



GENERAL TERMS & CONDITIONS OF SALE

1. PRICES - All prices are subject to change without notice and shall not be binding on Seller until reduced to writing and signed by Seller. All orders are subject to written acceptance and approval by an authorized representative of Seller. All prices are F.O.B. Seller's plant, and do not include transportation costs or charges relating to transportation, which costs and charges shall be solely the responsibility of Buyer. Prices quoted include standard packing according to Seller's specifications. All costs and taxes for special packing requested by Buyer, including packing for exports, shall be paid by Buyer as an additional charge.

2. TERMS OF PAYMENT - a) Unless different payment terms are expressly set forth elsewhere in the quotation or agreed to in writing by Seller in any confirmation of sale, products will be invoiced upon shipment. Payment in full is due within thirty (30) days from the invoice date. b) In the event payment is not made when due, Purchaser agrees to pay Seller a finance charge of one and one-half percent (1.5 %) per month (18 % per annum) on the unpaid balance of the invoice from and after the invoice due date. Purchaser is responsible for all costs and expenses associated with the collection of any past due invoices and with any checks returned due to insufficient funds.

c) Irrespective of any credit terms set forth in Seller's quotation, all credit sales are subject to the prior approval of Seller's credit department.

3. BUYER'S FINANCIAL CONDITION - If, during the performance of a contract with Buyer, the financial responsibility or condition of Buyer is such that Seller in good faith deems itself insecure, or if Buyer becomes insolvent, or if a material change in the ownership of the Buyer occurs, or if Buyer fails to make any payments in accordance with the terms of its contract with Seller, then, in any such event, Seller is not obligated to continue performance under the contract and may stop products in transit and defer or decline to make delivery of products, except upon receipt of satisfactory security or cash payments in advance, or Seller may terminate the order without further obligation to Purchaser whatsoever. If the Buyer fails to make payments or fails to furnish security satisfactory to Seller then Seller shall also have the right to enforce payment to the full contract price of the work completed and in process. Upon default by Buyer in payment when due, Buyer shall immediately pay to Seller the entire unpaid amounts for any and all shipments made to Buyer irrespective of the terms of said shipment and whether said shipments are made pursuant to this quotation or any other contract of sale between Seller and Buyer, and Seller may withhold all subsequent shipments until the full amount is settled. Acceptance by the Seller of less than full payment shall not be a waiver of any of its rights hereunder.

4. TAXES - The price for the products does not include any applicable sales, use, excise, GST, VAT, or similar tax. Buyer shall have the responsibility for the payment of such taxes if applicable. Any taxes which the Seller may be required to pay and does pay under any existing or future law upon or with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the products covered by this quotation shall be deemed to have been so paid for the account of the Buyer, who shall promptly pay the amount thereof to the Seller upon demand. This provision shall not apply if Buyer furnishes Seller, with its order, a valid tax exemption certificate in a form acceptable to the appropriate taxing authority.

5. SHIPMENT/DELAYS - a) Time of shipment promised is approximate and is not guaranteed. The time quoted hereunder begins from receipt by Seller of required manufacturing information, complete material requirements, including any required approved drawings or written releases to proceed with manufacturing and Seller has reviewed and approved the same. Seller will make a reasonable effort to fill orders promptly, and on stated delivery dates, but **Seller shall not be responsible for damages of any kind, direct or indirect, growing out of, or in consequence of delay in delivery.** Seller shall have the right to deliver the goods at one time or in installments from time-to-time within the quoted time of delivery. This contract shall be deemed separable as to the products sold. When delivery in installments is chosen by Seller, the delivery of nonconforming goods, or a default of any nature in relation to one or more installments, will not substantially impair the value of this contract as a whole and will not constitute a breach of the contract as a whole. When delivery in installments is chosen by Seller, Seller shall prepare an invoice showing the price of the goods shipped at the time of each shipment, and from date of shipment Buyer shall pay the amount of the invoice as provided in 30 days unless other payment terms have been agreed to. b) If there is any design

change, project or work suspension, or unreasonable delay not caused by Seller which prevents completion of the Seller's work, or if Buyer defaults in payment under any contract, Seller shall have the right to charge Buyer for the value of all work performed, including engineering or administrative costs, and the cost of all material ordered and of all material fabricated, in whole or part, under any contract entered into on the basis of Seller's quotation, and the Buyer shall pay said amounts in full upon Seller's invoice.

