

SMS PRECISION TECH, LLC TERMS AND CONDITIONS OF SALE

THESE TERMS AND CONDITIONS SHALL GOVERN ANY AND ALL TRANSACTIONS ENTERED INTO BY AND BETWEEN SMS PRECISION TECH, LLC AND/OR ANY SUBSIDIARY AND/OR AFFILIATE, AS IDENTIFIED IN THE SALES ORDER (COLLECTIVELY CALLED "SELLER") AND THE BUYER OF THE GOODS THAT ARE THE SUBJECT OF THE SALES ORDER ("BUYER") (EACH A "PARTY" AND COLLECTIVELY "PARTES"). NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IF A WRITTEN CONTRACT SIGNED BY BOTH PARTIES IS IN EXISTENCE COVERING THE SALE OF THE GOODS COVERED HEREBY, THE TERMS AND CONDITIONS OF SAID CONTRACT SHALL PREVAIL TO THE EXTENT THEY ARE INCONSISTENT WITH THESE TERMS AND CONDITIONS.

THE ACCOMPANYING SALES ORDER AND THESE TERMS AND CONDITIONS COMPRISE THE ENTIRE AGREEMENT (COLLECTIVELY, "AGREEMENT") BETWEEN THE PARTIES, AND SUPERSEDE ALL PRIOR OR CONTEMPORANEOUS UNDERSTANDINGS, AGREEMENTS, NEGOTIATIONS, REPRESENTATIONS AND WARRANTIES, AND COMMUNICATIONS, BOTH WRITTEN AND ORAL. THESE TERMS AND CONDITIONS SET FORTH THE GENERAL TERMS OF THE BUSINESS RELATIONSHIP BETWEEN BUYER AND SELLER. THE PARTIES AGREE THAT ALL SALES AND DELIVERIES OF GOODS (AS DEFINED BELOW) BY SELLER TO BUYER, AND ALL ORDERS (AS DEFINED BELOW) BY BUYER SHALL BE COVERED BY AND SUBJECT TO THE TERMS OF THIS AGREEMENT. ANY TERMS AND CONDITIONS PROPOSED AND/OR PROVIDED BY BUYER THAT ARE IN ADDITION TO, OR WHICH CONFLICT WITH THESE TERMS AND CONDITIONS, ARE EXPRESSLY REJECTED BY SUPPLIER AND SHALL BE OF NO FORCE AND EFFECT. FULFILLMENT OF BUYER'S ORDER DOES NOT CONSTITUTE ACCEPTANCE OF ANY OF BUYER'S TERMS AND CONDITIONS AND DOES NOT SERVE TO MODIFY OR AMEND THESE TERMS AND CONDITIONS. SELLER'S PERFORMANCE OF THIS AGREEMENT BETWEEN SELLER AND BUYER IS EXPRESSLY CONDITIONED UPON BUYER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS OF SALE.

1. Definitions. As used throughout these Terms and Conditions the term "Order" means Buyer's expressed desire, whether oral or written, to purchase Goods from Seller. The term "Goods" means all of the products, materials, and related services that Buyer desires to purchase from Seller. The sale of the Goods that are the subject of the Order will be governed by the terms of these Terms & Conditions. The term "Change of Control Event" means the event undergone by a Party which is significant enough to affect the Party's ability to perform this Agreement or fulfilling any Order, and which includes without limitation out-contracted management, enterprise transformation in line with stock system, joint operation, merger, joint venture, division, decrease of registered capital, change in shareholding structure, transfer of major asset, dissolution, and liquidation.

2. Acceptance. Any quotation ("Quotation") given by the Seller is valid for thirty (30) days from the date of Quotation, unless otherwise stated elsewhere on the Quotation or an extension is granted in writing by the Seller. The acceptance of the Seller's Quotation must be confirmed in writing and followed by a purchase order. Any verbal agreement by the Seller to proceed with the supply of Goods will be deemed to be on the basis that these Terms and Conditions form part of such supply.

3. Price. Unless specified otherwise in a writing signed by Seller, the prices and charges stated in this Agreement will not be adjusted. The prices and charges stated in this Agreement do not include any sale or other similar taxes that Seller is required to pay under applicable laws and regulations in respect of the Goods, excluding taxes

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based on Seller's income. All shipping costs will be the responsibility of the Buyer. Shipping costs will not appear on quotations, sales orders, or packing slips. Shipping costs will only appear on the final invoice.

