

## NW Caliber, Inc. Terms and Conditions of Sale

The following terms and conditions shall be applicable to all sales made by NW Caliber, Inc. (Seller) except where it is otherwise expressly agreed in writing. Acceptance of delivery of any or all goods ordered by a customer (Buyer) shall constitute assent by Buyer to these terms of sale. An order by Buyer shall constitute an acceptance of the terms and conditions herein. No terms or conditions other than those contained herein will be binding upon Seller unless specifically agreed to in writing by NW Caliber. Failure of Seller to object to any additional or inconsistent terms contained in a purchase order or other communication from Buyer shall not be construed as a waiver of these terms and conditions.

**1. PRICE** Prices quoted may be changed without notice. Price in effect at time of shipment will prevail unless otherwise agreed to by NW Caliber in writing. If a delivered price has been quoted, any charges at destination for switching, handling, storage and other services shall be borne by Buyer. NW Caliber, Inc. reserves the right to correct any obvious errors in specifications or prices.

**2. SURCHARGES** Any surcharges imposed by NW Caliber's suppliers at the time of shipment shall be paid by Buyer. Such surcharges include, but are not limited to, surcharges on nickel, chromium (chrome), molybdenum (moly), scrap, fuel and natural gas. These surcharges may be included in the sell price or added separately.

**3. TAXES** Any taxes which NW Caliber may be required to pay or collect with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the goods or services shall, if not separately shown, be added as a separate item to the quoted price and shall be paid by Buyer. The foregoing shall not apply to any taxes the payment or collection of which by NW Caliber is excused by reason of valid tax exemption certificates.

**4. QUANTITIES** If it is indicated that any item is to be shipped from a producing mill, NW Caliber may reserve the right to ship over or under the ordered quantity in accordance with established percentages as shown in the mill's published price books, which will constitute full and complete shipment of the material specified.

**5. TERMS OF PAYMENT** Unless otherwise expressly provided, payment shall be due 30 days from the date of each invoice. Discounted payment terms can be agreed upon at time of order and will be specified on NW Caliber's invoice. Any cash discount provided applies only to the sale price of the goods at the shipping point and does not apply to any charges made for taxes, storage, loading or transportation.

**6. DELIVERIES** NW Caliber will endeavor to ship material within the specified time. However, shipping schedules are approximate and cannot be guaranteed. NW Caliber shall not be liable for any delay in delivery or failure to deliver caused for any reason in whole or in part beyond our reasonable control including but not limited to production schedules of the producing mill, unavailability of materials, labor disturbances, strikes, acts of God, transportation difficulties, wars, embargoes, accidents or causes which abnormally increase the cost of performance. NW Caliber's delivery obligation is contingent upon credit approval by Seller at time of shipment. Delivery to a freight carrier shall constitute delivery to Buyer and thereafter the shipment shall be at Buyer's risk. Materials must be examined by the Buyer immediately upon receipt to determine correctness of shipment as to quantity, size, length, and condition. All orders are stock subject to prior sale.

**7. CLAIMS** Rejections of non-conforming products must be made in writing by Buyer within 30 days of receipt. Any goods received by Buyer as nonconforming, damaged, visibly defective or if the quantities received by Buyer do not agree with the quantities indicated on the shipping documents, Buyer must note that on the carrier's delivery receipt. Under no circumstances shall goods be returned to NW Caliber without written return authorization as provided by Seller. Buyer's failure to inform NW Caliber or Buyer's use of the material shall be Buyer's acknowledgment that Seller has satisfactorily performed. NW Caliber will not honor any claims for damages caused by buyer's improper storage of goods. Claims for loss or damage to material in transit should be made to the freight carrier and not to NW Caliber.

