

Alloy Terms and Conditions of Sale

Alloy Enterprises retains all right, title, and interest in and to its Stack Forging™ process, manufacturing processes, and related technology and know-how. The acceptance of a purchase order and/or the submission of proposal does not grant any rights in Alloy Enterprises' intellectual property. Any rights granted to Buyer shall be limited to those expressly set forth in these Terms and Conditions of Sale.

1. Scope: These Terms and Conditions of Sale ("Terms") govern the sale of products ("Products") and the provision of Services (as defined below) by Alloy Enterprises, Inc. ("Alloy Enterprises") to the party listed on the purchase order or other order documentation ("Buyer", "you", "your"). Alloy Enterprises' acceptance of Buyer's order is expressly conditioned on Buyer's acceptance of these Terms. Any and all Buyer terms and conditions are hereby rejected and shall be of no effect. Buyer shall be conclusively deemed to have accepted these terms and conditions upon any of the following by Buyer, its agents or representatives: (i) written or electronic acknowledgement or acceptance of the Alloy Enterprises terms and conditions, (ii) transmission to Alloy Enterprises, its agents or representatives of any order for Alloy Enterprises Products or Services, or (iii) acceptance of or payment for any Product or Service covered hereby. Alloy Enterprises' failure to object to any provision contained in any communication from Buyer shall not be deemed a waiver of any provision hereof. Except to the extent Buyer has a written, signed, separate agreement with Alloy Enterprises governing the purchase and sale of Products and/or Services, these Terms supersede any previous communications, representations or agreements between the parties regarding the sale of Products and/or Services. Any changes from these Terms contained herein must be specifically agreed to in writing by an authorized representative of Alloy Enterprises before becoming binding on Alloy Enterprises.

Alloy Enterprises reserves the right to modify or update its Terms and Conditions of Sale at any time without prior notice. Such changes shall apply to all orders placed after the effective date of the revised Terms and Conditions. The applicable version of the Terms and Conditions for each transaction shall be the version in effect as of the date of acceptance of the relevant purchase order by Alloy Enterprises.

2. Ownership and License: Alloy Enterprises innovates to deliver high-performance products. Alloy Enterprises' manufacturing processes are proprietary and shall remain so. Alloy Enterprises does not license or otherwise provide access to its proprietary manufacturing processes or technology.

That said, Alloy Enterprises wants you to fully enjoy the Product units we sell to you, along with any accompanying drawings and therefore: (a) the Products you purchase are yours to use, service, maintain, resell, or dispose of as you see fit; and (b) any drawings provided with the Products are yours, subject to Alloy Enterprises' retention of rights in Alloy Enterprises' intellectual property, and may be used for planning, integration, servicing, or maintenance purposes.

Your prior and/or independent intellectual property and confidential information, of course, remain yours, just as Alloy Enterprises' prior and/or independent intellectual property and confidential information remains Alloy Enterprises'.

Accordingly, Alloy Enterprises retains all intellectual property rights conceived or developed in providing the Products or in performing the Services, no aspect of the Services shall be considered a work-for-hire, and no rights are granted to manufacture, have manufactured, or otherwise reproduce Alloy Enterprises' Products. No other rights under Alloy Enterprises' intellectual property are granted or transferred beyond what is expressly stated above.

3. Prices: All prices are invoiced in U.S. Dollars. All prices are subject to adjustment on account of specifications, quantities, shipment arrangements or other terms and conditions that are not a part of the original price quotation. Prices are exclusive of all taxes, fees, duties, tariffs, false alarm assessments, permits and levies or other charges imposed or enacted by government, however designated or imposed (collectively, "Taxes"). Taxes are the responsibility of Buyer (except taxes on Alloy Enterprises' net income), unless Buyer presents a valid exemption certificate. In the event Alloy Enterprises is required to pay any Taxes, Buyer shall reimburse Alloy Enterprises therefore on demand. If any exemption certificate presented by Buyer is held to be invalid, Buyer will promptly pay Alloy Enterprises the amount of the Tax and any penalties and interest related thereto. Prices may be adjusted by Alloy Enterprises prior to shipment to reflect increases in cost of raw materials (e.g., steel & aluminum); product availability issues; legal or tax changes; Trade Restrictions; or other extra cost elements. "Trade Restrictions" means any new or increased tariff/duty, quota, tariff-rate quota, or cost resulting from changes in trade agreement(s).

