



**PENN
STAINLESS
PRODUCTS, INC.**
190 KELLY RD
QUAKERTOWN PA 18951
800-222-6144

SHEET – PLATE – BAR
PIPE – TUBING
FITTINGS – FLANGES

COMPLETE IN HOUSE
PROCESSING FACILITIES

MASTER TERMS AND CONDITIONS OF SALE

These Master Terms and Conditions of Sale shall apply to the delivery and sale of all materials by Penn Stainless Products, Inc (“PSP”) to _____ (“Purchaser”). Purchaser agrees and acknowledges that PSP would not agree to sell any materials to Purchaser without the Purchaser’s agreement to be subject to the Master Terms and Conditions of Sale which shall also be incorporated by reference in any verbal or written orders and/or agreements by and between PSP and Purchaser for the sale of materials to Purchaser by PSP. Purchaser further acknowledges that PSP is relying on Purchaser’s agreement to be subject to the Master Terms and Conditions of Sale for all materials sold by PSP to Purchaser either verbally, by purchase order, agreement, or otherwise.

1. This Master Terms and Conditions of Sale shall control on all sales, including all direct shipment sales arranged by or through PSP, whether or not material is delivered by or through PSP, and whether or not materials are billed to Purchaser's accounts. This Master Terms and Conditions of Sale shall not in any manner be changed, limited, controlled or restricted by any oral statements or the provisions of any of the Purchaser’s forms, letters, purchase orders, writings or papers which are inconsistent herewith unless specifically agreed to in writing by PSP. Additionally, Purchaser agrees that it shall be responsible for payment as to all materials purchased from PSP.

2. PSP hereby sells to Purchaser and Purchaser hereby purchases all materials, subject to the terms set forth herein below. All orders are based on PSP’S quotation and, if placed within thirty (30) days from date of the quotation and acceptance by PSP. Purchaser will be billed at the prices quoted. Quantities and unit prices are for the specific quotations and sale only. Any increase or decrease in quantities is solely at the option of PSP. PSP assumes no responsibility for quoted or sold materials meeting any job specifications or requirements unless specifically so stated in PSP’S written quotation. PSP is merely quoting its interpretation of Purchaser's material requirements. All quotations are subject to credit approval and are not an offer to sell on an open account basis. Unless specifically enumerated herein, the price does not include any tax (including excise, privilege, occupation, use, sales, etc., Federal, State, or local) or costs of shipment. All materials sold hereunder, which are shipped by common carrier or UPS, are sold F.O.B. PSP’S plant(s). All deliveries made by PSP truck will FOB destination. PSP reserves the right to approve or disapprove the carrier on any and all C.O.D. shipments. Purchaser hereby assumes sole and complete responsibility for the accuracy of any and all verbal orders.

3. Terms of Payment are Net 30 Days unless otherwise stated on PSP’S invoice. PSP may stop the manufacture or supply of any labor or materials when it, in its sole discretion, determines that Purchaser is in breach of this Master Terms and Conditions of Sale, any Application for Credit and/or any other agreement where PSP has insecurity with respect to Purchaser’s credit worthiness, until payment is made and any dispute or insecurity has been resolved as determined by PSP in its sole discretion.

4. All material delivered must be examined and inspected by the Purchaser and/or his agent or representative upon receipt. Any claim of shortage and/or damage must be made at time of delivery. PSP reserves the right to correct all errors and omissions. Where Purchaser and/or his agent or representative cannot examine and inspect material upon receipt, any and all claims must be made within (3) working days of delivery. Any claims made after the prescribed time period will only be honored at the discretion of PSP.

5. Purchaser agrees to hold PSP harmless for any shipping defect and for any injury to person or otherwise, when said defects occur when common carrier or UPS ship material.

6. PSP will not be liable for damages, and back charges will not be accepted, without prior written notification, an opportunity to view and repair, replace or otherwise cure, and approval by PSP. PSP agrees to replace or, at PSP’S option, repair any defective goods within a reasonable time. Purchaser agrees that these limitations of PSP’S liability are reasonable. Purchaser further agrees that these limitations of PSP’S liability are material parts of the consideration of supplying materials to the Purchaser and are reflected in the amounts charged by PSP. Purchaser intends that these limitations on PSP’S liability are to be liberally construed in favor of PSP to eliminate any other liability of PSP other than repair or replacement of defective parts or products or the return of the purchase price for the materials. **IN NO EVENT SHALL PSP BE LIABLE FOR ANY COMPENSATORY, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH ARISE FROM THIS AGREEMENT, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, DELAY DAMAGES, LOSS OF PROFITS, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES TO PROPERTY OR PERSONAL INJURIES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR OTHERWISE, REGARDLESS OF WHETHER SUCH FAILURE WAS CAUSED BY INTENTIONAL OR NEGLIGENT ACTS OR OMISSIONS OF PSP OR A THIRD PARTY, BREACH OF CONTRACT OR OTHERWISE. PSP’S LIABILITY IN SUPPLYING MATERIALS TO PURCHASER SHALL BE LIMITED SOLELY TO THE AMOUNT OF THE PURCHASE PRICE FOR THE DELIVERY OF MATERIALS WITH RESPECT TO WHICH THE LOSS OR DAMAGE IS CLAIMED PLUS ANY TRANSPORTATION COSTS ACTUALLY PAID BY THE PURCHASER.**

7. PSP shall be under no obligation to accept or perform a request for change order unless Purchaser unconditionally accepts in writing, without alteration or adjustment, the change order at the prices and terms quoted by PSP.



