

SOUTHERN ALUMINUM FINISHING CO, INC (SAF)

TERMS AND CONDITIONS OF SALE

1. **Validity of Quotations**
 - 1.1. No quotation shall be binding on SAF unless made in writing. Stenographic or clerical errors are subject to correction.
 - 1.2. Written quotations are offers and are valid for acceptance within 10 days from the date of the quotation unless otherwise expressly stated by SAF in the quotation. SAF may revoke, withdraw, or modify a quotation (including the duration of its validity) at any time prior to receiving a written acceptance without liability.
 - 1.3. Any customs, sales, use, excise or other transactional tax or charges imposed upon the sale, shipment or use of the materials shall be paid by the Customer.
2. **Prices and Orders**
 - 2.1. Notwithstanding anything contained in the written quotation, SAF reserves the right to vary a quoted price in any one of the following circumstances:
 - 2.1.1. To take account of changes in alloy surcharges, labor, material and other costs and expenses arising between the dates of quotation and delivery;
 - 2.1.2. If an alteration is made to an order upon which a quotation was made; or
 - 2.1.3. Should the customer delay taking delivery of goods.
 - 2.1.4. Changes in quantity ordered by Customer may change price per unit of SAF.
 - 2.2. Orders for goods placed by the Customer after receipt of SAF's quotation (whether orally or in writing) cannot be cancelled except with SAF's written consent. Customer shall be responsible for all costs resulting from the cancellation.
3. **Delivery and Delays**
 - 3.1. All delivery dates are estimates and are not guaranteed. Time and date for delivery shall not be of the essence unless agreed to by SAF in writing. Delay shall not constitute a breach and SAF shall not be liable for damages as a result of any delay, and the purchase is not subject to modification or termination as the result of any delay.
 - 3.2. SAF reserves the right to divide the delivery into separate lots.
 - 3.3. The Customer shall take delivery of the goods promptly upon notification by SAF that the goods are available for delivery. If, for any reason, the Customer fails to take delivery, SAF shall have the right without prejudice to any other rights or remedies available to it, to: (i) store the goods until delivery is made and charge the Customer for the reasonable costs of storage including insurance; or (ii) cancel the purchase agreement and sell the goods to a third party without any liability to the Customer, except to return to the Customer a portion of the amount pre-paid by the Customer if and only to the extent that the sale price to the third party, less all costs and expenses incurred by SAF, equals or exceeds the original purchase price.
 - 3.4. Unless otherwise agreed to by SAF in writing, delivery is FOB SAF's location.
4. **Payment and Credit**
 - 4.1. Unless otherwise agreed to by SAF in writing, payment shall be made as follows: (i) 30% of the purchase price at the time of issuance of the purchase order/acceptance of the offer; and (ii) 30% prior to delivery.
 - 4.2. SAF is not obligated to begin processing or fulfilling orders until it receives the initial payment specified herein and delivery estimates will not begin to run until that time. Where credit terms are established, payment shall be made net 30 days of delivery or in accordance with the terms agreed to by SAF in writing.
 - 4.3. The time of payment of the price shall be of the essence. In the case of any default or delay in payment by the Customer, the whole of any balance outstanding shall become immediately due and payable, and any credit facilities may be withdrawn.
 - 4.4. The terms of payment are subject at all times to our approval and in case of doubt arising as to Customer's financial responsibility, production may be stopped, and shipments may be suspended or sent draft attached to negotiable or other bill of lading, until satisfactory assurance of Customer's responsibility is received. Invoices for material delivered under this order are payable only to our office in Atlanta, GA. If the invoice is not paid when due, the outstanding balance shall bear interest at the rate of 1.5% per month or the highest interest rate allowed by law from the date when due. If legal process is necessary to enforce this indebtedness, then the Customer agrees to pay all reasonable attorney's fees and collection costs necessary to enforce the indebtedness.
5. **Warranty and Limitations Thereto**
 - 5.1. SAF warrants good title to all products and that the products are free from any encumbrances. SAF DOES NOT MAKE AND SHALL NOT BE HELD LIABLE FOR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO A WARRANTY OF MERCHANTABILITY OR A WARRANTY OF FITNESS FOR A PARTICULAR USE OR PURPOSE. UNLESS EXPRESSLY INCLUDED IN A QUOTATION, SAF DISCLAIMS ANY WARRANTY REGARDING DOMESTIC CONTENT OF THE PRODUCTS OR COMPLIANCE WITH DOMESTIC CONTENT REQUIREMENTS.
 - 5.2. SAF is a product manufacturer and not a trade-contractor or a subcontractor. SAF does not install or take field measurements. Compliance with building codes is the responsibility of others and is beyond the scope of any undertaking by SAF. SAF is also not responsible for compliance with any plans, drawings, specifications, or other contract documents that may be applicable to Customer unless they are expressly incorporated into the Quotation.
 - 5.3. Samples supplied by SAF are for promotional purposes only and are not to be used as a representation or specification of goods to be supplied. If control samples are required, SAF must be notified of all requirements and agree, in writing, to each requirement prior to delivery of the control sample.