4. Terms of Payment: All payments shall be made in U.S. Dollars, unless otherwise agreed in writing. Terms are cash upon delivery, except where satisfactory open account credit is established, in which case terms of payment are net thirty (30) days from the date of invoice. Alloy Enterprises reserves the right at any time, in its sole discretion, to revoke any credit extended to Buyer. Alloy Enterprises will issue invoices on delivery in the case of all Products; and if deliveries are authorized in installments, each shipment shall be invoiced and paid when due without regard to other scheduled deliveries. Overdue payments shall be subject to finance charges computed at a periodic rate of 1.5% per month (18% per year) or the maximum amount allowable by law, whichever is less. Amounts owed by Buyer with respect to which there is no dispute shall be paid without set-off for any amounts that Buyer may claim are owed by Alloy Enterprises and regardless of any other controversies that may exist. Buyer does hereby grant to Alloy Enterprises a security interest in the Products and proceeds

therefrom as security for the performance by Buyer of all its obligations hereunder. Payment shall be made for the Products without regard to whether Buyer has made or will make any inspection of the Products.

5. Shipment: Pricing and delivery are EXW (Incoterms 2020) factory. Alloy Enterprises reserves the right to make shipments in installments. Alloy Enterprises reserves the right to make shipments when Product is available and shall invoice shipments as made. Alloy Enterprises reserves the right to allocate production and deliveries among its various customers under any circumstances. Alloy Enterprises will confirm in writing, and amend as appropriate, the shipment schedule. Under no circumstances shall Alloy Enterprises be liable to Buyer for any delay either in shipment or in delivery.

6. Services: Unless otherwise provided in a separate agreement between Alloy Enterprises and Buyer, where Alloy Enterprises provides services, in connection with the Products ("Services"), the manner and means used to perform the Services are at the sole discretion and control of Alloy Enterprises. All Services shall be performed at Alloy Enterprises' designated facilities unless otherwise mutually agreed in writing. Services will be provided on a time and materials basis at Alloy Enterprises' then current hourly rates or at such rates as the parties mutually agree in writing. Alloy Enterprises will invoice Buyer on or after the date of performance of the relevant Services.

7. Residuals; Independent Development: Alloy Enterprises shall not be prohibited or enjoined from utilizing general knowledge, skills and experience, concepts, know-how and techniques retained in the unaided memory of an individual and acquired as a result of such individual's authorized access to Buyer's Confidential Information during the course of the performance of its obligations under these Terms provided that none of such retained general knowledge, skills and experience, concepts, know-how and techniques include any trade secrets of the other Party. Nothing in these Terms shall limit or restrict Alloy Enterprises' right to design, develop, manufacture, or supply Products or services for itself or any third party, provided that Alloy Enterprises does not use Buyer's confidential information in doing so.

8. Pre-Production Products: Products identified as a pre-production version, prototype, sample, reference design, or similar designation, or otherwise not having passed all stages of full production acceptance (collectively "Pre-Production Products"), as solely determined by Alloy Enterprises, are provided "AS IS" and may only be used for Buyer's internal testing and evaluation purposes. Under no circumstances shall Pre-Production Products be used in any production or commercial environment. Any use outside of internal testing and evaluation shall be at Buyer's sole risk and Alloy Enterprises shall have no liability arising therefrom. Upon completion of evaluation or upon request by Alloy Enterprises, Buyer shall promptly return or destroy all Pre-Production Products upon request.

9. Warranty: Except as otherwise provided herein, Alloy Enterprises warrants to Buyer that for one (1) year from tender of the Product to the carrier (Warranty Period), each standard Product sold hereunder will be substantially free of defects in materials or workmanship and will conform to specifications set forth in Alloy Enterprises' published data sheets or, where applicable, user manuals for Alloy Enterprises' system products in effect at the time of tender to carrier. For Products that are non-standard Products of Alloy Enterprises, such custom-designed goods based on Buyer's specifications, Alloy Enterprises warrants to Buyer that such Products delivered hereunder will conform in all material respects to Buyer's specifications and be free of defects in material and faulty workmanship upon receipt by Buyer, and that any related services for such non-standard Products provided thereunder, will be of a professional quality conforming to generally accepted industry standards and practices for a period of three months from the date Services were rendered. Notwithstanding anything to the contrary, the warranty in this Section shall not apply to any Pre-Production Products, or to any Services, or to any products (or portion thereof) supplied or licensed by a third party (for which any warranty or services, if any, will be provided by the original manufacturer and not by Alloy Enterprises). This warranty excludes failures caused by misuse, improper installation or maintenance, corrosion, normal deterioration or wear and tear, or unauthorized modifications.

Should Buyer knowingly use or consume the product after identifying a breach of warranty or non-conformity in accordance with an applicable certificate of analysis or other written confirmation, the warranty for such products shall be deemed null and void. Failure to provide notice of rejection within the warranty period shall constitute final acceptance.