4. **Payment.** Unless set forth to the contrary on the face of this Agreement, payment terms are net 30 days from date of Seller's invoice. Whenever reasonable grounds (including Change of Control Event) for insecurity arise with respect to due payment by Buyer, Seller may demand different terms of payment and assurance of Buyer's due payment. Any such demand may be oral or written and Seller may, upon the mailing of such demand, stop production and suspend shipments under this Agreement. If, within the period stated in such demand, Buyer fails or refuses to agree to such different terms of payment or fails or refuses to give adequate assurance of due payment, Seller may, at its option, treat such failure or refusal as a repudiation of the portion of the Order which has not been fully performed, or Seller may resume production and may make shipment under reservation of possession or of a security interest and may demand payment against tender of documents of title.

5. **Delays.** Unless a shipping date is specified as firm in this Agreement or in a writing signed by Seller, Seller will use commercially reasonable efforts to fill the Order in accordance with the estimated shipping date. **SELLER WILL NOT BE RESPONSIBLE FOR ANY DELAYS IN FILLING THE ORDER NOR BE LIABLE FOR ANY LOSSES OR DAMAGES RESULTING FROM SUCH DELAYS, AND THE ORDER WILL NOT BE SUBJECT TO CANCELLATION FOR SUCH DELAYS.**

6. **Force Majeure.** Seller will not be liable for delays in filling the Order or failure in the performance of any of its obligations caused by accidents, labor disputes, shortages of labor, materials, fuel or power, fires, floods or other acts of God, acts or omissions of Buyer, priorities required, requested, or granted for the benefit of the national or any local government, restrictions imposed by national or local legislation or regulations, or any cause, whether similar or dissimilar to those enumerated in this section, including without limitation cease of production/operation by a company due to economic hardship, which is beyond the control of Seller.

7. **Warranty.** Seller warrants to Buyer that the Goods will, at the time of shipment, substantially conform to the description in the Agreement, that it will convey good title to the Goods; that such Goods will be delivered free from any lawful security interest or other lien or encumbrance unknown to Buyer. **SELLER MAKES NO WARRANTY REGARDING THE GOODS OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR NONINFRINGEMENT. SELLER MAKES NO WARRANTY EXPRESSED OR IMPLIED REGARDING THE GOODS EXCEPT SUCH AS IS EXPRESSLY SET FORTH HEREIN AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED.**

8. **Inspection, Acceptance, or Rejection.** Inspection, acceptance, or rightful rejection of the Goods must be made within thirty (30) days after Buyer's receipt of the Goods. Buyer must notify Seller within such thirty (30) days if it believes that any Goods delivered under this Agreement are water stained, or otherwise properly rejectable, and

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hold such Goods pending Seller's inspection.

9. Shipments; Shipping Weights.

(a) Unless set forth to the contrary in the Agreement, Seller may make partial shipments and may invoice for each such partial shipment separately. Each partial shipment will be deemed to be a separate sale; however, delay in delivery of any partial shipment will not relieve Buyer of its obligation to accept delivery of remaining shipments under this Agreement.

(b) Absent manifest error, Seller's shipping weights will govern for each shipment or partial shipment under this Agreement. Should Buyer dispute the shipping weight of any shipment or partial shipment under this Agreement, Buyer will promptly notify Seller in writing of the reasons for such dispute and provide to Seller all necessary documents to substantiate the difference.

10. Limitation of Liability.

(a) SELLER'S SOLE LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR ANY TENDER OF NONCONFORMING GOODS OR BREACH OF WARRANTY, IS EXPRESSLY LIMITED TO SELLER'S CHOICE AT ITS DISCRETION OF (i) THE REPAIR OF THE NONCONFORMING GOODS, (ii) THE REPLACEMENT OF THE NONCONFORMING GOODS WITH CONFORMING GOODS AT THE PLACE OF DELIVERY SHOWN IN THIS AGREEMENT, OR (iii) THE REFUND OF THAT PORTION OF THE PURCHASE PRICE REPRESENTED BY THE NONCONFORMING GOODS. ANY SUCH REPAIR, REPLACEMENT, OR REFUND WILL BE MADE ONLY UPON RETURN OF THE NONCONFORMING GOODS, WHICH MAY BE RETURNED AT SELLER'S COST ONLY AFTER SELLER'S INSPECTION AND BUYER'S RECEIPT FROM SELLER OF SHIPPING INSTRUCTIONS.

