

# UNITED TITANIUM, INC

## Standard Terms and Conditions of Sale

**Terms and Conditions of Sale:** The goods that are the subject of a sale by United Titanium, Inc. ("United Titanium") to Buyer are referred to as the "Products" and items of tangible property on which United Titanium performs Services or that result from Services are referred to as the "Service Items." All sales of Products and Services by United Titanium are governed by and subject to (a) United Titanium's quotation, order acknowledgement or a separate written agreement signed by an authorized representative of United Titanium, as applicable, and (b) these terms and condition, whether or not they are specifically referenced in or incorporated by United Titanium's quotation, order acknowledgement or the separate written and signed agreement. Any irreconcilable conflict between these terms and conditions and any terms in United Titanium's quotation, order acknowledgement or the separate written and signed agreement shall be resolved in favor of the quotation, order acknowledgement or the separate written and signed agreement. UNITED TITANIUM'S ACCEPTANCE OF BUYER'S PURCHASE ORDER OR COMMENCEMENT OF PERFORMANCE SHALL NOT CONSTITUTE ACCEPTANCE OF ANY OF BUYER'S TERMS AND CONDITIONS. TERMS ADDITIONAL TO OR DIFFERENT FROM THESE TERMS AND CONDITIONS, INCLUDING BUT NOT LIMITED TO TERMS CONTAINED IN BUYER'S PURCHASE ORDER OR BUYER'S STANDARD TERMS AND CONDITIONS OF PURCHASE, ARE DEEMED MATERIAL AND HEREBY REJECTED UNLESS OTHERWISE ACCEPTED BY UNITED TITANIUM IN WRITING. BUYER AND UNITED TITANIUM AGREE THAT THESE TERMS AND CONDITIONS ARE ACCEPTED IN GOOD FAITH BY BOTH PARTIES AS THE CONTROLLING AND FINAL TERMS AND CONDITIONS.

**Entire Agreement:** Except as otherwise agreed to by United Titanium in writing, the terms and conditions set forth herein, together with United Titanium's quotation, order acknowledgement, or a separate written and signed agreement, as applicable, shall constitute the complete and final agreement between United Titanium and Buyer (hereinafter, this "Agreement"), superseding completely any prior oral or written communications.

**Purchase Orders:** Purchase orders received by United Titanium, Inc. are guaranteed accurate only when a hard copy (fax, mail, email or EDI) of the purchase order (whether formal or informal) has been received and accepted by United Titanium prior to ship date. In the event a hard copy is not received, any discrepancies become the sole responsibility of the Buyer.

**Minimum Order:** **The minimum order is \$100.** Certifications and drop ship charges are not included.

**Quotations:** Quotations are valid for a period of 30 days unless otherwise noted. The change or deletion of any item or quantity quoted will require a new quotation. All orders are subject to acceptance or cancellation by the sole discretion of United Titanium. Whenever possible, requests for quote should be submitted via fax, email or through our website ([www.unitedtitanium.com](http://www.unitedtitanium.com)).

**Quantities:** Quantities on custom and/or made-to-order items may be shipped +10% /-0%, unless otherwise noted.

**Changes:** No changes in the Products or any Service Items shall be made unless evidenced by a written agreement signed by both parties hereto. Except for such written agreement, no

oral, verbal, or written modifications, including subsequent purchase orders or change orders, shall bind either party hereto.

**Shipment and Risk of Loss:** Shipping charges are not included in Product or Service Items prices unless expressly indicated at the time of quotation. Buyer shall pay all shipping charges. United Titanium does not pay upgraded Freight Charges for late shipments unless prior arrangements have been made and agreed upon by United Titanium.

For all shipments, except when the United Titanium quotation states otherwise, United Titanium shall deliver Products or Service Items to Buyer Ex Works (EXW) United Titanium's facility (Incoterms 2020), with the exception that United Titanium shall (a) load the Products at its facility, (b) arrange for the carrier unless Buyer provides a proper bill of lading to allow United Titanium to release shipment to the carrier selected by Buyer, and (c) provide cargo insurance for the shipment to Buyer.

United Titanium shall file and pursue any claims directly with the carrier related to loss, damage or delay in transit, and Buyer shall not assert such claims against United Titanium or deduct from amounts owing to United Titanium.

