

Standard Terms and
Conditions of Sale
Rev. 2022-7

1. Definitions. “Services” means the heat treat services provided by Aalberts Surface Technologies, including any of its affiliated heat treat services companies (collectively, “Aalberts”), to the customer ordering or requesting such Services (“Customer”). “Components” means any products of Customer upon which Aalberts has performed or will perform the Services in accordance with the terms of an Order. An “Order” means any oral or written request, release, or order for Services, including any formal Purchase Order issued by Customer.
2. Application of Terms and Conditions. Unless superseded by mutually agreed terms and conditions signed and/or initialed by Aalberts and Customer, by requesting that Aalberts provide the Services on the Components, the customer hereby agrees that these Terms and Conditions shall apply notwithstanding any contrary provisions contained in any document delivered by Customer to Aalberts (previously or hereafter), including, without limitation, any request for quotation, purchase order(s), shipping document, or acknowledgment form provided by Customer or any of its agents and even if such documents contain language mandating that the provisions contained in such documents override or invalidate any contrary provisions contained in herein.
3. Packing; Shipping; Delivery of Components. Customer shall be solely responsible for the adequate packing of Components in order to protect them in transit to Aalberts against adverse weather conditions, impact damage, and/or any other transportation risks. Customer shall use packing materials suitable for re-use by Aalberts where Aalberts is responsible for delivering the Components to Customer, unless, in writing, Customer and an authorized Aalberts representative have agreed upon other methods for components packaging. No warranty whatsoever is given by Aalberts that packing materials, cases, cartons, and pallets will be returned to Customer. Wherever possible, however, these will be returned to Customer with the Components. Aalberts does not accept any liability for damage as a result of unsuitable packaging. Delivery of Components is contingent on Aalberts receiving with the Order complete and detailed current specifications (including any prints or drawings) satisfactory for production with sufficient lead time for Aalberts to perform the Order. Unless Aalberts has quoted delivery, pick-up and trucking, all Components are shipped F.O.B. Aalberts location. Risk of loss of any Components in transit shall pass upon delivery to the F.O.B. point. The party undertaking risk of loss is solely responsible for all shipping and delivery charges and shall maintain adequate insurance with reputable carriers covering the replacement value of such Components in transit.
4. Specifications, Drawings and Material Certifications. All specifications, drawings, and material certifications submitted by Customer to Aalberts which relate to the subject matter of these terms and conditions are incorporated into this agreement upon acceptance by Aalberts. If Customer changes any of its specifications, drawings, or material certifications during the time period these terms and conditions cover, it is Customer’s duty to immediately inform Aalberts of such change. Customer will bear any additional charge which may result from such a change. Material provided by Aalberts shall be produced and certified, as required, to specifications shown on the order acknowledgment or confirmation; no additional certification is implied or warranted. Material provided by Aalberts shall be within the specification limits of the quality, type, and grade, and within the tolerance limits for size and length in accordance with Aalberts published standards, unless otherwise specified on the order acknowledgement or confirmation or, Customer has authorized the shipment of material containing specific deviations. The basis for rejection of material furnished shall be determined exclusively by those tests and inspection procedures normally applicable to the quality, type and grade of material specified.
5. Inspection. Customer will inspect all Components processed by Aalberts promptly upon receipt thereof and will notify Aalberts of any objections to the Components or the Services within [ten (10)] business days after receipt. If Customer does not so object or refuses the opportunity to inspect the Components, Customer will be deemed to have accepted the Components and the Services as conforming to specification and otherwise meeting its requirements. A sample of each order of Components are tested

before leaving Aalberts premises. Any further investigation is done only because of specific written instruction and may be at extra cost. This final clearance at Aalberts premises does not release Customer from its inspection duties.

6. Warranty, Limited Liability, Indemnity. Given the uncertainties inherent in the heat treat process, Customer acknowledges and accepts that Aalberts liability under any Order shall be as provided for in the Aalberts Statement of Limited Liability, incorporated by reference herein and which adopts the Metal Treating Institute's standards (the "Statement"). A copy of the Statement is available on Aalberts website (<https://www.aalberts-st.com>). If Aalberts prevails in any legal action brought by or on behalf of Customer against Aalberts, Customer shall pay all fees, expenses, and costs of Aalberts incurred as a result of such legal action, including its reasonable legal, professional, court and other fees and expenses. Customer will defend, indemnify and hold Aalberts harmless from any and all third-party claims brought against Aalberts relating in any way to the manufacturing, sale, processing, distribution or use of the Components or the provision of the Services if the Components have been subjected to further processing, assembly or work following performance of the Services by Aalberts which affects the heat treat properties of the subject material unless liability is proven to be caused by Aalberts failure to perform in accordance with the warranties made by Aalberts to Customer.
7. Statute of Limitations. Customer must commence any action arising or relating to these terms and conditions, a purchase order, Aalberts providing goods or services, or any alleged acts or omissions by Aalberts within one year after the cause of action has accrued.
8. Changes in Material Supplied. Customer agrees to notify Aalberts promptly regarding any changes in the material supplied relating to the parts to be heat treated. Notification must, at a minimum, include chemical/material certifications and the date when said changes will become effective. Failure to do so before the completion of any heat treat work on material from a new supplier will release Aalberts from any and all liability.
9. Intellectual Property. Customer warrants that parts to be treated by Aalberts shall not infringe or contribute to the infringement of any patent, registered industrial design or copyright issued in any jurisdiction. Customer agrees to defend, hold harmless and indemnify Aalberts its successors and assigns against all claims, demands, losses, suits, damages, liability and expenses including reasonable attorney fees arising out of any such claim or action for actual or alleged, direct or contributory infringement of or inducement to infringe any United States or foreign patent, trademark and copyright by reason of services rendered by Aalberts on Customer's parts or for actual or alleged misuse or misrepresentation of a trade secret resulting directly or indirectly from Aalberts services rendered on Customer's parts.
10. Ownership of the Confidential Information. Each party recognizes and agrees that all right, title and interest in the Disclosing Party's Confidential Information (including all tangible forms thereof and intangible rights therein) shall remain at all times with the Disclosing Party and that nothing in this Agreement shall be construed to grant the Recipient Party any right, title, interest or license in any technology, patents, patent applications, trade secrets, copyrights, know-how, trademarks or Confidential Information owned or controlled by the Disclosing Party. Neither party shall alter or obliterate any notice of any propriety right of the other party on any copy of the other party's Confidential Information. For purposes of clarity, Aalberts shall at all times remain the sole and exclusive owner of anything (including any improvements discovered while treating Customer's parts) related to its proprietary heat treatment cycles and related information.
11. Changes; Cancellations. No order that has been accepted by Aalberts may be changed or cancelled by Customer (in whole or in part) unless Aalberts agrees to such change or cancellation in writing, or such cancellation is due to breach by Aalberts. Changes may result in a delay in the scheduled delivery date and a change in price. Any change in price or delivery will be as agreed to by Customer and Aalberts. Upon any cancellation (in whole or in part) including any cancellation for breach, Customer will pay all costs and expenses (including overhead and administrative expenses) incurred by Aalberts on the Order up to the effective date of cancellation.
12. Pricing; Payment. Prices are as quoted by Aalberts and are subject to change upon notice to Customer.

