

# ProTrade Steel Company, Ltd. Terms and Conditions of Purchase (pg. 1) and Sale (pg. 3)

## ProTrade Steel Company, Ltd. Terms and Conditions of Purchase

Last modified: October 17, 2023

- 1. Terms and Conditions.** Every Purchase Contract written, faxed or electronically transmitted by ProTrade Steel Company, Ltd. ("ProTrade") is subject to all terms and conditions contained in these Terms and Conditions of Purchase ("Terms and Conditions"). These Terms and Conditions and the terms and conditions of the ProTrade Purchase Contract that references and incorporates them ("the Contract") constitute the entire agreement between the parties with respect to the subject matter, and supersede all prior negotiations, representations or agreements, written or oral, and may not be supplemented by any course of dealing, course of performance, or trade usage, unless otherwise provided herein. These Terms and Conditions and the Contract are collectively referred to herein as "this Contract." Any conflict between these Terms and Conditions and those in the Contract will be resolved in the following order of priority: Contract; Terms and Conditions.
- 2. Acceptance.** Receipt of the Contract by Seller or Seller's shipment of any material ("Material") specified in the Contract shall be deemed to be an acceptance by Seller of the terms and conditions of this Contract regardless of whether or not the Seller has acknowledged the Contract. Receipt by ProTrade of any sales acknowledgement, order, contract or similar document from Seller or ProTrade's receipt of Material from Buyer does not constitute an acceptance by ProTrade of any term or condition of such sales acknowledgement, order or contract or any proposed terms and conditions. Any conditional, additional or inconsistent terms or conditions are not binding on ProTrade unless agreed to in writing by ProTrade. All sales acknowledgements, orders, contracts or similar documents from Seller are subject to express acceptance by ProTrade.
- 3. Condition.** It is a condition of the Contract that Seller on its own behalf and on behalf of its subcontractors certifies that it and they have complied with all of the provisions of all applicable federal, state and local laws and of all rules, regulations and orders issued thereunder, in the manufacture or production and sale of the Material specified herein.
- 4. Shipping.** If the F.O.B. point is not specified in the Contract, the price stated is F.O.B. delivered to the consignee. If the price stated is F.O.B. shipping point, Seller must route shipment to insure lowest possible freight and load transportation equipment to the guaranteed minimum weight stipulated in the Contract. If Seller uses a carrier or route not stipulated in the Contract or fails to meet the agreed weight minimum, additional freight costs will be borne by Seller.
- 5. PURCHASES FOR EXPORT.** When material is purchased for shipment and delivery outside of the United States of America, required documentation must be provided to ProTrade at least 2 hours before the cut time provided in ProTrade's booking. Required documentation includes (i) Seller's invoice; (ii) bill of lading and/or weight ticket; (iii) for material that is not loose loaded, packaging weight and the number of bundles or boxes in the container; (iv) VGM/packing list in excel format listing booking number, container number(s), seal number(s), gross weight, container tare and net weight of material; (v) 1 clear picture of the empty container(s) showing the container number(s), 2 clear pictures of the material while loading, 1 clear picture of the container(s) half way loaded showing the container number(s), 1 clear picture of the fully loaded container(s) with the left door open and the right door closed showing the container number(s), and 1 clear picture of the visible seal number after the container(s) is closed; and (vi) any additional documentation, including Gate-In ticket and Heat Treatment Declaration, as may be requested by ProTrade.
- 6. Price Changes.** If the price stated in the Contract is based on market pricing as published in trade publications such as "Scrap Price Bulletin" or "American Metal Market" then ProTrade reserves the right to adjust its pricing formula in the event that such publication makes it known that they have reassessed or changed their market appraisals independent of the market move for that month. Such non-market move driven changes are typically clearly marked by the publication.
- 7. Expenses; Shortages.** Seller must load clean transportation equipment. Any expense or shortage incurred because of foreign matter in the Material shipped, or because equipment is loaded in excess of or less than carrier's loading rules, will be for Seller's account.
- 8. Written Notice.** Seller must provide railcar or barge numbers and date of shipment to ProTrade by written notice upon loading and release to carrier. Railcars or barges shipped after their noticed date of shipment are at Seller's risk. Any demurrage or other costs caused by the failure of Seller to furnish timely and accurate shipment information to ProTrade will be borne by Seller. Risk of non-availability of railcars or barges and any resulting delays in shipment or delivery is on Seller and in no event will relieve Seller of its obligations under this Contract.
- 9. Rejected Materials and Consumer Claims.** All Material shall be received subject to the acceptance of the ultimate consumer, with the weights and grading of that consumer to govern for Material delivered within the United States and shipped weights to govern for Material delivered outside of the United States. Material rejected by the ultimate consumer remains Seller's property at its risk and subject to its disposition. Rejected shipments are to be replaced at ProTrade's option. In the event the ultimate consumer does not completely reject and asserts a claim against ProTrade for