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6. Inspection/Acceptance

- 6.1. Customer has the responsibility to promptly inspect the goods delivered by SAF. Failure of Customer to inspect and, if applicable, notify SAF of asserted non-conformance and rejection in writing within 30 days of receipt shall constitute Customer's acceptance and acknowledgment that the products and goods are in conformance with all applicable specifications, representations, and warranties.
- 6.2. If Customer determines the goods or products are not in conformance with any applicable specifications, representations or warranties, Customer shall notify SAF, prior to expiration of the 30-day period, in writing the reasons for the non-conformance and include supporting data. Assertions of non-conformance without detail and data will constitute acceptance and waiver. Where SAF accepts the timely rejection of any goods or products, the Customer must return to SAF the rejected goods in the packing provided or its equivalent and upon receipt of definite shipping instructions from SAF.
- 6.3. All claims for shortage and damage shall be waived unless Customer notifies SAF of the same within 10 days after receipt of the materials to which the claim relates. In no event shall SAF have any liability for any such claim unless SAF is permitted to verify the claim by an inspection by a representative of SAF. The quantity of any shipment recorded by SAF is conclusive evidence of the quantity received by Customer on delivery unless Customer provides notice of any discrepancy immediately upon receipt.
- 6.4. Materials can be supplied with manufacturing marks. These defects are unavoidable and any material containing such marks shall be deemed commercially acceptable and cannot be rejected.

