

SOUTHERN TOOL STEEL, INC. TERMS AND CONDITIONS OF SALE

ALL SALES BY SOUTHERN TOOL STEEL, INC. ("SELLER") ARE MADE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS OF SALE NOT WITHSTANDING ANY PROVISIONS SUBMITTED BY BUYER IN CONNECTION WITH PRODUCTS PURCHASED FROM SELLER ("BUYER") OR IN ANY PURCHASE ORDER OR OTHER DOCUMENTS SUBMITTED BY BUYER IN CONNECTION WITH AN ORDER WITH SELLER (COLLECTIVELY, THE "BUYER DOCUMENTS"). ISSUANCE OF ANY PURCHASE ORDER BY BUYER OR SALE OF ANY PRODUCTS BY SELLER IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THESE TERMS AND CONDITIONS. SELLER SPECIFICALLY REJECTS ANY DIFFERENT OR ADDITIONAL TERMS IN AND CONDITIONS IN THE BUYER DOCUMENTS AND NEITHER SELLER'S PERFORMANCE, NOR RECEIPT OF PAYMENT FROM BUYER SHALL CONSTITUTE ANY ACCEPTANCE OF THEM.

1. **TITLE AND RISK OR LOSS.** Unless specifically otherwise agreed in writing by Seller, title and risk of loss to all products sold to Buyer shall pass to Buyer at the time of delivery by Seller to the carrier, even in the event that the carrier is selected by Seller.
2. **DELIVERY TERMS.** Unless specifically otherwise agreed in writing by Seller, delivery to Buyer shall be made F.O.B. Seller's plant. Prices quoted by Seller to Buyer do not include transportation expenses, unless otherwise specifically stated in Seller's price quote to Buyer; Otherwise, transportation expenses will be pre-paid by Seller and added to Seller's invoice.
3. **CLAIMS.** All claims for shortages, damages or defects must be made within 5 days of receipt of products. For UPS damaged shipments: retain all packaging received, notify your local UPS office and notify us. For truck shipments: Seller is not responsible for products damaged or lost by motor freight carriers. If your shipment is damaged or short, have it noted by the carrier on the delivery receipt and notify Seller immediately. Without this notation, Buyer accepts products at its own risk.
4. **DELIVERY DATES.** All quoted delivery dates are approximate. Seller shall not be responsible for non-shipment of products or delays in delivery or performance due to causes beyond its reasonable control, including, but not limited to, acts of God; acts of Buyer; delays caused by or attributable to Seller's suppliers; strikes or other labor disturbances; Seller's inability to obtain, or material increases in the cost of, fuel, raw materials or parts; delays in transportation; delays due to repairs of Seller's equipment; fires; or accidents. Acceptance of products upon delivery shall constitute a waiver by Buyer of any claim for damages on account of non-shipment or delay.
5. **QUANTITY ACCEPTANCE.** Seller reserves the right to ship, and Buyer shall accept and pay for, up to 10% over or under the quantity of products ordered or the weight of products ordered.
6. **CANCELLATION.** Buyer's order may **not** be cancelled in whole or in part without Seller's prior written consent. Such consent shall in no event be given unless Buyer pays to Seller its costs and expenses (including, without limitation, overhead and all commitments to its suppliers and subcontractors), all as determined by Seller.
7. **INSURANCE.** Each of Buyer and Seller shall maintain all insurance that it is required by law to maintain. In no event shall Seller be required to maintain any insurance beyond that which Seller determines in its sole discretion is necessary or advisable for the conduct of its business.
8. **SUB-TIERS/SUBCONTRACTORS.** Seller is a distributor and as such is not the manufacturer of the products sold to Buyer. Therefore, Seller shall use sub-tiers/subcontractors in filling Buyer's order and Buyer expressly consents to Seller's use of such sub-tiers/subcontractors. In no event shall Seller be required to disclose the identity of any of Seller's suppliers or the terms of any agreement between Seller and any of its suppliers.
9. **BUYER'S INSOLVENCY.** Seller shall have the unrestricted right to cancel, withhold or delay its performance or delivery hereunder in the event of the happening of any of the following or any other comparable events, in which event Seller shall have no liability for any losses or damages claimed by Buyer: (i) Buyer's insolvency or commission of an act of bankruptcy; (ii) commencement of proceedings by, for or against Buyer under any law relating to bankruptcy or the relief of debtors; (iii) the appointment of a receiver or trustee for Buyer; (iv) the execution by buyer of an assignment for the benefit of the creditors, and (v) the determination by Seller, in its sole discretion, that Buyer's financial condition is such as to endanger its performance hereunder.
10. **EXPORTS.** Buyer is hereby notified that certain products, if exported or intended for export outside the United States, may be subject to United States Export Administration Regulations and other Federal laws, rules, regulations and orders (collectively, "Applicable Laws"), including, without limitation, restrictions on use by entities involved in nuclear, chemical, biological weapons and/or missile technology. Diversion, export or use of products contrary to United States law is expressly prohibited. No re-exports may be made contrary to United States law. Buyer assumes all liability related to its compliance or non-compliance with Applicable Laws. Upon Buyer's request and at Buyer's expense, Seller shall, to the extent Seller determines such information is readily available, furnish information to Buyer required for customs drawback purposes, or necessary for Buyer to fulfill any customs-related or other governmental agency-related obligations, origin marking or labeling requirements and certification or local content reporting requirements.

