

# MICO WIRE & BAR, LLC'S GENERAL TERMS AND CONDITIONS OF SALE

## 1. Applicability.

(a) These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of goods ("**Goods**") and services ("**Services**") by Mico Wire & Bar, LLC. ("**Seller**") to any purchaser of goods from Seller ("**Purchaser**"). Seller and Purchaser shall collectively be referred to herein the "**Parties**". Notwithstanding anything herein to the contrary, if a written contract signed by authorized representatives of both Seller and Purchaser is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) These Terms are incorporated into each Quotation that Seller provides to Purchaser ("**Quotation**") and each Order Acknowledgment that Seller provides to Purchaser ("**Order Acknowledgment**"). Each Quotation or Order Acknowledgment with these Terms incorporated shall be referred to as (this "**Agreement**") and comprises the entire agreement between the Parties, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with regard to the sale of Goods or Services identified in the Quotation or Order Acknowledgment. These Terms prevail over any of Purchaser's general terms and conditions of purchase regardless of whether or when Purchaser has submitted its purchase order or such terms. Fulfillment of Purchaser's order does not constitute acceptance of any of Purchaser's terms and conditions and does not serve to modify or amend these Terms. Any terms in Purchaser's purchase order that are different from or in addition to these Terms are rejected. Purchaser shall be deemed to have accepted these Terms unless it notifies Seller to the contrary in writing within three business days of its receipt of the Order Acknowledgment.

## 2. Delivery of Goods and Performance of Services.

(a) The Goods will be delivered within a reasonable time after the receipt of Purchaser's purchase order. Seller shall not be liable for any delays, loss, or damage in transit.

(b) Any requirements of Purchaser related to the material with which the Goods are to be manufactured including, but not limited to, any laws, regulations, directives, or other requirements related to the material with which Purchaser expects Seller to comply must be stated on the face of Purchaser's Purchase Order.

(c) Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods to 317 Cary Point Dr, Cary, IL 60013 (the "**Shipping Point**") using Seller's standard methods for packaging such Goods.

(d) Seller reserves the right to subcontract or outsource any work related to the Goods or Services to one of more subcontractors and Purchaser consents to the delegation of any work to be performed by Seller to any subcontractor or other third party selected by Seller in its sole discretion.

(e) With respect to the Services, Purchaser shall (i) cooperate with Seller in all matters relating to the Services; (ii) respond promptly to any Seller request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Seller to perform the Services in accordance with the requirements of this Agreement; (iii) provide such materials or information as Seller may reasonably request to carry out the Services in a timely manner; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

3. Non-Delivery.

(a) The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Purchaser on delivery unless Purchaser can provide conclusive evidence proving the contrary.

(b) Seller shall not be liable for any non-delivery of Goods unless Purchaser gives written notice to Seller of the non-delivery within 5 business days of the date when the Goods would in the ordinary course of events have been received.

(c) Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

(d) Purchaser acknowledges and agrees that the remedies set forth in 23 are Purchaser's exclusive remedies for any non-delivery of Goods.

4. Quantity. If Seller delivers to Purchaser a quantity of Goods of up to ten percent more or less than the amount set forth in the Order Acknowledgment, Purchaser shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Order Confirmation adjusted pro rata, unless otherwise agreed upon by the Parties.

5. Shipping Terms. Delivery of the Goods shall be made FOB Shipping Point.

6. Title and Risk of Loss. Title and risk of loss passes to Purchaser upon delivery of the Goods to the carrier at the Shipping Point. As collateral security for the payment of the purchase price of the Goods, Purchaser hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Purchaser in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Illinois Uniform Commercial Code.

7. Purchaser's Acts or Omissions. If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Purchaser or its agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Purchaser, in each case, to the extent arising directly or indirectly from such prevention or delay.

8. Inspection and Rejection of Nonconforming Goods.

(a) Purchaser shall inspect the Goods within five (5) business days of its receipt of the Goods ("**Inspection Period**"). Purchaser will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "**Nonconforming Goods**" means only that the product shipped is different than identified in Purchaser's purchase order and/or failed to comply with any specifications that Purchaser provided to Seller.

(b) If Purchaser timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses in connection therewith. Purchaser shall ship the Nonconforming Goods to Seller's facility located at 317 Cary Point Dr., Cary, IL 60013. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Purchaser's shipment of Nonconforming Goods, ship to Purchaser, at Purchaser's expense and risk of loss, the replaced Goods to the Delivery Point.

(c) Purchaser acknowledges and agrees that the remedies set forth in Section 8(b) are Purchaser's exclusive remedies for the delivery of Nonconforming Goods.

9. Price.

(a) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any Governmental Authority on any amounts payable by Purchaser. Purchaser shall be responsible for all such charges, costs and taxes; provided, that, Purchaser shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personal or real property, or other assets.

10. Payment Terms.

(a) Purchaser shall pay all invoiced amounts due to Seller within thirty (30) days from the date of Seller's invoice. Purchaser shall make all payments hereunder by wire transfer or check and in U.S. dollars, unless otherwise agreed to between the Parties.

(b) Purchaser shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller.

11. Limited Warranty.

(a) Seller warrants to Purchaser that, for a period of thirty (30) days from the date of shipment of the Goods ("**Warranty Period**"), such Goods will materially conform to any specifications that Purchaser provided to Seller related to the Goods and will be free from material defects in material and workmanship. Any requirements of Purchaser related to the material with which the Goods are to be manufactured including, but not limited to, any laws, regulations, directives, or other requirements related to the material with which Purchaser expects Seller to comply must be stated on the face of Purchaser's Purchase Order. The foregoing warranty shall not apply to any defects in material provided to Seller by Purchaser.

(b) Seller warrants to Purchaser that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services.

