

Supplier Purchase Order Terms & Conditions

Bonnell Aluminum and all subsidiary's is the purchaser referred to herein, and the seller is the person to which this purchase order ("Order") is directed, and they are hereinafter referred to as "Buyer" and "Seller," respectively.

1. ACCEPTANCE; ENTIRE AGREEMENT; MODIFICATION: This Order is for the purchase and sale of the goods and services described on the face of this Order. Acceptance of this Order shall be limited to the terms and conditions (including the terms stated on the face of this Order) contained herein and incorporated herein by reference. This Order shall be deemed accepted upon the return of the acknowledgment copy of this Order or the delivery by Seller of the goods or services ordered hereunder. Buyer rejects any additional or inconsistent terms and conditions offered by Seller at any time, whether such terms or conditions materially alter the Order and irrespective of Buyer's acceptance of or payment for Seller's goods or services. These terms and conditions constitute the entire agreement between the parties, and no change to or modification of this Order shall be binding upon Buyer unless in writing and signed by an authorized representative of Buyer's procurement or purchasing office at Buyer's place of business issuing this Order.

2. QUALITY: Seller shall provide a "Certificate of Analysis" with each shipment of goods to Buyer. Seller shall maintain an inspection and Quality Assurance/Quality Control system that is acceptable to Buyer and that conforms with any drawings, specifications and data that are part of this Order and with any QA/QC program of Buyer that is described in materials referenced on the face of this Order and incorporated herein by reference. Seller shall maintain adequate inspection and test reports, affidavits, and certifications relating to the work performed under this Order, shall retain such records for a period of ten (10) years after the completion of this Order or as otherwise specified by Buyer, and shall make such records available to Buyer immediately upon request.

3. WARRANTY: In addition to all warranties established by law, Seller warrants that the goods will conform to the specifications, drawings, samples, or other descriptions upon which this Order is based, and will be free from all defects in design, material, and workmanship. Buyer retains its right to reject any goods that are not as warranted for a period of one (1) year after receipt (and for a period of one (1) year after initial production use in the case of equipment). At Buyer's option, any goods or equipment so rejected shall either be replaced or repaired by Seller at no additional cost to Buyer or Seller shall refund the purchase price and transportation costs applicable thereto. Any goods or equipment repaired or replaced shall be warranted for an

additional one-year period after receipt or return to use thereof. Inspection, testing, acceptance, or use of the goods or services furnished hereunder shall not affect Seller's obligation under this warranty, and such warranty shall survive inspection, test, acceptance, use or payment.

4. **CHANGES:** Seller shall furnish the goods or services under the exact prices, quantities and terms and conditions hereof unless a change is agreed to in writing by an authorized representative of Buyer. Goods shipped more than quantity designated in this Order may be returned at Seller's expense. Buyer may at any time, by written notice to Seller, make changes in any one or more of the following: (a) drawings, designs, or specifications, where the goods to be furnished are to be specially manufactured for the Buyer in accordance therewith; (b) method of shipment or packing; (c) place or time of inspection, delivery, or acceptance; and (d) the quantity and/or type of goods or services ordered. Any change made by Seller without Buyer's written approval shall be deemed voluntary by Seller and not compensable in the cost of or time required for performance.

5. **CONFIDENTIALITY:** Seller shall hold in confidence and use only for Buyer's benefit any information furnished by Buyer or originated or developed by Seller as required by this Order. Buyer shall have no obligation of nondisclosure or nonuse about any information furnished by Seller except as may be expressly set forth in a separate writing signed by Buyer.

6. **TERMINATION:** Buyer reserves the right to terminate this Order at any time with respect to undelivered goods or unperformed services by written or telegraphic notice or oral notice confirmed in writing. No termination of this Order shall affect (a) any rights Buyer may have with respect to any goods delivered prior to the effective date of termination, (b) any pending dispute, or (c) any rights either party may have with respect to any breach by the other party of any provision of this Order prior to termination. All warranties, indemnities and confidentiality rights and obligations provided in this Order shall survive the termination hereof. In the event of termination, Seller shall be entitled to compensation for all goods ordered and delivered prior to the effective date of termination.

7. **PRICE:** Unless otherwise provided on the face of this Order, the prices specified herein include all packaging and transportation charges and applicable taxes and are firm for the delivery period shown. If transportation charges are prepaid and charged to Buyer, the amount thereof must be separately stated on the invoice for the goods or invoiced separately and must be supported by copies of freight bills.

