

# Southern Tool Steel, LLC – Terms & Conditions of Sale

## TERMS AND CONDITIONS OF SALE

The following terms of sale shall be applicable to all sales made by Southern Tool Steel, LLC (“STS”), except where STS otherwise expressly agrees in writing. Acceptance of delivery of any or all goods ordered by a buyer shall constitute assent by the buyer to these terms of sale.

**1. PRICES.** The prices quoted may be changed by STS without notice in order to reflect STS’s prices at time of shipment, and any increase in transportation, labor or other costs. If a delivered price has been quoted, any charges at destination for spotting, switching, handling, storage and other accessorial services and demurrage shall be borne by buyer, and any increase or decrease in transportation charges shall be added to or subtracted from the quoted price. STS reserves the right to correct any obvious errors in specifications or prices.

**2. SURCHARGES.** Any surcharges imposed by STS’s suppliers at the time of shipment shall be paid by buyer. Such surcharges include, but are not limited to, surcharges on nickel, chromium (chrome), molybdenum (moly), scrap, fuel and natural gas.

**3. TAXES.** Any taxes which, under any existing or future law, STS may be required to pay or collect with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the goods or services covered shall, if not separately shown, be added as a separate item to the quoted price, and shall be paid by buyer to STS on demand. The foregoing shall not apply to any taxes the payment or collection of which by STS is excused by reason of delivery to STS of valid tax exemption certificates.

**4. QUANTITIES.** If it is indicated that any item is to be shipped from a producing mill, the producing mill may, on certain commodities reserve the privilege of shipping over or under the ordered quantity in accordance with established percentages (as shown in their price books), which will constitute full and complete shipment of the material specified.

**5. TERMS OF PAYMENT.** Unless otherwise expressly provided, payment shall be due 30 days from the date of each invoice, without discount. Any cash discount which may be expressly provided for applies only to the sale price of the goods at the shipping point, and does not apply to any charges made for taxes, storage, loading or transportation.

**6. DELIVERIES.** Any shipping schedule is approximate. STS shall not be liable for any delay in delivery or failure to deliver caused for any reason in whole or in part beyond its reasonable control including but not limited to production schedules of the producing mill, unavailability of materials, labor disturbances, acts of God, transporting difficulties or causes which abnormally increase the cost of performance. Should shortages in STS’s supply occur for any reason, STS may allocate the material in such manner and amount as STS may determine. Acceptance by buyer of any goods shall constitute a waiver by buyer of any claim for damages on account of any delay in delivery of such goods.

**7. NUCLEAR APPLICATION EXCLUSION.** It is expressly understood and agreed that, without STS’s prior written acknowledgement, buyer will not use, cause to be used or make available for use the goods described herein in any nuclear application including, but not limited to, use in connection with any nuclear reactor, any nuclear power generating system or any nuclear waste (or spent fuel) disposal project. Any subsequent nuclear application of the goods is wholly unauthorized and shall be deemed to be unknown to, unforeseeable to and unintended by STS.

**8. SUSPENSION OF PERFORMANCE.** If in STS’s judgment reasonable doubt exists as to buyer’s financial responsibility, or if buyer is past due in payment of any amount owing to STS, STS reserves the right, without liability and without prejudice to any other remedies, to suspend performance, decline to ship or to stop any material in transit, until STS receives payment of all amounts owing to STS, whether or not due, or adequate assurance of such payment.

**9. SHIPMENTS.** Unless otherwise expressly stated, shipment may be by carrier or other means selected by STS. Buyer assumes all risk of loss in transit.

**10. WARRANTY.** STS warrants only that the goods will conform to their description as herein stated, subject to tolerances and variations described in the following paragraph. **STS MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS AND EXCLUDES ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**11. TOLERANCES AND VARIATIONS.** All goods shall be subject to tolerances and variations consistent with usual trade practices regarding dimensions, straightness, section, composition and mechanical properties and normal variations in surface and internal conditions and quality and shall also be subject to deviations from tolerances and variations consistent with practical testing and inspection methods.

**12. INSPECTION.** Materials must be examined by the buyer immediately upon receipt to determine correctness of shipment as to quantity, size, length, and condition. Buyer must not cut, fabricate or otherwise use material without such examination.

