

COMET TOOL COMPANY, INC.
TERMS AND CONDITIONS

1. **Acceptance** - ALL SALES ARE SUBJECT TO AND EXPRESSLY CONDITIONED UPON THE TERMS AND CONDITIONS CONTAINED HEREIN. THE TERMS AND CONDITIONS CONTAINED HEREIN WILL BE CONTROLLING, AND ANY ADDITIONAL AND/OR INCONSISTENT TERMS AND CONDITIONS SET FORTH IN ANY ACKNOWLEDGMENT, PURCHASE ORDER, OR ACCEPTANCE DOCUMENTS REQUESTED FROM AND/OR PROVIDED BY YOU, THE CUSTOMER, ARE EXPRESSLY REJECTED. YOUR ORDERS ARE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH HEREIN. NO VARIATION OF THESE TERMS AND CONDITIONS WILL BE BINDING UPON COMET TOOL COMPANY, INC. ("Comet") UNLESS AGREED TO IN WRITING AND SIGNED BY AN OFFICER OR OTHER AUTHORIZED REPRESENTATIVE OF COMET. YOUR ACCEPTANCE OF DELIVERY OF ANY PRODUCTS OR MATERIALS FROM COMET SHALL BE DEEMED YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS HEREIN AND SUCH ACCEPTANCE BY YOU IS YOUR AGREEMENT TO BE LEGALLY BOUND HEREBY. UPON COMET'S ACCEPTANCE OF YOUR ORDER, YOUR ORDER MAY NOT BE CANCELLED, REDUCED OR MODIFIED WITHOUT COMET'S WRITTEN CONSENT. AN ORDER IS NOT ACCEPTED BY COMET TOOL CO. UNTIL A SIGNED SALES ACKNOWLEDGEMENT IS RECEIVED. DUE TO PACKAGING & MATERIAL LOT SIZES, COMET TOOL RESERVES THE RIGHT TO SHIP ORDERS WITHIN 10%+/- OF PURCHASE ORDER TOTAL.
2. **Specifications** - Product specifications are subject to change without prior notice.
3. **Prices** – Except as may be specifically provided in Seller's quotation, all prices are subject to change without notice.
4. **Delivery**
 - (a) Seller reserves the right to make partial deliveries and to ship products as they become available. The delivery and/or shipping schedule is the best estimate possible based on conditions existing at the time of Seller's acceptance of the order or Seller's quotation and receipt of all specifications, as applicable, and in the case of non-standard items, any such date is subject to Seller's receipt of complete information necessary for design and manufacture. Seller assumes no liability whatsoever. Including loss of use or for any other direct, indirect, or consequential damaged, due to delays.
 - (b) Unless otherwise mutually agreed to in writing signed by both Seller and Buyer, delivery from Seller's factory or designated shipment point to a destination inside or outside of the U.S. and Puerto Rico shall be FCA (Free Carrier) INCOTERMS 2000. Title passes at the point when the goods leave Seller's factory or designated shipment point (Seller retains and Buyer hereby grants to Seller a security interest in goods shipped by Seller to Buyer hereunder until payment in respect of the goods is received by Seller) and Buyer has the obligation to insure once title passes.
 - (c) Buyer will pay, or reimburse Seller for all freight, taxes, duty and entry fees, special and miscellaneous charges and special packaging charges.
 - (d) Product shipped by Comet Tool requiring the use of pallets will require the customer to pay an additional fee (noted on the Sales Acknowledgement) per pallet. Exchange programs may be implemented.
5. **Damaged Shipments** - Please inspect your Comet shipment upon receipt. If any external damage is noticed, accept the shipment only after the driver has noted the damage on both his and your copies of the delivery receipt and you have requested an inspection by the carrier. Keep all containers and packing material for inspection. If, upon opening a shipment, you find a shortage or damage, you must request inspection by the carrier within 15 days of delivery or you will relinquish your right to make a claim. Comet reserves the right to repair a damaged product, where applicable, before replacement or credit is determined.
6. **Payment Terms** – Invoices are payable by you net thirty (30) days from date of invoice, unless other terms agreed to in writing. Payments are to be made in freely available United States dollars, including applicable taxes, and other charges such as government imposed surcharges which Comet may be required to pay or collect with respect to the sale or transportation of the Products, or the provision of Services. Payment is considered late when it is received by Comet after the due date, which may result in additional service charges as described further in this section. Any payments received by Comet no later than 2.00 PM Eastern Standard Time will be credited to your account as of the date received; while payments received after 2.00 PM Eastern Standard Time will be credited to your account the following business day. Delinquent accounts will be subject to a service charge on past due amounts of one and one-half percent (1 1/2%) per month (or, if less, the maximum amount permitted by law). Comet shall be entitled to recover, and customer shall pay, all reasonable attorney's fees incurred by Comet for collection of past due amounts or to enforce Comet's rights under this Agreement. Seller may, at any time or times, suspend performance of any order or require payment in cash, security or other adequate assurance satisfactory to Seller when, in Seller's opinion, the financial condition of the Buyer

