

TERMS AND CONDITIONS OF SALE
(Northwest Copper Works, Inc.)

1. **CONDITIONS AND LIMITATIONS** - No order is binding on the Seller (Northwest Copper Works, Inc. (NWC)) and no contract is formed until NWC's formal acknowledgment of the order is sent to Buyer. NWC accepts all orders subject to these terms and conditions. Acceptance of Buyer's order is limited to the express terms contained on the face and on the back hereof. Additional or different terms in the Buyer's Purchase Order or any attempt by Buyer to vary in any degree any of the terms of this acceptance shall be deemed material, are objected to, and rejected. Any specific terms or conditions noted on the face of NWC's acknowledgment on which this order is based are incorporated herein by reference, and made a part hereof as though specifically set forth herein. Buyer shall not assign this order or any interest herein or any right hereunder without NWC's prior written consent. These terms and conditions will not be amended, modified, or rescinded except by written agreement signed by an authorized representative of each party expressly referring hereto.
2. **ERRORS** - Stenographic or clerical errors on the face hereof are subject to correction.
3. **PAYMENT TERMS** - Contingent upon credit approval, our standard payment terms are Net 30 days from date of invoice. A service charge of 1.25% per month (15% per annum) will be assessed beyond this date.
4. **TAXES** - NWC's prices do not include any federal, State or local sales, use, excise or similar taxes. Consequently, in addition to the price specified herein, the amount of any present or future sales, use, excise, or other similar tax applicable to sale of the goods hereunder, or to the use of such goods by the Buyer, shall be paid by Buyer, or in lieu thereof Buyer shall provide NWC with tax exemption certificate acceptable to the tax authorities.
5. **DELIVERY** - Unless otherwise stated on the face hereof, all goods are delivered F.C.A. point of shipment. In any event, risk of loss shall pass to Buyer upon NWC's delivery to the carrier. Shipping dates are estimated, and NWC is not liable for delays beyond scheduled dates. Claims of damage in transit shall be processed solely by Buyer directly with the carriers and NWC shall have no liability to Buyer with respect to any act or omission of the carriers.
6. **INSPECTION** - Buyer agrees that it shall perform first article inspection at Northwest Copper Works, Inc.'s facility prior to shipment of goods in order to ensure compliance with the specifications. Final inspections are to be completed on site at NWC's facility and if waived, Buyer accepts goods as being satisfactory. Delivery of goods shall be to the carrier for the Buyer at the location of NWC. Upon delivery, Buyer agrees to physically inspect and examine the delivery for any damage that may have occurred during shipping. If Buyer concludes damage occurred during shipping and employs NWC to make repairs, Buyer must send written notice to NWC and Buyer must ship Product to Seller's facility at the Buyer's expense. The Buyer will be responsible for the cost of reshipment of the repaired Product.
7. **WARRANTY** - Northwest Copper Works, Inc. warrants, at the time of delivery, that goods sold under this contract will be free from defects and will conform to applicable descriptions and specifications, subject to customary tolerances and variations. Northwest Copper Works, Inc.'s standard warranty period is (12) months from the date of shipment. The standard warranty covers workmanship of equipment manufactured and supplied by NWC. Northwest Copper Works, Inc. shall not be responsible for damage to equipment caused by abuse, misuse, or operation outside of the design parameters. NWC WILL IN NO EVENT BE LIABLE FOR ANY INCIDENTAL, CONTINGENT, SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF PROFITS, REVENUE, OR USAGE, COST OF SUBSTITUTE PRODUCTS, ADDITIONAL COSTS INCURRED BY BUYER, OR CLAIMS OF BUYER'S CUSTOMERS OR THIRD PARTIES, NWC'S TOTAL LIABILITY TO BUYER FOR DAMAGE OR LOSS ARISING OUT OF, OR IN ANY WAY RELATED TO, THE SALE OF PRODUCTS HEREUNDER, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND/OR GROSS NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY OR ANY OTHER CAUSE ("CLAIM") SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PARTICULAR PRODUCT WITH RESPECT TO WHICH SUCH CLAIM RELATES. NWC shall not be responsible for Process Design failure of equipment. NWC does not offer process design and shall not be responsible for corrosion or damage due to the incompatibility of materials selected for construction, to process fluids (including liquids, gases, vapors), or *temperature* and pressure considerations other than those specified by ASME Code rules governing design. This warranty is exclusive and is in lieu of all other warranties, express and implied.
 - a. *Written notice of a claim must be delivered to Seller within (30) days following the discovery of the defect/s or such claim shall be deemed waived by the Buyer and in every case, this written notice must be provided with one (1) year from the date of manufacture of the Product.*
 - b. *Seller must be given a reasonable opportunity to investigate the Product and the claimed defect. Buyer will preserve the Product for a reasonable period of time to permit proper testing and investigation.*
 - c. *Final determination as to whether or not a Product is defective rests with Seller. Prior to returning any Product to Seller, approval must first be obtained from Seller. If Product is damaged in transit to Buyer, the claim must be filed with the carrier. Any product*

repaired thereunder whether under warranty claim or otherwise, shall be decontaminated prior to return, without cost to NWC, and to the extent necessary to permit NWC to affect such repair or replacement.