7. REMEDIES AND LIMITATION OF LIABILITY

- 7.1. IF ANY PRODUCT FAILS TO CONFORM TO THE SPECIFICATIONS SET FORTH IN THE ORDER, AND THE CUSTOMER PROVIDES PROPER WRITTEN NOTICE AS IS REQUIRED HEREIN, SAF SHALL, AT ITS DISCRETION, AND AS THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, EITHER: (I) REPLACE OR REPAIR THE NONCONFORMING PRODUCTS; OR (II) IF NOT REPLACED OR REPAIRED, REFUND THE PURCHASE PRICE OF THE NONCONFORMING PRODUCT. ANY REPLACEMENT PRODUCT WILL BE SUBJECT TO THE ABOVE WARRANTIES.
- 7.2. SAF SHALL NOT BE LIABLE FOR NONCONFORMANCE OF A PRODUCT IF: (I) CUSTOMER MAKES ANY FURTHER USE OF SUCH GOODS AFTER GIVING WRITTEN NOTICE OF NONCONFORMANCE; (II) THE DEFECT ARISES BECAUSE CUSTOMER FAILED TO FOLLOW SAF'S INSTRUCTIONS AS TO STORAGE, INSTALLATION, USE OR MAINTENANCE; (III) CUSTOMER ALTERS OR REPAIRS THE PRODUCT WITHOUT THE PRIOR WRITTEN CONSENT OF SAF; OR (IV) CUSTOMER REFUSES AFTER REQUEST BY SAF TO PROMPTLY PERMIT INSPECTION OF SUCH PRODUCTS BY A REPRESENTATIVE OF SAF AND RETURN THE PRODUCT TO SAF FOR REPLACEMENT OR REPAIR. CUSTOMER AGREES TO THESE LIMITATIONS TO ITS REMEDIES AND DISCLAIMS ANY RIGHT TO BACKCHARGE, DEDUCT, OR SETOFF AMOUNTS FOR ALLEGED PRODUCT NONCONFORMANCE.
- 7.3. SAF'S LIABILITY FOR SHORTAGES SHALL BE LIMITED TO, AT SAF'S DISCRETION, REPLACING THE PRODUCT WITHIN A REASONABLE TIME OR ADJUSTING THE INVOICE RESPECTING SUCH PRODUCTS TO REFLECT THE ACTUAL QUANTITY DELIVERED.
- 7.4. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, SAF'S LIABILITY, WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE LIMITED TO THE PURCHASE PRICE SET FORTH IN THE QUOTATION, AND IN NO EVENT SHALL SAF HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSSES.
- 7.5. IF THE CUSTOMER'S ALUMINUM OR METAL FABRICATION IS DAMAGED IN THE FINISHING PROCESS OUR LIABILITY SHALL BE LIMITED TO THE REPAIR OF FABRICATION BUT IN NO CASE TO EXCEED \$0.50 PER POUND UNLESS A HIGHER VALUATION IS DECLARED BY THE CUSTOMER AND AGREED TO BY US. SUCH EXCESS VALUATION SHALL BE CAUSE FOR ADJUSTMENT OF ANY QUOTED PRICE.

8. Title to Property

- 8.1. Notwithstanding delivery and the passing of risk in the goods as set forth herein, title and property in the goods, including full legal and beneficial ownership, shall not pass to the Customer until SAF has received payment in full (including all applicable interest charges) for all goods delivered under all contracts between SAF and the Customer for which payment is due.
- 8.2. Where goods are to be delivered by installment, each delivery shall be treated as a separate contract provided that SAF may withhold deliveries of further installments if Customer is not current on all payment obligations and a breach of one payment obligation shall constitute a breach of all such related contracts.

9. Force Majeure

- 9.1. SAF will not be liable for non-delivery of goods or delay in the performance of orders or contracts or in the delivery shipment of goods, or for any damages suffered by Customer by reason of such non-delivery or delay when such non-delivery or delay is directly or indirectly caused by or in any manner arises from acts of God, casualties of wars, pandemic, shortage of materials or suppliers or interruption or delay in the delivery thereof, plant breakdown or disability or interruptions for any cause whatsoever, strikes or other labor disturbances, delays or interruption in transportation facilities, requirements or regulations or policies of any government, or any other disabling causes or contingencies or any condition causing delays in our plant or otherwise affecting our production which is reasonably beyond our control.

10. Choice of Law, Jurisdiction, Waiver of Jury Trial, and Attorney's Fees

- 10.1. Any and all disputes shall be governed by the laws of the State of Georgia without regard to its conflict of laws provisions, and shall, at SAF's sole option, be resolved by litigation in any state or federal court located in Georgia or binding arbitration in accordance with the Commercial Rules of the American Arbitration Association then in effect. TO THE FULLEST EXTENT

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PERMITTED BY LAW, JURY TRIAL IS WAIVED BY ALL PARTIES HERETO. Should SAF substantially prevail in any such litigation or arbitration, SAF shall be entitled to recover its reasonable attorney's fees and costs.

