



13909 Lynmar Boulevard
 Tampa, FL 33626
 Phone: 813-925-0144
 Fax: 813-925-1414
 accounting@americanproducts.com

Customer ID: _____ For accounting use only

Effective March 12, 2025

API Terms and Conditions of Sale Agreement

API Terms and Conditions of Sale Agreement are by reference in and made part of quotations and/or contracts and/or sales confirmations for the sale of Products from American Products Production Company of Pinellas County here after referred to as API. No other terms, conditions, warranties, (implied or expressed), will be binding on API.

Hours of Operation

Our phones and facsimile are staffed Monday through Friday, 8:30 AM to 5:00 PM, EST. Phone number is (813) 925- 0144 and (813) 925-1414 Facsimile.

Limited Warranty and Remedy & Waiver of liability

The terms of the API Limited Warranty and Remedy and the API Waiver of Liability each attached hereto shall be incorporated herein as part of the API Terms and Conditions of Sale Agreement.

Pricing and Availability

Prices and discount factors are subject to change by API without notice to Customer. Prices herein are list prices unless otherwise specified, and are subject to discounts prevailing at the time of order, which are offered in the sole discretion of API, each of which shall be the sole obligation of the Customer. Prices do not include freight and crating charges and/ or applicable taxes. Customers should contact API for further information on any pricing availability.

Payment Terms

Unless otherwise agreed to in writing by API, payment of all invoices is as follows: 50% due with Purchase Order 50%, balance due prior to shipping. Or for Customers with open accounts as determined in the sole discretion of API 50% due with Purchase Order, 50% balance Net 30 days from the date of the invoice. **ABSOLUTELY NO RETAINAGE SHALL BE HELD FROM ANY API INVOICE.** All payments are due at the home office of API, located in Tampa Florida, in Hillsborough County.

Lien Waivers

If and when Customer requests a lien waiver for API to consider, the following shall apply:

1. Any lien waiver prior to payment must be conditional upon receipt of payment.
2. Language of lien waiver shall be subject to API's written agreement hereto.
3. API shall not be required to consider non-statutory lien waivers as a condition of payment.
4. If and when the parties disagree on lien waiver language, only API's standard waiver shall be required.
5. Any and all amounts owed API by Customer shall not be affected by any lien waiver or lack thereof.
6. If API is forced to file a lien on a project due to late and/or non-payment by Customer, the cost of filing and recording lien will be added to the Customer's balance.

Credit Card Payment

The undersigned, stating that he or she is duly authorized for the Customer, agrees to pay, in addition to other charges for materials, and/or services and applicable sales tax, a 4% cash discount forfeited fee which will be added to all credit card charges. The undersigned for and on behalf of the Customer also agrees that he/she and the Customer will not dispute any charges incurred due to its purchase with API, due to incorrect, defective and/or warranty issues with any products and/ or services purchased, which the undersigned hereby agrees will be governed by the API terms and conditions.

Financial Responsibility

All orders are subject to credit approval (in API's sole discretion) at the time of order and/or prior to shipment. API may, in its sole discretion, refuse to process and/or ship any order at any time, and/or require partial or full payment in advance, or require COD payment, if one or more of the following occur:

1. Customer is past due in paying any API Invoices.
2. In the sole discretion of API, API determines that the Customer's financial conditions do not warrant shipment on normal credit terms.
3. Customer has refused to take delivery of and/or pay for prior shipments.
4. Shipment on normal credit terms exceed Customer's credit limit with API.
5. If API is forced to file a property lien or bond claim for any amounts past due, in addition to any legal fees spent by API, a filing fee of \$1300 and a satisfaction of lien fee of \$425 will be added to the customer's account balance.

Invoices past 30 days shall be charged a late payment charge of 1 and 1/2% per month, not to exceed 18% annually or the maximum interest rate by state or federal law, whichever is greater. Customer shall also reimburse API for all costs incurred in collecting any late payments, including without limitation, attorney's fees.

Acceptance of Order

All orders and/or purchase orders from Customer, are subject to acceptance by API. No purchase orders received by Customer shall be deemed an order until API issues, and Customer receives, signs and returns to API, a written confirmation of order by API.

Tax

In addition to the purchase price for the Products as set forth on the applicable invoice, Customer agrees to pay API the amount of any sales, occupation, excise or similar tax applicable to each purchase of Products. List prices and quotes do not include applicable taxes unless specifically stated in writing.

Freight Charges and Risk of Loss

Orders are shipped F.O.B. API, Tampa Florida, best-way. Customer shall bear responsibility for damages or losses. It shall be the responsibility of the Customer to file and/or make any required freight claim, directly with the freight carrier. Pre- paid freight orders shall not relieve the Customer of responsibility of damages and/or losses during freighting. The Customer shall notify API in writing, within (24) hours of receipt of order, for any claims related to quality and/or quantity of order, or customer waives its rights to make any claim in regards to quality and/or quantity of order.

Returned Materials

API will not accept any Product returned from Customer, unless Customer has written authorization from API to return Products. Any and all requests from Customer to return Products, must be made in writing, within 30 days of the date the Products were shipped from API. Upon API's inspection, and providing the returned Products are sellable without requiring reconditioning, API will issue a credit to the Customer for the amount of invoice less 25% restocking fee, based on the amount of the purchase price actually received by API from the Customer. No return and/or credit will be authorized for custom, special and/or made-to-order, and/ or non-stock products. Return transportation charges shall be paid for by the Customer. If the returned Products are sellable without reconditioning and returned due to API's error, API shall issue a full credit to the Customer for the amount of return transportation, limited to the amount of original transportation cost spent by API to ship the original order being returned.



