



## TERMS OF SALE

1. Applicability; Buyer's Acceptance. These terms of sale (these "**Terms**") are the only terms which govern the sale of the goods and/or materials ("**Goods**") by Basic Metals, Inc., a Wisconsin corporation ("**Seller**"), to the party purchasing Goods ("**Buyer**"). 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. The accompanying quotation request (if any), quotation and order confirmation (the "**Order Confirmation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations, warranties, and communications, both written and oral. 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. Buyer's acceptance of the Goods is expressly conditioned on Buyer's acceptance of these Terms. Buyer's acceptance is limited to these Terms, and no different, inconsistent and/or additional terms and conditions submitted by Buyer in acknowledging or accepting these Terms or in issuing any purchase orders, releases, shipping instructions or other documents in connection with the Goods, whether prior or subsequent, shall modify or amend these Terms or be valid or binding against Seller, unless specifically accepted by Seller in writing, and these Terms shall prevail over any of such additional terms and conditions submitted by Buyer. In the event of any conflict, discrepancy or inconsistency between these Terms and the terms and conditions contained in any document submitted by Buyer, these Terms shall govern even if Buyer's document expressly limits acceptance to Buyer's terms and conditions. No course or pattern of dealings or conduct between Seller and Buyer and no usage of trade shall be relevant to determine the meaning or intent of these Terms even though the accepting or acquiescing party has knowledge of the nature of the performance and an opportunity for objection.

2. Delivery. The Goods will be delivered in accordance with the terms on the face of the Order Confirmation, and in any event within a reasonable time after Seller's receipt of Buyer's purchase order. Seller shall not be liable for any delays, loss, or damage in transit. Seller shall make delivery in accordance with the terms on the face of the Order Confirmation, or if no such terms are specified then Ex Works Seller's facility in Germantown, Wisconsin.

3. Title and Risk of Loss; Security. Title and risk of loss passes to Buyer upon delivery of the Goods from the Seller's facility in Germantown, Wisconsin. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a first priority, purchase money security interest under the Wisconsin Uniform Commercial Code. Buyer authorizes Seller to file a UCC financing statement to perfect this security interest at any time.

4. Amendment and Modification. These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

5. Inspection and Rejection of Nonconforming Goods. Buyer shall inspect the Goods promptly (and in any event within five (5) days) after receipt thereof ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any shortages or Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller, including without limitation the original freight bill, with notation on the face thereof by an authorized agent for the carrier as to the Goods claimed to be short or damaged during transit. For avoidance of doubt, Buyer shall be deemed to have waived any claim for shortages or Nonconforming Goods if Buyer fails to so notify Seller within five (5) days following receipt thereof. In addition, any processing or use of the Goods by Buyer, other than return to Seller, shall be conclusive as to Buyer's acceptance of the Goods as being satisfactory and in accordance with these Terms. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product that is damaged during delivery. If Buyer (a) timely notifies Seller of any Nonconforming Goods, (b) returns the Nonconforming Goods to Seller within ten (10) days after receipt thereof, (c) receives confirmation from Seller of such Nonconforming Goods, and (d) has fulfilled all of its payment obligations, then Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility located at Germantown, Wisconsin within ten (10) days after receipt of such Goods. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods. Buyer acknowledges and agrees that the remedies set forth in this Section 5 are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided in this Section 5, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

6. Price. Buyer shall purchase the Goods from Seller at the prices (the "**Prices**") set forth in the accompanying quotation or Order Confirmation. All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties

and charges of any kind imposed by any governmental authority on any amounts payable by Buyer, and Buyer shall pay or reimburse Seller for all such amounts. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets. Seller's prices are subject to and contingent upon Buyer purchasing the entire quantity of Goods identified in Seller's quotation. If Buyer purchases less than the entire quantity of Goods identified therein, prices may vary. Seller shall invoice for all Goods in accordance with Seller's schedule of weights, areas, sizes and lengths then in effect. All weights shall be theoretical and shall be determined in accordance with ASTM standards.

