

HEAT TRANSFER TUBULAR PRODUCTS, L.L.C. TERMS AND CONDITIONS

All sales of any goods (collectively, the "Products" and individually a "Product") offered or sold by Heat Transfer Tubular Products, L.L.C., a Texas limited liability company ("Seller") shall be subject to these terms and conditions (collectively, the "Terms and Conditions"), which shall be deemed incorporated into all Order Confirmations (as defined below). As used herein, "Buyer" shall mean any individual or entity that purchases any Product from Seller. By accepting an Order Confirmation, Buyer expressly acknowledges and consents to these Terms and Conditions. Seller expressly limits acceptance of its Products to these terms and conditions and notification of objection to any different or additional terms in response to these Terms and Conditions from the Buyer is hereby given. Each shipment of Product received by Buyer will be subject only to these Terms and Conditions. **THE TERMS AND CONDITIONS CONTAIN RESPONSIBILITIES, INDEMNITY, RELEASE, AND WARRANTY DISCLAIMER PROVISIONS. THESE PROVISIONS EXCULPATE SELLER FROM RESPONSIBILITY IT WOULD OTHERWISE HAVE UNDER THE LAW. PLEASE READ THEM CAREFULLY.**

1. **ORDER CONFIRMATIONS.** All orders will be produced as confirmed in the Order Confirmation. Any conflicting terms and conditions in any response from Buyer are expressly rejected.

2. **QUOTATIONS AND PRICE ADJUSTMENTS.** Seller may give a Buyer a written quotation ("Quotation") relating to the sales terms for Products including, but not limited to, the sale price for Products ("Sale Price"). Although not binding on Seller, the Quotation shall only remain valid for the period stated in the Quotation or where no period is stated, the Quotation shall remain valid only for the date of the issuance of the Quotation. After such period, the Quotation shall be null and void. No Quotation shall be construed as an offer to Buyer and Buyer acknowledges that a Quotation is merely an invitation to the Buyer to submit a Purchase Order for Products pursuant to the Quotation and neither party shall be bound until a fully-executed Order Confirmation has been completed by both Buyer and by an officer or authorized employee of Seller. Buyer further acknowledges that a Quotation is contingent on the price of materials, and currently prevailing rates, which prices and rates are subject to fluctuation and are outside of Seller's control. Notwithstanding any Quotation made by Seller, Seller expressly reserves the right to revoke or adjust Quotations and Sale Prices prior to the Seller's execution of an Order Confirmation.

3. **PRICES, TAXES AND RELATED CHARGES.** Unless otherwise specified in writing, the Sale Price is exclusive of all customs, duties, charges or surcharges, consular fees, sales, use, excise, turnover, occupational or transportation taxes, or any other taxes imposed by any country or political subdivision thereof (collectively, "Surcharges") which shall be the responsibility of Buyer. Buyer shall indemnify, defend, and hold the Seller harmless for any and all Surcharges that may arise in connection with a purchase by Buyer of Products and shall promptly reimburse Seller for any Surcharges paid by Seller, which reimbursement shall be independent of and in addition to the Sale Price.

4. **DELIVERY.** Unless otherwise specified in the Order Confirmation, delivery of Products shall be F.O.B. Seller's facility in Conroe, Texas and Buyer assumes responsibility at the F.O.B. point for transportation charges. Delivery and shipping dates are approximate and may be subject to current and anticipated manufacturing capabilities, receipt of all necessary raw materials to handle production, production scheduling, third-party contracts, and the accuracy of Order Confirmations. Seller is not responsible for delivery or shipping delays. Delivery and shipping dates are triggered upon Seller's acceptance of an Order Confirmation. Seller reserves the right to

make deliveries in batches (a "Batch Delivery"). A delay in delivery or shipping shall not give the Buyer the right to reject any Product or relieve Buyer of any of its obligations including, but not limited to, payment.

Buyer shall promptly inspect all Products received. Unless Buyer gives written notice to Seller specifying any defect in, or other objection to the Products within twenty-one (21) days of receipt of the Product, Buyer agrees that it shall be conclusively presumed that Buyer has fully inspected and acknowledged that the Product was and is in good condition and repair, and that Buyer is satisfied with and has accepted and retained the Product in good condition and repair.