**Export/Import Documentation; Compliance with Laws:** Buyer shall, at its sole cost and expense, be responsible for obtaining all licenses and permits and for satisfying all formalities as may be required to export the goods outside of the United States and to import them into any other country in accordance with prevailing laws, rules and regulations ("Export/Import Control Laws"). Buyer shall at all times (i) conduct its activities in strict compliance with all applicable laws, rules, regulations and governmental orders; (ii) pay any and all taxes, fees and other charges required by such laws, rules, regulations and orders; and (iii) have and maintain in full force and effect any and all licenses, permits, authorizations, registrations and qualifications from all governmental ministries, authorities and agencies. Buyer shall not, directly or indirectly, do or fail to do anything that will or could constitute a violation of the Export/Import Control Laws or other laws and regulations of similar purpose, applicable in the United States or any other country having proper jurisdiction. Buyer is aware that certain laws of the United States, which are applicable to Seller, including but not limited to, the Foreign Corrupt Practices Act, impose penalties on United States persons that participate directly or indirectly in making payments to any foreign government official, foreign political party or candidate, or foreign political office. Buyer represents, warrants and covenants that it shall not offer or promise to make any payment, in currency or property, to (i) any government official, political party, political candidate or political office or (ii) any third person, firm or entity that in turn will make a payment to any government official, political party, political candidate or political office. Buyer shall, upon Seller's request, willingly share information required to export orders.

**Delivery:** Delivery dates are approximate. The failure to meet an indicated delivery date will not constitute a breach to this Agreement.

**Inspection and Acceptance:** Within five (5) days of the receipt of the Products or Service Items, Buyer shall inspect the Products or Service items with regard to any defects. Claims for corrections from Buyer must be made in writing to United Titanium within ten (10) days of receipt of the Products or Service Items, and if a claim is not made within said time period, the Products or Service Items shall be deemed accepted. In case defects are found during such inspection, Buyer shall notify United Titanium immediately but not later than ten (10) days after receipt of the Products or Service Items. The failure to provide said notice within the ten (10) day period shall be deemed acceptance of the Products or Service Items by Buyer. Upon receipt of notice, United Titanium shall have the right to inspect and investigate to determine the validity of the defect. To the extent United Titanium determines that there is a defect for which United Titanium is responsible hereunder, then in such case United Titanium's sole obligation is

to correct or replace the Products or Service Items to conform with the Specifications at the expense of United Titanium; however, United Titanium shall have no liability to correct or replace any items caused by Buyer. In such case, United Titanium agrees to arrange for transportation of the Products or Service Item in transit, as well as the transportation of the repaired or replaced Products or Service Items from United Titanium's facility, and such reasonable costs of such rework or return including a return for analysis of the Products or Service items shall be borne by United Titanium.

**Returns and Cancellations:** Returns will be accepted only when they are identified with a Return Authorization Number. Custom and made-to-order items may not be returned. Stock items are returnable at United Titanium's discretion with a minimum 20% restocking fee. A minimum 20% charge may also apply at the discretion of United Titanium to cancelled orders depending on the completeness of the manufacturing process.

**Miscellaneous charges:** Other charges relating to your order may include, but not limited to:

- Drop Ship charge – Minimum of \$25 per order under \$250
- Certification charge – Minimum of \$15 per order under \$250
- International insurance
- Packaging fee

**Payment Terms:** Invoices are due and payable **net 30 days from the date of invoice**, unless otherwise set forth in writing and signed by United Titanium. United Titanium reserves the right to establish and adjust credit terms applicable to Buyer, including without limitation, the right to require payment in advance or to require C.O.D. payment. Invoices issued by United Titanium will be paid by Buyer regardless of disputes relating to other invoices, and United Titanium waives the right to assert offsets or counterclaims with respect to such invoices.

**Security Interest:** Buyer grants to United Titanium a priority lien, security or collateral interest in the Products or Service Items and any accounts receivable or cash from the resale of the Products or Service Items until full payment is received, with respect to any sales on open account. Buyer shall complete and cooperate with the submission of any documents necessary to validate or enforce United Titanium's rights hereunder.