11. Entire Agreement, Modification, Conflict of Documents.

- 11.1. THE QUOTATION AND THESE TERMS AND CONDITIONS SET FORTH THE ENTIRE AGREEMENT BETWEEN SAF AND CUSTOMER WITH RESPECT TO ITS SUBJECT MATTER. ALL PRIOR NEGOTIATIONS AND DEALINGS REGARDING THE SUBJECT MATTER HEREOF ARE SUPERSEDED BY THIS AGREEMENT.
- 11.2. WHERE THERE IS CONFLICT BETWEEN A PURCHASE ORDER AND THE TERMS CONTAINED IN SAF'S QUOTATION AND THESE TERMS AND CONDITIONS, THE TERMS CONTAINED IN SAF'S QUOTATION AND THESE TERMS AND CONDITIONS SHALL PREVAIL. SAF HEREBY REJECTS ANY DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS PROPOSED BY CUSTOMER IN ANY PURCHASE ORDER OR OTHERWISE. Amendment to these terms and conditions can be achieved only by a writing signed by an authorized Corporate Officer of SAF, separate from a purchase order or similar document, for the exclusive purpose of modifying these terms. Customer may issue purchase orders or release orders against the quotation and these terms and conditions to indicate only quantities to be shipped and shipping arrangements consistent with the quotation and these terms and conditions. No agent or employee of SAF has authority to bind SAF by any verbal promise, representation, or statement.

12. Customer-Supplied Materials

- 12.1. All property belonging to the Customer, including any raw materials, received by SAF, whether for incorporation in the goods or otherwise, will be held by SAF at the Customer's risk with respect to loss or damage or incorrect usage and the Customer will indemnify and hold SAF harmless against any claim for loss, injury, or damage caused by Customer's property to any person, or property including but without limitation machinery used by SAF in the course of its business except loss, injury, or damage arising directly and exclusively from the negligence of SAF. Such goods are the insurance responsibility of the Customer while at SAF's premises.
- 12.2. SAF is not responsible for any defects that are inherent in, or are the consequence of, the condition of material supplied by Customer. Customer is responsible for the cost of inspecting such materials or production downtime due to the quality of such material or waiting on the Customer to supply information.
- 12.3. SAF will not be responsible for stopping or splitting coils or refusing to run coils or sheets if any condition exists that may jeopardize the safety of its employees or damage or risk damage to its equipment. There will be a charge for equipment downtime due to defects in the material issued to SAF for processing by the Customer.
- 12.4. SAF does not count Customer provided materials until we begin processing the metal. SAF reserves the right to revise the price if we do not receive all items listed, because quantity frequently governs the price.
- 12.5. When manufacturing Customer supplied material, flatness tolerances for aluminum sheet will be to The Aluminum Association flatness tolerances for the applicable alloy and thickness, and flatness tolerances for coil or fabrications cannot be offered unless specified in the quotation.
- 12.6. SAF may refuse to run Customer material coated to any extent with lubricating compounds, corrosion, protective tape, or any other residues. Customer is responsible for any cleaning cost to remove such coatings.
- 12.7. For Customer coil orders, leaders and tails of coils may not be processed throughout which is usual with coil production. During coil processing damage can occur due to the condition, presentation or packing of the coil material including oscillation at the beginning or end of a coil. SAF is not responsible for costs for such material which are the usual consequences of production.

13. Miscellaneous

- 13.1. No transfer or assignment of any purchase agreement or any of its rights or obligations thereunder shall be made by Customer without the written consent of SAF.
- 13.2. In the event that one or more provisions of the purchase agreement or these terms and conditions shall be declared to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in the purchase agreement, or these terms and conditions shall not in any way be affected or impaired thereby.
- 13.3. No provision hereof and no breach of any provision shall be deemed waived by reason of any previous waiver of such provision or of any breach thereof. SAF failure to object to provisions contained in any communication from Customer shall not be deemed a waiver of the provisions.
- 13.4. The purchase agreement or these terms and conditions shall be binding upon the parties and their respective successors and assigns. The purchase agreement or these terms and conditions are solely for the benefit of the parties hereto. The parties do not intend, and no provision herein shall be construed, to create any third-party beneficiaries, or to confer any benefit, or enforceable rights hereunder, upon anyone other than the parties hereto.
- 13.5. Compliance with import export law. Customer shall comply with all export and import laws of all countries involved in the sale of the goods under this Agreement or any resale of the Goods by Customer. Customer assumes all responsibility for shipments of goods requiring any government import clearance. SAF may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on goods.