5. **TERMS OF PAYMENT.** Unless otherwise agreed by Buyer and Seller and confirmed in the Order Confirmation, payment for Products is due and payable thirty (30) days after the later of:

- i. the earlier of (a) the date of shipment, or (b) the date Seller is ready to ship the Products and Buyer is not ready; or
- ii. the earlier of (a) the date the customer or its agent picked up the material, or (b) the date the Products are ready for pick-up or delivery from the Seller; or
- iii. the date on the order confirmation.

The Seller reserves the right in its sole and absolute discretion to set forth such other terms relating to the payment for Products which additional terms shall be set forth in the Order Confirmation. Without limiting the foregoing, Seller reserves the right to: (a) decline Buyer's request for credit; (b) require payment for Products in advance, i.e., at the time the Order Confirmation is submitted for approval and execution by Seller; or (c) in the case of Products for delivery to destinations outside of the continental U.S.A., require payment by satisfactory and irrevocable documentary letter of credit, confirmed by a bank or financial institution acceptable to Seller, as the Seller may elect. All payments shall be in U.S. dollars unless otherwise set forth in the Order Confirmation. In the event Seller extends credit to Buyer, Buyer hereby authorizes Seller to file any financing statements, financing change statements or similar documents necessary to preserve or reflect Seller's security interest in the Products sold to Buyer. Acceptance and endorsement by Seller of a payment for less than the full amount shall not be deemed to be an admission of payment in full and any conditions to the contrary which may be noted on such payment shall not be binding on Seller. All past due amounts shall accrue interest at a rate of eighteen percent (18%) per annum, or at the Maximum Lawful Rate, whichever is lower. As used herein, "Maximum Lawful Rate" shall mean the maximum lawful non-usurious contract rate of interest allowed by the applicable law of the State of Texas.

6. **CANCELLATION, COUNTERMAND, AND RETURN OF GOODS.** Order Confirmations accepted hereunder may not be cancelled, countermanded or deferred (collectively a "Modification"), or Products returned by Buyer, except with Seller's prior written consent, which consent may be withheld in the Seller's sole and absolute discretion. Notwithstanding any consent from the Seller on a Modification or the return of any Product, Buyer shall indemnify, defend and hold the Seller harmless against all losses resulting therefrom, including the profit lost on any part of the Order Confirmation involved, which profit amount shall be determined by Seller consistent with Seller's customary practices. Unless otherwise authorized in writing by Seller, prior to Buyer's return of any Product that may be authorized by Seller pursuant to this paragraph, Buyer shall prepay to Seller the shipment charges associated with the return of such Product. Without limiting the foregoing, in addition to all other amounts, a twenty percent (20%) charge shall be applied to any Modification or returned Product, which Buyer acknowledges is a good faith estimate to cover Seller's additional costs and expenses.

7. **TITLE AND RISK OF LOSS.** Notwithstanding anything herein to the contrary, Buyer shall be solely responsible for any loss of or damage to Products that occurs during a shipment made where Buyer or its customer is picking up the Product or is arranging for transportation, and Seller shall be solely responsible for any loss or damage to Products that occurs where Seller has quoted a delivered price, subject to the Delivery provisions contained in these Terms and Conditions. Unless otherwise set forth in the Order Confirmation, the Products shall be stored at the F.O.B. shipping point unpacked and unprotected and the Buyer assumes the risk of loss associated with the same. Buyer will be liable for all related costs and expenses of such storage, including without limitation storage costs determined by Seller, ad valorem taxes and other additional taxes. Payment for storage is due upon demand by Seller.

8. **SELLER'S LIMITED WARRANTY AND LIABILITY.** Unless Seller has modified the Products, Seller makes no representation or warranty with respect to the Products as Seller is merely a distributor of the Products. Any representation or warranty from Seller is specifically disclaimed. The warranty, if any, with regard to the Products shall be that provided by the manufacturer or mill but solely to the extent that there is a warranty and that it is assignable or transferable to Buyer. If Buyer would like to see a copy of the manufacturer or mill warranty, if any, Buyer should request it from Seller.