8. DELIVERY: Time is of the essence with respect to all deliveries of goods and any services provided hereunder, and if delivery of conforming goods or performance of conforming services is not completed by the time(s) promised Buyer reserves the right, in addition to its other rights and remedies, to cancel this Order, to reject such goods or services in whole or in part on reasonable notice to Seller and/or to purchase substitute goods or services elsewhere and charge Seller with any loss incurred. Each package shall be numbered and labeled with Buyer's order number, stock number, contents, and weight, shall contain an itemized packing slip and shall be properly packed for shipment. Unless otherwise provided on the face of this Order, title, and risk of loss of goods shall pass to Buyer upon delivery of conforming goods to Buyer's premises.

9. INVOICES: Invoices shall (a) be rendered separately for each delivery; (b) cover not more than one Order; and (c) be tendered with the Order number noted thereon. If an invoice is subject to cash discount, the discount period will be calculated from the date the invoice is received by Buyer. Invoices shall be paid in accordance with the terms specified on the front of this Order.

10. INTELLECTUAL PROPERTY INDEMNITY: Seller shall indemnify and hold harmless Buyer from any and all claims, damages, judgments, costs (including legal fees), losses, and liabilities resulting from infringement or alleged infringement of any patent, trademark, copyright, trade secret or other intellectual property right by reason of the sale or use of any item sold to Buyer hereunder or services covered by this Order (collectively, "Claims"), and from reasonable expenses incurred by Buyer in defense of any such suit or proceeding brought against Buyer for such Claim if Seller does not undertake the defense thereof; provided, that Seller is promptly notified of any such suit or proceeding and Buyer offers Seller full and exclusive control of the defense of such suit or proceeding when products of Seller only are involved therein or the right to participate in the defense of such suit or proceeding when products other than those of Seller are also involved therein; except that, this indemnity shall not extend to Claims resulting solely from Seller's compliance with Buyer's specific designs, processes or formulas. In the event of an injunction or restraining order, Seller shall, at its own expense, either procure for Buyer the right to continue to sell and use the item or replace or modify the item so that it becomes non-infringing.

11. DESIGN RESPONSIBILITY: If this Order covers engineered equipment, machinery, materials, or products (collectively, "equipment"), it is understood that Buyer is engaging Seller primarily to design and supply such equipment, that Buyer is not designing such equipment, and that there shall be no contrary inference from the purchase specifications. Such specifications are intended to set forth Buyer's minimum requirements, with sole responsibility for design resting with Seller.

12. INSTALLATION: In the event that any goods ordered hereunder require, in connection with the installation thereof, the service of a supervisor, expert or other employee connected with or employed by Seller, and Seller agrees to furnish the same, either with or without charge, such supervisor, expert or other employee in performing such services shall not be deemed to be the agent or employee of Buyer, and Seller assumes full responsibility for his acts and omissions and exclusive liability for any payroll taxes or contributions imposed by any federal or state law dealing with any of the subjects covered by the Federal Social Security Act approved August 14, 1935.

13. INDEMNITY AND INSURANCE: Seller shall indemnify and hold harmless Buyer, its directors, officers, employees, agents and invitees from and against all liability, demands, claims, losses, costs, damages and expenses, including but not limited to legal fees, by reason or on account of property damage, death and personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with the performance or breach of this Order that is occasioned by the actions or omissions of Seller or its subcontractors or suppliers. Seller shall maintain adequate commercial general liability, employer's liability, and workers' compensation insurance to safeguard against liability for property damage and injuries to persons, including death, and any claims under workers' compensation, safety and health and similar laws and regulations, arising from Seller's performance of this Order. If requested by Buyer, Seller shall furnish evidence of such insurance in form and substance satisfactory to Buyer, and Seller shall require its insurance carriers to give Buyer 30 days written notice of any material change or alteration in or the cancellation of any policy of insurance required hereunder.