(c) **EXCEPT AS EXPRESSLY PROVIDED IN SECTION 11(a) AND SECTION 11(b) ABOVE, SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS OR SERVICES SOLD TO PURCHASER AND EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

(d) Seller shall not be liable for a breach of the warranties set forth in Section 11(a) and Section 11(b) unless: (i) Purchaser gives written notice of the defective Goods or Services, as the case may be, reasonably described, to Seller promptly after Purchaser discovers or should have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice of breach of the warranty set forth in Section 11(a) to examine such Goods (if requested to do so by Seller, Purchaser shall return such Goods to Seller's place of business at Seller's cost for the examination to take place there); and (iii) Seller reasonably verifies Purchaser's claim that the Goods or Services are defective.

(e) With respect to any Goods that failed to comply with the warranty provided in Section 11(a) during the Warranty Period, provided that Purchaser complies with the provisions of Section 11(d), Seller shall, in its sole discretion, either: (i) repair or replace such Goods or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Purchaser shall, at Seller's expense, return such Goods to Seller.

(f) With respect to any Services that failed to comply with the warranty provided in Section 11(b) during the Warranty Period, Seller shall, in its sole discretion, (i) repair or re-perform the applicable Services or (ii) credit or refund the price of such Services at the pro rata contract rate.

**(g) THE REMEDIES SET FORTH IN SECTION 11(e) and SECTION 11(f) SHALL BE PURCHASER'S SOLE AND EXCLUSIVE REMEDIES AND SELLER'S ENTIRE LIABILITY FOR ANY NONCONFORMITY OR DEFECT IN ANY GOODS OR SERVICES SOLD BY SELLER TO PURCHASER. PURCHASER AGREES THAT THESE REMEDIES PROVIDE PURCHASER WITH A MINIMUM ADEQUATE REMEDY AND ARE PURCHASER'S EXCLUSIVE REMEDIES, WHETHER A CLAIM IS BASED ON CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), STRICT LIABILITY, INDEMNITY, OR ANY OTHER LEGAL THEORY.**

(h) Notwithstanding the foregoing provisions of this Section 11 or any other provision of these Terms, Seller shall have no liability to Purchaser or any third party for any damage or defect to the extent caused by: (A) any improper operation, maintenance, repair, alteration or modification to or of the Goods by Purchaser or any third party not engaged by Seller; (B) any negligent, reckless, willful, or fraudulent act or omission of Purchaser or of any third party not engaged by Seller; (C) Seller's reliance on any specifications, drawings, samples, or instructions provided to Seller by Purchaser; (D) Seller's use of any material or parts provided to Seller by Purchaser; (E) Purchaser's failure to follow Seller's oral or written instructions as to the storage,

installation, commissioning, use or maintenance of Goods, or (F) Purchaser's use of Goods after giving notice to Seller of Purchaser's claim that the Goods are defective.

12. Indemnification by Purchaser

Purchaser shall indemnify, defend, and hold harmless Seller and its officers, directors, managers, shareholders, members, partners, employees, agents, affiliates, successors, and permitted assigns (collectively, "Indemnified Parties") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by Indemnified Parties, relating to any and all claims of any third party or Seller related to: (A) any negligent, reckless, or willful act or omission of Purchaser or any person or entity acting on behalf of Purchaser; (B) the improper operation, maintenance, repair or alteration by Purchaser or any person or entity acting on behalf of Purchaser to any Good; (C) any material modification to any Good made by Purchaser or any person or entity acting on behalf of Purchaser; (D) Seller's use of or reliance upon specifications, samples or instructions provided to Seller by Purchaser; (E) Seller's use of material or parts provided to Seller by Purchaser; or (F) Purchaser's breach of this Agreement.

13. Seller's Disclaimer of Duty to Indemnify

Notwithstanding anything contained in Purchaser's purchase order, to the fullest extent permitted by law, except as expressly provided for in these Terms, Seller disclaims any and all duty to indemnify, defend, or hold harmless Purchaser from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of any kind whatsoever.

14. Limitation of Liability.

**(a) IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY, OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE**

**FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

**(b) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO ANY GOODS OR SERVICES SOLD TO PURCHASER WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY, OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNT PAID BY PURCHASER TO SELLER FOR THE GOODS AND/OR SERVICES SOLD PURSUANT TO THE QUOTATION AND/OR ORDER ACKNOWLEDGMENT THROUGH WHICH THE GOODS AND/OR SERVICES THAT GAVE RISE TO THE LIABILITY WERE SOLD.**

15. Compliance with Law. Purchaser shall comply with all applicable laws, regulations, and ordinances. Purchaser shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Purchaser shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Purchaser. Purchaser assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other duties or penalties on the Goods.

16. Termination. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Purchaser, if Purchaser: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

17. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

18. Confidential Information. All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, Purchaser lists, pricing, discounts, or rebates, disclosed by Seller to Purchaser, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing

this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Purchaser shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Purchaser at the time of disclosure; or (c) rightfully obtained by Purchaser on a non-confidential basis from a third party.

19. Force Majeure. Seller shall not be liable or responsible to Purchaser, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion, or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemics (including, but not limited to, the epidemic caused by the 2019 novel coronavirus (COVID-19)), lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

20. Assignment. Purchaser shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Purchaser of any of its obligations under this Agreement.

21. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

22. No Third-Party Beneficiaries. This Agreement is for the sole benefit of Seller and Purchaser and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.

23. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Illinois without giving effect to any choice or conflict of law provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Illinois.



24. Submission to Jurisdiction. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Illinois in each case located in McHenry County, Illinois, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

25. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the Quotation or Order Acknowledgment 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 (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

26. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable any other term or provision of this Agreement.

27. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction and Survival.

28. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.