

American Friction Welding, Inc.
Terms and Conditions of Sale

1. Acceptance of Order. Any order or request, including purchase orders and any exhibit or attachments thereto (“Order”) by the company identified on the face of the Order (the “Customer”), is subject to a product quote (“Quote”) by American Friction Welding, Inc. (“AFW”) and is not binding unless and until an Acceptance (or Order Acknowledgment) shall be sent to Customer by AFW, whether by email, mail, or other transmittal method. These Terms and Conditions of Sale, together with the AFW Quote and Acceptance, are the exclusive agreement between the parties for the sale of physical products, materials, weldments being welded, or machines (“Goods”) or any work or services performed by the AFW for Customer as outlined in the Quote or Order (“Services”) (Goods and Services together shall be referred to as “Products”). Any provisions of Customer’s Order in conflict with these Terms and Conditions of Sale are expressly rejected, and these Terms and Conditions of Sale shall control. Should AFW and the Customer execute an independent agreement covering the scope of work, the independent agreement shall prevail should any conflict in terms arise only if the independent agreement executed by AFW expressly states that its terms shall prevail over these Terms and Conditions of Sale.

2. Alterations or Cancellation. Any Order altered or modified by Customer will require resubmission to AFW for Acceptance. Customer may not change or cancel custom Products (products with machining, cutting, or other services) once such Products have been released to AFW’s manufacturing floor. Customer may change or cancel Orders or reschedule shipment dates provided that Customer notifies AFW at least ten (10) days prior to the originally scheduled shipment date. Upon cancellation of an Order, all work in connection therewith will cease within a reasonable time upon receipt of such cancellation request. Customer herein agrees to pay AFW for all costs, expenses, and losses, including all work in process and for any raw materials or supplies used for such work. In such a situation, AFW will provide an invoice for such work on any cancelled Order as set forth herein.

Notwithstanding the foregoing or anything else contained herein, in the event of Engineering design changes and/or modifications (ECN’s) requested after the start of design review and development, manufacturing, and/or fabrication may be subject to a \$1,500 minimum fee, subject to ECN complexity and AFW’s sole discretion.

3. Price. The price quoted for Products is based on the information, print submitted, and cost of materials as of the date of the price quotation. The Customer hereby understands and agrees that any quoted price is subject to adjustment to reflect any increase in costs of materials assessed subsequent to such a quotation date. All prices are subject to expiration as noted in the Quote.

4. Lead Time. All quoted lead times are approximate and will depend upon prompt receipt by AFW from Customer of an Order, all necessary blueprints, and all other information necessary to permit product manufacture, including all needed dimensional drawings, all 3-dimensional models, all product specifications, and all other like information. The date of availability for shipment of the manufactured Product(s) will be provided by AFW upon the date of Acceptance of the Order or Receipt of Customer Supplied Material.

5. Delivery Dates.

(a) AFW may reschedule without charge, any Products to be delivered under any Order up to five (5) business days prior to shipment by providing Customer with notice of such rescheduling electronically, by facsimile or by email, delaying the delivery date under any Order for up to sixty (60) days. There shall be no limit on the number of rescheduled purchases, provided that each Order may not be rescheduled more than twice.

(b) If AFW is unable to prepare Products for shipment on the rescheduled delivery date as provided for above, Customer may: (i) negotiate a new Delivery Date and reschedule the Order; or (ii) cancel the Order without Customer or AFW liability.

6. Terms of Payment. Payment shall be due prior to shipment unless adequate credit remains on an account in good standing. All orders received are subject to credit approval. Customer agrees to submit from time to time to AFW those items reasonably requested in order to establish or update Customer's credit. All invoices shall be payable upon net 30 days terms. AFW shall be entitled to charge interest on past due accounts at a rate of 1.5% per month (18% annually), or the maximum interest rate permitted by applicable law, which shall be due and payable upon demand. Whenever AFW, in good faith deems itself insecure, it may, without prejudice or waiving any other rights or remedies it may have at law or equity, cancel any outstanding Orders with Customer and/or hold production/shipment of any unfilled Orders; modify or revoke its extension of credit to Customer; and take any other steps permitted by law and necessary or desirable to secure AFW with respect to Customer's payment of Goods and Services furnished or to be furnished. Customer will pay AFW's actual costs of collection, including but not limited to court costs, litigation expenses, and reasonable attorney's fees, incurred for collection of any delinquency. Customer shall have no right of offset against amounts owed to AFW.

