGED THAT SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND HEREBY EXPRESSLY DISCLAIMS ALL SUCH WARRANTIES. Any further processing, assembly or other work performed on goods or materials after processing by the Seller is at the Purchaser's risk and Seller disclaims all warranties. No claim will be considered after ninety (90) days of delivery to Purchaser, except by written agreement signed by a duly authorized representative of Seller.

6. **Limited Liability.** Purchaser's exclusive remedy for breach of contract, breach of warranty or any other claim is limited to a refund of processing charges or replacement of product, as the Seller shall elect. Seller shall not be liable for any other damages, whether direct, indirect, incidental, or consequential, including but not limited to, loss of profits, loss of production, sorting or containment costs, recall or any other losses, expenses or liabilities allegedly occasioned by the goods or materials provided or work performed by Seller. Seller and Purchaser agree that no third party beneficiaries are created by this Agreement.

7. **Inspection; Rejection.** Goods purchased from Seller by Purchaser are subject Purchaser's obligation to conduct a timely inspection. Goods not rejected within 90 days will be deemed accepted by Purchaser.

8. **Excusable Delays.** Seller is not responsible for any delay or deficiency in production or shipment of parts caused in whole or in part by: acts of God, riots, wars, terrorism, fires, explosions, breakdowns, or accidents; strikes or other labor difficulties; lack or shortage of labor, materials, utilities, energy sources, or transportation facilities; inability to procure supplies and/or raw materials; delays of carriers; compliance with governmental rules, regulations, priorities; allocations, or other governmental requirements; or any other cause beyond Seller's control.

9. **Cancellation by Purchaser.** Purchaser may cancel this Agreement or any Order only upon written consent from Seller on terms acceptable to Seller, including indemnification of Seller against

any loss from cancellation.

10. **General.** This Agreement is the entire agreement of Seller and Purchaser with respect to its subject matter. The parties may amend this Agreement only by a writing signed by the parties. In the event that one or more clauses of this Agreement are found to be unenforceable, illegal or contrary to public policy by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect. Any failure of Seiler to insist upon strict performance of any term of this Agreement shall not waive its right to strict performance thereafter.

11. **Confidential Information.** The terms all sales and services provided by Seller, Seller's proposals, quotations, processes, data, documentation, pricing and operations shall be considered confidential and proprietary and Purchaser shall not such information or other details concerning any Order placed by Purchaser to any third party without the express written consent of Seller.

12. **Inconsistent Terms; Errors and Omissions.** Should any requirement or provision of a bid, quote, invoice or any attachment thereof submitted by Seller to Purchaser conflict with any other requirement or provision or should any pertinent specification or term be ambiguous or lacking, it is the Purchaser's responsibility to notify Seller in writing of such ambiguity or conflict for resolution. Seller's determination as to the governing requirement shall be final. Seller's receipt of Purchaser's conflicting form or any document related to an Order which contains terms and conditions different from or additional to those in this Agreement or the offer submitted by Seller irrespective of materiality is hereby objected to and shall be excluded from the agreement between Seller and Purchaser unless Seller agrees to such changes in writing.

13. **INDEMNITY.** Purchaser assumes all responsibility and sole liability for any claims or actions based upon or arising out of (i) injuries, including but not limited to death, to persons, or (ii) property damages to, or destruction of property sustained or alleged to have been sustained in connection with or arising out of, or incidental to, or in any way connected with, the goods, materials or services provided by Seller, Seller's agents, employees and representatives (the "Indemnified Claims"). To the maximum extent allowed by applicable laws, Purchaser agrees to and does hereby indemnify, defend and hold harmless Seller, its directors, members, officers, employees, agents, servants and affiliates from and against the Indemnified Claims when any claim or suit or action is brought against Seller or any person so indemnified and to pay all damages, losses, costs and expenses of every kind and description including reasonable attorneys' fees incurred by Seller as a result of the claim or institution of any suit or action or the defense thereof, as well as any judgment or settlements thereof.

14. **Governing Law.** This Agreement and all matters arising out of this Agreement shall be governed by the laws of the State of Oklahoma, without regard for its choice of raw rules. Seller and Purchaser agree that any legal proceeding with respect to this Agreement shall be brought only in the District Court of Tulsa County, State of Oklahoma, or the United States District Court for the Northern District of Oklahoma and both Seller and Purchaser submit to and accept generally and unconditionally the personal jurisdiction of such courts with respect to their person and property. If Purchaser becomes insolvent, if a receiver is appointed, if there is an assignment for the benefit of creditors, or if a petition for voluntary or involuntary bankruptcy on behalf of Purchaser is filed. Seller may, without further obligation to Purchaser terminate Order or this Agreement immediately in whole or in part.

15. **Savings Clause.** If any section or part thereof contained in this Agreement is declared invalid by any Court of competent jurisdiction, such decree shall not affect the remainder of the section or any other section and each shall remain in full force and effect.