CUSTOMER INITIALS

(Physical Signature Required. Digital Signatures Not Accepted.)



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Custom and Special Orders

Orders consisting of custom, and/ or non-stock finishes and/or fabrication, and/or extrusions, shall require a 50% deposit of payment with the Customer's purchase order. Set-up fees and minimum quantity orders may apply to some custom and special orders.

Canceled and Changed Orders

Custom, and/or non-stock product orders, canceled by the Customer prior to shipping, shall be subject to cancellation charges as determined by API, in its sole discretion. Custom and/or non-stock product orders, changed by the Customer prior to shipping, shall be subject to change charges, as determined by API in its sole discretion.

Brake Metal

No claim for incorrect brake metal fabrication and/ or for damaged (excluding damage by transportation Company) brake metal will be considered by API unless damaged and/or incorrect brake metal is returned to API (at Customer's expense) for API's inspection. Claims must be made within 48 hours of receipt of the applicable Brake Metal. If upon inspection API determines that brake metal was returned due to error by API, then API will credit the Customer a reasonable cost for returned freight and replace the brake metal at no additional cost to Customer. All brake metal replaced by API at no charge, must be fabricated to the shapes and sizes originally ordered.

Intellectual Property

Customer shall indemnify and hold harmless API from and against any and all claims derived from and/or attributed to intellectual property infringement with respect to (a) misuse or modification of the Products or any combination of Products with third party products or materials, or (b) made-to-order or custom Products that were based on the Customer's specifications or any misuse or modification of such Products, or combination of such Products with any third-party product or material.

Force Majeure

API shall not be liable for delays and/or inability to perform due to strikes, flood, fire, labor disputes, war, (declared or undeclared), insurrections, riots, acts of God, tariffs, embargoes by foreign nations, shortages of power required to run plants, unusual inability to obtain raw materials. API reserves the right in its sole discretion to decide the order of priority to fill orders and to cancel orders by written notice in the event it believes that by reason of the foregoing, it will be unable produce any order and/or meet the scheduled completion date of any order.

Governing Law; Venue; Waiver of Jury Trial

This Agreement and all matters arising out of this Agreement are governed by, and construed in accordance with, the laws of Florida, without giving effect to any conflict of laws provisions thereof. Either party shall institute any legal suit, action, or proceeding arising out of this Agreement in the federal or state courts in each case located in Tampa, Florida.

EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY: (a) CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE FOREMENTIONED COURTS; (b) WAIVES ANY OBJECTION TO THAT CHOICE OF FORUM BASED ON VENUE OR TO THE EFFECT THAT THE FORUM IS NOT CONVENIENT; (c) WAIVES ANY RIGHT TO TRIAL BY JURY; AND (d) WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT, OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY FLORIDA LAW.

Consent for use of marketing materials

The parties agree that "API" shall be entitled to utilize the Customer's company name and project photographs in any "API" marketing.

Disclaimer of Warranties

API makes no warranties except for those provided in this agreement, and the API limited warranty and remedy and the API waiver of liability, and all other warranties, express and implied, are expressly disclaimed, including any (a) warranty of merchantability; (b) warranty of fitness for a particular purpose; or (c) warranty against infringement of any patent, copyright, trademark, trade secret or other proprietary rights of a third party; whether arising by law, course of dealing, course of performance, usage of trade or otherwise

Limitation of Liability

In no event shall API be liable for consequential, indirect, incidental, special, exemplary, punitive or enhanced damages, lost profits or revenues or diminution in value, arising out of, or relating to, and/or in connection with any breach of this agreement, regardless of (a) whether such damages were foreseeable, (b) whether or not API was advised of the possibility of such damages and (c) the legal or equitable theory (contract, tort or otherwise) upon which the claim is based. In no event shall API's aggregate liability arising out of or related to this agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed the total of the amounts paid to API by the customer for the actual product/s giving rise to the claim.

Miscellaneous

The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. The parties may not amend this Agreement except by written instrument signed by the parties. No waiver of any right, remedy, power, or privilege under this Agreement ("Right") is effective unless contained in a writing signed by the party charged with such waiver. No failure to exercise, or delay in exercising, any Right operates as a waiver thereof. No single or partial exercise of any Right precludes any other or further exercise thereof or the exercise of any other Right. The Rights under this Agreement are cumulative and are in addition to any other rights and remedies available at law or in equity or otherwise. Customer may not directly or indirectly assign, transfer, or delegate any of or all of its rights or obligations under this Agreement, voluntarily or involuntarily, including by change of control, merger (whether or not such party is the surviving entity), operation of law, or any other manner, without the prior written consent of API. Any purported assignment in violation of this section shall be null and void. In the event that any party institutes any legal suit, action, or proceeding, including arbitration, against the other party arising out of this Agreement, the prevailing party in the suit, action or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs. This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns. Except for the parties, their successors and permitted assigns, there are no third-party beneficiaries under this Agreement. This Agreement may be executed in counterparts.

Company: _____

Duly Authorized Officer or Owner: _____ **Title:** _____
(Physical Signature Required. Digital Signatures Not Accepted.)

Printed Name: _____ **Date:** _____