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or other grounds for insecurity warrant such action. All sales are subject to the approval of Seller's credit department.

7. **Taxes** – All prices are exclusive of any applicable U.S.A. federal, state or local sales, use, excise or other similar taxes. All such taxes will be for Buyer's account and will be paid by Buyer to Seller upon submission of Seller's invoices. Buyer agrees to make tax accruals and payments to the tax authorities as appropriate. If Buyer is exempt from any applicable sales tax but fails to notify Seller of such exemption or fails to furnish its Sales Tax Exemption Number to Seller in a timely manner and the seller is required to pay such tax, the amount of any such payment made by Seller will be reimbursed by Buyer to Seller upon submission of Seller's invoices.
8. **Services** – Seller will provide such services as are expressly described in its quotation (or other document executed by Seller) during normal business hours, unless otherwise specified in the quotation (or other document executed by Seller). Services requested or required by Buyer outside of these hours or in addition to the quoted or agreed upon services will be charged at Seller's then current schedule of rates, including overtime charges, if applicable, and will be in addition to the charges outlined in the quotation (or other document executed by Seller).
9. **Product Return Policy**
 - (a) All returns must be authorized in advance in writing by Comet. To ensure proper credit, each Product return must include the following information:
 - o Customer Name and Address
 - o Purchase Order Number
 - o Comet Shipping Order Number
 - o Date of Invoice
 - o Comet Return Authorization Number
 - o Reason for Return
 - o Box label information
 - o Photo of non-conformance/damage
 - o Comet reserves the right to refuse returns, and freeze shipments, of similar parts until requested samples are provided

You assume all risk of loss for the returned Product until such Product is actually received by Comet.

10. **Product and Service Warranties and Limitation of Liability**

- (a) Comet warrants to you only that:
 - i. all Products are guaranteed to be free of defects in material or workmanship at time of shipment
- (b) COMET HEREBY DISCLAIMS ALL OTHER WARRANTIES OR GUARANTEES WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (c) The liability of Comet under this limited warranty does not extend to any Products which are abused, altered or misused by the Customer or any other persons or entities or which become defective or non-conforming through the actions or inaction of the Customer or any other persons or entities. A defective or non-conforming Product is defined only as a Product which is outside of the manufacturer's defined Product specifications, and shall not include Products that fail to meet any fitness of use by Customer or any Customer operating conditions or applications.
- (d) If any Product or Service warranted hereunder proves defective or non-conforming, Comet's sole liability and Customer's sole remedy hereunder shall be for Comet, to repair or, at Comet's option, (i.e.) replace (or re-perform the Service), at no cost to Customer, any such defective or non-conforming Product with a non-defective or conforming Product (as applicable) or (ii) credit Customer's account for all amounts paid with respect to the defective or non-conforming Product or Service upon Comet's receipt of the defective or non-conforming Product.