Invoices are payable in US dollars on a “Net 30” basis unless otherwise agreed to in writing. Aalberts reserves the right, without any liability whatsoever to Customer or any other person or entity, to suspend performance, refuse to accept additional releases or orders, stop delivery of Components in transit, decline to deliver except for cash, require payment prior to shipment, and/or restrict or modify payment terms whenever Customer’s account is delinquent or Aalberts has reason to doubt Customer’s solvency, financial condition, or ability to pay.

13. Force Majeure. Aalberts will not be liable for its failure to perform hereunder due to any contingency beyond its reasonable control, including without limitation, acts of God, pandemic (including any related government shutdown or supply chain disruption) fire, flood, inability to obtain material at reasonable prices, equipment or transportation, governmental laws or regulation, accidents, labor disputes or shortages, or other similar matters. In the event of a force majeure event, Aalberts will notify Customer and will attempt to minimize the duration of any impact on its ability to perform under an Order due to such force majeure event.
14. Governing Law; Venue. This contract has been made in and will be construed and enforced in accordance with the laws of the State of Michigan without regard to its principles of conflicts of laws. Customer and Aalberts consent to the exclusive jurisdiction of the state and federal courts of Michigan for any actions, suits or other proceedings arising out of, or related to, the enforcement of either party’s rights hereunder. Aalberts and Customer agree not to commence any action suit or proceeding in any other court and hereby irrevocably and unconditionally waive any objection to the laying of venue in any such court. The Uniform Commercial Code and the UN Convention on Contracts for the International Sale of Goods expressly do not apply to any Order, Offer to Sell or any Services sold hereunder.
15. Entire Agreement, Acceptance, Modification. Unless otherwise agreed to in writing by Aalberts, the terms and conditions contained herein and on any of Aalberts standard forms constitute Aalberts entire offer to sell the Services to Customer (“Offer to Sell”), constitute the entire agreement between Aalberts and the Customer with respect to the subject matter thereof, and supersede all prior or contemporaneous communications and agreements. These Terms and Conditions shall apply to all orders and releases received from Customer. Customer’s acceptance of Aalberts Offer to Sell and Aalberts performance of the Order (in whole or in part) are expressly limited to, and conditioned upon, Customer’s acceptance of these Terms and Conditions, which may not be changed or waived except in a writing signed by both parties. Without limitation on the foregoing, Aalberts performance on an Order shall not be considered acceptance of any counter-offer or terms provided by Customer and Aalberts will not be bound by, hereby objects to, and rejects, any additional provision or any provision at variance with these Terms and Conditions or any other part of Aalberts Offer to Sell that may appear in Customer’s purchase order, standard terms and conditions, acknowledgments, form agreements, supplier or quality manuals, notices or in any other document or communication from Customer to Aalberts, or any updates or amendments thereto. These Terms and Conditions may only be modified by a writing signed by the CEO or CFO of Aalberts.
16. Survival. The provisions of Sections 7 and 8 will survive the expiration or termination of these Terms and Conditions.
17. Severability. In case any one or more of the provisions or parts of a provision contained herein are, for any reason, held to be invalid, illegal or, such invalidity, illegality or unenforceability will not affect any other provision or part of a provision hereof, but these Terms and Conditions will be reformed and construed as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part will be reformed so that it would be valid, legal and enforceable to the maximum extent permitted while retaining as much as possible the original intent of the provision.
18. Independent Contractors. Customer and Aalberts are independent contracting parties and nothing in the order or Aalberts Offer to Sell will make either party the employee, partner, joint ventures, agent, or legal representative of the other for any purpose. Neither the Order, nor the Offer to Sell, grants either party any authority to assume or to create any obligation on behalf of or in the name of the other. Each party understands that the other manufactures products or provides services for sale to a wide variety of customers and that nothing in these Terms and Conditions precludes either party from selling its products to customers or competitors of the other.