**13. CLAIMS.** If, upon inspection by buyer as provided above, any goods received by buyer are nonconforming, damaged, visibly defective or if the quantities received by buyer do not agree with the quantities indicated on the shipping documents, buyer must notate that on the delivery receipt. If goods are found to be nonconforming or damaged when unpacking and if buyer intends to assert any claim against STS on this account, buyer shall within 30 days after receipt of such goods furnish STS detailed written information of such damage, nonconformance, defect or shortage. Buyer’s failure to so inform STS or buyer’s use of the material shall be buyer’s acknowledgment that STS has satisfactorily performed. STS will not honor any claims for damages caused by buyer’s improper storage of the goods.

**14. LIMITATION OF LIABILITY.** Buyer’s exclusive remedy and STS only liability arising out of this contract, shall be replacement or repair of the goods, or credit of the purchase price paid by buyer, whichever such remedy STS shall select. If STS elects to repay the purchase price, buyer must return the goods to STS immediately. Except for nonpayment by buyer, any action arising out of this contract must be commenced within one year from the date of delivery. **In no event will STS be liable for incidental or consequential damages.**

**15. TOOLS, DIES AND FIXTURES.** Unless otherwise expressly provided, any tools, dies or fixtures which may be developed for use in the production of the goods covered shall be owned by STS or any producing mill, as STS may elect, even though buyer is charged in whole or in part for the cost of such tools, dies and fixtures.

**16. PATENT INFRINGEMENT.** If any of the goods are to be furnished to buyer’s specifications, buyer agrees to indemnify STS and its successors and assigns, against all liabilities and expenses resulting from any claim of infringement of any patent or other propriety right in connection with the production of such goods.

**17. GOVERNMENT CONTRACTS.** Unless otherwise expressly provided, buyer’s order has not been placed under a prime contract with the United States Government or a subcontract thereunder and none of the clauses contained in the Armed Services Procurement Regulations as presently in effect, are incorporated herein.

**18. COMPLIANCE WITH LAWS.** STS agrees that in its sale of these goods STS will comply with all applicable federal, state and local laws, rules and regulations. Buyer agrees that it will use the goods only in compliance with all applicable laws and regulations.

**19. CANCELLATION.** A contract may be cancelled or modified only by written agreement between STS and buyer. Buyer’s insistence upon cancelling or suspending fabrication or shipment, or buyer’s failure to furnish specifications when required, may be treated by STS as a breach of contract by buyer, and STS may cancel any unshipped balance without prejudice to any other remedies STS may have.

**20. SET-OFF.** Buyer authorizes STS to apply toward payment of any monies that become due STS hereunder any sums which may now or hereafter be owed to buyer by STS, Joseph T. Ryerson & Son, Inc. or by any subsidiary or affiliated company of either of them.

**21. ENTIRE AGREEMENT.** The terms set forth herein constitute the sole terms and conditions upon which STS offers goods for sale. No other terms, conditions, or understandings, whether oral or written shall be binding upon STS, unless hereafter made in writing and signed by an authorized representative of STS. STS hereby specifically objects to any different or additional terms that may be contained in buyer’s purchase order or any document prepared by buyer.

**22. GOVERNING LAW.** The terms set forth herein and in any documents related to the sale of goods by STS shall be construed and governed exclusively by and under the laws of the State of Tennessee, and buyer and STS agree that the sole and exclusive venue to litigate any matters at all related hereto or thereto are the state and federal courts located in Hamilton County, Tennessee.

STEEL, ALUMINUM, NICKEL, BRASS AND COPPER

THE ABOVE PRODUCTS, IN THEIR NATURAL STATE, DO NOT PRESENT AN INHALATION, INGESTION OR CONTACT HEALTH HAZARD; HOWEVER, PROCESSING OPERATIONS (INVOLVING THESE MATERIALS) SUCH AS WELDING, BURNING, SAWING, BRAZING, GRINDING AND MACHINING MAY PRESENT A RESPIRATORY, SKIN OR EYE HAZARD. SEE MATERIAL SAFETY DATA SHEETS FOR FURTHER INFORMATION.