14. FORCE MAJEURE: Neither party shall be responsible or liable to the other, or deemed in breach hereof, to the extent the performance of any of its obligations hereunder is delayed or prevented due solely to causes beyond the reasonable control and without the fault or negligence of the party experiencing such delay or prevention (such causes hereinafter called "Force Majeure") provided such party complies with the requirements of this Article. Such causes may include, but shall not be limited to, acts of God; unusually severe weather; fire; war; riots; actions or failures to act on the part of governmental authorities preventing performance; or a party's inability despite due diligence to obtain required licenses. A delay or failure to perform caused by Seller's suppliers is not a Force Majeure event unless the supplier's delay or failure to perform is due solely to an event of Force Majeure as defined above. The party experiencing the Force Majeure event shall promptly give written notification to the other party. This written notification shall include a full and complete explanation of the Force Majeure event and its cause, the status of the Force Majeure event, and the actions such party is taking and proposes to take to overcome and mitigate any resulting delay in, or prevention of, its performance. The party experiencing the Force Majeure event shall exercise due diligence in endeavoring to overcome and mitigate any resulting delay in, or prevention of, its performance. The party experiencing the Force Majeure event shall undertake reasonable measures to make up for the time lost without additional compensation. At Buyer's option, the period specified for delivery of goods or performance of services hereunder shall be extended by the period of delay occasioned

by the Force Majeure event and deliveries or services omitted (or portions thereof) shall be made or performed during such extension, or the total order hereunder shall be reduced by the deliveries or services (or portions thereof) so omitted.

15. DRAWINGS, ETC.: All designs, drawings, blueprints, dies, patterns, tools, printing plates, etc. prepared or constructed by Seller and paid for by Buyer shall be the property of Buyer, and upon completion of deliveries hereunder, or upon termination of this Order, shall be delivered to Buyer.

16. COMPLIANCE WITH LAWS: Seller warrants that all goods furnished hereunder will comply with, and be manufactured, priced, sold and labeled in compliance with, all applicable statutes, laws, codes, rules, regulations, orders and ordinances, including, without limitation, environmental protection, energy and labor laws and regulations and applicable industry codes and standards.

17. FAIR LABOR STANDARDS ACT: If the goods are for sale into the United States, Seller hereby agrees that the goods will be produced and services performed in compliance with all applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act as amended and of Regulations and Orders of the U.S. Dept. of Labor issued under Section 14 thereof and agrees to so certify on its invoices if so directed by a stamp placed on the face of this Order.

18. NONDISCRIMINATION: This Order may be subject to the equal employment opportunity and affirmative action provisions of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §793, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. §4212. To the extent required by law, this Order incorporates by reference the provisions contained in the regulations of the Office of Federal Order Compliance Programs in the "Equal Employment Opportunity" clause, 41 CFR §60-1.4(a)(1)-(7), the "Affirmative Action for Disabled Workers" clause, 41 CFR §60-741.4(a)-(f), and the "Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era" clause, 41 CFR §250.4(a)-(m). These clauses, if applicable, are to be applied in conformity with obligations under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

19. ASSIGNMENT: Seller shall not assign or subcontract any right or obligation in this Order without Buyer's prior written consent. Any assignment or subcontract by Seller without Buyer's written consent shall be void.

20. **REMEDIES:** The rights and remedies of Buyer set forth in this Order shall not be exclusive and are in addition to any other rights and remedies provided by law.

21. **INCONSISTENT TERMS:** In the event of any inconsistency or conflict among the terms and conditions of this Order, the inconsistency or conflict shall be resolved by giving the Order documents the following order of precedence: (1) the terms and conditions on the face of this Order, (2) any terms and conditions expressly incorporated by reference on the face of this Order, (3) the preprinted terms and conditions on the back of this Order, and (4) any other terms and conditions that may be a part of the Order.

22. **WAIVER:** Failure by Buyer in any instance to insist upon observance or performance by Seller of any of the terms, conditions or provisions of this Order shall not be deemed a waiver of any such terms, conditions, or provisions. No waiver shall be binding upon Buyer unless in writing and signed by Buyer and any such waiver shall be limited to the instance referred to.

23. **SEVERABILITY:** The remainder of this Order will not be voided by the invalidity of one or more of its provisions.

24. **GOVERNING LAW:** The laws of the State of Georgia (without giving effect to its conflict of laws principles) shall govern all matters arising out of or relating to this Order and the transactions it contemplates, including, without limitation, its interpretation, construction, performance, and enforcement.

25. **USE OF OTHER FORMS:** The use of Buyer's or Seller's forms shall be for convenience only, and the pre-printed terms and conditions on such forms shall be void and of no effect.

26. **ENTIRE ORDER:** This Order and the terms and conditions incorporated by reference or otherwise made a part hereof constitute the entire agreement of the parties and supersede any prior or contemporaneous agreements or understandings.