

Capitol Stampings Terms and Conditions of Acknowledgement (06-2015)

- 1. Priority of Seller's Terms:** These terms and conditions are included as part of the order or orders being acknowledged. The terms and conditions of this Acknowledgement supersede the terms of Buyer's purchaser order. Any additional or different terms on Buyer's purchaser order form are deemed material alterations to any contract between Seller and Buyer, and Seller hereby gives notice of its objection to them.
- 2. Delivery Dates:** Delivery dates are from receipt of order, prints, models or materials, whichever is later, which are to be furnished by Buyer. Delivery dates are estimates and not guarantees, and Buyer understands and agrees to reasonable delays in delivery. Overtime and other direct costs incurred to hasten delivery of Buyer's request shall be added to the stated prices and paid by Buyer. Shipment of goods ready for delivery can be deferred beyond date for delivery only with Seller's consent and upon full payment of Seller's invoice for same plus storage costs. There shall be no penalties for late shipments unless arranged prior to production and confirmed by Seller in writing.
- 3. Risk of Loss:** SELLER assumes no responsibility for delays, breakage or damage after having made delivery to a common carrier, at which time, all risk of loss for any cause passes to purchaser. Unless otherwise specified, packing will be for domestic shipping and meet the requirements of United States common carriers.
- 4. Rejections and Claims:** No rejections can be made and no claims for variances from purchaser's specifications detectable upon inspection or shortages in orders can be asserted by Buyer by Seller unless presented to it in writing within thirty (30) days after receipt of goods.
- 5. Descriptions of Goods Sold and Tolerances:** Products furnished shall be described only by seller's quoted specifications and/or drawings. Any required change or deviation therefrom may subject quoted prices to revision. In the absence of specific, written instructions by customer, commercial tolerances and custom and usage in manufacturing practices in the stamping industry shall apply. Commercial manufacturing practices and tolerances are those resulting from standard stamping procedures without extra operations or tooling.
- 6. Quantity Prices:** This quotation is based on shipping quantities to one destination at one time, unless other terms are pre-arranged.
- 7. Pre-production Samples:** Samples, if required, will be submitted for approval before going into production on new tooling, without extra charge (minimal charge for custom parts).
- 8. Inspection Procedures:** Inspection by seller will be made on a percentage basis only, and will be in accordance with seller's standard practice of quality control.
- 9. Sales, Use, and other Taxes:** Buyer shall pay or reimburse seller for any sales, use, excise, occupational, or other tax arising directly or indirectly from this sale transaction or the performance thereof, or from the use by any person of the product sold, which seller may be required to pay or collect.
- 10. Overruns and Underruns:** All quotations are based on buyer accepting over-runs or under-runs on each individual item not exceeding 10% of quantities ordered.
- 11. Transportation:** All prices and deliveries are FOB shipped point and risk of loss shall pass to buyer upon delivery to carrier. Buyer shall specify type of carrier and routing. In the absence of such specification, seller will use its best judgment, but shall not be liable for any delays or excessive transportation charges resulting from its selection.
- 12. Quotations-Acceptances:** The quotations are effective for 60 days only from the date of issuance and acceptance must be received by seller in writing at its main office. Until written acceptance is received by seller, all quoted prices are subject to change without notice.
- 13. Quotations on Buyer's Specifications:** If quotation or any part thereof is made pursuant to drawings or blueprints furnished by buyer, seller reserves the right to recheck quotation before accepting order at the price or prices shown. Buyer is obligated at all times to notify seller of any change in specifications.
- 14. Buyer's Credit on Default:** If in the judgment of seller, the financial condition of buyer at any time does not justify continued performance on the part of seller, or shipment on the terms specified, seller may require full or partial payment in advance.
- 15. Payment Terms:** Terms for payment and discount are specified in sale documents. No deviation from terms as specified therein shall be permitted unless authorized by seller in writing.
- 16. Returns:** No material can be returned or reworked without written authority.
- 17. Errors in Weight or Number Delivered:** Seller shall have no liability for errors and weight or quantity delivered unless claim is made by buyer within 10 days after receipt of shipment. If such timely claim is made by buyer, seller may, at its option, ship the quantity necessary to fulfill its obligation or credit buyer with the invoice price of the deficiency.
- 18. Patent Infringement;** Buyer shall hold the seller harmless from all loss, damage, or liability including attorney's fees arising out of the manufacturing by seller for the buyer of any patented device or part thereof, or on account of the use of such articles by buyer, the patents for which seller does not own or control
- 19. Intellectual Property Rights:** Seller shall retain all rights in all intellectual property, including any rights under any patents as well as any unpatented

information, such as trade secrets, confidential information, trademarks, trade dress, or copyrights possessed by Seller which may be protected by state, federal and/or common law, and nothing in this Quotation shall be deemed or construed to be a transfer or license of any of Seller's intellectual property. Buyer shall obtain rights to such intellectual property only to the extent that Seller may grant such rights (whether by license or otherwise) in writing. Purchaser agrees to defend, and protect, and save harmless Seller against all suits from all damages, claims and demands for actual or alleged infringement of any patent copyright or trademark by reason of Seller's execution of the designs, prints, drawings, requirements, or specifications of Buyer.

