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#### **Accro-Met, Inc. General Terms of Sale**

The following constitute the terms and conditions of sale for all products distributed and /or sold by Accro-Met, Inc. (Seller) Acceptance of Seller's offer to sell or Buyer's order is expressly made conditional on Buyer's acceptance of the provisions stated herein. Buyer's acceptance of each shipment of goods shall be deemed to be an acceptance of the provisions hereof notwithstanding any act of Seller, including shipment, acceptance of payments, and notwithstanding any terms or conditions contained in any form of Buyer, and any proposal for additional or different terms or any attempt by buyer to vary any of the provisions herein is hereby deemed a material alteration and rejected. The provisions herein may not be added to, modified, superseded, or altered except by written agreement or modification signed by an officer of seller, notwithstanding any terms which may now or in the future appear on buyer's forms or communications, all of which are rejected without further action of seller. No person (except an officer of the Seller) is authorized to bind Seller to any order for any goods except according to the provisions herein.

#### **A. Price, Terms of Payment, Transportation, Weight, Tolerances, Over Shipment Allowances and Taxes.**

- a. Buyer shall purchase the goods from Seller at the prices stated in the Sales Order. Seller's published prices, terms of payment, including discounts, and transportation terms in effect at the confirmation date of the Sales Order of goods.
- b. All prices are exclusive of any applicable foreign or U.S.A federal, state or local sales, use, excise or other taxes, which Seller may be required to pay or collect, under any existing or future law, upon or with respect to the sale, delivery, storage, processing, use or consumption of any of the products covered hereby, which shall be for the account of Buyer, who shall promptly pay the amount thereof to Seller upon demand.
- c. Weights and sizes of the goods shall be determined in the Sales Order.
- d. All delivery times for the Goods sold in the Sales Agreement are estimates only and is not guaranteed by Seller, provided that Seller will exercise its commercially reasonable efforts to meet the shipment date (s). Accro-met, Inc. will not be responsible for any delay not caused by its gross negligence or willful misconduct. Seller shall not be liable for any delays in

delivery due or resulting in whole or in part from or made impossible or impractical by any cause beyond the control of Seller including but not limited to fire, explosion, epidemics, pandemics, accidents, material and significant breakdown, strike, labor disputes, adverse weather conditions, loss or damage in shipment, shortage or lack of materials, fuel or power, sale or transfer of manufacturing facilities, embargo, acts of God, acts of any governmental authority or any other contingency or delay or failure or cause beyond Seller's control.

- e. Due to tolerance acceptable in industry standardization, Supplier will not be able to supply goods in exact dimensions but rather with certain tolerance. Thus, claims of discrepancies or nonconformance of goods in regards to such tolerances will not be accepted.
- f. All deliveries are subject to the tolerances of +/- 10% of the quantity ordered in the Sales Order.
- g. All orders are subject to price in effect (PIE) at the time of shipment unless stated otherwise.

#### **B. Cancellations.**

- a. The Buyer confirms that orders containing customary Goods or Goods which are imported specifically for the Buyer, Goods that are not standardized in the Seller's inventory, cannot be canceled once manufacturing process begins. Cancelling an order or violating any other terms of order by the Buyer may cause total loss of material value and the Buyer will be obliged to compensate the Seller there upon.

#### **C. Inspection and Rejection of Nonconforming Goods.**

- a. Clients are required to perform an incoming receiving inspection to ensure full material compliance.
- b. All product claims are subject to verification by an authorized Accro-Met, Inc. Representative and must be made within 14 days of signed receipt of materials. Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming goods during the 14 day claim period.
- c. Materials providing defective to stated industry standards may be replaced. Materials noted as