7. Shipment/F.O.B. Origin. All sales are F.O.B. origin. Unless otherwise specified by the Customer, packaging methods, shipping documents and manner, route, and carrier of shipment shall be such as AFW, in its sole judgement, considers appropriate. All material supplied by Customer to AFW should be supplied in containers suitable for use in returning completed assemblies to avoid additional crating charges. Customer will be invoiced and shall pay all shipment fees to AFW. Shipping invoices shall be paid in accordance with the Terms of Payment as provided herein.

8. Warranty. AFW WARRANTS THAT EACH PRODUCT SHALL BE IN FULL CONFORMITY WITH THE CUSTOMER'S DRAWINGS AND AGREED UPON SPECIFICATIONS, SHALL BE FREE FROM DEFECTS IN WORKMANSHIP, AND, IN THE CASE THAT THE MATERIAL IS CHOSEN BY AFW, ALSO FREE FROM DEFECTS IN MATERIAL. ANY WARRANTY OF FITNESS FOR A SPECIFIC PURPOSE OR MERCHANTABILITY IS EXPRESSLY DISCLAIMED. No oral or written statements by AFW or any representative of AFW shall have any effect on the warranties provided herein.

If any Products supplied by AFW is defective in material or workmanship, Customer shall notify AFW immediately by requesting a Return Goods Authorization (RGA) within thirty (30) days of date of delivery of the Product(s). Returns will not be accepted for full credit without such a timely RGA. Such an RGA must include the following information: a) the reason for return, b) the Part Number, c) the Lot Number, and d) the quantity of Products returned. AFW

shall repair or replace any defective Product(s) without cost to Customer or, at AFW's option, to credit or repay the purchase price upon return of the defective Product(s). It is Customer's responsibility to inspect any and all delivered Product(s) upon receipt and agrees that the failure to timely provide a RGA regarding any and all defective Product(s) will serve as a waiver by Customer of any claims for defects and AFW thus will not be required to honor any such late claims nor will AFW be liable for any damages caused thereby to Customer or any other party. Standard ground shipping costs will be covered by AFW for all Products deemed defective by AFW.

In determining if a Product is defective as to workmanship and when blueprints, drawings, specifications, or sketches are required to complete performance hereunder, each such blueprint, drawing, or sketch shall be dated or consecutively numbered and in the event a dispute arises regarding performance in accordance with such blueprint, drawing, specification, or sketch, the most recent blueprint, drawing, specification, or sketch shall prevail.

- 9. Customer's Indemnification.** Customer shall indemnify, defend and hold harmless AFW and its shareholders, directors, officers, employees, agents and representative, from any and all losses directly or indirectly arising out of, resulting from or in any way connected with (i) any breach by Customer of the terms of any sale, contract, Quote, or Order; (ii) any non-compliance with laws, ordinances, rules or regulations applicable to Customer's obligations under any sale, contract, Quote, or Order, (iii) any governmental, regulatory or other proceedings to the extent any such proceedings result from Customer's acts or omissions in transporting, marketing, distributing and selling the Products; (iv) any recall or return of the Products initiated by Customer, whether voluntarily or by order of any court or other duly empowered governmental or regulatory office, to the extent that Customer's acts or omissions in the transportation, marketing, distribution or sale of the Products are responsible for such recall; or (v) any claim that proprietary rights owned by Customer infringe upon or violate any patent, trademark, copyright, trade secret or other proprietary rights of any third party.
- 10. Customer's Materials.** AFW shall have no liability for loss or damage to Customer's material or components held or used by AFW unless due to AFW's negligence or misuse. In the event of loss of or damage to Customer material or components upon which AFW shall be liable hereunder, AFW's liability will be limited to the cost of replacement of such materials or components, including any shipping and handling charges. If any material or components furnished by Customer is found to be worn or defective so that, in AFW's sole judgement machining to Customer's specifications cannot occur, AFW reserves the right to refuse to proceed with work unless authorized to make any necessary changes or replacements. All shipments of materials or components from Customer to AFW shall be shipped prepaid.
- 11. Limitation of Liability.** AFW shall not be liable to Customer or any third party for any amounts representing loss profits, loss of business, or indirect, consequential, special, incidental, or punitive damages, whether or not foreseeable, or whether or not Customer has advised AFW of the possibility of the same.
- 12. Taxes.** Any Sales Taxes, Duties, and/or Custom fees shall be paid by Customer in addition to any prices invoiced. In the event AFW is required to pay any such taxes, duties, and or custom