10. Warranty Remedy: Alloy Enterprises' sole liability and responsibility for Products under this warranty is for Alloy Enterprises to repair or replace any Product that is returned to it by Buyer or credit Buyer's account for such returned Product, provided that Alloy Enterprises shall have the right to reject any such remedy where Alloy Enterprises determines that the Warranty does not apply. Product returned to Alloy Enterprises for warranty service will be shipped to Alloy Enterprises at Buyer's expense and will be returned to Buyer, under Incoterms DAP (Delivered at Place) to Buyer's designated location. Alloy Enterprises' obligation to honor its warranty for a Product is contingent upon receipt of payment in full for such Product.

11. Warranty Disclaimer: TO THE FULLEST EXTENT PERMITTED BY LAW AND EXCEPT AS OTHERWISE PROVIDED HEREIN, ALL PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND ALLOY ENTERPRISES EXPRESSLY EXCLUDES AND DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT. LABELING ON PRODUCTS AND PACKAGING IS INTENDED SOLELY FOR COMPLIANCE WITH APPLICABLE LAW AND ALLOY ENTERPRISES DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, THAT ARISE FROM SUCH LABELING OTHER THAN AS REQUIRED BY APPLICABLE LAW. IN NO EVENT SHALL ALLOY ENTERPRISES BE RESPONSIBLE UNDER ITS WARRANTY FOR

ANY DEFECT THAT IS CAUSED BY NEGLIGENCE OF BUYER OR A THIRD PARTY, STATIC DISCHARGE, MISUSE OF A PRODUCT OR MISTREATMENT OF A PRODUCT. ALLOY ENTERPRISES SHALL HAVE NO RESPONSIBILITY FOR ANY PRODUCT THAT HAS BEEN ALTERED OR MODIFIED IN ANY WAY. ALLOY ENTERPRISES SHALL HAVE NO RESPONSIBILITY TO THE EXTENT ANY DEFECT OR FAILURE IS CAUSED BY NON COMPATIBILITY OF THE PRODUCTS WITH OTHER COMPONENTS USED BY BUYER. ALLOY ENTERPRISES SHALL HAVE NO RESPONSIBILITY FOR NONSTANDARD PRODUCTS, OR PRODUCTS PURCHASED OR ACQUIRED THROUGH UNAUTHORIZED CHANNELS. THE WARRANTY OF REPLACEMENT PRODUCTS SHALL TERMINATE WITH THE WARRANTY OF THE ORIGINAL PRODUCT.

12. Buyer Warranty: With respect to Products delivered hereunder, Buyer agrees to accept responsibility for (i) their selection to achieve Buyer's intended results, (ii) their use, (iii) the results obtained therefrom and (iv) the selection of, use of and results obtained from any equipment, programs or services not provided by Alloy Enterprises and used in connection with Products delivered hereunder. Buyer further warrants that it is buying for its own internal use and not for individual resale, unless otherwise agreed between Buyer and Alloy Enterprises under separate written agreement.

13. Indemnity. Alloy Enterprises shall indemnify Buyer for all damages, losses and expenses with respect to any third-party claims for personal injury, including death, or tangible property damage to the extent caused by the grossly negligent acts or willful misconduct of Alloy Enterprises in fulfilling its obligations under this Agreement. Alloy Enterprises has the right but not the obligation to defend Buyer against third-party claims, and in the event of such election, Alloy Enterprises shall have exclusive control over the defense.

14. IP Indemnity. Alloy Enterprises will defend Buyer against third-party claims alleging that Product infringes on U.S./Canadian patent or copyright (each a "Claim"), subject to prompt notice, control of defense, and reasonable assistance by Buyer. If a Claim occurs or is likely to occur, Alloy Enterprises may, in its discretion, either: (i) procure the right to use the Product free of the Claim; (ii) replace or modify to make non-infringing; or (iii) if neither option is reasonably available or required by law, terminate Buyer's right to use the Product and refund fees paid for the affected Product, less depreciation based on a three-year useful life. Notwithstanding the foregoing, Alloy Enterprises has no obligation for Claims arising from: (i) misuse or unauthorized modification, (ii) use or combination with non- Alloy Enterprises hardware, software, products, data, or other materials, (iii) failure to implement updates that would have avoided the Claim, (iv) third-party Products (which are subject to the third-party's indemnity, if assignable), or (v) Product developed per Buyer's specifications, designs or instructions. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAWS, THIS SECTION STATES THE SOLE AND EXCLUSIVE OBLIGATIONS AND LIABILITY OF ALLOY ENTERPRISES FOR INTELLECTUAL PROPERTY INFRINGEMENT RELATING TO THE PRODUCTS AND/OR THE CONTRACT.