7. Payment Terms. TIME SHALL BE OF THE ESSENCE FOR BUYER'S PAYMENT OF THE PURCHASE PRICE FOR THE GOODS. All sums owing to Seller by Buyer shall be paid in accordance with the provisions of Seller's invoice or any written quotation issued by Seller and signed by Buyer. In the absence of such express provisions, Seller's terms will be 0.5% ten (10) days, net thirty (30) days from the date of invoice. All sums past due and owing to Seller shall bear interest at the rate of the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law from the invoice date until paid in full, calculated daily and compounded monthly. Buyer shall make all payments hereunder by wire transfer, check or other method acceptable to Seller (in its sole discretion) and in US dollars. All payments made by Buyer to Seller shall be applied in the following priority: (a) first to the amounts, if any, due to Seller for attorneys' fees and court costs, (b) second to the amounts, if any, due to Seller in the event of Buyer's default, (c) third to the amount, if any, of interest due to Seller as a result of Buyer's late payment and (d) finally to the balance of the purchase price due to Seller for the Goods. Buyer shall notify Seller, in writing, of any error in any invoice within ten (10) days after the Buyer's receipt of such invoice, and, if no such notice from Buyer is received by Seller, the invoice shall be deemed to be correct and payable as delivered to Buyer. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for ten (10) days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

8. Open Credit Account. Seller reserves the right in its sole discretion to approve, conditionally approve or disapprove any request by Buyer for credit. Buyer shall complete and submit to Seller a credit application on the form provided or otherwise made available by Seller, and Buyer represents that such credit application will be true and correct in all material respects. The amount of credit Seller extends to Buyer will be determined by Seller in its discretion and may vary from time to time. Upon Seller's request from time to time, Buyer will provide Seller with current financial information. Buyer represents and warrants that any financial information provided to Seller will be true and correct in all material respects and shall fairly and accurately present the financial condition of Buyer as of the date of such financial statements. Buyer hereby authorizes Seller to review and evaluate Buyer's credit background from time to time.

9. Limited Warranty. Seller warrants to Buyer that for a period of ninety (90) days from the date of shipment of the Goods ("Warranty Period"), that such Goods will materially conform to the specifications delivered by Seller to Buyer in writing, subject to industry standard tolerances and variations and those set forth in Seller's completed customer requirements form submitted by Buyer to Seller from time to time. **EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THIS SECTION 9, SELLER HEREBY DISCLAIMS AND BUYER HEREBY WAIVES ANY AND ALL OTHER WRITTEN OR ORAL WARRANTIES WITH RESPECT TO THE GOODS, INCLUDING WITHOUT LIMITATION ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY OF TITLE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.** The Seller shall not be liable for a breach of the warranty set forth in this Section 9, unless: (i) Buyer gives written notice of the defect, reasonably described, to Seller within five (5) days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the Goods are defective. The Seller shall not be liable for a breach of the warranty set forth in this Section 9 if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of Seller. Subject to terms and conditions contained herein, with respect to any such Goods during the Warranty Period, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Goods to Seller. **THE REMEDIES SET FORTH IN THIS SECTION 9 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS SECTION 9, AND BUYER ACCEPTS THE SAME AS ITS ENTIRE RIGHT AND SOLE REMEDY IN RELATION TO ANY BREACH BY SELLER OF THE LIMITED WARRANTY SET FORTH IN THIS SECTION 9.**

10. Limitation of Liability. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER.

11. Indemnification. Buyer shall indemnify, defend, and hold harmless Seller, its affiliates, and the shareholders, directors, officers, employees, agents, successors and assigns of all of them (collectively, the "Seller Indemnified Parties") from and against any and all losses, claims, damages, injuries, liabilities, taxes, fines, penalties, costs or expenses (including attorneys' fees and court costs) incurred or suffered by any of the Seller Indemnified Parties to the extent directly or indirectly arising out of, relating to or resulting from (a) Buyer's unloading, storing, handling, packaging, processing, fabrication or use of the Goods; or (b) any negligence, act, or omission of Buyer, its employees, agents and anyone for whom Buyer may be legally liable.

