

## **Sun Steel Treating, Inc. Terms and Conditions**

It is generally recognized that even after employing all the science known to us and capable operators with years of experience there still remains uncertainties in heat treating.

The buyer, by contraction for metal treatment, agrees to accept the limits of liability as expressed in this statement to the exclusion of any and all provisions as to liability on the buyer's own invoices, purchase orders, shippers, or other documents. If the customer desires his own provisions as to liability to remain in force and effect, this must be agreed to in writing, signed by the CEO of SST. In such event, a different charge for our services, reflecting the higher risk to SST, shall be determined by SST and customer.

### **Disclaimer of Express Warranty**

Subject to the Buyer's election of "CERTIFICATION OF CONFORMANCE" OR "100% CERTIFICATION OF PROCESS OR RESULTS", fully described below, the Buyer acknowledges and agrees that SST disclaims and has made no affirmation of fact and has made no promise relating to the heat treatment or performance capabilities of the material as heat treated, which has become part of the basis of the bargain made or has created or amounted to an express warranty that the heat treatment or performance capabilities of the material as heat treated, would conform to any such affirmation or promise.

### **Disclaimer of Implied Warranty of Fitness**

There are no warranties that extend beyond the description on the face of this contract. SST disclaims any warranty of fitness for any particular purpose whatsoever with respect to the heat treatment or performance capabilities of the material as heat treated, and buyer acknowledges and agrees that he is not relying on SST's skill or judgment to select or furnish heat treatment or performance capabilities of the material as heat treated, for any particular purpose.

### **Disclaimer of Implied Warranty of Merchantability**

The Buyer acknowledges and agrees that SST disclaims any warranty of merchantability with respect to the heat treatment or performance capabilities of the material as heat treated.

### **Buyer's Assumption of Liability and Indemnification of SST**

Subject to the within provision entitled, "Exclusive Remedy", Buyer acknowledges and agrees to assume all liability for, and to indemnify, defend and hold harmless SST, its officers, and representatives from, any and all damages (whether special, indirect, consequential or otherwise), claims, demands, expenses (including reasonable attorney's fees), losses or liabilities of any nature whatsoever, and whether involving injury or damage to any person (including employees of Buyer) or property (including all economic interests of Buyer), and any and all suits, causes of action and proceedings thereon arising or allegedly arising from or related to the subject matter of this Purchase Order. This indemnity shall survive the termination or cancelation of this Purchase Order, or any part thereof.

### **Exclusive Remedy**

Buyer acknowledges and agrees that its exclusive and sole remedy for any breach or negligence arising from or related to the subject matter of this Purchase Order and Attributable to SST, its officers, employees and representatives, is SST's repayment of the price charged for services rendered by SST, return of the items delivered for processing, reimbursement for Direct labor at straight time wages for machining part(s) and, where SST's incorrect processing have rendered the item unfit and SST elects not to repair and/or return, payment of the material cost of items delivered for processing. See appendix "A" for "Part Damage or Loss of Parts Policy".

### **Buyer's Waiver of Remedy**

- (1) Processing material for which the customer does not correctly specify the grade or type of material to be processed.
- (2) Processing customer material when properties of the material are misrepresented or do not conform to normal heat treating standards.
- (3) Against defects in the processed materials from defects in materials purchased by Sun Steel Treating for sue in processing except when such materials do not conform to SST quality requirements.
- (4) The straightening of materials will not result in cracking or other harm to the material.
- (5) That conditions present in the part due to design, machining, or EDM will not cause adverse reaction or cracking when heat treated.
- (6) That no damage will occur to the part when the use of chemicals, oils, polishing agents and methods, and other foreign items have been used on the surface before processing.

Buyer further acknowledges and agrees that Buyer shall have no remedy for any said breach or negligence attributable to SST, its officers, employees and representatives, where further processing, assembling or any other work has been undertaken on said items after processing by SST.

### **Binding Arbitration – Period of Limitation**

Buyer acknowledges and agrees that any claim or controversy arising out of or relating to this Purchase Order, or breach thereof, or any negligence attributable to SST, its officers, employees and representatives, shall be discussed by CEO of SST or his designee, and if not settled, any action based upon said claim or controversy shall be submitted to arbitration in accordance with rules of the American Arbitration Association, and commenced within the time period set forth below. Judgement upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof. Any such arbitration shall take place in South Lyon, Michigan, or such other place as the parties agree.

Buyer acknowledges and agrees that any said action, shall be commenced within one (1) year after the action has accrued, and any action commenced thereafter shall be barred.

## **CERTIFICATION OF CONFORMANCE, PROCESS OR RESULTS**

### **Definitions:**

**Certification of Conformance:** A Certification of Conformance (located on front of every shipper) is included with normal processing and certifies that the processing was performed according to Sun Steel Treating's Inc. standards and requirements according to processes and procedures set forth in Sun Steel Treating's Quality Management System, a copy of which is available upon request. Verification of the results obtained for that processing are made using either (1) a hardness testing procedure performed upon a statistical sample, as fully set forth in the Quality Management System, for each order or, (2) verification that specific process requirements supplied by the customer were followed. Processing paperwork for this category is maintained according to Sun Steel Treating's Inc. record keeping requirements, one year. An extra charge may be made if additional paperwork documentation is needed for your record keeping.

**100% Certification of Process or Results.** A 100% Certification provides the elements of a Certification of Conformance with the exception that hardness verification is made on 100% of the order quantity or if a customer stated process is performed, it is charted independently for the work order. Due to the widely varying order size there usually is an additional charge for this certification based on additional man and machine hours required. Turnaround may be affected for larger orders. Processing paperwork for a certification is maintained for three years unless otherwise agreed in writing. In orders where case depths must be verified, a sample must be supplied and standard lab chares will apply.

## **Appendix A**

### **Part Damage or Loss of Parts Policy**

Sun Steel Treating will accept responsibility for certain costs incurred by our customers, in the event we damage their part(s) through: 1) improper heat treat procedure, 2) faulty handling or 3) improper straightening methods or Sun Steel Treating is directly responsible for loss of parts.

Sun Steel Treating reserves the right to determine whether or not the root cause of the damage or loss of parts should result in crediting a customer's account for the part(s) impacted, for the following costs:

- 1) Replacement material
- 2) Direct Labor at straight time wages
- 3) Heat treatment charges

Sun Steel Treating and its customers must mutually agree that damage or breakage of a part may be caused by other factors other than heat treating itself such as:

- 1) Variations in the steel
- 2) Strains from machining operations
- 3) Part design

Sun Steel Treating and its customer must mutually agree that straightening of steel inherently has a risk of part breakage that is unavoidable.