- damaged at receipt will be given claim consideration.
- d. Claims for labor and time spent are not allowed.
  - e. Any material that was modified, treated or processed by the Buyer will not be accepted for a return.
  - f. Flatness tolerances for steel and stainless steel sheets & plates are applicable to mill produced (Full Size) items only. Flatness of cut blanks cannot be guaranteed and are always done as best effort only.
  - g. The Seller will not accept returned Goods supplied after being specifically tailored to the Buyer's requirements (Coating, polishing, cutting, etc.) Nor when Goods are custom and ordered specifically for the Buyer.
  - h. Return policy – Seller may, at its own sole discretion and on terms as it may determine, allow the Buyer with prior written notice the return of Goods. The Buyer could return the Goods provided that the Seller has received a request for return within 20 days of receipt of the Goods and subject to the other general terms of sale herein. The Buyer will cover the expenses incurred by the Seller in connection with the supply of the Goods, in accordance with the Seller's sole determination. If the Buyer provided payment for the returned Goods and requests a refund, a 5% (from the transaction amount) cancellation fees will apply, deducted from the refund (in addition to covering the delivery expenses). Alternatively, the Buyer may choose to receive a credit in which no cancellation fees will apply, deducted from the refund (in addition to covering of delivery expenses). Alternatively, the Buyer may choose to receive a credit in which no cancellation fees will apply but direct expenses for the refund.
  - i. All returned material is subject to a restock fee.
- D. Warning & Material Safety Data Sheets**
- a. Warning: in accordance with the assessments completed by our vendors, the supplied products may contain chemical known to the State of California to cause cancer and birth defects or other reproductive harm, including, but not limited to nickel, beryllium, chromium and lead. For more information refer to the Safety Data Sheets (SDS) forms for each respective producer and also refer to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).
- E. Payment.**
- a. Unless otherwise agreed upon by the parties and stated in the Sales Order, terms of payment for shipments are net cash within 30 days from the invoice date.
  - b. Seller shall have the continuing right to approve Buyer's credit, and may at any time demand advanced payment, satisfactory security or a guarantee of prompt payment.
  - c. Interest at the rate of 15% per annum will be charged on delinquent accounts and handling fee on bounced check will be \$150.
  - d. A service charge will be imposed on overdue amounts, Buyer agrees to pay Seller's costs of collection of overdue invoices, including, but not limited to attorney's fees.
  - e. If Seller directs Buyer to remit payment to bank or other depository, Buyer agrees that such payment shall not necessarily constitute payment in full or final settlement of Buyer's account notwithstanding any language to the contrary on Buyer's check, draft, or other order.
  - f. Buyer shall not be entitled to deduct from the amount stated in the invoice any debt or claim the Buyer may have against the Seller for any reason or cause.
- F. Warranty.**
- a. Seller makes no warranty of fitness for buyer's particular use or purpose, nor any other warranties, express or implied. Seller expressly disclaims all oral warranties.
  - b. Seller specifically, but not by way of limitation, does not warranty the accuracy or sufficiency of any advice or recommendations given to the buyer in connection with the sale of Goods hereunder.
- G. Limitation of Liability**
- a. Under no circumstances will Seller's liability in the aggregate to Buyer under any legal theory, including without limitation, breach of contract or warranty, or commission of any tort, including negligence and strict liability, or claims for indemnification, exceed the invoice price for the affected product. Buyer must commence any action at law or in equity against Seller within one year after the product is delivered to Buyer. Buyer will not have any recourse against Seller for any loss which reasonably could be prevented by cover or otherwise. Exceptions to Seller's warranty and limitation of liability provisions or waivers of the same granted by Seller will not constitute a precedent, default or waiver of Seller's rights to enforce such provisions in whole or in part in the future. Seller will not be liable to any person for any indirect, special, incidental, consequential or other damages of any kind whatsoever. Whether any claim or potential claim is based upon theories of contract, negligence, or tort and including without limitation, seller will have no liability for shipping charges, labor, installation, costs or any other losses or expenses related to or associated with the inspection, repair or replacement of the warranted products.
- H. Default.**
- a. Buyer will be in default if:
    - i. Buyer fails to pay seller any amount when due under this agreement.
    - ii. Buyer otherwise fails for a period of five days after receiving written notice from Seller to fulfill or perform any provisions of this agreement.

- iii. Buyer becomes insolvent or bankrupt, or a petition is filed voluntarily or involuntarily and not dismissed within 30 days of filing.
  - iv. Buyer makes a general assignment for the benefit of its creditors, or a receiver is appointed, or a substantial part of Buyer's assets are attached or seized under legal process and not released within 30 days thereafter.
- b. Upon Buyer's default, Seller may at its option, without prejudice to any of its other rights and remedies, and without demand for payments past due:
- i. Make shipments subject to receipt of cash in advance.
  - ii. Terminate this agreement and declare immediately due and payable the obligations of Buyer for goods previously shipped, notwithstanding any other provision in these terms and conditions.
  - iii. Demand reclamation or,
  - iv. Suspend any further deliveries until the default is corrected, without releasing Buyer from its obligation under this agreement. In any event, Buyer will remain liable for all loss and damage sustained by Seller because of Buyer's default.

**I. Other.**

- a. Seller accepts no responsibility to Buyer or any person or to any person claiming by or through Buyer, for compliance with any statute, governmental rule or regulation made applicable to this contract by reason of Buyer's intended use of the products unless Seller has received from Buyer prior timely written notification of such statute, rule or regulation and has accepted the same by a separate writing signed by an officer of Seller.
- b. Seller's forbearance or failure to enforce any of these conditions as set forth herein or to exercise

any right accruing from any default of Buyer shall not affect, impair or waive Seller's rights if such default continues or if any subsequent default of Buyer occurs.

- c. The provisions herein constitute the entire agreement between Buyer and Seller and no terms or conditions other than those stated herein and no agreement or understanding oral or written in any way purporting to modify these conditions shall be binding on Seller unless hereafter made in writing and signed by an officer of Seller. All orders are subject to acceptance at Seller's offices. This agreement shall be construed in accordance with the laws of North Carolina and any disputes arising under these terms and conditions shall be brought exclusively in Union County, North Carolina.
- d. The provisions of this agreement shall be considered severable. In the event that any of the provisions, or portions or applications thereof, of this agreement are held to be unenforceable or invalid by any court of competent jurisdiction, all remaining portions shall remain in full force and effect in accordance with the spirit of this agreement.
- e. The rights and obligations of Buyer and Seller hereunder shall not assign to any third party without the prior written consent of the other party.
- f. Acceptance of the products sold hereunder shall constitute consent to the conditions and seller hereby objects to and rejects any and all additional or different terms proposed by Buyer, whether contained in Buyer's purchasing or shipping release forms or elsewhere. All proposals, negotiations and representations, if any, made prior and with reference hereto are merged herein, and any proposed additions, modifications, deletions or changes not in separate writings signed by an officer of Seller are rejected without further action by seller.