

## STANDARD TERMS AND CONDITIONS OF SALE

**1. CONTRACT BETWEEN PURCHASER AND SELLER.** This Agreement, consisting of this form as completed, together with the Order Acknowledgment previously issued to you, and any documents incorporated by reference, shall be a contract binding **Bonnell Aluminum** (as "Seller") and you (as "Buyer"). Buyer shall not be entitled to revoke, defer or change any purchase order in process of production unless approved by Seller in writing on terms that will compensate Seller for all costs and expenses associated therewith and will indemnify Seller against all losses related thereto. This Agreement shall replace and supersede any purchase order you may have issued respecting the product(s) to be purchased and sold hereunder and is not intended to evidence Seller's acceptance of any such purchase order. Seller also hereby notifies you of its objection to any different or additional terms you may wish to propose for inclusion in this Agreement. Your acceptance of any product delivered hereunder shall be conclusive evidence of your acceptance of the terms and conditions of this Agreement as stated herein. In the event of any errors in this Agreement, please notify us immediately; failure to provide notice of any error within ten days of the date hereof shall make you liable for any additional costs incurred by Seller.

**2. CHANGE IN PRICE AND PRODUCT LINE.** All materials will be invoiced at Seller's price and charges in effect at the time of shipment. Seller reserves the right to make changes at any time in design, materials or specifications without decreasing performance, and to discontinue any product or products without notice.

**3. TOLERANCES – EXTRUSIONS.** The goods shipped hereunder shall be subject to standard quantity, specifications and dimension tolerances as contained in Seller's Price Schedule in effect at the time of delivery and/or as recognized by the Aluminum Association.

**4. PAYMENT.** If at any time prior to completion of performance under this Agreement, Seller shall have reasonable cause to doubt Buyer's ability or intention to perform as required hereby, Seller may demand assurances of Buyer's ability or intention to perform and may suspend its own performance pending receipt of such assurances. Buyer's failure to provide assurances as requested may be deemed a breach of contract. Such reasonable assurances may include evidence of Buyer's financial health, including evidence of its ability to pay amounts that may come due under this Agreement and the provision of third-party sureties guaranteeing such payment. Prices shown and payments due under this agreement are in United States dollars. Payment is due under the terms stated on the face hereof. Buyer agrees to pay all costs and expenses, including reasonable attorney's fees, incurred by Seller in the collection of any past due sum payable by Buyer to Seller, or in the exercise of any remedy.

**5. INTEREST.** Interest at the rate of 1.5% per month (18% per annum) or the then current JPMorgan Chase & Co. prime rate plus 4% (whichever is greater, but not to exceed interest rates permitted by applicable law) will be charged on all balances outstanding after (30) days from the due date.

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**Bonnell Aluminum, Inc.** = Newnan, GA; Carthage, TN

**Bonnell Aluminum (Niles), LLC** = Niles, MI

**Bonnell Aluminum (Elkhart), Inc.** = Elkhart, IN

**Bonnell Aluminum (Clearfield), Inc.** = Clearfield, UT

**6. TAXES.** Any increase in the cost to Seller of manufacturing the product sold hereunder, or any increase in the cost of any materials used in the manufacture thereof, whether payable by Seller or embodied in the cost to Seller of such materials and caused by taxes, excises, duties or other charges of any kind, or any such levy of any kind on the sale, delivery to or the use by Buyer, imposed by any national, state or municipal government, or any agency or political subdivision thereof, shall be separately invoiced or added to the price herein above specified, and shall be paid by Buyer so far as permissible under applicable laws, regulations and/or orders of competent governmental authority having jurisdiction thereof. State and federal (but not county or municipal) income, franchise, gross receipts, occupational or other similar taxes are not to be considered as a tax or governmental charge within the meaning of this paragraph.