c) Seller shall be excused for any delay or failure in performance due to acts of God, war, riot, embargoes, act of civil or military authorities, failures of suppliers, vendors, or sub-contractors, fires, floods, accidents, quarantine restrictions, mill conditions, labor unrest, delays in transportation, shortage of fuel, labor, materials, breakdown, compliance with or actions taken to carry out the intent or purposes of any applicable law or regulation, destruction of plant or equipment or other manufacturer's difficulty, or any other cause beyond the reasonable control of Seller. In the event that any one or more deliveries hereunder is suspended or delayed by reason of any one or more of the occurrences or contingencies stated above, any and all deliveries so suspended or delayed shall be made after such occurrences or contingencies have ceased to exist, and nothing herein contained shall be construed in any way as lessening the full amount of products herein being purchased and sold, but only as deferring delivery and payment in the event(s) and to the extent herein provided for. Neither shall any delay in shipment be considered as a default under this contract nor give rise to any liability on the part of Seller for any incidental, special or consequential damage.

d) If upon completion of the order and in accordance with the customer due date, the customer asks the Company to hold shipment, the Company will invoice the customer. Title for the material and the risks and reward of ownership will pass to you at the time of invoicing. The customer must put the hold request in writing and specify the new ship date. The Company will isolate the material for the customer. Inventory held for more than a reasonable time period may be charged a storage fee.

6. DESIGN - a) Seller's designs, details, erection plans and bills of material are prepared in accordance with generally accepted engineering practices.

b) The parties acknowledge and agree that, if Buyer has identified specific applications for the use of products, Seller shall not be responsible for any deviations from the specific applications or the nondisclosure by Buyer of any additional information, whether known or unknown which may effect or relate to the selection or recommendation by Seller of any specific products, designs, erection plans, or bills of material. c) **BUYER'S SPECIFICATIONS:** If the design and specifications are specified by Buyer, the parties agree that Buyer is exclusively responsible for the design and specifications. Seller shall not be responsible for the correctness or adequacy of any design details, or erection plans, or bills of material not furnished by Seller. Unless otherwise expressly provided, the parties agree that Seller shall not be responsible for or obligated to inspect, correct, or modify in any regard the designs, specifications, or bills of material supplied by Buyer. d) **COMBINED SPECIFICATIONS:** In the event that both the Seller and Buyer each shall partially design the products or select the bills of materials, the Seller shall not be responsible for the integration of its design or selection with those of the Buyer and Buyer shall be exclusively responsible for said integration.

e) **MODIFICATIONS:** The parties further agree that the Seller shall not be responsible for any products which have been modified or integrated with other products not designed or selected by the Seller.

7. CHANGE ORDERS - a) After acceptance of the quotation, any changes in the type of products, the arrangement of the products, or application of the products requested by Buyer will be made at Buyer's expense. Seller shall not be obligated to furnish or perform extra material or labor required by changes in the scope of the work, type of products and/or additions to the project until all of the terms and conditions hereof have been agreed upon and the Seller has received written approval for such from the Buyer. If Seller furnishes extra labor or materials at Buyer's request, but without Buyer's prior written approval of all terms and conditions, Buyer agrees that such labor or materials shall be furnished at Seller's price and terms for similar work.

b) Seller shall apply best efforts to make any changes in the work that Buyer or his agents order in writing, and Buyer shall promptly furnish all necessary information. Design and detail drawings reflecting changes in the work which Buyer and his agent may make subsequent to the date of

this quotation shall constitute extra orders in writing to Seller to make such changes. Unless otherwise agreed upon between Buyer and Seller, Buyer shall pay Seller for any additional work Seller performs as a result of any such changes.