To the extent that Seller modifies the Products, Seller warrants that Seller's modification of the Products shall be free from all defects and faults in material, workmanship and manufacture and in conformity with the specifications of the Order Confirmation subject to the standard manufacturing variations and tolerances and customary practices in the industry. Notwithstanding the foregoing, Seller does not guarantee rapidly wearing parts, ordinary wear and tear, damage caused by the negligent act or omission of the Buyer or those acting on the Buyer's behalf, or operating conditions inconsistent with the intended use or design parameters, or improper use of the Products. This warranty shall expire upon the earlier of (i) the date the warranty from the mill or manufacturer expires, or (ii) one (1) year after the arrival of the Products at the F.O.B. shipping point ("Warranty Period").

Any warranty claims made by Buyer hereunder must be submitted to Seller in writing promptly after discovery of the alleged defect prior to the expiration of the Warranty Period and Buyer shall give Seller the opportunity without undue delay to examine the Product. For any Product determined by Seller to be defective, Seller may, in its sole and absolute discretion, (i) repair the Product or provide Buyer with a replacement Product, which replacement may be the same or substantially similar to the Product at issue, or (ii) credit Buyer in an amount not to exceed the Sale Price for the specific Product at issue. The warranty set forth herein is solely for the benefit of the Buyer and no person or entity shall be deemed a third party beneficiary of the same. If Buyer is not the end user of the Products, Buyer shall advise the end user of the disclaimers and limitations contained in these terms.

BUYER ACKNOWLEDGES AND AGREES THAT AS A MATERIAL PORTION OF THE CONSIDERATION FOR THIS SELLER ENTERING INTO THE ORDER CONFIRMATION, SELLER'S LIABILITY TO BUYER SHALL BE LIMITED TO THE SALE PRICE FOR THE PARTICULAR PRODUCTS IN THE SALE ORDER IN QUESTION. IN NO EVENT SHALL SELLER BE LIABLE TO THE BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, LOSS OF PROFITS, LOSS OF USE OR INTERRUPTION OF BUSINESS, COSTS OF SUBSTITUTE GOODS, WHETHER SUCH DAMAGES OR LOSSES ARE ALLEGED IN TORT (INCLUDING NEGLIGENCE),

CONTRACT OR INDEMNITY, EVEN IF SELLER WAS ADVISED OR AWARE OF THE LIKELIHOOD OF SUCH DAMAGES OR LOSSES OCCURRING.

EXCEPT FOR THE EXPRESS WARRANTY SET FORTH HEREIN, SELLER MAKES NO, AND DISCLAIMS ALL, WARRANTIES, REPRESENTATIONS OR GUARANTEES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR USE, AND WARRANTIES OF UNINTERRUPTED OR ERROR FREE PERFORMANCE OF PRODUCTS.

9. **BUYER SPECIFICATIONS.** The Buyer may request in connection with the purchase of a Product certain specifications, not customarily provided by Seller (collectively "Buyer Specifications"), to be applied or performed by Seller in connection with the purchase. Buyer Specifications must be requested in writing and submitted with the Purchase Order. Buyer Specifications, or any portion thereof, may be accepted or rejected by Seller and upon such additional terms and conditions acceptable to the Seller, all in Seller's discretion. Buyer shall indemnify, defend and hold the Seller harmless from any claim of infringement of any patent, copyright or other intellectual property right by a third party if such claim involves Products produced by the Seller with the Buyer Specifications and/or in agreement with Buyer or if such claim is based upon the use of the Product in combination with other items where such infringement or claim thereof would not have occurred from the normal use for which the Product alone.

10. **LICENSES AND PERMITS.** Buyer shall be solely responsible for obtaining all licenses or permits necessary to import or export Products, provided that at Buyer's written request and Buyer's sole expense, Seller will endeavor to assist Buyer in obtaining such licenses and permits.

11. **NON-DISCLOSURE OF CONFIDENTIAL OR PROPRIETARY INFORMATION.** Buyer agrees to not disclose, further distribute, copy or reproduce to or for any person all or any part of Seller's Confidential Information. Seller's Confidential Information shall at all times remain the sole and absolute property of Seller. As used herein, "Seller's Confidential Information" includes (a) all information, data or material disclosed by Seller, its agents, or representatives, in connection with the sale of a Product which is not generally known by the public or by parties which are competitive with or otherwise in an industry, trade or business similar to Seller; (b) devices, secret inventions, processes, compilations of information, records, source codes, object codes, and specifications, that are owned by Seller and that are used in the operation of its business, also including, but not limited to, customer lists, financial, accounting, statistical, product design or manufacturing methods, and personnel information concerning Seller; and (c) any information described above which Seller obtains from another party and which Seller treats as proprietary, whether or not owned or developed by Seller.