(b) SELLER WILL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, CONTINGENT, OR PUNITIVE DAMAGES FOR (i) ANY BREACH OF WARRANTY, WHETHER BASED ON THEORIES OF BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE; (ii) THE TENDER OF DEFECTIVE OR NONCONFORMING GOODS; OR (iii) BREACH OF ANY OTHER PROVISION OF THIS AGREEMENT. IN ANY EVENT, SELLER'S LIABILITY TO BUYER WILL NOT EXCEED THE PURCHASE PRICE OF THE GOODS ON WHICH SUCH LIABILITY IS BASED.

11. Patents.

(a) Buyer agrees for the Goods delivered under this Agreement to indemnify Seller against all court assessed damages (excluding consequential damages) and costs resulting from infringement of any United States Letters Patent to the extent that the infringement arises from designs, specifications or instructions furnished or explicitly or implicitly required by Buyer and different from the matters embraced by

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section 11(a) above.

(b) The parties agree to provide information and reasonable assistance to each other upon request to the extent such information and assistance are required by such party to defend against any infringement claim arising under this section. Neither party will be entitled to indemnification under this section as to any claim of infringement concerning which it does not give the other party prompt notice in writing upon learning any such claim of infringement and full opportunity, at the expense of such other party, to defend and dispose of such claim of infringement.

(c) The sale of Goods covered by this Agreement will not grant to Buyer any right or license of any kind under any patent owned or controlled by Seller, or under which Seller is licensed, but the foregoing will not be understood to limit in any way the right of the Buyer to use and sell such Goods, in the event that such Goods as sold under this Agreement are covered by any such patent.

12. Indemnity. Buyer will release, hold harmless, indemnify, and defend Seller from any liability (including without limitation liability for negligence or strict liability) claims, losses, suits, and costs caused by, arising out of, or relating to the design of Goods supplied under this Agreement or the design of the packages or containers in which they are shipped if such Goods, packages, or containers are made in compliance with Buyer's design or specification.

13. Termination. Unless otherwise provided under this Agreement, Buyer may not terminate the Order or this Agreement without the written consent of Seller. If Seller consents to such termination, reasonable termination charges, computed by Seller, will be assessed in connection with such termination. For the avoidance of doubt, Seller's termination charges include, but are not limited to, applicable price for the Goods of which Seller has completed manufacture prior to the termination effective date, work in process, materials purchased, and applicable labor costs.

14. Delivery and Transportation.

(a) If the shipping terms on the face of this Agreement are delivery to a destination, Seller will deliver and Buyer will bear the cost of transportation of the Goods to such destination. The method and agency of transportation and the routing will be designated by Seller. Excess packing, shipping, and transportation charges resulting from compliance with respect to the use of any agency or method of transportation or any routing other than that which would be designated by Seller will be for Buyer's account. In the case of Buyer pick-up, Buyer's truck is the destination, and unless Seller otherwise agrees in a writing, Seller will not deliver or bear any cost or make any allowance with respect to Buyer's pick-up, beyond loading on Buyer's truck (whether owned by, leased to, or otherwise under contract to Buyer).

(b) In the case of delivery to a place of destination, Seller shall be deemed to have delivered the Goods to Buyer when the Goods are shipped from the Seller's location. After shipment, any risks of damage to or loss of Goods shall be borne by Buyer. Buyer

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shall pick up the Goods at the destination on the date notified by Seller in advance in writing (“Delivery Date”). In case Buyer fails or rejects to pick up the Goods on the Delivery Date at the destination, Buyer agrees that Seller may take reasonable measures to protect the Goods. In addition, Buyer agrees to pay Seller, from the 1st day after the Delivery Date until the date it actually picks up the Goods, management fees at the rate of [0.2%] per day of the total value of the Goods, and compensate Seller all other expenses and losses caused by Buyer’s delay in picking up the Goods. Such expense and losses include without limitation drawing fees, warehousing fees, up/downloading fees, freight, relevant expenses for auction or resale, metal price losses of the Goods caused by metal price fluctuation, and losses in Seller’s relevant metal futures contract due to Buyer’s breach hereof.

(c) Unless different shipping terms are specified on the face of this Agreement according or elsewhere, the shipping terms under this Agreement are Seller’s property, the cost of transportation and risk of loss or damage will be borne by Buyer. All shipments will have insurance and the Buyer will bear the cost.