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- (e) If a Product should require service, contact Comet for instruction. When the return of the Product is necessary, a return authorization number will be assigned and the Product shipped, transportation charges prepaid, to Comet. To insure prompt handling, a detailed explanation of the defect enclosed with the Product.
 - (f) IN NO EVENT SHALL COMET HAVE ANY OBLIGATION OR LIABILITY FOR ANY EXEMPLARY, PUNITIVE, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, USE OR GOODWILL), WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OR FORM OF ACTION, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THE TOTAL LIABILITY OF COMET (INCLUDING ITS SUBCONTRACTORS AND AGENTS), IF ANY, FOR DAMAGES RELATING TO ANY PRODUCTS SOLD UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PRICE PAID FOR SUCH PRODUCT(S) AND THE TOTAL LIABILITY OF COMET (INCLUDING ITS SUBCONTRACTORS AND AGENTS), IF ANY, FOR DAMAGES RELATING TO ANY SERVICES PROVIDED UNDER THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID FOR THE SERVICE GIVING RISE TO SUCH CLAIM.
11. **Cancellation** – Buyer may not cancel its order after Seller's acceptance unless all the details are approved in writing by the parties, including the Buyer's agreement to pay a stated amount of termination charges.
- (a) **Interruption Charge** – If an order is placed on hold, canceled, or if part or mold design changes are requested after commencement of engineering and/or manufacturing, the Buyer may be responsible for an interruption charge on all or part of the order to cover incurred and other expenses relating to production rescheduling, additional set-ups, handling, storage, inventory costs, etc. Comet does require a minimum 25% cancellation charge.
12. **Claims** – All claims for incorrect products or amounts thereof must be made in writing within ten days after receipt of the product.
13. **Proprietary Information** - Each party (a "Recipient") shall maintain in confidence, not disclose to any third party, and not use, except for the specific purpose of performing under this Agreement, all proprietary information furnished to it by the other party (a "Discloser") in connection with this Agreement, or derived from the Discloser in performance of this Agreement, and shall return to the Discloser, upon request, all copies (then in Recipient's possession) of documents and other tangible media furnished by or derived from Discloser in connection with the performance of this Agreement. The Recipient shall inform its employees, agents, and representatives of these obligations and shall require them to assume equivalent obligations.
14. **Miscellaneous**
- (a) **Force Majeure** - In the event either party is prevented in whole or in material part from performing its obligations under this Agreement solely as a result of force majeure, upon the prompt giving of notice to the other party detailing such force majeure event and its anticipated duration, the obligations of the party so prevented shall be excused during such period of delay, and such party shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as possible.
 - (b) **Merger, Modification, Waiver** - No amendment, modification or waiver of these terms shall be binding on Comet unless reduced to writing and signed by an authorized officer of Comet, and in the case of a waiver, shall be effective only in the specific instance and for the specific purpose for which given, and shall not be construed as a waiver of any subsequent breach. The failure of either party to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed as a waiver of such provisions or of the right of such party thereafter to enforce each and every such provision. No course of dealing, usage of trade or course of performance shall supplement, explain or amend any term, condition or instruction of this Agreement or any shipment of Products hereunder.
 - (c) **Indemnification** - Customer hereby indemnifies Comet and its employees, officers, directors, agents and subcontractors for any damages related in any way to Customer's, or its customers, use of the Products except to the extent caused by the willful misconduct of Comet.
 - (d) **Applicable Law** - This Agreement is made pursuant to, and shall be construed and enforced exclusively in accordance with, the internal laws of the State of New Jersey (and United States federal law, to the extent applicable), without giving effect to otherwise applicable principles of

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conflicts of law, and disputes, if any, shall be subject to the exclusive jurisdiction of the Federal and State courts in New Jersey.

