

RUSSEL METALS WILLIAMS BAHCALL INC.

TERMS AND CONDITION OF SALE

The following terms and conditions of sale are applicable to all quotes and sales to your Company.

1. **Prices and payment.** Prices and charges are subject to change without notice and will reflect those of Vendor in effect at the time of shipment. Balances past due shall bear interest at 1½% per month (18% per annum). Mathematical and typographical errors are subject to correction. Terms of payment shall be as set forth in the invoice, or if no such terms are set forth therein, payment shall be due 30 days after the date of shipment. All payments shall be made in U.S. dollars.
2. **Title and Risk.** Title, ownership and risk of loss or damage to the goods shall pass to Purchaser immediately upon Vendor packaging goods unless otherwise specified as being on delivery. All sales are F.O.B. Vendor's warehouse unless otherwise stipulated. Charges for spotting, switching, handling, storage or other accessory services and demurrage shall be at Purchaser's expense.
3. **Orders.** Vendor's interpretation of a verbal order shall be final and binding where shipment is made prior to receipt of written confirmation. Unless brought to the attention of Vendor within 10 days, Vendor cannot be responsible for any errors or discrepancies contained in the order. All sales by Vendor shall be only upon the terms and conditions set forth herein. No understandings or agreements which differ from or add to these terms and conditions, and no additions, deletions or modifications of the terms and conditions of sale provided by Purchaser in its printed forms or otherwise shall bind Vendor unless specifically accepted by Vendor in writing, regardless of whether such understandings, agreements, additions, deletions or modifications would materially alter the terms hereof. Vendor rejects all such additions and/or different terms.
4. **Warranties.** Should any of the goods received by Purchaser not conform, as determined by Vendor's inspection, to the specifications and descriptions contained herein, subject to Vendor's regular practice concerning over and under shipment and normal industry tolerances, variations and limitations of dimension, weight, shape and composition, Purchaser acknowledges that Vendor's only liability will be to replace or repair such goods or to refund the purchase price, at the option of Vendor, provided the terms of payment have been met and Purchaser notified Vendor in writing within 10 days of receipt of the goods. Except for test samples, goods may not be returned which Purchaser has cut, processed or altered in any way.

Where Purchaser has directed Vendor to perform certain shaping, cutting or other processing on the goods in accordance with Purchaser's particular specifications, Vendor does not make any representations or warranties except that those goods shall conform to the specifications supplied by Purchaser and that all processing applied by Vendor is performed in a good workmanlike manner in accordance with applicable industry trade standards and practices subject to any tolerances and variations consistent with the usual trade practices or as specified by Purchaser.

Purchaser acknowledges that no other express warranty is made with respect to the goods. If any model or sample was shown to Purchaser, such model or sample was used merely to illustrate the general type and quality of the goods and not to represent that the goods would necessarily conform to the model or sample in all respects.

THE FOREGOING REPRESENTS VENDOR'S SOLE EXPRESS WARRANTY WITH RESPECT TO THE GOODS SOLD TO PURCHASER. ALL OTHER WARRANTIES, EXPRESS AND/OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MECHANABILITY AND FITNESS ARE HEREBY EXPRESSLY EXCLUDED.

- 5. Indemnification of Vendor.** Vendor will not be responsible for and Purchaser shall indemnify and hold harmless Vendor from and against any loss, damages, expenses, claims, repairs, suits or judgments whether direct, indirect or otherwise, arising in any way out of the use of the goods and that Vendor's sole liability shall be to replace or repair the goods, or refund the purchase price, at Vendor's option. Where Purchaser has supplied the design for all or any part of the goods, Purchaser hereby agrees to indemnify and hold harmless Vendor from and against all loss, damages, expenses, claims, suits and judgments arising, directly or indirectly, out of the design, installation, maintenance or operation of the goods or any allegation that the goods, or any part thereof, infringe any patent, industrial design or intellectual property right.

Purchaser assumes all responsibility, risk and liability and agrees to indemnify and save harmless Vendor from and against any liability, loss, cost, damages, claims or expenses in respect of any defect in the whole or any part or parts of any good or goods manufactured or fabricated, incorporating or otherwise using the goods sold under this agreement.

- 6. Delivery.** Delivery of goods is subject to stock availability. Unavailability of the goods from Vendor's suppliers shall constitute a force majeure in this agreement. Vendor shall promptly notify Purchaser of the absence or shortage of supply of the goods. Vendor shall exercise its best efforts to deliver within the times quoted but does not guarantee delivery time and shall not be liable for any damages, loss, claim or expense of any kind or nature whatsoever or howsoever caused by the delay in delivery or unavailability of goods.
- 7. Force Majeure.** Neither party shall be responsible to the other for non-performance or delay in performance occasioned by any causes beyond its control including without limitation any acts or omissions of the other party, such as: acts of civil or military authority, strikes, lockouts, trade actions, embargoes, insurrections or acts of God.
- 8. Claims and Credits.** Vendor shall not be liable for any shortages or errors in or damage to the goods shipped to Purchaser unless written details of such shortages, errors or damages are given by Purchaser to Vendor within 10 days of receipt of the goods.

9. **Changes or Cancellation.** Vendor may accept Purchaser's request to change the specifications or processing of the goods, but shall reserve the right to charge Purchaser for all costs and services necessary for such changes. Orders for goods may not be cancelled and materials may not be returned by Purchaser except with the written consent of Vendor.
10. **Suspension of Orders.** Vendor reserves the right, without liability and without prejudice to any other remedies, to delay or stop shipment of all or any part of the goods if any time reasonable doubt exists as to Purchaser's financial situation.
11. **Entire Agreement.** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.

Purchaser's order will be filled in accordance with the terms and conditions set out above. This acknowledgment constitutes acceptance of Purchaser's offer subject to the conditions of sale above and it constitutes a contract made in the United States for the sale of goods described herein.

12. **Limitation of Remedies.** Vendor shall not be liable in contract, tort or otherwise for any loss, damages, costs, claims, expenses or repairs resulting from any defect, failure to conform to specifications or breach of this agreement whether any such loss, damage, cost, claim, expense or repair is direct, indirect or consequential. Vendor's liability shall be limited in all circumstances to the invoice price paid by Purchaser for the goods purchased under this agreement. The foregoing limitation of liability is a condition of sale of the goods at the price or prices quoted and shall apply notwithstanding any defect in or failure of, including the total failure of, any product.

VENDOR SHALL IN NO EVENT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES.

13. **Assignment.** This agreement is not transferable or assignable by Purchaser.
14. **Modifications.** This agreement can be modified or rescinded only by a writing signed by both the parties or their duly authorized agents.
15. **Waiver.** No claim or right arising out of a breach of this agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
16. **Governing Law.** This agreement shall be governed by the law of the State of Wisconsin, including the Uniform Commercial Code as adopted by the State of Wisconsin as effective and in force on the date of this agreement.