- d. *Notwithstanding anything to the contrary herein, all parts and materials purchased by Seller from a manufacturer, seller or supplier and subsequently incorporated into the system, piece of equipment or tooling will carry the manufacturers standard warranty. Seller assigns to the Buyer all rights and claims acquired against seller, supplier or manufacturers of said parts and materials. Buyer shall have no rights for warranty or any other claims against Seller for any such parts or materials.*
- e. *THIS WARRANTY DOES NOT COVER LOSS, DAMAGE OR DEFECTS RESULTING FROM IMPROPER OR INADEQUATE USE BY THE BUYER OR UNAUTHORIZED MODIFICATION OR MISUSE OR THE PRODUCT. The Buyer has the obligation to maintain and operate the provided Product in accordance with intended use. Failure to meet the forgoing will result in the Warranty being rendered null and void.*

- 8. **CANCELLATIONS** - An order may be canceled by the Buyer only upon written request, and written authorization by NWC, and upon payment of a reasonable cancellation fee. The reasonable cancellation fee will be determined by NWC and will reflect, among other factors, the expenses already incurred, and commitments, sales and administrative overhead, including continuing storage, and profits.
- 9. **PRODUCTS SHIPPED WITHIN THE UNITED STATES** - The products sold, or to be sold, to the Buyer by NWC are being delivered to the Buyer within the United States. Accordingly, should the Buyer elect to export the products, buyer is responsible for complying with any applicable export licensing requirements, as well as compliance with filing and other regulatory requirements relating to exports from the United States. Buyer represents and warrants that it understands and accepts the responsibility for obtaining any required export license and complying with the United States export-related laws and regulations. Buyer will indemnify and hold NWC harmless against any claims asserted against, or costs or damages incurred or paid, by NWC which arise or result from Buyer's failure to comply with applicable export-related laws and regulations.
- 10. **NUCLEAR EXCLUSION** - If NWC's products are to be used directly or indirectly in or with any facility in which nuclear fuels or radioactive products or material are used, produced, processed, stored, transported or handled in any way (a Nuclear Facility), the following additional terms and conditions set forth in this Paragraph 10 shall also apply.
 - a. Any product repaired thereunder whether under warranty claim or otherwise, shall be decontaminated prior to return, without cost to NWC, and to the extent necessary to permit NWC to affect such repair or replacement.
 - b. Buyer agrees to defend, indemnify and hold harmless NWC from and against (1) all claims of loss of or damage to real and personal property, including damage to any Nuclear Facility, and (2) all claims for personal injury, including personal injury to employees of any Nuclear Facility, arising out of any and all nuclear energy and radiation hazards or out of nuclear incidents.
 - c. With respect to any property damage and public liability, insurance carried by Buyer will secure from the insurance carrier or carriers waivers of all rights of recovery and subrogation against NWC, and Buyer agrees to defend, indemnify and hold harmless NWC from and against all claims which may be asserted against NWC by such insurance carrier or carriers.
- 11. **GOVERNING LAW** - This order shall be governed by and construed in accordance with the laws of the State of Oregon, exclusive of the choice of law rules thereof, and shall not be governed by the provisions of the U.S. Convention on Contracts for the International Sale of Goods, 1980.
- 12. **INDEMNITY** - Buyer shall defend, indemnify and hold harmless Seller, its officers, directors, agents and employees from and against any and all losses, costs, liabilities, damages, expenses (including without limitation reasonable attorney's fees and expenses), claims, demands, actions and causes of action (collectively, "Claims") arising from or relating to the Seller's performance of the work on the Product(s) or in any way occasioned by an act of omission of the Buyer or any of its officers, directors, agents, or employees, or any person or entity the Buyer deals with or sells to after the Product leaves the control of the Seller. The Buyer shall defend, indemnify and hold harmless Seller against and save it harmless from any and all Claims arising from or relating to any alleged or actual infringement of violation of any patent or patent right, arising in connection with the design, manufacture or shipping of the Product.
- 13. **STATUTE OF LIMITATIONS** - Any cause of action arising from this order, or its breach, must be commenced within one year after the cause of action has occurred.
- 14. **ENTIRE AGREEMENT; ASSIGNMENTS** - This order, together with any documents referred to on the face hereof, constitutes the entire agreement between the parties and can be modified only if agreed to in writing and signed by both parties. No part of this order may be assigned or subcontracted without prior written approval of NWC.
- 15. **EXCUSABLE DELAYS/FORCE MAJEUR** - Neither party shall be liable for delays or defaults arising from causes beyond its control, including acts of God, acts of war, fires, floods, strikes, freight embargoes and unusually severe weather.