

HAWTHORNE WIRE SERVICES, LTD

TERMS AND CONDITIONS OF SALE

1. **Complete Agreement:** Sales by Hawthorne Wire Services ("HW") are made only upon these "Terms and Conditions of Sale" ("Terms and Conditions"). Any terms and conditions in any of your documents, or documents prepared and delivered by you, including your form of purchase order, are objected to and rejected and shall be without force and effect and shall not be binding upon HW. No salesperson, agent or representative of HW, except the CEO, has the authority to change or modify "Terms and Conditions." Accepting delivery of product sold by HW and failure to object to these terms within two (2) days of delivery, shall constitute your acceptance of these Terms and Conditions.

2. **Credit Department Approval:** All shipments are subject to approval by HW's Credit Department

3. **Payment:** The following are our standard terms unless otherwise listed on our invoice:

a) Terms are net thirty (30) days, unless otherwise agreed.

b) All bills are payable in US Dollars to Hawthorne Wire Services at the address listed on our invoice.

c) In addition to the price specified for material and metal surcharges and the amount of packaging charges, you shall pay all freight charges and transportation taxes, if any, and any present or future sales, use, excise or any similar tax or governmental charge applicable to your order and to the sale and/or furnishing of the materials and/or services rendered by your order.

d) All payments for the materials furnished hereunder shall be made upon the basis of materials delivered, as shown by HW delivery documents and records, whether signed by you or not.

e) If you fail to make payment when due, or if HW at any time has any doubt as to your ability or intention to pay, we may decline to make any further shipments to you. The rights and remedies of HW set forth herein shall not be exclusive, and HW shall have all other rights and remedies at law or equity.

f) In the event of a default by you in making any payment due to HW, then, until you cure such default, HW may, at its election, apply any payments from you in such proportion to your various accounts with HW as it deems proper. Payments not received within thirty (30) days of shipment shall be deemed delinquent and shall bear interest at an annual rate of eighteen (24%) percent or at the maximum legal rate, if less.

g) In the event of a default by you hereunder, HW shall have, in addition to all other rights and remedies, the remedies of a secured party under the Uniform Commercial Code including, without limitation, the right to take possession of the materials delivered hereunder and, for that purpose, HW shall have the right to enter your premises and remove the remaining materials.

4. **Product Terms:**

a) **NONCONFORMING PRODUCT:** Product shipped to a customer that does not meet certified specifications (passed through from the mill) or does not meet the customer's written purchase-order specifications, may be returned to HW as long as HW is notified within fifteen (15) days of product delivery and the nonconformity can be verified to HW's satisfaction. This may include, at HW's sole discretion, testing of the product by an independent laboratory. Upon receipt of the nonconforming product, HW will credit the customer for the dollar amount of the returned product and normal freight charges incurred by the customer for the original product shipment and the product return.

b) **FREIGHT MISHANDLING:** On rare occasions, freight companies may lose or damage product while the product is in transit to a HW customer. It is the customer's responsibility to inspect all product prior to unloading the shipment of product from the freight carrier. It is the customer's responsibility to note any piece-count discrepancy or product damage, including product received wet or damp, on the bill of lading and report the incident to the freight carrier with copy to HW upon receipt. The freight carriers are responsible for all damage to any product that occurs during transit and all such claims should be made by the customer to the carrier.

c) **RUST OR METAL OXIDE:** Rust or metal oxide forms when metals are subjected to moisture or oxidizing chemicals over a sufficient period of time. Rust will appear white, red/black or green on zinc-coated (galvanized) steel product, other steel products or copper-based product, respectively. We take every precaution to keep the product dry and safe from oxidation during storage and inspect all products for signs of rust before shipping. Product received by the customer that show signs of rust or metal oxide will be addressed by HW on a case-by-case basis. HW will only accept return of product with signs of rust or metal oxide if the rust or metal oxide was caused by HW's handling of the product.