- (e) **Authority to Enter into Agreement** - Each party represents and warrants that it is authorized to enter into this Agreement and that in so doing it is not in violation of the terms or conditions of any contract or other agreement to which it may be a party.
 - (f) **Assignment** - This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns and designees; provided, however, neither party shall have the right to transfer, assign or delegate its rights or obligations under this Agreement or any portion thereof without the prior written consent of the other party (except that either party may assign this Agreement to a parent, subsidiary or successor corporation (for example by stock sale, merger or asset sale) without such consent).
 - (g) **Nature of Relationship** - Neither party, its employees or permitted subcontractors or agents shall, under any circumstances, be considered to be an agent, partner, joint venture or representative of the other party.
15. **Itar Registration Requirements** – Seller shall comply with International Traffic in Arms Regulations §122.1, Registration requirements.
16. **Audit Rights and Examination of Proposed Costs** – For the purpose of evaluating seller's incurred costs including Seller's invoices for cost reimbursement, progress payments, Seller's claim(s) whether arising out of a termination or partial termination of this contract or out of some other dispute, and Seller's proposals for incentive price revisions or elements of Seller's change proposals which involve unique claims (e.g., obsolescence costs) which must be verified by audit, Seller agrees that Buyer or any of its duly authorized representatives shall have access to and the right to audit any pertinent books, documents, papers, and records which support direct and indirect costs.
- For the purpose of evaluating Seller's proposed costs including but not limited to change proposals, and proposals for follow-on procurement, Seller agrees that Buyer or any of its duly authorized representatives shall have access to and the right to audit all directly pertinent data supporting direct and indirect costs.
17. **Liquidated Damages** – If Seller fails to deliver the goods or perform the services within the time specified in this contract, the actual damage to Buyer for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, Seller will pay to Buyer as fixed, agreed, and liquidated damages for each calendar day of delay the amount set forth elsewhere in this contract. If Buyer cancels this contract, in whole or in part, under the Cancellation for Default provision of this contract, Seller will be liable for such liquidated damages accruing until such time as Buyer may reasonably obtain delivery of substitute goods or performance of substitute services. These liquidated damages are in addition to excess costs of re-procurement under the Cancellation for Default provision of this contract. Seller will not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of Seller, and, in such event, Buyer will ascertain the facts regarding the delay, including the length of the delay, and will extend the time for performance of the contract if, in Buyer's judgment, the findings of fact justify an extension.
18. **Buyer Right of Entry and Surveillance** – Work under this purchase contract is subject to Buyer surveillance at Seller and Seller's subcontractors' locations. Buyer's Quality Representative may elect to conduct inspection either on a random basis or to the extent of 100% inspection. Seller will be notified if Buyer inspection is to be conducted on specific shipments. No shipments are to be held for Buyer inspection unless notification is received prior to, or at a time of, product being ready for shipment. Buyer has the right of access by the organization, their customer, and regulatory authorities to all facilities involved in the order and to all applicable recordings.
19. **Additional Customer Contract Requirements** - The Seller agrees that upon the requests of Buyer, Seller and Buyer will from time to time enter into amendments to this contract to incorporate additional provisions herein or to change the provisions hereof as Buyer may reasonably deem necessary in order for Buyer to comply with the provisions of its prime contract or with the provisions of amendments to its prime contract. If any such amendment to this contract causes an increase or decrease in the price hereof, or the time required for performance of this contract, an equitable adjustment shall be made in

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the price or delivery schedule of this contract, or both pursuant to the "Changes" provision of this contract. Supplier is required to flow down to sub-tier suppliers the applicable requirements in the purchasing documents, including key characteristics where required.

20. **Acquisition and Use of Foreign Metallic Raw Material (For Industry and Government Specifications)** - The Seller agrees not to incorporate into any articles to be delivered under this purchase order, foreign produced metallic raw material unless it meets the requirements specified in DMS 2201.

Approved non-domestic metallic raw material producers for Industry and Government specifications (i.e. AMS, ASTM, MIL, and QQ etc) are listed in the Qualified Products List (QPL) of DMS 2201 (Procurement Form Foreign Sources -Metallic Raw Materials).

Producers listed may not meet requirements of clause D300L (Acquisition and Incorporation of Non-Domestic Specialty Metals). When procuring metallic raw material from a foreign source, compliance with both the DMS 2201 and clause D300L is mandatory.

SELLER FURNISHED MATERIAL CERTIFICATION

Seller shall document and maintain material certification containing the following:

1. Description of the material used in the manufacture of the end-item;
2. Material specifications;
3. Lot, heat or batch number identification;
4. Source of procurement (Name, Address, and Country);
5. Origin of material;
6. Name and location of the Melting facility;
7. Name and Location of mill;
8. Mill certification; and
9. All other requirements as specified in the applicable raw material specification including chemical and physical analysis.

Seller shall retain certification for a period of no less than seven (7) years after final payment.