11. **WARRANTY DISCLAIMER.** SELLER IS A DISTRIBUTOR OF PRODUCTS. THEREFORE, ALL PRODUCTS SOLD BY SELLER TO BUYER ARE SOLD WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED. SELLER EXPRESSLY EXCLUDES AND DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, APPLICATION, OR USE. BEFORE PURCHASING, BUYER SHALL DETERMINE THE SUITABILITY OF THE PRODUCT PURCHASES FOR ITS INTENDED USE, AND BUYER ASSUMES ALL RISK AND LIABILITY RELATED TO THE APPLICATION OR USE OF THE PRODUCTS. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE SOUGHT IN CONTRACT, IN TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, AND SELLER'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS ON WHICH SUCH LIABILITY IS BASED.
12. **CERTIFICATIONS.** Material certifications are subject to charges as quoted by Seller, provided that request for such certification is given to Seller at the time of Buyer's request for a price quote and also at the time of ordering and Seller's acknowledges in writing that it that can provide such certification. Requests for material certifications after quotation has been made may not be possible.
13. **INDEMNIFICATION.** Buyer agrees to indemnify and hold harmless Seller from and against all demands, claims, suits, costs of defense, liabilities and other expenses for damage, damage to property, and for injury or injuries to or death of any person or persons in any way arising from Buyer's breach of any of these terms or conditions of sale, Buyer's use or sale of the products, and Buyer's failure to comply with any Applicable Laws.
14. **EFFECT OF INVALIDITY.** The invalidity in whole or in part of any provision of these terms and conditions of sale shall not affect the validity of any other provision.
15. **WAIVER; SET OFF.** Seller shall not, by any act, delay, omission or otherwise, be deemed to have waived any of the rights or remedies under these terms and conditions of sale, and no waiver whatever shall be valid as against Seller unless in writing, signed by an authorized representative of Seller, and then only to the extent set forth therein. Seller's waiver of any right or remedy under these terms and conditions of sale on any one occasion shall not be construed as a waiver of any right or remedy which Buyer would otherwise have on a future occasion. Buyer agrees that Seller shall have the right to set off against amounts which may become payable by Seller to Buyer under Buyer's order or otherwise, any present or future indebtedness of Buyer to Seller.
16. **JURISDICTION AND VENUE.** Buyer irrevocably and unconditionally submits to the exclusive jurisdiction of any Tennessee State court in Hamilton County, Tennessee or any federal court of the United States of America sitting in the Eastern District of Tennessee and any appellate court from any thereof, in any

action or proceeding arising out of or relating to the business relationship between Seller and Buyer or for recognition or enforcement of any judgment. Further, Buyer irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection (whether as a matter of state or federal law) that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to the business relationship between Seller and Buyer in any Tennessee State court in Hamilton County, Tennessee or federal court sitting in the Eastern District of Tennessee. Buyer irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

17. **CHOICE OF LAW.** Seller agrees that these terms and conditions of sale shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Tennessee, without giving effect to its principles of conflict of law.

END OF TERMS AND CONDITIONS OF SALE