nonconforming Material, Seller agrees to cooperate and negotiate with ProTrade, in good faith, to resolve the consumer's claim. If Seller fails to negotiate with ProTrade in good faith to resolve such claim, ProTrade shall have the right to settle or resolve the consumer's claim and the right to deduct any negotiated reduction in the amount the consumer was otherwise contracted to pay from any amount Seller is due from ProTrade or its affiliate companies on any current or future purchase contracts.

10. **Termination and Cancellation.** Notwithstanding the foregoing, in the event of nonconformity, nondelivery, partial delivery, or late delivery of the quantity specified in the Contract, ProTrade may at its option (i) cancel the Contract, (ii) replace the Material in the open market after due notice and within a commercially reasonable time and recover from Seller the difference between the market price of the Material at the time of replacement and the Contract price, and (iii) obtain any other remedy or relief provided by law including, but not limited to, the right to a setoff against any amount Seller is due from ProTrade or its affiliate companies on any purchase contract or otherwise, provided, however, that written notice of such nonconformity, nondelivery, partial delivery, or late delivery is provided to Seller. Deliveries in excess of those authorized by ProTrade shall be at Seller's risk of loss, may be returned to Seller or disposed of by ProTrade without any liability to Seller and Seller shall pay ProTrade for all transportation expenses in connection with such deliveries.
11. **Force Majeure.** Neither party shall be liable for any delay or failure of performance due to a request for delay by the consumer, strikes, acts of God, or other causes beyond its control, including, but not limited to internet transmission failures, provided that it shall have given notice to the other party of any such cause for delay or anticipated delay promptly following the commencement thereof. In the event of a delay for any of the foregoing reasons and if requested by ProTrade, Seller shall immediately, upon receipt of the notice from ProTrade, hold up delivery until further notice from ProTrade, regardless of whether such hold extends beyond any delivery date specified in the Contract. Upon receiving further notice from ProTrade, Seller shall promptly make delivery of the Material specified in the Contract. ProTrade and Seller agree that any setoff transactions between ProTrade and Seller shall be governed by Ohio law.  
**Seller's Representations and Warranties.** Seller represents and warrants that the Material to be delivered by Seller conforms to the description of the Material on the face of the Contract and that the Material does not contain any nonconforming or foreign substances. Seller shall indemnify and save harmless ProTrade and the consumers of this Material from and against any and all claims, demands, causes of action, actions, liabilities, losses, damages and expenses, including attorneys' fees (including without limitation actual, general and special damages for injuries or damage to any person or property) arising out of the failure of the Material to conform to the description on the face hereof, or arising out of the presence of nonconforming or foreign substances in any Material.
12. **Hazardous Substance.** Notwithstanding any other warranty or limitation of warranty herein, Seller warrants that the Material to be delivered under this Contract does not contain any "hazardous substance," as that term is defined in §101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §6901(14), except those "hazardous substances" which are integral constituents of the metallic fraction of the Material. Seller further warrants that the Material contains no radionuclides or radioactive materials. Seller will indemnify and hold ProTrade and its customers harmless from any and all claims, demands, causes of action, actions, liabilities, losses, damages and expenses, including attorneys' fees, resulting in whole or in part from a breach of the foregoing warranties. If the Material is rejected because of the presence of hazardous substances, radionuclides, or radioactive materials, ProTrade shall have no responsibility for or title to the rejected Material. Seller shall have sole responsibility for, and shall ensure, proper management of the Material to prevent any release or threat of release of any such hazardous substances, radionuclides, or radioactive materials to the environment. Unless Seller makes other arrangements, Seller shall return all such rejected Material to its point of origin at Seller's expense. If Seller refuses to remove the rejected Material, ProTrade may return it to its point of origin at Seller's expense or may otherwise manage the Material and arrange for its disposal at Seller's expense. Seller agrees to assume any and all liability for such shipment or management, and any and all liability resulting from the return or disposal of the rejected Material.
13. **Seller's Ability to Cancel.** Subject to (i) the effect of any applicable bankruptcy, insolvency or similar law affecting creditors' rights generally, and (ii) the effect of general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing, if Seller becomes insolvent or has a business failure or commits an act of bankruptcy, or is adjudicated bankrupt or if at any time ProTrade reasonably believes that Seller may fail to perform for one of the above reasons, or if Seller has failed to perform completely any other contract with ProTrade, then ProTrade may cancel the Contract without liability.
14. **Assignment.** No assignment of the Contract shall be made without prior written consent of the other party.
15. **Waiver.** ProTrade's failure to require Seller's performance of any obligations hereunder shall in no way affect its rights to require such performance at any time thereafter.
16. **Severability.** The invalidity and unenforceability of any term of this Contract shall not affect the validity and enforceability of the remainder of this Contract or any of its other terms, and such other terms shall be construed as though such invalid or unenforceable term was not included herein.
17. **Governing Law; Jurisdiction.** This Contract shall be governed by and construed and enforced in accordance with the laws of the State of Ohio, without giving effect to the conflict of law rules thereof. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to this Contract. All parties hereby submit and consent to the venue