21. **Quality Requirements** –
- (a) Suppliers are required to notify the organization of changes in product and/or process definition and, where required, obtain the organizations approval.
 - (b) Suppliers are required to notify the organization of nonconforming product and obtain organization approval for nonconforming product disposition.
22. **Patent or Trademark Infringement and Product Liability** – Buyer had no authorization to make any representation, statement or warranty on behalf of Seller relating to any products sold hereunder. Buyer shall indemnify and defend, at its own expense, Seller against claims or liability for U.S. or applicable foreign patent, trademark or other intellectual property infringement and for product liability arising from the preparation or manufacture of a product according to Buyer's specifications, or from Buyer's unauthorized use of Seller's products or from any changes or alterations to seller's products made by persons other than Seller or improper uses of seller's product or from the manufacture or sale or use of Buyer products which incorporate or integrate Seller's products.
23. **Ownership of Materials** – All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by Seller, and all related intellectual property rights, shall remain Seller's property. Seller grants Buyer a non-exclusive, non-transferable license to use any such material to the extent necessary and solely for Buyer's use of the product purchased by Buyer from Seller hereunder. Buyer shall not disclose any such material to third parties without Seller's prior written consent. As a condition to Seller's delivery to Buyer of the products, Buyer shall not, directly or indirectly, and shall cause its employees, agents and representatives not to: (i) alter or modify the products, (ii) disassemble, decompile or otherwise reverse or analyze the products, (iii) remove any product identification or property rights notices, (iv) modify or create derivative works, (v) otherwise take any action contrary to seller's rights in the technology and intellectual property relating to the products, and/or (vi) assist or ask to do any of the foregoing.
24. **Export** – As a condition to the Seller's delivery to Buyer of the products and/or parts thereof, Buyer agrees, with respect to the exportation or resale of the product, and/or parts thereof by Buyer, to comply with all requirements of the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("ERA"), regulations issued thereunder and any subsequent amendments thereto, and all other National, including, but not limited to, European, government laws and regulations on export controls, including laws and regulations pertaining to export licenses, restrictions on export to embargoed countries and restrictions on sales to certain persons and/or entities.

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25. **Entire Agreement** – Seller's Terms and Conditions of Sales and the Confidentiality Agreement, if any, are the entire Agreement of the parties and they may not be modified except in writing signed by a duly authorized representative or officer of Seller.
26. **Quotation** – All quotations by Seller are subject to change or withdrawal without prior notice to Buyer, unless otherwise specifically stated in the quotation. Quotations are made subject to approval by Seller of Buyer's credit. All sales, contracts and orders become effective only if and when approved and accepted in writing by Seller by the issuance of the Seller Acknowledgement Form and shall be subject to these terms and conditions.
27. **Confidentiality** – If Seller discloses or grants Buyer access to any research, development, technical, economic, or other business information or "know-how" of a confidential nature, whether reduced to writing or not, Buyer will not use or disclose any such information to any other person or company at any time, without Seller's prior written consent. In the event that Buyer and Seller have entered into a separate confidentiality agreement ("Confidentiality Agreement"), the terms and conditions of such agreement shall take precedence over the terms of this paragraph.
28. **No Waiver** – Seller's failure to insist on Buyer's strict performance of the terms and conditions contained herein at any time shall not be construed as a waiver by Seller of performance in the future.
29. **Validity** – If any provision of these Seller's Terms and Conditions of Sale is held by any competent authority to be invalid or unenforceable in whole or in any part, the validity of the other provisions of these conditions and the remainder of the provision shall not be affected.
30. **Governing Law** – The laws of the State of New Jersey hereunder shall govern Seller's Terms and Conditions of Sale and the parties' agreement for sale of products regardless of conflict of law principles therein, and the parties agree to submit to (and waive any objection on the grounds of inconvenient forum or otherwise) the jurisdiction of the Supreme Court of the State of New Jersey, County of Gloucester or the United States District Court for the Southern District of New Jersey, which courts shall have exclusive jurisdiction to adjudicate and determine any suit, action or proceeding regarding or relating to these Terms and Conditions and the purchase and supply of the Systems and/or parts thereof or services relating thereto. A judgment, order or decision of those courts in respect of any such claim or dispute may be recognized and enforced by any courts of any state, country or other jurisdiction.