

This Sales Order is issued by: Primrose Alloys, Inc.

Sales Order Terms and Conditions

By accepting the Sales Order, or Order Acknowledgment, attached hereto (both hereinafter referred to as the "Sales Order"), either in whole or in part, or by issuing a Purchase Order for the items contained in the Sales Order, either in whole or in part, **Buyer hereby agrees to be bound by the following terms and conditions:**

(1) **Buyer to Provide Specifications.** Buyer shall provide Seller with all design specifications (the "Specs") necessary for Seller to produce the items described in the Sales Order (the "Goods"). All Specs prepared by Buyer shall be submitted to Seller prior to Seller's commencement of any work. Buyer may not amend the Specs without Seller's prior written consent. If Seller accepts Buyer's amended Specs and complies with the amended Specs, any increase in the Purchase Price (as hereafter defined), or the time required for performance, will be disclosed to Buyer in writing, and Buyer will be deemed to have accepted the additional costs and the new time frame. Seller shall not be responsible for costs to expedite or accelerate the work necessary to produce and deliver the Goods if such expedition is requested by Buyer or is caused by the amended Specs.

(2) **Prices and Payment Terms.** The prices for the Goods shall be as stated on the Sales Order (the "Prices"). Payment of the Prices is due in full thirty (30) days from the invoice date. Invoices shall be issued upon or after the delivery of the Goods to Buyer or Buyer's agent. Buyer acknowledges that Seller's credit department may, in its sole discretion, impose more stringent payment requirements, including requiring payment in advance or requiring provision of an irrevocable letter of credit. Should Buyer become delinquent in payment of any sum due hereunder, Seller shall not be obligated to continue performance under these Terms and Conditions. Any amounts not paid when due will be subject to a service charge of one percent (1.00%) of the amount due per month or the highest rate permitted under applicable law, whichever is less. Seller shall be entitled to recover all reasonable costs of collection (including reasonable attorneys' fees, expenses, and costs) incurred in attempting to collect undisputed payments from Buyer that are more than sixty (60) days delinquent. Buyer shall pay all sales, use, value-added, excise, or similar taxes and duties and any shipping, delivery, and related insurance costs applicable to the Goods. In lieu of certain tax payments, Buyer may provide Seller with a tax exemption certificate acceptable to the taxing authorities. Buyer agrees to reimburse Seller for any such amounts which Seller incurs on behalf of Buyer. All payments to Seller shall be made in U.S. Dollars. Seller shall deliver an invoice for the Purchase Price simultaneously with the delivery of the Goods. The invoice shall be paid in accordance with Sales Order. The Purchase Price includes Seller's standard packaging, labels, labor, materials, production costs, meetings, testing and technical consulting. Buyer may not abate, set off, or deduct any amount from or reduce any amounts due under an Invoice. Buyer shall keep all pricing information related to the Goods confidential.

(3) **Shipment & Transportation.** The Goods shall be transported CIF Destination, Common Duty Paid. If and/or when additional tariffs are imposed, Seller reserves the right to charge Buyer the additional tariffs, which may include, but not be limited to, Sections 232 and 301 of the Trade Expansion Act of 1962. Title to the Goods shall pass to Buyer upon delivery of the Goods to the Buyer or Buyer's carrier. Risk of loss of the Goods shall pass to Buyer upon delivery of the Goods to the carrier.

(4) **Inspection, Receipt, and Acceptance.** Buyer shall inspect all the Goods upon receipt and shall be deemed to have irrevocably accepted all the Goods and to have waived and released all claims of failure of the Goods to conform to those ordered, unless Buyer provides written notice to Seller itemizing any nonconformance within ten (10) days after delivery of the Goods to Buyer or Buyer's agent. If within such ten (10) day period Buyer finds the Goods to be damaged or defective in workmanship, or otherwise not in conformity with the Specs or amended Specs, then Buyer shall provide written notice to Seller of such damages or defects with a detailed explanation. For defects in workmanship or conformity with Specs or amended Specs, such explanation must include a picture of the line marking/stencil imprinted on the Goods, or if there is no such line marking/stencil, a photocopy of the original bundle tag attached to the original package in which the Goods were transported. For damaged Goods, such explanation must also include a picture of such damaged Goods taken while the Goods were being unpacked. Seller shall have the right to send a representative to inspect the Goods to verify any claimed damages or defects. If after its inspection Seller determines that the Goods are in fact damaged or defective in workmanship, or materials do not conform with the Specs or amended Specs, Seller will promptly undertake corrective action to cause the Goods to be brought into conformity with the Specs or amended Specs. Seller shall have a reasonable period of time to correct the damaged or defective Goods. Buyer shall not be permitted to replace such Goods and charge Seller with the costs thus incurred, if any. If Seller notifies Buyer that it is unable to provide replacement Goods in a reasonable period of time and Buyer must seek replacement goods, the maximum amount Seller shall be liable to Buyer is the difference between the Purchase Price and the actual cost of the replacement goods.