15. Limitations of Liability: IN NO EVENT SHALL ALLOY ENTERPRISES BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR OTHER INDIRECT DAMAGES, OR FOR LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, OR LOSS OF USE DAMAGES, DUE TO ANY CAUSE WHATSOEVER, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, EVEN IF ALLOY ENTERPRISES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. NO SUIT OR ACTION SHALL BE BROUGHT AGAINST ALLOY ENTERPRISES MORE THAN ONE YEAR AFTER THE RELATED CAUSE OF ACTION HAS ACCRUED. FURTHER, THE TOTAL LIABILITY OF ALLOY ENTERPRISES TO BUYER AND/OR ANY OTHER PARTY FROM ANY AND ALL LAWSUITS, CLAIMS, DEMANDS, OR ACTIONS, IN THE AGGREGATE, SHALL NOT EXCEED THE PURCHASE PRICE FOR THE SPECIFIC SERVICES PROVIDED OR PRODUCTS (AS IDENTIFIED BY PART NUMBER) GIVING RISE TO THE LAWSUIT, CLAIM, DEMAND, OR ACTION. THE EXISTENCE OF MULTIPLE CLAIMS RELATED TO THE SAME PRODUCT AT ISSUE SHALL NOT ENLARGE OR EXTEND THIS LIMIT. ALLOY ENTERPRISES' EXPRESS WARRANTY TO BUYER AND THE INTELLECTUAL PROPERTY INDEMNITY DESCRIBED HEREIN, WHICH ARE SOLELY FOR THE BENEFIT OF BUYER AND NO OTHER PARTY, CONSTITUTE ALLOY ENTERPRISES' SOLE LIABILITY AND THE BUYER'S SOLE REMEDY WITH RESPECT TO THE PRODUCTS, AND ARE IN LIEU OF ALL OTHER WARRANTIES, INDEMNITIES, LIABILITIES AND REMEDIES. UNLESS OTHERWISE EXPRESSLY PROVIDED IN A WRITING SIGNED BY BOTH PARTIES, ALLOY ENTERPRISES DOES NOT INDEMNIFY, NOR DOES IT HOLD BUYER HARMLESS, AGAINST ANY LIABILITIES, LOSSES, DAMAGES AND EXPENSES (INCLUDING ATTORNEY'S FEES) RELATING TO ANY CLAIMS WHATSOEVER, INCLUDING WITHOUT LIMITATION, CLAIMS FOR PERSONAL INJURIES, DEATH OR PROPERTY DAMAGE RELATING TO THE PRODUCTS SOLD HEREUNDER.

16. Restrictions on Use: Buyer agrees not to, directly or indirectly, modify, reverse engineer, decompile, disassemble or create any derivative works of any Products provided to Buyer.

17. Assignment: These terms and conditions are not assignable by Buyer without Alloy Enterprises' prior written consent and any unauthorized attempt to assign any rights, duties or obligations arising hereunder shall be void. Alloy Enterprises may, as it deems necessary, subcontract any part of the work or services to be provided pursuant to these terms and conditions or assign these Terms to an affiliate of Alloy Enterprises. These terms and conditions shall be binding upon each party and their successors and permitted assigns.

18. Governing Law: Except as provided below, any and all matters in dispute between the parties, whether arising from or relating to these terms and conditions or arising from alleged extra-contractual facts including, without limitation, fraud, misrepresentation, negligence or any other alleged tort or violation of contract, shall be governed by, construed, and enforced in accordance with the laws of the State of New York.

19. Force Majeure: Alloy Enterprises shall not be liable for any loss or damage resulting from any delay in delivery or failure to give notice of delay when such delay is due to any cause or event beyond Alloy Enterprises' control, including, without limitation, acts of nature, pandemics, epidemics, unavailability of supplies or sources of energy, riots, wars, terrorist acts, sabotage, fires, strikes, rolling blackouts, labor difficulties, delays in transportation, delays in delivery or defaults by Alloy Enterprises' vendors, or acts or omissions of Buyer. In the event of delay due to any such cause, time for delivery shall be extended for a period of time equal to the duration of such delay and Buyer shall not be entitled to refuse delivery or otherwise be relieved of any obligations as a result of the delay. If, as a result of any such cause, any scheduled delivery is delayed for a period in excess of one-hundred-twenty (120) days, Alloy Enterprises shall have the right by written notice to Buyer to cancel the order for the Products subject to the delayed delivery without further liability of any kind.