**Failure of Payment:** If Buyer fails to make payment in full or in part when due or refuses to pay any applicable price increases or surcharges, United Titanium shall have the right, in its discretion, in addition to all of the remedies to which United Titanium may be entitled without an effecting election remedies, to: (i) immediately suspend performance and cancel the unfinished portion of any outstanding orders, (ii) declare all unpaid amounts for the Products or Service Items delivered immediately due and payable, (iii) withhold further deliveries, or (iv) terminate all obligations to Buyer. If United Titanium elects to proceed with an order after the suspension of performance, United Titanium shall have an extension of time for performance as is necessitated by the suspension. United Titanium shall have the right to enforce payment of the full purchase price, including any price increase or surcharge, for Products or Service Items already delivered or in process. Buyer shall reimburse United Titanium for all costs of collection, including reasonable attorney's fees, incurred as a result of Buyer's failure to make payments when due. Furthermore, in event of a cancellation or termination by United Titanium, it shall be entitled to any and all damages under the Uniform Commercial Code, including without limitation, lost profits and all other expenses and losses incurred by United Titanium.

**Duties, Taxes and Sales Tax:** Prices on the Products and Service items are exclusive of all city, state and federal excise taxes including, without limitation, taxes on manufacture, sales, receipts, gross income, occupation, use and similar taxes, and exclusive of any duties, tariffs, import fees, or any other fees associated with imports and exports. Wherever applicable, any such items will be added to the invoice as a separate charge to be paid by the Customer. Buyer

hereby affirms that it is purchasing the Products referenced herein for resale, and/or the Buyer is not the end user of the Products, so as to be exempt from any otherwise applicable sales tax.

**Other Items of Interest:**

**Socket products:** Socket products are manufactured with 2A threads not 3A and thus do not meet ANSI specifications unless quoted otherwise. Set screws will be cup point unless otherwise stated.

**Machine Screws – Bolts – Hex Cap Screws:** These fasteners are very similar but have distinct differences. Machine screws and bolts are common inventory items; hex cap screws are not. Please call for additional information.

**Limited Warranty:** EXCEPT AS EXPRESSLY SET FORTH IN UNITED TITANIUM'S QUOTATION, ORDER ACKNOWLEDGEMENT SIGNED BY UNITED TITANIUM, OR SEPARATE WRITTEN AND SIGNED AGREEMENT BY UNITED TITANIUM, UNITED TITANIUM MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. AT UNITED TITANIUM'S DISCRETION, BUYER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THE CONFORMANCE OF ANY PRODUCTS OR SERVICE ITEMS FURNISHED BY UNITED TITANIUM UNDER THIS AGREEMENT SHALL BE LIMITED TO EITHER: (1) REPLACEMENT OF SUCH PRODUCTS OR SERVICE ITEMS AT THE POINT OF SHIPMENT FROM UNITED TITANIUM'S FACILITY, OR (2) REPAYMENT OF OR CREDIT AGAINST THE PURCHASE PRICE OF SUCH PRODUCTS OR SERVICE ITEMS UPON AUTHORIZED RETURN THEREOF. The employees and representatives of United Titanium are not authorized to make any statement or representation as to the Products or Service Items inconsistent with this Agreement and no such statements made will be binding upon United Titanium or be grounds for any claim. United Titanium does not recommend specific parts, materials or alloys for customer applications.

**Disclaimer:** United Titanium shall not be responsible for any damage or injury resulting to or caused by any Products or Service Items, or for any reason, including without limitation, by reason of installation by Buyer, improper storage, unauthorized service, alteration of the Products or Service Items, or neglect or abuse or the use of the Products or Service Items in a manner inconsistent with its design. United Titanium shall not be liable for any delays or losses caused by United Titanium's error, unless such delays and losses are caused by willful misconduct of United Titanium. Buyer acknowledges and agrees that if Buyer identifies specific applications for the use of United Titanium's Products or Service Items, United Titanium shall not be responsible for any deviations from the applications or nondisclosure of Buyer of any additional information, including, but not limited to Buyer's failure to properly install the Products or Service Items. If design and specifications are specified by Buyer, the parties agree that Buyer is exclusively responsible for design and specification plans. United Titanium shall not be responsible for the correctness or adequacy of any design details, plans, or material not furnished by United Titanium. The parties further agree that United Titanium shall not be responsible for any Products or Service Items which have been modified or integrated with other Products or Service Items not designed or selected by United Titanium.