12. Cancellation and Returns. Buyer may not cancel any order of Goods for Buyer's convenience without Seller's prior written consent. Seller may, in its sole opinion, authorize Buyer in writing to cancel Goods normally carried in Seller's inventory (as determined by Seller in its sole discretion). Any cancellation so authorized shall be subject to a cancellation charge of fifteen percent (15%) of the total purchase price of such order. Buyer may not cancel any processed Goods, custom Goods, specially manufactured Goods or Goods not normally carried in Seller's inventory.

13. Approval of Sale; Prior Sale. No sale shall be final until approved in writing (email being acceptable) by Seller. All quotations for Goods normally carried in Seller's inventory are subject to prior sale, unless otherwise specified in writing by Seller. All quotations for specially manufactured Goods and Goods not normally carried in Seller's inventory are subject to mill availability.

14. Compliance with Law. Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

15. Default; Bankruptcy. In addition to any remedies that may be provided under these Terms, (i) upon failure of Buyer to make any payment required hereunder, without deduction, setoff or counterclaim, within ten (10) days after the same becomes due, (ii) if Buyer defaults in the performance of any other obligation, term, or condition, or (iii) if Buyer shall make an assignment for the benefit of creditors, or in the event of a commencement of proceedings by or against Buyer involving bankruptcy, insolvency, reorganization or arrangement, or in the case of other significant financial instability of Buyer, Seller may, without demand or notice of any kind and without prejudice to any other right or remedy of Seller, (a) terminate the sale of all or any of the Goods; (b) suspend the release of any Goods on consignment to Buyer and defer further deliveries; (c) require Buyer to return or allow Seller to reclaim and/or pick-up any unpaid Goods; (d) require Buyer to pay the purchase price for any or all the Goods not yet paid for in full (whether such Goods are on-hand, in process or on-order, and whether or not delivered) and any other sums due from Buyer to Seller, which Buyer shall pay on Seller's first demand notwithstanding any credit period or other forbearance; (e) place any Goods identified to Buyer in storage at the cost and risk of Buyer; (f) apply any payments made by Buyer as Seller may elect without regard to any appropriation by Buyer; (g) sell any or all of the Goods at such price as may be available but without having any duty to Goods to do so at the best or any particular price, and collect any shortage in price from Goods; and/or (h) exercise any other right or remedy that Seller may have at law or in equity in the event of Buyer's default. Seller is entitled to immediate relief from the automatic stay should Buyer file for protection under the bankruptcy code. Buyer agrees not to oppose relief from the automatic stay if sought by Seller.

16. Unofficial Communications. No agents, employees, or representatives of Seller have any authority to bind Seller to any affirmation, representation, guaranty or warranty other than those expressly set forth in these Terms. Any technical advice furnished by Seller with respect to the selection or use of Goods is given without charge, and Seller assumes no obligation or liability whatsoever for the advice given or the results obtained, all such advice being given and accepted at Buyer's sole risk.

17. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

18. Confidential Information. All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, Buyer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section 18. This Section 18 does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

19. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Seller hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("**Impacted Party**") reasonable control, including, without limitation, the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, epidemics, pandemics or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within five (5) days of the Force Majeure Event to the other party, stating the period the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. If the Impacted Party's failure or delay remains uncured for a period of one hundred eighty (180) consecutive days following written notice given by it under this Section 19, the other party may thereafter terminate this Agreement upon thirty (30) days' written notice.

20. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section 21 is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

21. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

22. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

23. Governing Law. **ALL MATTERS ARISING OUT OF OR RELATING TO THIS AGREEMENT IS GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF WISCONSIN WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PROVISION OR RULE (WHETHER OF THE STATE OF WISCONSIN OR ANY OTHER JURISDICTION) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THOSE OF THE STATE OF WISCONSIN. THE PARTIES EXPRESSLY AGREE THAT THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THIS AGREEMENT.**

24. Submission to Jurisdiction. **ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF WISCONSIN, IN EACH CASE LOCATED IN THE CITY OF MILWAUKEE AND COUNTY OF MILWAUKEE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING.**

25. Prevailing Party. In the event of any claim, dispute or controversy arising out of or relating to these Terms, the prevailing party shall be entitled to recover its attorneys' fees and court costs from the non-prevailing party.

26. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section 27.

27. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

28. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction and Survival.

[END OF DOCUMENT – NOTHING FURTHER AFTER THIS POINT]