**7. DELAYS.** Seller shall not be liable for any delay or non-delivery caused by circumstances beyond its reasonable control, including but not limited to declared or undeclared war, fire, flood, explosions, strikes, labor trouble or shortages, accident, breakdowns, mechanical failure of machinery or equipment, riot, act of governmental authority, acts of God, unavoidable casualties, priorities required or requested by federal or any state government or any subdivision or agency thereof or granted for the benefit, directly or indirectly of any of them, failure of the usual sources of supplies of raw materials, supplies and equipment, including electrical energy, delays in transportation or lack of transportation facilities, restrictions imposed by federal or state legislation, rules, regulations, orders or ordinances. In the event that any delivery is suspended or delayed by reason of the occurrence of one or more of the above causes, at Seller's option, deliveries may be made after cessation of such causes and nothing herein shall excuse Buyer's obligation to pay in full for any part of the order delivered before or after commencement of cessation of such cause(s).

**8. WARRANTY.** Seller warrants that the product(s) supplied by Seller shall be free from defects in workmanship and material and shall conform to the descriptions and specifications, if any, set forth or incorporated by reference in this Agreement. The foregoing warranty only applies to the quality of the goods at the time of delivery, and Seller makes no representation as to the durability or service life of the product. SELLER DISCLAIMS ANY OTHER WARRANTY, EXPRESS OR IMPLIED, WHETHER CREATED BY CONTRACT, BY STATUTE OR OTHERWISE BY OPERATION OF LAW, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**9. REMEDY.** If any product supplied by Seller fails to conform to the warranty set forth in paragraph 8, Buyer shall notify Seller of the nonconforming product in writing not later than 10 days after Buyer becomes aware of the nonconformity and in any event not later than one year after delivery of the product to Buyer. Following Seller's receipt of such notice, Seller reserves the right to inspect the product at Buyer's or Seller's location to confirm any such claimed nonconformity. If, upon Seller's consent, the alleged nonconforming product is returned to Seller for inspection and Seller subsequently determines that the product conforms to the foregoing warranty, Buyer shall be responsible for Seller costs for storage and related expenses pending Buyer's return shipping instructions. If Seller determines that the product fails to conform to the warranty, Seller, at its sole option, shall: (1) repair the product; (2) replace it with a product that conforms to the above warranty; or (3) return to Buyer the price, or that portion of the price, paid for the nonconforming product. Unless the order expressly provides that Seller shall provide transportation, Buyer shall bear all transportation costs and make all arrangements for transportation of the nonconforming product to and from the repair or manufacturing facility specified by Seller. Seller's remedial obligations hereunder are conditioned on the product not having been subjected to misuse, abuse or alteration. Transportation or traffic damages are to be noted on the delivery copy of Seller's manifest and/or bill of lading. No inspection or investigation of claim by Seller shall be deemed a waiver of this requirement.

**10. EXCLUSIVE REMEDY.** The remedies set forth in paragraph 9 shall be Buyer's exclusive remedies for products that fail to conform to the warranty in paragraph 8 above or for any other nonconformity of defect existing or alleged to exist in the product.

**11. CONSEQUENTIAL DAMAGES.** Seller shall not be liable to Buyer, whether in contract, tort or otherwise (including strict liability) for any special, incidental, indirect or consequential damages whatsoever, without regard to whether such damages are foreseeable, including but not limited to damages for loss of profits or revenue, loss of use of any equipment

or technology, damage to other tangible property of buyer, cost of capital, cost of downtime or delays or claims of customers.

**12. LIMITATION OF LIABILITY.** Seller's aggregate liability to Buyer, and to persons or entities claiming through Buyer, arising out of this Agreement, whether such liability arises in contract, tort or otherwise (including strict liability), at law or in equity, shall not exceed the price, or portion thereof, actually paid by Buyer hereunder.

**13. INDEMNITY.** Buyer shall indemnify Seller and Seller's officers, directors and employees against any an all liability and associated expense (including reasonable attorney's fees) they may incur in connection with claims asserted by persons or entities not a party to this Agreement for personal injury (including death) or property damage in any way connected with the sale, transportation, use or possession of the product, including its design, whether such claims arise in contract, tort or otherwise (including strict liability), whether in law or in equity, except to the extent such liability is adjudged by a court of competent jurisdiction to have been caused solely by the negligence or intentional misconduct of the person or entity to whom indemnity would otherwise be provided hereunder. Buyer expressly waives any right, whether arising under contract or by operation of law, to indemnity or contribution from Seller with respect to liability Buyer may have for the claims of persons or entities not a party to this Agreement in any way arising out of their sale, transportation, use, design or possession of any product purchased and sold hereunder.