(d) In the case of delivery at Seller’s property, Buyer shall pick up the Goods at Seller’s property on the date notified by Seller in advance in writing (“Delivery Date”). In case Buyer fails or rejects to pick up Goods on Delivery Date at Seller’s property, from the first day after the Delivery Date, Seller shall be deemed to have delivered the Goods to Buyer and any risk of damage to or loss of Goods thereafter shall be borne by Buyer. In such a case, Buyer agrees that Seller may take reasonable measures to protect the Goods. In addition, Buyer agrees to pay Seller, from the first day after the Delivery Date until the date it actually picks up the Goods, management fees at the rate of [0.2%] per day of the total value of Goods, and compensate Seller all other expenses and losses caused by Buyer’s delay in picking up Goods, which include without limitation drawing fees, warehousing fees, uploading/downloading fees, freight, relevant expenses for auction or resale, metal price losses of the Goods caused by metal price changes, and losses in Seller’s relevant metal futures contract due to Buyer’s breach hereof.

(e) Only after Buyer has fully compensated Seller for all the expenses and losses provided in paragraph (b) or paragraph (d) of above, it may request that Seller ship/release the relevant Goods again. And unless it’s otherwise agreed by Buyer and Seller, if Buyer has not picked up the Goods or fully compensated Seller for the expenses and losses in paragraph (b) or paragraph (d) above within [30] days from the Delivery Date, Seller shall be entitled to revoke the its acknowledgement of the Sales Order relating to the Goods, call back the ownership of such Goods, without refunding any payment that Buyer already paid.

15. Equipment. (if This Transaction Involves Any Dedicated Equipment)

(a) Any equipment (including jigs, dies, and tools) which Seller constructs or acquires for use exclusively in the production of Goods for Buyer will be and remain Seller's property and in Seller's possession and control, and any charges by Seller therefore will be for the exclusive use of such equipment only. All such equipment will be used exclusively for the manufacture of Goods for Buyer. When for three (3) consecutive years

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no Orders acceptable to Seller are received from Buyer for Goods to be made with any such equipment, Seller may make such use or disposition of such equipment as Seller desires, without any liability or obligation to Buyer.

(b) Any materials or equipment owned or furnished by Buyer to Seller will be handled and stored by Seller with the same degree of care that Seller handles and stores its own materials and equipment. When for three (3) consecutive years no Orders acceptable to Seller are received from Buyer for Goods to be made from any such equipment or materials, Seller may, by written notice to Buyer, request Buyer to make disposition of such materials and equipment at Buyer's expense. If Buyer fails to comply with such notice, Seller may make such use or disposition of said materials or equipment as it desires, without any liability or obligation to Buyer.

(c) Any equipment specified in the Agreement as returnable, or for which a charge is made or for which a deposit is required, will be returned in accordance with Seller's standard instructions with respect to such equipment.

16. Standard Quantity Tolerances. As set forth on the face of this Agreement.

17. Buyer Part, Specification Number, or Drawing Number. Any such number appearing in the Agreement which is followed by the notation, "IDENT", means that the Goods referenced will be produced by Seller in accordance with such Part, Specification, or Drawing, as modified only with Buyer's prior approval. Any such number appearing in the Agreement which is not followed by the notation, "IDENT", is for identification purposes only and does not require that the Goods be produced in accordance with such Part, Specification, or Drawing.

18. Disputes Resolution.

Buyer and Seller shall use good faith efforts to resolve disputes, within twenty (20) business days of notice of such dispute. Such efforts shall include escalation of such dispute to the corporate officer level of each party. If any such dispute cannot be resolved within said twenty (20) business day period, absent a specific consent of the parties otherwise, each party can file a claim. The state and federal courts situated in Houston, Harris County, Texas shall have exclusive jurisdiction of any disputes arising under or in relation to these Terms and Conditions and/or the Purchase Order, and the Parties consent to jurisdiction and venue in a court of competent jurisdiction in Harris County, Texas.

19. Miscellaneous.

(a) No provision of this Agreement and no breach of any provision of this Agreement will be deemed waived by reason of any previous waiver or breach of such provision.

(b) This Agreement may be performed, and all rights under this Agreement may be enforced against Buyer, by Seller or by any subsidiary or affiliate of Seller.

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(c) This Agreement may not be assigned by Buyer without the prior written consent of Seller.