d) **FINAL ACCEPTANCE OF PRODUCT:** You must provide HW with written notice of any defect or nonconformity of the product within fifteen (15) days of product delivery. Any failure to notify HW shall constitute an irrevocable acceptance of the products and admission that you have inspected the materials and that the products and workmanship fully comply with all terms and specifications.

e) **CUSTOMER ACCOMMODATION:** If a customer wishes to return product for any reason other than "Nonconforming Product" described in Section 4.a or "Freight Mishandling" describe in Section 4.b, HW, in its sole discretion, will work with the customer to accommodate the customer's return request. Return for credit (HW does not offer refunds), however, will only be considered under the following conditions: the customer pays all freight charges related to the original shipment of the product and the return of the product; the product has not been modified or damaged and is still in its original packaging; the product was shipped back to and received by HW within ninety (90) days of the customer's receipt of the product; and the product is easily saleable by HW to other customers (in HW's sole discretion). In some cases a restocking fee may apply.

5. Limitation of Product Warranty:

a) **MATERIAL CERTIFICATION:** HW provides warehousing, distribution and processing services to the manufacturing industries. We do not manufacture the products, but instead purchase them from industrial mills that have met our stringent quality standards. We do not certify products, we simply pass-through the industrial mill's certification and information contained on the producing mill's certification documents. We do not guarantee or provide any representation or warranty with respect to the mill certification. We do not routinely perform testing in-house to prove the accuracy of the mill certifications.

b) **CUSTOMER APPLICATION:** HW orders products from industrial mills to meet the needs of most general applications. HW cannot, under any circumstances, guarantee that the product will successfully produce a customer's part to a customer's expectations. As a result, we will not accept any set-up fees, administrative fees, downtime costs, sorting charges or any other charge-back for product that did not successfully produce a customer's part to that customer's satisfaction.

c) **NO GUARANTEE THAT PRODUCTS ARE DEFECT FREE:** HW makes no representations or warranties with respect to the product and does not guarantee that the product is defect free. HW shall not be responsible for damage or loss caused by a product defect. In rare instances, substantial defects can be present in all or a portion of the shipped product. It is the customer's responsibility to perform sufficient

testing of its finished parts throughout a production run to reduce the possibility of passing defective parts to its customer.

d) **CRITICAL APPLICATIONS:** A critical application is any end-product in which the failure of the customer's part would have serious consequences (e.g., a part in which failure could start an expensive recall). For any critical application, it is imperative that the customer purchase product that is not only designed to make the part but also designed to reduce failure rates. Though we cannot help you with your design, we may, as a courtesy, put you in contact with the metallurgists at an appropriate mill who can help you specify the product you need to design your critical application. HW makes no representation or warranty with respect to such metallurgist or other party that assists you. HW cannot be held responsible for damages caused by a customer purchasing the wrong product for a critical application and will not be responsible for consequential or other damages or costs caused the failure of such a part.

e) **EXCLUSIONS OF WARRANTIES AND LIMITATION OF LIABILITY:**

i) HW MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.

NO PERSON HAS ANY AUTHORITY TO EXTEND ANY WARRANTY ON BEHALF OF HW.

ii) YOUR ONLY REMEDY FROM HW IS FOR PRODUCT REPAIR, PRODUCT REPLACEMENT OR CREDIT AS SET FORTH ABOVE, WHICH SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY; provided, however, that HW's liability for such remedies is limited to and shall not exceed the contract price of any rejected product and normal freight charges as described above.

iii) HW shall not be liable for consequential, incidental, special, liquidated, punitive or other damages, including, but without limitation, loss of profits, personal injuries, loss or damage to property, etc.

6. Miscellaneous:

a) Any and all representations, warranties, promises or statement by any person, including, but not limited to, HW salespersons or agents which differ in any way from the terms of these Terms and Conditions shall be given no force or effect.

b) This Agreement shall be construed according to the laws of the State of Ohio.

c) The parties irrevocably submit to the exclusive jurisdiction of any court of the State of Ohio or federal court of the United States of America, sitting in Cuyahoga County, Ohio, in any action arising out of or relating to the customer's purchaser order, HW products or the Terms and Conditions.