20. General

a. **Compliance with Laws:** Buyer shall comply, and shall cause its employees to comply, with all applicable local, national, regional and international laws, ordinances, regulations, codes, standards, directives and international conventions and agreements to the extent that any of the foregoing have the force of law by being directly enforceable by a governmental authority, a court or other proper tribunal (collectively "Laws"), including but not limited to (i) anti-bribery and recordkeeping Laws, including but not limited to the U.S. Foreign Corrupt Practices Act ("FCPA"), the Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ("OECD"), and the Inter-American Convention Against Corruption, (ii) environmental Laws, and (iii) import and export control Laws, including but not limited to the U.S. Export Administration Regulations (US EAR), the U.S. State Department's International Traffic in Arms Regulations (ITAR), sanction regimes of the U.S. Department of the Treasury Office of Foreign Assets Controls (OFAC), export laws and regulations of the European Union (EU) and/or any of its member states and export laws of other national governments. Buyer shall not, without prior U.S. Government authorization, export, re-export, or transfer any commodities, software or technology, either directly or indirectly, to any country subject to a U.S. trade embargo or sanction or to any resident or national of said countries, or to any person, organization, or entity on any of the sanctioned parties lists maintained by the U.S. Departments of State, the Treasury or Commerce. Buyer shall comply, and shall cause its employees to comply, with all applicable laws, ordinances and/or directives of countries in which they conduct business as they relate to the Universal Declaration of Human Rights, child labor laws, data privacy laws, criminal reporting laws, Environmental, Health and Safety laws or any similar laws, including, but not limited to identifying and filing or purchasing (as applicable) any and all required permits, certificates, licenses, insurance, approvals and inspections required in performance of its obligations hereunder. Buyer will indemnify and hold Seller harmless to the full extent of any loss, liability, damage, or expense, including but not limited to lost profits, fines, penalties, attorneys' fees, defense expenses and court costs, for any failure or alleged failure of Buyer, its officers, employees, agents, or subcontractors to comply with the requirements of this clause.

b. **Bankruptcy or Insolvency:** Alloy Enterprises reserves the right, by written notice of default, to cancel any order, without further obligation or liability to Buyer, on the occurrence of any of the following: (i) the insolvency of Buyer; (ii) the filing of a voluntary petition in bankruptcy by Buyer; (iii) the filing of an involuntary petition to have Buyer declared bankrupt; (iv) the appointment of a receiver or trustee for Buyer; (v) the execution by Buyer of an assignment for the benefit of creditors; (vi) the discontinuance of business by Buyer; or (vii) the sale by Buyer of the bulk of its assets other than in the usual course of business.

c. **Severability:** Should any of these terms and conditions be held by a court of competent jurisdiction to be contrary to law, that term or condition will be modified as necessary to make it enforceable to the maximum extent permissible and the remaining terms and conditions will remain in full force and effect.

d. **No Agency:** Alloy Enterprises and Buyer are independent contractors, and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by these terms and conditions. Buyer is solely responsible for its employees and agents and shall indemnify Alloy Enterprises against any claim, liability, cost or damage related to Buyer's actions or those of its employees or agents, including, but not limited to, the making of unauthorized warranties or representations on behalf of Alloy Enterprises.

e. **Third Party Beneficiaries:** Buyer represents and warrants that there exist no third-party beneficiaries to Buyer's rights hereunder.

f. **Basis of Bargain:** THE PARTIES AGREE THAT THE WARRANTY DISCLAIMER, THE LIMITATION OF LIABILITY AND EXCLUSIVE REMEDY PROVISIONS ARE MATERIAL, BARGAINED TERMS THAT ARE FUNDAMENTAL TO THESE TERMS AND CONDITIONS AND ARE REFLECTED IN THE CONSIDERATION TO BE GIVEN BY BOTH PARTIES UNDER THESE TERMS AND CONDITIONS AND IN THE DECISION BY BOTH PARTIES TO ACCEPT THESE TERMS AND CONDITIONS.

g. **Separate Transactions:** Each shipment made hereunder shall be considered a separate transaction. In the event of any default by Buyer, Alloy Enterprises may decline to make further shipments. If Alloy Enterprises elects to continue making shipments, such action shall not constitute a waiver of any default by Buyer or in any way affect Alloy Enterprises' legal remedies for such default.

h. Entire Agreements and Amendments: These terms and conditions constitute the entire agreement between the parties and supersede all previous communications, whether oral or written, with respect to the subject matter herein. Any change to these terms and conditions may be made only upon mutual agreement of the parties in writing.