fees, Customer shall be invoiced for such payments and such invoice shall be handled as set forth herein.

13. Manufacturing. AFW reserves the right to subcontract any work to be performed under any Order without any authorization from Customer.

14. Intellectual Property. All photographs, samples, descriptions, drawings or intellectual property provided by AFW to Customer shall remain the property of AFW and shall only be used by Customer to market AFW products to third parties, if applicable. Customer shall include in any materials incorporating AFW intellectual property, all copyright and trademark notices provided by AFW. All such property shall be returned to AFW upon demand and any license created hereunder, implied or otherwise, is terminable at will by AFW and is hereby expressly terminated upon termination of this agreement as provided herein.

15. Force Majeure. Either party shall not be liable to the other party for failure or delay in the performance of any of its obligations under these Terms and Conditions of Sale for the time and to the extent such failure or delay is caused by riot, civil commotions, wars, hostilities between nations, embargoes, actions by the government or any agency thereof, storms, fires, acts of god, accidents, strikes, sabotages, pandemics, epidemics, explosions, labor disputes, unavailability of or delays in procuring materials or supplier or other similar or different contingencies beyond the reasonable control of the respective party.

16. Governing Law and Venue. All sales, Orders, Quotes and any exhibits and or attachments thereto, or contracts will be governed by and construed in accordance with the internal laws of the State of Wisconsin, United States, without any consideration of its conflicts of laws rules, including, without limitation, the Uniform Commercial Code as adopted in Wisconsin. The parties agree that all claims and disputes, including lawsuits and arbitration, arising out of the matters set forth in any sale, Order, Quote, or contract shall be brought, litigated, and or adjudicated in the courts of the State of Wisconsin for Waukesha County, or the federal court for the Eastern District of Wisconsin. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum. NEITHER THIS CONTRACT NOR ANY SALE OR ORDER FOR ANY PRODUCTS BY AFW SHALL BE GOVERNED BY THE PROVISIONS OF THE 1980 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, AND THE PARTIES HEREBY DISCLAIM APPLICATION THEREOF.

17. Relationship of the Parties. AFW is an independent contractor of Customer. Nothing contained herein shall be construed as creating any agency, partnership, employment, or fiduciary relationship. Neither party shall have authority to bind the other party in any manner whatsoever.

18. Notices. Unless specifically addressed in any Section herein, all notices, claims, demands, rejections, and communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (return receipt requested,

postage prepaid). A Notice is effective only upon receipt of the receiving party, and if the party giving the Notice has complied with the requirements of this Section.

19. Interpretation. These Terms and Conditions of Sale, together with the AFW Quote and Acceptance, are intended as the final expression of the agreement between AFW and Customer; however, if any of the terms provided above have been agreed upon between AFW and Customer within an independent agreement covering the scope of work, then such prior terms shall supersede these terms, but only if the independent agreement executed by AFW expressly states that its terms shall prevail.

Customer acknowledges that from time to time this document may be updated by AFW. The current version of Terms and Conditions of Sale can be found on our company website www.teamafw.com.