**Limitation of Liability:** IN NO EVENT SHALL UNITED TITANIUM BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR PROFITS, EVEN IF UNITED TITANIUM IS ADVISED, OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. THE LIABILITY OF UNITED TITANIUM, WHETHER IN CONTRACT, TORT, OR OTHERWISE, AND ANY AND ALL DAMAGES

IMPOSED UPON UNITED TITANIUM SHALL IN NO EVENT EXCEED THE AMOUNT PAID BY BUYER TO UNITED TITANIUM FOR THE PRODUCTS OR SERVICE ITEMS SUBJECT TO THE CLAIM. FURTHERMORE, IN THE EVENT THAT ANY PRODUCTS OR SERVICE ITEMS SHALL BE MANUFACTURED AND/OR SOLD BY UNITED TITANIUM TO MEET BUYER'S PARTICULAR SPECIFICATIONS OR REQUIREMENTS, UNITED TITANIUM SHALL NOT BE LIABLE FOR ANY FAILURE TO MEET PARTICULAR SPECIFICATIONS OR REQUIREMENTS, OR ANY CLAIM FOR INFRINGEMENT OF ANY PATENT, ARISING FROM THE BUYER'S PARTICULAR SPECIFICATIONS OR REQUIREMENTS FOR THE PRODUCTS OR SERVICE ITEMS. THE REMEDIES OF BUYER SET FORTH HEREIN ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER REMEDIES.

**Indemnification:** Buyer shall indemnify, defend, and hold United Titanium, its officers, employees, directors, representatives, shareholders, agents, successors and assigns harmless against any and all losses, claims, damages, judgments, liabilities, or expenses, including, without limitation, reasonable attorney fees and expenses, incurred by United Titanium as a result of or arising out of: (a) Buyer's breach of these terms, of any agreement between the parties hereto, or of any obligation to United Titanium; (b) actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Buyer's action, or any actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, or copyright by reason of the use of the Products or Service Items by Buyer; (c) the use of the Products or Service Items by Buyer or any other third party; (d) any act or omission of Buyer or its agents, employees, representatives or subcontractors, including without limitation, any act or event of Buyer, or its employees, representatives, or agents, described herein. Buyer shall promptly notify United Titanium of any suit filed against it or its Buyers on account of any such indemnification obligation of Buyer hereunder, and at United Titanium's option, Buyer may assume the sole responsibility for the defense of such action at Buyer's sole expense. United Titanium may be represented by their own counsel in any such suit at the expense of Buyer, however, no settlement shall be entered into on behalf of United Titanium without United Titanium's prior consent in its sole discretion.

**Acknowledgement of Buyer:** Buyer hereby acknowledges and covenants that it has all trademark, trade name and all intellectual property rights with respect to any information or other items or materials being provided to United Titanium hereunder. Furthermore, Buyer shall pay all royalties and license fees necessary for the enjoyment of rights to any inventions, machines, processes, or devices which may be applied to or incorporated in any Products or Service Items being sold hereunder.

**Governing Law/Venue:** In all respects, the parties agree that they shall be subject to, and governed by, the laws of the State of Ohio. In the event that any legal proceeding is commenced or arises, said legal action shall be commenced and filed in Wayne County, Ohio, or the federal court with jurisdiction over Wayne County, Ohio. Buyer hereby knowingly and irrevocably waives any objection on the grounds that improper jurisdiction or venue to an action in said courts, and agrees that effective service of process may be made upon Buyer by mail at the last known address of the Buyer.

**Non-Assignment:** Buyer may not assign or delegate its obligations under this order without United Titanium's prior written consent, however, United Titanium may assign or subcontract its obligations hereunder without Buyer's consent.

**Modification/Waiver:** These terms may not be changed or modified orally, but may be amended in writing only by the duly authorized officers of both United Titanium and Buyer. A party's failure to insist on compliance or enforcement of any provision herein shall not affect the validity or enforceability or constitute a waiver of future enforcement of that provision or of any other provision herein by that party or any other party.

**Severability:** In the event that any provision herein is invalid or unenforceable under any applicable laws, orders, and/or regulations, such provision shall be considered divisible as to such provision, which shall be considered inoperative, but the remainder of the provision shall be valid and binding as though such provision were not included therein.

**Relationship of Parties:** United Titanium and Buyer are independent contracting parties and nothing in this Agreement shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does either party grant the other authority to assume or create any obligation on behalf or in the name of the other.

**Updated Standard Terms and Conditions of Sale can be found at:  
<https://www.unitedtitanium.com/Sale-TC>**