

NSPS METALS, LLC
TERMS & CONDITIONS OF SALE
(U.S. Domestic Terms of Sale)

By placing an order (“**purchase order**”) with NSPS Metals, LLC (“**NSPS**” or “**Seller**”), the person or entity shown as “**SOLD TO**” in Seller’s acknowledgement of the order (“**Order Acknowledgement**”) or otherwise designated as the buyer in any other agreement between buyer and Seller (“**Buyer**”) agrees that these Terms and Conditions (“**Conditions**”), together with the Order Acknowledgement, form the basis of the contract between Buyer and Seller and apply to all purchase orders and other documents of Buyer that are submitted to Seller and all Order Acknowledgements of Seller. Buyer agrees these Conditions supersede and override any prior agreements, proposals, discussions among the parties, and any terms or conditions of Buyer’s purchase order. Any additional, inconsistent, or different terms or conditions contained in Buyer’s purchase order or other documents submitted to Seller by or on behalf of Buyer at any time, before or after the date hereof, shall be deemed a material alteration and not a rejection of these terms and conditions, and are hereby expressly rejected by Seller.

1. Acceptance of Orders and Seller’s Right to Modify Conditions. Buyer’s order of the goods described in Buyer’s purchase order and the Order Acknowledgement is accepted, subject to the goods Seller has on hand being applicable to the specifications stated on the face of the Order Acknowledgement or Seller’s accumulating conforming goods. Seller reserves the right to withdraw goods from sale and to modify these Conditions without prior notice. Continued acceptance of goods from Seller, the placement of additional purchase orders with Seller, and/or acknowledgement of the modified Conditions by Buyer constitutes acceptance by Buyer of Seller’s modified Conditions.
2. Title, Shipment, and Risk of Loss. All sales are FOB Delivery/Destination unless otherwise set forth on Seller’s Order Acknowledgement. Shipments and deliveries shall at all times be subject to the approval of Seller’s credit department and, in the event Seller shall have any doubt as to payment from Buyer, Seller may decline to make shipments or deliveries provided under the Order Acknowledgement, under any contract of which the Order Acknowledgement is a part, or under any other contract between Buyer and Seller. Seller shall not accept goods returned without its prior written permission. Any transportation charges incurred due to such unauthorized return shall be Buyer’s sole responsibility and liability.
3. Prices and Payment Terms. Unless otherwise specifically stated on the face of the Order Acknowledgement, “quantity” is the weight calculated using industry standard nominal gauges. If Buyer shall fail to make any payment in accordance with the terms and provisions of the Order Acknowledgement, or of any other contract of which the Order Acknowledgement is a part, Seller in addition to its other rights and remedies, but not in limitation thereof, may, at its option, cancel the Order Acknowledgement or any contract of which the Order Acknowledgement is a part, or defer shipments or deliveries under the Order Acknowledgement, or under any other contract of which the Order Acknowledgement is a part or under any contract between Buyer and Seller until such payment is made. Any increases as may occur in the tariff freight rates of transportation changes used in determining delivered prices of date of quotation or sale and on or prior to dates of shipments will be paid by Buyer.
4. Past Due Accounts. Interest at the rate of 18% per annum (or, if less, the maximum rate of interest permitted under applicable usury laws) will be charged on all past due accounts. Buyer also agrees to pay 15% of the amount of the Order Acknowledgement as attorneys’ fees or

reasonable attorneys' fees actually incurred by Seller in seeking to collect past due amounts from Buyer, whichever is greater.