**14. PURCHASER'S DESIGNS, PLANS, DRAWINGS, SPECIFICATIONS AND REQUIREMENTS.** For any product that is not included in Seller's standard product line offered for sale generally in the usual course of Seller's business, it is agreed that Buyer has engaged Seller to manufacture such product to Buyer's specifications and requirements. Seller shall not be responsible for the adequacy of prints, drawings, specifications and requirements respecting such product or for the adequacy of the design represented thereby. Seller also shall not be responsible for the adequacy of the materials incorporated in such product or for testing or otherwise determining the sufficiency and applicability of the design. Seller shall not be responsible for determining or assuring that such product or the use or application of such product conforms to applicable federal, state or local laws, rules or regulations. Seller's only warranty with respect to such products shall be as set forth in paragraph 8. All designs, plans, prints, or drawings or whatever kind prepared by Seller with respect to such products are and shall remain the sole property of Seller.

**15. ADVICE BY SELLER.** The giving or failure to give advice or recommendations of any character by Seller shall not impose liability upon Seller nor grant Buyer any license to the use of any of Seller's patents, inventions, trademarks or trade names.

**16. EQUIPMENT.** Any equipment (including extrusion dies, backers, bolsters, jigs, tools, etc.) which Seller specifically constructs or acquires for use on Buyer's extrusion order shall be and remain Seller's property and in Seller's sole possession and control. Any charges billed to Buyer by Seller therefor shall be for the use of such equipment only in connection with this Agreement and shall confer on Buyer no right of any kind with respect to such equipment. If Buyer fails to pay any of the amounts due Seller for a period of six months, or breaches any of these terms and conditions, or if bankruptcy or insolvency proceedings are commenced by or against Buyer, or if Buyer shall make an assignment for the benefit of creditors, or if a receiver shall be appointed for Buyer, all of Buyer's rights in and to the equipment shall be forfeited to Seller and Seller may use or dispose of such equipment as it, in its sole discretion, deems appropriate.

**17. PATENTS.** If any material shall be manufactured or sold by Seller to meet Buyer's specifications or requirements and is not a part of Seller's standard product line offered by it for sale generally in the usual course of Seller's business, Buyer agrees to indemnify Seller and Seller's officers, directors and employees against all liability and associated expense (including reasonable attorney's fees) for actual or alleged infringement of any United States or foreign patent and to defend any suits or actions which may be brought against Seller for any alleged infringement because of the manufacture or sale of any such material.

**18. TRANSPORTATION.** F.O.B. Shipping Point. Title and risk of loss shall pass to Buyer at the place and time such material is placed into the possession of the carrier or shipper at the Seller's location.

**19. CHANGES.** Seller assumes no responsibility for any changes by Buyer in the specifications identified in the Agreement as originally issued, unless such changes are confirmed in writing by Buyer and accepted in writing by Seller. Seller's acceptance of any such change may be conditioned on prior agreement to mutually acceptable changes in price and schedule for delivery of the product.

**20. RETURNABLE EQUIPMENT.** Any equipment, pallets or containers specified on the face of this Agreement as returnable, whether a charge is made or deposit is required, shall be returned promptly in accordance with Seller's instructions.

**21. GOVERNING LAW.** This Agreement shall be interpreted in accordance with the laws of the State of Georgia.

**22. NOTICE.** Notice to either party under any provision of this Agreement shall be deemed good and sufficient if sent by registered or certified mail to the last known post office address of such party and shall be effective upon posting.

**23. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement of Seller and Buyer respecting its subject matter and supersedes any prior or contemporaneous understandings. The contract evidenced by this Agreement may not be amended or rescinded except in a written document signed by authorized representatives of both Seller and Buyer.

**24. NON-ASSIGNABILITY.** This Agreement is neither transferable nor assignable by either Buyer or Seller except to (1) affiliates, subsidiaries or successors to the business of Seller to which this Agreement relates or (2) with the consent of the other party.

**Effective on and after January 1, 2020.**