12. **FORCE MAJEURE & OTHER DELAYS.** In the event that performance by Seller of any of its obligations under the terms of this Agreement shall be interrupted by an act of God, by an act of war, riot, or a civil disturbance, by an act of state, by strikes, fire, flood, hurricane, tropical storm or by the occurrence of any other event beyond the control of the Seller, including, but not limited to shipping, mill, or manufacturer delays, Seller shall be excused from its obligations under the Order Confirmation upon written notice to the Buyer. Buyer understands and agrees that unless a specific date is agreed to and labeled "GUARANTEED" all dates are estimates only subject to the provisions of this paragraph.

13. **DISPUTES.** If Buyer has not paid Seller for any prior Order, or has disputed the terms or delivery of Product related to a prior Order, Seller may, in its sole and absolute discretion either (i) withhold delivery of Product under the current Order, (ii) terminate the current Order, or (iii) continue with the current Order without waiving any of its rights. Buyer agrees that it may not set off any amounts due from Seller from a prior Order to the amounts due under a subsequent Order.

13. **SEVERABILITY.** WITHOUT LIMITING THE FOREGOING, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSIONS OF DAMAGES IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH. FURTHER, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY HEREUNDER IS DETERMINED TO HAVE FAILED ITS ESSENTIAL PURPOSE, ALL OTHER LIMITATIONS OF LIABILITY AND EXCLUSION OF DAMAGES SET FORTH HEREIN SHALL REMAIN IN FULL FORCE AND EFFECT, ALL SUCH PROVISIONS SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

14. **GENERAL PROVISIONS.** These Terms and Conditions and any related Order Confirmation accepted by Seller (collectively, the "Agreement"), contain the entire understanding of the parties with respect to the transactions contemplated herein and supersede all prior agreements, understandings, negotiations, and discussions among the Buyer and Seller with respect to such transactions. The Agreement, in whole or in part, may not be amended, modified, supplemented, restated, discharged or waived except in writing and with Seller's express written consent. No waiver of any of Seller's rights under the Agreement shall be effective against Seller unless supported by consideration and expressly set forth in a writing signed by Seller. A failure by Seller to enforce any right pursuant to the Agreement shall not be construed as a waiver of such right or of any other rights thereunder. Buyer shall reimburse Seller for all fees, costs and expenses reasonably incurred in the enforcement of Seller's rights under or with respect to the Agreement, including, without limitation, reasonable attorneys' fees.

The organization of this Agreement into paragraphs and clauses is intended to facilitate understanding of the parties' rights and obligations, but not to limit such rights and obligations. Divisions are inserted only for convenience, are not part of the Agreement and shall be disregarded in interpreting the Agreement. Words in the singular number shall be read to include the plural when the sense requires. Whenever the word "including" or similar terminology is used to refer to a specific item, event, occurrence, or example in conjunction with a general provision, the specific reference shall serve only to illustrate and in no way to limit the meaning of the general provision. These Terms & Conditions shall not be construed in favor of or against either Buyer or Seller.

15. **CHOICE OF LAW.** Buyer acknowledges that notwithstanding any State's conflicts of laws provisions, the laws of the State of Texas shall exclusively apply to claims arising from the Agreement.

16. **DISPUTE.** Venue for any proceeding under the Agreement shall lie exclusively in the state or federal courts located in Montgomery County, Texas.

17. **CONFLICT.** In the event of a conflict between these Terms and Conditions and the provisions of any of Buyer's printed or other prepared form of purchase orders, work or

service orders, job or delivery tickets, or other similar forms, the provisions of these Terms and Conditions shall govern and control. Any conflict between these Terms and Conditions and the provisions of any of Buyer's orders, job or delivery tickets, or any other similar forms, shall not constitute an objection in writing by Buyer.

Effective April 15, 2016