8. INSPECTION - The products to be furnished by Seller shall be subject to Seller's standard inspection at the place of manufacture. If Buyer or his agent is to inspect, such inspection shall be so conducted as not to interfere unreasonably with the manufacturer's operations. Approval or rejection shall be made before shipment of the products. Notwithstanding the foregoing, if upon receipt of such products by Buyer, the same shall appear not to conform to the contract between Buyer and Seller, Buyer shall notify Seller, in writing, of such condition within ten (10) days of unloading and afford Seller a reasonable opportunity to inspect the products. No withholding of funds, backcharges, returns, credits, or repairs against amounts otherwise due Seller will be permitted unless agreed to in writing by Seller beforehand. Buyer's failure to inspect the products or failure to notify the Seller in writing that the products are nonconforming within ten (10) days of their receipt, shall constitute a waiver of Buyer's right to inspect and/or reject the products for nonconformity and shall be equivalent to an irrevocable acceptance of the products by Buyer.

9. TITLE, RISK OF LOSS, SHIPPING - Risk of loss will pass to Buyer at Seller's point of shipment. If Buyer is unable to accept products in accordance with the shipment schedules, Seller will store the furnished products at a place of Seller's choosing. Costs related to storage (including insurance) shall be borne by the Buyer. Invoices for the products will be issued the date the products are placed in storage, less applicable freight charges. It is the responsibility of Buyer to notify Seller within 48 hours of f.o.b. destination shipment of any shipping damage. Failure to comply with this requirement will absolve Seller from any damage claims.

10. PATENTS - The Buyer shall indemnify and save the Seller harmless from infringement of U.S. and Foreign patents resulting from Seller's compliance with design or specifications furnished by Buyer. Seller shall indemnify and save the Buyer harmless from infringement of patents by materials furnished or work performed hereunder in conformity with designs or specifications furnished by Seller.

11. LIMITED WARRANTY; DISCLAIMER AND LIMITATION OF LIABILITIES AND REMEDIES -

Seller warrants to the original Buyer for a period of one year from date shipped that the products are free from defects in materials and workmanship.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, AGREEMENTS, CONDITIONS OR REPRESENTATIONS MADE BY ANY PERSON WITH RESPECT TO THE PRODUCTS COVERED BY THIS OFFER, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREBY SPECIFICALLY DISCLAIMED. IN NO CASE WILL SELLER BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM A BREACH OF WARRANTY OR ANY OTHER CAUSE INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OF THE PRODUCT, LOSS OF TIME, INCONVENIENCE, INJURY, LOSS OR DAMAGE TO PERSON OR PROPERTY, COMMERCIAL LOSS, LOSS OF PROFITS, PENALTIES OR LIQUIDATED DAMAGES, LIABILITIES OF PURCHASER TO ITS CUSTOMERS OR THIRD PERSONS OR OTHER MATTERS NOT SPECIFICALLY STATED, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY.

This Warranty specifically excludes fatigue failure or similar phenomena resulting from induced vibration, harmonic oscillation or resonance associated with the movement of air currents around the product.

Purchaser must give written notice to Seller of any alleged defects in material or workmanship of warranted products within ten (10) days of the date when any defects are first manifest. Upon such notice and if the products are found by Seller to be defective, **THE SOLE RESPONSIBILITY OF SELLER UNDER THIS LIMITED WARRANTY SHALL BE TO REPAIR OR REPLACE, AT ITS OPTION, DEFECTS IN THE MATERIAL OR WORKMANSHIP DURING THE WARRANTY PERIOD F.O.B. SELLER'S FABRICATION FACILITY. IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES, OR FOR TRANSPORTATION, INSTALLATION, ADJUSTMENT OR**

OTHER EXPENSES WHICH MAY ARISE IN CONNECTION WITH SUCH DEFECTIVE PRODUCTS.