**8. NUCLEAR APPLICATION EXCLUSION** It is expressly understood and agreed that without NW Caliber's prior written acknowledgment, Buyer will not use, cause to be used or make available for use the goods described herein in any nuclear application including, but not limited to, use in connection with any nuclear reactor, any nuclear power generating system or any nuclear waste (or spent fuel) disposal project. Any subsequent nuclear application of the goods is wholly unauthorized and shall be deemed to be unknown to, unforeseeable to and unintended by NW Caliber.

**8. SUSPENSION OF PERFORMANCE** If in NW Caliber's judgment reasonable doubt exists as to Buyer's financial responsibility or if Buyer is past due in payment of any amount owing to Seller, NW Caliber reserves the right, without liability and without prejudice to any other remedies, to suspend performance, decline to ship or to stop any material in transit until NW Caliber receives payment of all amounts owing to Seller, whether or not due, or adequate assurance of such payment.

**9. WARRANTY** NW Caliber warrants that the goods will conform to their description and specifications as herein stated, subject to tolerances and variations described by the manufacturer. All goods shall be subject to tolerances and variations consistent with usual trade practices regarding dimensions, straightness, section, composition and mechanical properties. Normal variations in surface and internal conditions and quality shall also be subject to deviations from tolerances and variations consistent with practical testing and inspection methods. Seller makes no other warranty, express or implied, and specifically disclaims and excludes any and all warranties of merchantability and fitness for a particular purpose.

**10. LIMITATION OF LIABILITY** Buyer's exclusive remedy and Seller's only liability arising out of this contract shall be replacement or repair of the goods, or credit of the purchase price paid by Buyer, whichever such remedy NW Caliber selects. If NW Caliber elects to repay the purchase price, Buyer must return the goods to NW Caliber immediately. Except for nonpayment by Buyer, any action arising out of this contract must be commenced within one year from the date of delivery. In no event will NW Caliber be liable for incidental or consequential damages.

**11. TOOLS, DIES AND FIXTURES** Unless otherwise expressly provided, any tools, dies or fixtures which may be developed for use in the production of the goods covered shall be owned by NW Caliber or the producing mill, as NW Caliber may elect, even though Buyer is charged in whole or in part for the cost of such tools, dies and fixtures.

**12. PATENT INFRINGEMENT** If any of the goods are to be furnished to Buyer's specifications, Buyer agrees to indemnify NW Caliber and its successors and assigns, against all liabilities and expenses resulting from any claim of infringement of any patent or other proprietary right in connection with the production of such goods.

**13. COMPLIANCE WITH LAWS** NW Caliber agrees that in our sale of these goods NW Caliber will comply with all applicable federal, state and local laws, rules and regulations. Specifically, all sales and these terms and conditions shall be governed by the laws of the State of Oregon.

**14. CANCELLATION** A contract may be cancelled or modified only by written agreement between NW Caliber and Buyer. Buyer's insistence upon cancelling or suspending fabrication or shipment, or Buyer's failure to furnish specifications when required, may be treated by Seller as a breach of contract by Buyer. NW Caliber may cancel any unshipped balance without prejudice to any other remedies Seller may have.

**15. ENTIRE AGREEMENT** The terms set forth herein constitute the sole terms and conditions upon which NW Caliber offers goods for sale. These terms and conditions constitute the entire agreement between Buyer and Seller. No other terms, conditions, or understandings, whether oral or written, shall be binding upon NW Caliber, unless hereafter made in writing and signed by an authorized representative of NW Caliber.

STEEL, ALUMINUM, NICKEL, BRASS AND COPPER

THE ABOVE PRODUCTS, IN THEIR NATURAL STATE, DO NOT PRESENT AN INHALATION, INGESTION OR CONTACT HEALTH HAZARD; HOWEVER, PROCESSING OPERATIONS (INVOLVING THESE MATERIALS) SUCH AS WELDING, BURNING, SAWING, BRAZING, GRINDING AND MACHINING MAY PRESENT A RESPIRATORY, SKIN OR EYE HAZARD. SEE MATERIAL SAFETY DATA SHEETS FOR FURTHER INFORMATION