(5) **Warranty.** Seller hereby represents and warrants that the Goods will conform to the Specs or amended Specs provided by Buyer and (ii) the Goods will be free from all contaminants and defects in material, parts and workmanship. OTHER THAN THESE REPRESENTATIONS AND WARRANTIES, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SELLER PROVIDES THE WORK AND GOODS "AS IS AND WITH ALL FAULTS," AND HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF NON-INFRINGEMENT, OF RESULTS, OF ABILITY TO ACHIEVE A PARTICULAR RESULT, OF DEFECT OR ERROR CORRECTION, AND OF LACK OF NEGLIGENCE OR LACK OF WORKMANLIKE EFFORT, ALL WITH REGARD TO THE WORK AND GOODS. THE ENTIRE RISK AS TO THE USE, QUALITY OF OR PERFORMANCE OF THE GOODS, IF ANY, REMAINS WITH BUYER.

(6) **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT SHALL SELLER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR AFFILIATES ("SELLER PARTIES") BE LIABLE TO BUYER UNDER ANY THEORY OF LIABILITY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR SIMILAR DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST PROFITS, REVENUES OR SALES OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY, INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE, INSTALLATION OF OR INABILITY TO USE THE GOODS AS MANUFACTURED IN CONFORMITY WITH THE SPECS OR AMENDED SPECS, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IF SELLER PARTIES HAVE BEEN ADVISED OR SHOULD KNOW OF THE POSSIBILITY OF SUCH DAMAGES.

(7) **Indemnity.** BUYER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE SELLER PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, COSTS AND EXPENSES (INCLUDING ATTORNEY'S FEES) OF WHATSOEVER KIND OR NATURE, WHETHER ARISING BEFORE OR AFTER COMPLETION OF SELLER'S OBLIGATIONS HEREUNDER, IN ANY MANNER DIRECTLY OR INDIRECTLY RESULTING, IN WHOLE OR IN PART, FROM OR IN CONNECTION WITH THE FOLLOWING: (1) BUYER'S BREACH OF ANY OF ITS OBLIGATIONS, REPRESENTATIONS OR WARRANTIES MADE HEREUNDER; (2) THIRD PARTY CLAIMS THAT THE GOODS AS MANUFACTURED IN CONFORMITY WITH THE SPECS OR AMENDED SPECS INFRINGE UPON THE INTELLECTUAL PROPERTY OF ANOTHER PARTY; (3) THIRD PARTY CLAIMS FOR BODILY INJURY, PROPERTY DAMAGE AND ECONOMIC LOSS CAUSED BY, ARISING FROM, OR IN ANY WAY RELATING TO THE GOODS (SUCH CLAIMS INCLUDE, BUT ARE NOT LIMITED TO, CLAIMS BASED ON THEORIES OF NEGLIGENCE, WARRANTY AND STRICT PRODUCT LIABILITY); AND (4) THIRD PARTY CLAIMS REGARDING DAMAGES RESULTING FROM THE INSTALLATION AND/OR USE OF THE GOODS. THE AFORESAID DEFENSE, INDEMNITY AND HOLD HARMLESS OBLIGATIONS SHALL APPLY EVEN IN THE EVENT OF THE FAULT OR NEGLIGENCE, WHETHER ACTIVE OR PASSIVE, OF THE SELLER PARTIES TO THE FULLEST EXTENT PERMITTED BY LAW, BUT IN NO EVENT SHALL SUCH OBLIGATIONS APPLY TO LIABILITY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF THE SELLER PARTIES.

(8) **Insurance.** Buyer shall maintain Commercial General Liability Insurance and Product Liability Insurance covering the Goods (including coverage for completed operations) in amounts acceptable to Seller. Buyer shall provide Seller with a certificate of insurance showing that the foregoing insurance are in effect.

(9) Neither Seller nor Buyer shall be responsible for delays caused by an event of force majeure.

(10) **Governing Law.** The parties agree that this Agreement shall be governed by California law. Any dispute under this Agreement shall be resolved by binding arbitration with JAMS/Endispute located in San Francisco. The parties shall mutually select one arbitrator from a list of 7 to be provided by JAMS/Endispute and shall "rank" each proposed arbitrator, who shall be a retired California Superior Court or Federal Court judge. Based on the parties' ranking, JAMS/Endispute shall select the single arbitrator. The arbitration shall be governed by the rules of JAMS/Endispute. The prevailing party in any such arbitration shall be entitled to reasonable attorneys' fees and costs and the arbitrator shall determine which party is the prevailing party. The parties agree that venue for any such arbitration shall be San Francisco County, California, and further agree to submit to the personal jurisdiction of the arbitrator or the superior court of the State of California for the County of San Francisco.

(11) **Changes.** This Agreement may not be modified, and none of its terms may be waived, except in writing signed by both parties.

(12) **Compliance.** If any provision of this Agreement is found to be illegal or unenforceable, such provision shall be deemed not to be a part of this Agreement, and the remaining provisions of this Agreement shall continue in full force and effect, but shall be interpreted to give effect to the extent feasible to the original written intent of the parties.

(13) **Entire Agreement.** This Agreement together with the Sales Order is intended by the parties as a final and complete expression of their agreement with respect to the subject matter hereof, and supersedes any and all prior and contemporaneous agreements, representations and understandings relating to it.

THE TERMS AND CONDITIONS REFERENCED IN THIS SALES ORDER SHALL APPLY FOR ALL GOODS, SERVICES OR WORKMANSHIP FURNISHED PURSUANT TO THIS ORDER.