

## For Maynard Steel Casting Company Customers

### Terms and Conditions

**EXCLUSIVITY:** Seller's acceptance of Buyer's order is expressly conditional upon Buyer's agreement to these terms and conditions. All inconsistent or additional terms, modifications or changes are deemed material, are expressly rejected, and do not form a part of this agreement unless Seller agrees to such terms in writing.

**PRICES AND PAYMENTS:** Seller may increase any price hereunder after acceptance of Buyer's order with respect to any unshipped portion of the order by delivering or mailing written notice of such price increase to Buyer at least thirty (30) days prior to the date of shipment of any portion of the order to which such increase applies. This right shall not apply to any contract with respect to which Seller expressly agrees in writing to a firm price for one year. All prices are exclusive of taxes. All payments are due in full within 30 days of mailing by Seller of the invoice, with all overdue amounts bearing a finance charge of 1% per month.

**SECURITY AGREEMENT:** This agreement shall be considered a security agreement to the maximum extent allowed by law. Seller shall have, retain, and possess a security interest in all products sold to Buyer until Seller is paid in full. Buyer grants to Seller a power of attorney to complete, sign on buyer's behalf, and file all forms reasonably necessary to perfect Seller's security interest. If Buyer defaults, or Seller deems itself insecure of receiving payment, the full unpaid balance shall become immediately due and payable at the option of the Seller, and Seller may retake possession of the products without court order.

**DELIVERY AND ESTIMATED SHIPMENT WEIGHTS:** Seller shall not be liable for delivery delays beyond its control, including delays caused by its suppliers. All delivery dates and rates of production statements are merely good faith estimates. All shipments are FOB Seller's office, and the risk of loss passes to Buyer upon delivery. Seller shall not be responsible for the accuracy of shipping weights submitted in quotations, as all such weights are merely based on Seller's good faith estimates.

**WARRANTIES:** Seller warrants products that it sells to be free from defects in material and workmanship for a period of 12 months from date of shipment from Seller's manufacturing plant. Buyer must notify Seller of any warrant claim with 30 days after such claim arises or 13 months after the date of shipment from Seller's manufacturing plant, whichever occurs earliest; otherwise Buyer waives all rights to such claim. SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Unless otherwise agreed in writing, Buyer's sole remedy for breach of warranty is, at Seller's option, the repair of the defect, the correction of the service, or the providing of a replacement part FOB Seller's office. Seller will not be responsible for cost of dismantling, labor, machining, reassembling, or transporting the product. THESE WARRANTY REMEDIES ARE EXCLUSIVE AND ALL OTHER WARRANTY REMEDIES ARE EXCLUDED. Products or parts for which a warranty claim is made are to be returned

transportation prepaid to Seller's factory. Any improper use, operation beyond rated capacity, substitution of parts not approved by Seller, or any alteration or repair by others which, in Seller's judgment, adversely affect the Product, shall void all warranties and warranty obligations.

**CHANGES AND CANCELLATIONS:** For all cancellations or changes, Buyer agrees to pay to Seller all costs and damages incurred, plus 15%.

**PATENT INFRINGEMENTS:** With respect to goods manufactured by Seller in accordance with patterns, special tools, designs, processes or formulas furnished, determined or requested by Buyer, Buyer shall defend Seller, at Buyer's expense, and pay all costs and damages awarded in any suit brought against Seller for infringement of any patents by reason of the use of any such pattern, special tools, design, process or formula; provided, that Seller shall promptly notify Buyer in writing of any claim or suit for infringement of which Seller obtains knowledge, and tenders defense thereof to Buyer. Seller shall, at its option, be entitled to be represented by counsel of its choosing in any suit.

**PROPRIETY RIGHTS:** All designs and other proprietary rights provided by Seller to Buyer remain the property of the Seller, and Buyer shall honor all proprietary legends.

**LIMITATION OF LIABILITY:** The Seller's price is based on the enforceability of this limitation of liability, and the Buyer understands that the price would be substantially higher without this limitation. SELLER SHALL HAVE NO LIABILITY TO BUYER FOR LOST PROFITS OR FOR SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND, WHETHER ARISING IN CONTRACT, TORT, PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POTENTIAL DAMAGES IN ADVANCE. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY DAMAGES WHATSOEVER IN EXCESS OF THE CONTRACT PRICE.

IN THE EVENT THAT ANY WARRANTY OR WARRANTY REMEDY FAILS OF ITS ESSENTIAL PURPOSE, OR IS HELD TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, IN CONSIDERATION OF THE OTHER PROVISIONS OF THIS AGREEMENT, THE PARTIES AGREE THAT ALL LIMITATION OF LIABILITIES WILL NEVERTHELESS REMAIN IN EFFECT.

**PATTERNS AND SPECIAL TOOLS:** All pattern and special tools of Buyer are left in Seller's possession at risk of Buyer, and Seller shall not be responsible for loss or damage thereto. Seller shall have the right to dispose of any property that has been left with it for a period exceeding three (3) years, unless Seller agrees in writing to retain possession thereof for Buyer's benefit. SELLER SHALL BE ENTITLED TO RETAIN POSSESSION OF ALL PROPERTY OWNED BY BUYER UNTIL BUYER HAS PAID SELLER IN FULL ON ALL OBLIGATIONS OWED, AND SELLER SHALL HAVE A LIEN ON SUCH PROPERTY WHICH SELLER POSSESSES TO THE MAXIMUM EXTENT ALLOWED BY LAW FOR ALL OBLIGATIONS OWED BY BUYER TO SELLER, EVEN THOSE OBLIGATIONS WHICH DO NOT ARISE OUT OF THE INVOLVED PROPERTY.

**WAIVER:** No waiver by either party of a right under this agreement shall waive any other rights.

**GOVERNING LAW:** This agreement shall be governed by the internal laws, without regard to any conflict of law analysis, of the State of Wisconsin.

ATTORNEY FEES AND COLLECTION EXPENSES: SELLER SHALL BE ENTITLED TO REIMBERSEMENT OF REASONABLE ATTORNEY FEES AND COLLECTION COSTS INCURRED TO ENFORCE ITS RIGHTS UNDER THE AGREEMENT

SEVERABILITY: Any legally enforceable provision may be severed from this agreement, and the remaining terms and conditions will be enforced as a whole.

ENTIRE AGREEMENT: These terms and conditions and any other writing signed by Seller constitute the entire agreement, and may not be modified other than by a written document signed by Seller.