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8. In the event at Purchaser's request, the delivery of materials is delayed, then PSP shall invoice Purchaser for the price of materials, which invoice shall be due in accordance with this Master Terms and Conditions of Sale. Purchaser shall reimburse PSP for the cost of storing materials if shipment is delayed by Purchaser and PSP agrees to store such materials, and will assume sole and complete responsibility for damages caused by deterioration. Further, Purchaser hereby agrees and stipulates that should Purchaser otherwise cause a delay in PSP'S performance hereunder and/or delivery of the subject material in any manner, in the event PSP receives notification of a scheduled price increase(s) from any of its suppliers between the date of the order and the date originally scheduled for delivery of the materials covered hereby, PSP reserves the right in its sole discretion and judgment to increase the purchase price stated herein, in an amount corresponding to said price increase, or terminate the order.
9. PSP shall not be responsible for any damages to or loss or destruction of drawings, samples or other items provided by the Purchaser and Purchaser shall request the return of such documents within thirty (30) days of the completion of the order or such documents may be destroyed by PSP
10. PSP shall be entitled to interest at the maximum legal rate, or at the rate of 1.5% per month if there is no maximum legal rate, on any payment not received and further agrees to pay attorney's fees equal to thirty-three percent (33%) of any balance due in the event the account is turned over to an attorney for collection, whether or not suit is filed.
11. Purchaser shall indemnify, hold harmless and defend PSP and its agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of any materials supplied by PSP to Purchaser, provided that any such claim is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property, including the loss of use resulting there from, caused in whole or in part by any negligent act or omission of Purchaser, any subcontractor, employee, agent, or anyone else directly or indirectly employed by any of them or by any third person, regardless of whether or not it has been caused in part by a party indemnified.
12. Under no circumstances shall PSP be liable in any way to Purchaser or any other party for delays, including but not limited to delays caused by PSP, delays due to fire; flood; epidemics; quarantine; lightning strikes; embargo; explosion; power surge or failure; acts of God; war; labor or material disputes; civil disturbances; acts of civil or military authority; inability to secure materials, fuel, products or transportation facilities; acts or omissions of suppliers.
13. This Master Terms and Conditions of Sale shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. Purchaser and PSP agree that any claim or dispute regarding PSP's sale of materials to Purchaser or otherwise shall be brought in the BUCKS COUNTY that shall have exclusive jurisdiction over any such claims or disputes. Moreover, Purchaser and PSP each expressly and irrevocably consent to such Court's exercise of personal jurisdiction over them for the resolution of any such claims and disputes. PSP AND PURCHASER HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FULLY WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT NOW OR HEREAFTER EXISTS WITH RESPECT TO THE DELIVERY OF ANY MATERIALS BY PSP TO PURCHASER AND/OR ANY OTHER AGREEMENTS BETWEEN PSP AND THE PURCHASERS OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. EACH PARTY ACKNOWLEDGES AND AGREES THAT THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY SUCH PARTY AND IS INTENDED TO ENCOMPASS EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO TRIAL BY JURY WOULD OTHERWISE ACCRUE. EITHER PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PROVISION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS IRREVOCABLE WAIVER.
14. As a condition precedent to the effectiveness of an order, all orders are subject to approval and acceptance by PSP home office.
15. Purchaser shall not have the right to assign or otherwise transfer any order and/or agreement between PSP and Purchaser, or any rights, duties or any interest herein, without the prior written consent of PSP
16. If any provision of this Master Terms and Conditions of Sale are held by a court or arbitrator of competent jurisdiction to be void or unenforceable, the remaining provisions shall continue with full force and effect.
17. No amendment, change or modification of this Master Terms and Conditions of Sale shall be valid, unless in writing and signed by both parties.
18. This Master Terms and Conditions of Sale contain the entire understanding between the parties with respect to the subject matter contained herein and it supersedes all prior negotiations, representations, statements or alleged promises, except as expressly stated herein. It shall not be changed orally, but only by a written agreement signed by both parties hereto.



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19. Purchaser will not export or re-export directly or indirectly any of the sellers products, technical data or any component to a destination to which such export or re-export is restricted or prohibited by US or non US laws without obtaining prior authorization from the component government agencies to the extent required by law. This includes any countries listed in part 746 of the United States Export Administration regulation as embargoed. We acknowledge US law prohibits PSP products cannot be furnished to a user related to the design, production stockpiling or use of chemical, biological or nuclear weapons or missiles without the approval of the US Government.

20. Nuclear and Aircraft Exclusion:

Purchaser agrees and acknowledges that any materials, fabrication of materials, parts and/or products sold by Seller to Purchaser (i) are not to be sold for use and (ii) shall not be used by Purchaser, directly or indirectly: (i) in or with any facility in which nuclear fuels or retroactive products or materials are used, produced, processed, stored, transported or handled in any way (a “Nuclear Facility”) or (ii) in any aircraft (an “Aircraft”). Seller shall have no liability to Purchaser, Purchaser’s customers or any third party in the event of Purchaser’s breach of this section. Purchaser further agrees and acknowledges that any warranty which may be furnished by Seller to Purchaser specifically is not applicable to materials, fabrication of materials, parts and/or products sold by Seller to Purchaser and used, directly or indirectly, in a Nuclear facility or in an Aircraft and any warranty which may be furnished in these terms and conditions shall be null and void and of no force and effect. Purchaser acknowledges that Seller’s agreement to supply any materials, fabrication of materials, parts and/or products to Purchaser is its strict compliance with this section. Purchaser agrees to indemnify, defend and hold harmless Seller from and against all actions, suits, proceedings, liabilities, damages, losses, costs and expenses (including attorney and expert fees) which may be asserted against Seller and/or sustained by Seller as a result of Purchaser’s failure to strictly comply with this Section.

PURCHASER: _____

PENN STAINLESS PRODUCTS

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____