Any action resulting from any breach on the part of Seller as to the products delivered hereunder must be commenced within one (1) year after the cause of action has occurred.

12. LIMITED AUTHORITY OF SALES AGENTS - The sales agents and representatives of Seller have no authority to enter into agreements, contracts or understandings, or to bind or incur any liability or obligation on behalf of Seller. Orders and contract proposals taken by the sales agents and representatives of Seller are subject to written approval by an authorized representative of Seller at its home office.

13. SELLER'S TERMS TO CONTROL - Seller's offer, as shown by this quotation, is made for prompt written acceptance by Buyer and is subject to withdrawal without notice unless otherwise stated on the face hereof. This offer is made expressly contingent upon Buyer's acceptance of the terms and conditions included in this quotation. **Acceptance by Purchaser is limited to Seller's terms and conditions** and Buyer, upon placing an order for any products quoted by Seller, agrees to be bound by the terms and conditions set forth herein. Any inconsistent, additional or different terms and conditions contained in Buyer's purchase order or Buyer's response to Seller's quotation shall be construed as a counteroffer and shall not be effective or binding unless specifically consented to in writing by an authorized representative of Seller. Neither Seller's commencement of performance nor delivery shall be deemed or construed as acceptance of Purchaser's additional or different terms and conditions. If for any reason Buyer should fail to accept in writing, any conduct by Buyer which recognizes the existence of a contract pertaining to the subject matter hereof, shall constitute acceptance by Buyer of this quotation and all of its terms and conditions. If this quotation has been issued by Seller in response to an offer or purchase order, and if any terms herein are additional to, or different from any terms of such offer or purchase order, then the issuance of this quotation by Seller shall constitute an acceptance of such offer or purchase order subject to the express condition that the Buyer assent to such additional and different terms herein, and acknowledge that this quotation constitutes the entire agreement between Buyer and Seller with respect to the subject matter hereof and the subject matter of such offer or purchase order, and Buyer shall be deemed to have so assented and acknowledged unless Buyer notifies Seller to the contrary in writing within ten (10) days of receipt of this quotation.

14. ENTIRE AGREEMENT - The terms and conditions contained herein and in any confirmation of sale by Seller shall constitute the entire and complete agreement between Seller and Buyer and shall supersede all prior oral or written statements or understandings of any kind whatsoever made by the parties or their representatives. No modifications or additions to these terms and conditions shall be binding on Seller unless specifically agreed to in writing and signed by an authorized representative of Seller. Further, no oral or written statement made subsequent to the acceptance of Buyer's order by Seller which purports to modify in any way these terms and conditions shall be binding upon Seller unless such statement is clearly adopted and agreed to in writing by a duly authorized representative of Seller.

15. DEFAULT - Upon the happening of one or more of the following events, Seller shall forthwith have the unrestricted right to cancel -the contract, in whole or in part, without cost or liability to Seller and/or pursue any further remedies available at law, or in equity:

- a) Buyer's insolvency or inability to meet obligations as they come due.
- b) The appointment of a trustee or receiver of Buyer, or any substantial part of Buyer's assets by any court.
- c) The filing of a voluntary or involuntary petition of bankruptcy under any provision of the federal Bankruptcy Code or any state insolvency law.
- d) Buyer fails, or appears to be unable, to perform any of its obligations in accordance with the terms and conditions of this agreement. No waiver by Seller of a breach by Buyer of any provision of this agreement shall constitute a waiver of any other breach of such provision. All of Seller's rights and remedies hereunder shall be cumulative and not exclusive.

16. INTERPRETATION AND ENFORCEMENT OF CONTRACT - This quotation and any related confirmation or contract of sale shall be governed by and construed in accordance with the laws of Ohio. Buyer consents to the jurisdiction of any state or federal court located within the state of Ohio for purposes of resolving any dispute which may arise between Seller and Buyer hereunder.

Our Terms & Conditions can also be found at www.unionmetal.com.