



## TERMS AND CONDITIONS OF SALE

### COPPER MILL PRODUCTS

1. **CONDITIONAL ACCEPTANCE:** SELLER'S ACKNOWLEDGEMENT AND ACCEPTANCE OF BUYER'S ORDER IS CONDITIONED UPON THESE TERMS AND CONDITIONS OF SALES CONSTITUTING THE SOLE AND EXCLUSIVE TERMS AND CONDITIONS OF THIS ORDER. NO AMPLIFICATION, MODIFICATION OR VARIATION OF THESE TERMS AND CONDITIONS OF SALE WILL BE ACCEPTED BY SELLER UNLESS EXPRESSLY AGREED TO IN A WRITING SIGNED BY SELLER.
2. **TERMS OF PAYMENT:** Invoices will be dated the day of shipment. The date of payment of an invoice is the date on which the payment is received at the financial institution. ALL PRODUCTS UNLESS OTHERWISE EXPRESSLY PROVIDED Net Cash 30 days after the date of invoice. Any checks, drafts or money orders received from or for the account of Buyer shall be accepted on account with full reservation of rights to collect any balance, notwithstanding any contrary legend on or accompanying the check, draft or money order.
3. **INTEREST CHARGES:** On accounts not paid within applicable terms, interest will be charged at the lesser of the maximum rate allowed by applicable law or 4% over the prime lending rate as published in the Wall Street Journal. Such interest will be charged beginning on the first date applicable law permits and will be invoiced monthly.
4. **TRANSPORTATION:** All shipments shall be F.O.B. mill. For additional transportation terms applicable to particular products, consult price sheets for those products.
5. **CHANGES IN TERMS:** Terms of payment, interest and transportation are subject to change to Seller's terms in effect on date of shipment. Prices will be Seller's prices in effect on date of shipment.
6. **CREDIT:** Buyer's financial responsibility is at all times subject to approval of the Credit Department of Seller and in case of doubt as to Buyer's financial responsibility, Seller may at any time by written notice to Buyer require immediate payment or other terms of payment differing from those specified above or other satisfactory security that invoices will be paid when due. If Buyer fails to comply with any terms of payment or requirements to secure payment of this or any other order or contract with Seller, further shipments may be withheld by Seller or sent sight draft with bill of lading attached, or Seller may treat the contract as terminated by Buyer under the provisions of paragraph 14 hereof. In the event of default by Buyer in payment, Buyer shall be liable for Seller's costs of collection, including reasonable attorney's fees.

7. **TOLERANCES:** Unless otherwise expressly provided, products furnished by Seller are to be within Seller's size, gauge, temper and finish limits of manufacture and subject to Seller's standard tolerances for variations, including those in quantity.
8. **TAXES:** Unless otherwise provided by law, Seller may require Buyer to pay or to reimburse Seller for any tax (exempt income tax) which now or hereafter may be imposed by any taxing authority in respect to the products or the sale, purchase, manufacture, delivery or use thereof.
9. **INSPECTION CHARGES:** Where Buyer requires tests or inspection not regularly provided by Seller, Seller may charge Buyer for the actual cost of such tests or inspection.
10. **WARRANTY:** Seller warrants that products sold hereunder shall be free from defects in material and workmanship, except such defects as are commercially acceptable, and shall conform to specifications accepted by Seller. Seller shall not be liable for any incidental or consequential damages for breach of warranty, whether express or implied, including without limitation any expense for the use, handling or sale of defective products. Seller's sole liability and Buyer's exclusive remedy for breach of any warranty is expressly limited, at Seller's option, to the repair of defective products or the replacement thereof at the original F.O.B. point or the repayment of the purchase price. Any claim for breach of warranty shall be deemed waived unless Buyer shall give Seller written notice of such claim promptly after delivery of products and in no event later than 90 days after delivery and shall give Seller reasonable opportunity to investigate such claim and inspect the products. Replacement of defective products or repayment of the purchase price shall be made only upon return thereof after inspection by Seller and Buyer's compliance with written shipping instructions from Seller. The giving of or failure to give any advice or recommendation by Seller shall not constitute any warranty by or impose any liability upon Seller. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES OF PRODUCTS, FITNESS THEREOF FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY.
11. **PATENT PROTECTION:** Seller agrees to indemnify Buyer against any claims or liabilities for or by reason of alleged infringement of any United States patent arising from the manufacture or sale of any product furnished Buyer hereunder, except where the specifications, process, design or method of manufacture originated in Buyer in which event Buyer agrees to indemnify Seller in like manner.
12. **NUCLEAR END USE:** Buyer agrees to extend to Seller any U.S. Government indemnification against nuclear hazards and risks which Buyer obtains from the U.S. Government and any nuclear insurance protection which Buyer itself maintains or obtains from any party in connection with this contract.
13. **FITTING-UP CHARGES:** Any fitting-up charges named are to cover part cost of the necessary tools and fixtures, which shall be sole property of the Seller and remain in the Seller's possession for use exclusively in filling orders of the Buyer. There will be no additional charge for upkeep or replacement of such tools and fixtures, but if, at any time (a) period of two years has elapsed since the receipt of any order of Buyer requiring the use of such tools and fixtures, (b) a petition in bankruptcy is filed by or against Buyer, or (c) Buyer makes assignment for the benefit of creditors, becomes insolvent, is dissolved or liquidated or otherwise ceases to conduct business. Seller may freely use or dispose of such tools and fixtures without responsibility to Buyer. Terms on tools, fixtures and

fitting-up charges- Net Cash. For certain Copper and Brass Mill Products, Seller will refund fitting-up charges, when the poundage shipped within one year from the date of completion of such tools and fixtures, figured on the basis of 2¢ net per pound equals the fitting-up charges, and will waive fitting-up charges when the initial order specifies a sufficient quantity to warrant such a refund on the above basis.

14. **TERMINATION:** This order or contract may be terminated by Buyer before completion thereof with Seller's written consent, in which event, Buyer shall pay to Seller: (a) Contract price for all products which shall have been delivered or completed prior to receipt of notice of termination. (b) All actual costs incurred by seller in connection with the uncompleted portion of the order or contract. Such costs shall include overhead and costs of materials, in process or purchased for processing, for the order contract, which materials shall belong to Buyer. (c) Cancellation charges, if any, of Seller on account of its commitments made under the order or contract.
15. **DELAYS:** Seller shall not be liable for any failure or delay in performance or delivery which is caused in whole or in part by fires, floods, accidents, riots, war whether declared or not, operation of law, Government regulations or requirement, strikes or other labor difficulties, shortage of fuel, power, materials or supplies, delays in or lack of transportation or any similar or dissimilar causes beyond Seller's control. Seller shall not be liable in any event for any incidental or consequential damages in respect of failure or delay in performance or delivery due to any cause whatsoever. If seller is unable, due to any cause beyond its control, to supply the total demand for products ordered by Buyer, Seller may allocate its available supply in any manner Seller deems reasonable among its customers, including Seller's branches and affiliates.
16. **COMPLIANCE WITH LAW:** Seller agrees to comply with all laws of the United States which may be applicable to the products furnished hereunder.
17. **APPLICABLE LAW:** All matters pertaining to interpretation application, enforcement or resolution of disputes in connection with this contract shall be governed by the laws of the State of New York.

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*(This supersedes all previous issues)*