

TERMS AND CONDITIONS OF PURCHASE BY PREMIER ALUMINUM, LLC

BY ACCEPTING THIS PURCHASE ORDER SELLER AGREES:

- 1. CONTRACT:** THE TERMS AND CONDITIONS SET FORTH HEREIN (INCLUDING) ANY STANDARDS AND/OR SPECIFICATIONS HEREIN, ATTACHED OR PREVIOUSLY SUPPLIED BY PURCHASER CONSTITUTE THE ENTIRE PURCHASE CONTRACT BETWEEN PURCHASER AND SELLER. THE TERMS AND CONDITIONS OF THIS PURCHASE ORDER MAY BE VARIED ONLY BY AN AGREEMENT IN WRITING SIGNED BY PURCHASER. SELLER SHALL NOT ASSIGN THIS ORDER WITHOUT PURCHASER'S PRIOR WRITTEN CONSENT.
- 2. QUANTITY:** The quantity of Merchandise delivered shall not be greater than the quantity specified and excess quantities may be returned at Seller's expense.
- 3. SHIPMENT:** The Merchandise must be suitably packed at Seller's expense, marked and shipped in accordance with any shipping instructions specified and/or the requirements of common carriers. Seller shall be liable for any difference in freight charges arising from its failure to follow shipping instructions, secure the lowest suitable transportation cost, or any damage to Merchandise caused by Seller's faulty packaging or loading. If Seller fails to meet the specified delivery dates for any reason, Purchaser may refuse to accept delivery of Merchandise or, at its option upon notice to Seller, may terminate this contract without liability.
- 4. INVOICE AND PRICE:** Seller's price shall not be higher than the price stated herein, the last price quoted or charged to Purchaser, or the prevailing market price, whichever is lowest, without the written approval of Purchaser. If any sales, use, duty, excise or other similar tax or charge, for which Purchaser has not furnished or agreed to furnish an exception certificate, is applicable to this order, it must be stated separately on the invoice.
- 5. RESPONSIBILITY:** Seller shall be responsible for any and all loss or damage to the Merchandise until delivered to Purchaser at the F.O.B. point specified herein or, if no such F.O.B. point is specified, until delivered to a common carrier or to Purchaser's plant.
- 6. INSPECTION:** All Merchandise is subject to Purchaser's inspection and testing after arrival at the ultimate destination. If upon inspection any of the Merchandise is found to be defective, of inferior quality, or fails to meet the specifications, Purchaser may return such Merchandise at Seller's expense or exercise any other rights or remedies available to Purchaser under the Uniform Commercial Code. In the event of rejection of any of the Merchandise, at Purchaser's option, the order may be cancelled without charge or expense to Purchaser.
- 7. WARRANTIES:** Seller warrants that the Merchandise will conform to its description and any applicable specifications, shall be of good merchantable quality, and fit for the known purpose for which it is sold. This warranty is in addition to any other warranties or service guarantees given by Seller.
- 8. TITLE AND LIENS:** Seller warrants that (a) the Merchandise is free and clear of all liens, encumbrances and rights of third parties and (b) Seller has good and marketable title to the Merchandise.
- 9. TOOLS AND DRAWINGS:** All designs, sketches, patterns, dies, tools and special appliances furnished or paid for by Purchaser shall be used exclusively in the preparation of goods ordered by Purchaser and shall be held by Seller at his risk and shall be replaced by Seller if lost, destroyed or damaged. Title to them shall remain with Purchaser and they shall be subject to Purchaser's disposition at any time.
- 10. COMPLIANCE WITH LAWS:** Seller shall comply with all Federal, State and local laws, regulations and orders applicable to the purchase, manufacture, processing and delivery of the Merchandise. Seller shall certify in the following or substantially equivalent words appearing on the invoice or other appropriate documents: "we hereby certify that the goods covered by this invoice or purchase order were produced in full compliance with all applicable requirements of the Fair Labor Standard Acts as amended, including sections 6, 7, and 12 thereof, and of the regulations and orders of the U.S. Department of Labor issued under Section 14 thereof and the OSHA Hazard Communication Standard, 29C.F.R. 19.10.1200," Seller agrees to provide all information requested pursuant to such laws, regulations and orders.
- 11. CANCELLATION:** Purchaser may at its option cancel any unshipped Merchandise. If this Purchase Order covers stock merchandise, Purchaser's only obligation shall be to pay for Merchandise shipped prior to the cancellation. If this Purchase Order covers Merchandise manufactured or fabricated to Purchaser's special specifications, (a) upon receipt in any manner of notice of cancellation Seller shall stop all performance; (b) provided that Seller is not in default hereunder, Purchaser shall pay to Seller the costs incurred by Seller in manufacturing and fabricating the Merchandise prior to the date of cancellation; and (c) upon such payment, title to any materials and any completed or uncompleted Merchandise shall pass to Purchaser.
- 12. TERMINATION FOR DEFAULT:** In the event of a breach by Seller of any of the terms of this Purchase Order including Seller's warranties, Purchaser may at its option and without prejudice to or limitation of any of its other rights, cancel any undeliverable Merchandise.
- 13. INDEMNIFICATION:** Seller shall indemnify, defend and hold Purchaser harmless from and against any and all claims, actions, causes of action, demands, rights, damages and costs (including attorney's fees and the costs of defending an action) arising out of any injuries or death sustained by any and all persons and damage to any property brought or asserted against Purchaser by reason of the sale or use of any of the Merchandise.
- 14. PATENTS, TRADEMARKS AND COPYRIGHTS:** Seller shall indemnify, defend and save harmless Purchaser and Purchaser's customer and users of the Merchandise from any and all loss, liability, damage, suit, claim, demand or cost (including attorney's fees and other costs of defending an action) arising from any actual or alleged infringement of any patent, copyright, trademark or trade name by reason of the sale, use and/or resale of the Merchandise.
- 15. CONSTRUCTION:** This contract shall be construed under the Uniform Commercial Code as codified in the Wisconsin Statutes, Chapters 401 through 409, and shall be interpreted under Wisconsin Law. Purchaser shall have all of the rights given to it under applicable law, and the rights provided herein are in addition only and not a limitation thereof.