20. Correction of Errors: Seller reserves the right to correct all typographical or clerical errors which may be present in the prices or specifications.

21. LIMITED WARRANTY: Seller warrants only that the articles covered hereby shall be manufactured in accordance with any agreed upon specifications, and free from defects in material and workmanship for a period of thirty (30) days after shipment. The obligation of seller under this Limited Warranty is limited to repairing or reworking FOB seller's plant or allowing credit, at seller's option, for any products that may prove to be defective, provided that buyer gives seller prompt notice of the defects during the warranty period. If inspection by seller confirms the defect(s), then the remedy of reworking, replacement or credit as seller's option is the exclusive remedy available. **THIS WARRANTY IS IN LIEU OF ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, OR OTHERWISE.**

22. LIMITATION OF LIABILITY: IN NO EVENT SHALL SELLER BE LIABLE FOR CLAIMS (BASED UPON BREACH OF EXPRESS OR IMPLIED WARRANTY, NEGLIGENCE OR OTHERWISE) FOR ANY DAMAGES, WHETHER DIRECT, IMMEDIATE, INCIDENTAL, FORESEEABLE, CONSEQUENTIAL, OR SPECIAL.

23. Tooling: All tooling used by seller in the processing of the product shall remain the property of seller. Tooling inactive for a period of 3 years may, at seller's option, be scrapped. If buyer furnishes tooling, costs of adaption, modification or excessive maintenance will be charged for. Buyer's tooling will not be insured by seller and all risk of loss due to fire or other casualty while tooling is in the seller's possession shall be upon the buyer.

24. Customer Material: Material furnished by buyer shall be shipped to seller freight prepaid and all risk of loss or damage to the materials, including processing loss, shall remain with the buyer. If the material is defective or will not perform to seller's requirements because of chemical composition, physical properties, dimensions or otherwise, seller may cancel order without incurring liability, but buyer shall pay seller's cost through time of cancellation.

25. Cancellation, Changes or Alterations: Orders may be canceled or deliveries deferred only upon payment by buyer to seller of all costs plus reasonable profit due to seller hereunder for all work performed.

26. Headings: The marginal notes and captions of particular paragraphs or clauses of this Contract are inserted as a convenience and by way of reference only, and in no way limit, enlarge, define or otherwise affect the scope or intent of the Contract.

27. Choice of Forum: The rights and obligations of buyer and seller shall be governed by the laws of the State of Wisconsin without giving affect to principles of conflicts of law. Any lawsuit between purchaser and seller shall be filed exclusively in a court either located in or having jurisdiction over Milwaukee County, Wisconsin.

28. Persons Bound: This Contract and all the covenants and provisions herein contained, shall bind and inure to the benefit of the parties hereto, their respective heirs, successors and assigns.

29. No partnership or Joint Venture: Nothing contained in this Contract is intended or shall be construed in a manner to create any relationship between buyer and seller other than the relationship of buyer and seller, and seller shall not be considered agents of the other, joint ventures or partners for any purpose.

30. Partial Invalidity: If any provision, or any portion thereof of this Contract, or the application thereof to any person or circumstances shall, to any extent be invalid or unenforceable, the remainder of the Contract, or the application of such provision or portion thereof, to any person or circumstances shall not be affected thereby and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

31. Agreements to be in Writing: No agreement shall be effective to add to, change, modify, waive or discharge this Contract in whole or in part, unless such agreement is in writing and signed by the parties to be bound.

32. Attorney's Fees: In the event that Seller retains legal counsel to enforce the terms of this Contract or bring legal action regarding this Contract, Buyer hereby agrees to pay all costs of collection and actual attorney's fees incurred by Seller.

33. Force Majeure: Seller's time for performance as set forth in this Contract shall be extended by such length of time as Seller is prevented from the performance thereof due to requests or other acts by Buyer or due to strikes, storms, lightening, hail, floods, or similar occurrence, or by riot, civil commotion, vandalism, theft, war, fire or any other conditions or occurrences, whether similar to the foregoing or not, which are not in control of seller. Seller shall not be liable for any consequential damages suffered by buyer as a result of delay in performance.