5. Warranty and Limitation of Liability. THERE ARE NO WARRANTIES OR REPRESENTATIONS EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE, WITH RESPECT TO THE SUBJECT GOODS BY SELLER TO BUYER, WHICH EXTEND BEYOND THE DESCRIPTION OF THE GOODS ON THE FACE OF THE ORDER ACKNOWLEDGMENT. SELLER MAKES NO REPRESENTATION AND GIVES NO WARRANTY THAT THE MATERIALS PURCHASED BY BUYER WILL BE SUITABLE FOR BUYER'S INTENDED USE. Seller's liability under the Order Acknowledgement or any contract of which the Order Acknowledgement is a part shall, in no event exceed the purchase price of the subject goods, AND IN NO EVENT SHALL SELLER BE LIABLE FOR ANY OTHER DAMAGES, INCIDENTAL, CONSEQUENTIAL, OR OTHERWISE, ARISING OUT OF THE USE OR INABILITY TO USE THE GOODS DELIVERED TO BUYER. BUYER SHALL HAVE NO RIGHT FOR, AND AGREES NOT TO MAKE ANY CLAIM FOR, CONSEQUENTIAL DAMAGES WITH RESPECT TO ANY GOODS OR AGREEMENT SUBJECT TO THESE CONDITIONS. Seller shall not be responsible for any damages of any kind sustained by Buyer due to any reasons which are beyond Seller's control, including but not limited to, any damages directly or indirectly caused by defective material purchased by Seller from a third party; defective or unsatisfactory or improper coating, painting, embossing, or any other change or modification of the subject goods by a third party; delays by a third party in making such changes or modifications to the subject goods; labor disputes; delays in transportation; accidents; acts of God; or any other force majeure event or contingency. No waiver, alteration, addition, or modification of the warranty provided herein shall be valid unless made in writing and signed by an authorized representative of Seller and Buyer. Payment by Buyer for goods supplied hereunder shall constitute acceptance thereof.
6. Claims. Pursuant to Seller's Nonconforming Material Policy, which is incorporated herein by reference, Buyer agrees to (a) unwrap all materials upon receipt, (b) take exceptions for wet or damaged material on the delivery receipt of the subject goods and document the same in the carrier's Bill of Lading, and notify the Seller, in writing, of any damage or nonconformity within thirty (30) days after delivery of the materials, (c) report all shortages to Seller within 10 days of receipt of the subject goods, (d) submit all claim validating support documentation, with full particulars, to Seller within 10 days of Buyer's first timely notification of claim to Seller; and (e) comply with all other requirements of the Nonconforming Material Policy, including but not limited to, timely reporting moisture damage, timely reporting damage for age-related defects, and adhering to all other time-constraints for submitting claims. FAILURE OF BUYER TO COMPLY WITH ANY OF THE FOREGOING, INCLUDING INSTITUTION OF A CLAIM WITHIN THE APPLICABLE PERIODS PROVIDED, SHALL CONSTITUTE A WAIVER OF ALL RIGHTS BUYER HAS AGAINST SELLER FOR ANY CLAIM. ALL CLAIMS FOR WEIGHT DISCREPANCIES LESS THAN 1% OF THE INVOICED WEIGHT WILL BE DENIED.
7. Governing Law; Arbitration. Buyer acknowledges and agrees all contracts subject to these Conditions will be deemed to have been entered into in the State of Texas and that Buyer is doing business in the state of Texas. These Conditions and the Order Acknowledgement and such contracts shall be governed by the law of the State of Texas and shall expressly not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Any controversy or claim arising out of or relating to the contract evidenced by the Order Acknowledgement or Buyer's purchase order or the breach thereof shall be settled by

arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall be held in Houston, Texas. Buyer consents to the jurisdiction and venue of the state and federal courts serving Harris County, Texas, and agrees that any lawsuit or dispute brought by Seller or Buyer concerning these Conditions or any matter related to these Conditions shall be brought in the state or federal courts of Harris County, Texas.

8. Breach and Waiver. Seller reserves the right, in its sole discretion, to cancel any Order Acknowledgement should Seller be unable to complete shipment within the time specified by Buyer in its purchase order, or if no time is specified, within a reasonable amount of time from the date of the Order Acknowledgement. Waiver by Seller of any breach of the terms of the Order Acknowledgement, or any contract of which the Order Acknowledgement is a part, shall not be construed as a waiver of any other such breach. No waiver shall be valid unless in writing and signed by Seller.
9. Entire Agreement. The Order Acknowledgement, together with the Conditions, contains the entire agreement between the parties concerning the subject of the Order Acknowledgement, and all prior written and oral proposals, negotiations, understandings, agreements, and representations are merged therein.
10. Indemnification. Buyer agrees to defend and hold Seller harmless against all loss, expense, and damages arising from bodily injury to any person, including death resulting therefrom, and any damage to property to the extent caused by the negligence or willful acts of Buyer, its agents, or employees engaged in any work related to the goods delivered pursuant to the Order Acknowledgement; and any damage or claims of third parties related in any manner to the specifications of the goods delivered pursuant to the Order Acknowledgment.
11. Miscellaneous. These Conditions shall be binding upon the parties and their affiliates, agents, employees, successors and assigns.