and the jurisdiction of the Courts of the State of Ohio. Under no circumstances shall ProTrade be subjected to the jurisdiction of foreign courts without its prior written consent.

18. **Amendment.** No waiver, alteration or modification of the Contract or these Terms and Conditions as herein set forth, nor any understanding or agreements not set forth herein shall be valid and binding upon ProTrade unless made in writing and signed by a duly authorized representative of ProTrade. Notwithstanding the foregoing, ProTrade may make any changes to these Terms and Conditions without the consent of Buyer by emailing, mailing, or posting the updated Terms and Conditions on ProTrade's website. ProTrade will use commercially reasonable means to inform Buyer of any such changes to the Terms and Conditions.

## ProTrade Steel Company, Ltd. Terms and Conditions of Sale

Last modified: October 17,2023

- 1. Terms and Conditions; Parties; Order.** Every Sales Contract written, faxed, or electronically transmitted by ProTrade Steel Company, Ltd. ("ProTrade") is subject to all terms and conditions contained in these Terms and Conditions of Sale ("Terms and Conditions"). These Terms and Conditions and the terms and conditions stated in the ProTrade Sales Contract that references and incorporates them ("the Contract") constitute the entire agreement between the parties with respect to the subject matter, and supersede all prior negotiations, representations or agreements, written or oral, and may not be supplemented by any course of dealing, course of performance, or trade usage, unless otherwise provided herein. These Terms and Conditions and the Contract are collectively referred to herein as "this Contract." Any conflict between these Terms and Conditions and those in the Contract will be resolved in the following order of priority: Contract; Terms and Conditions.
- 2. Acceptance.** Receipt of the Contract by Buyer or Buyer's acceptance of delivery of any material ("Material") specified in the Contract shall be deemed to be an acceptance by Buyer of the terms and conditions of this Contract regardless of whether the Buyer has acknowledged the Contract. Receipt by ProTrade of any purchase order, contract or similar document from Buyer or ProTrade's shipment of Material to Buyer does not constitute an acceptance by ProTrade of any term or condition of such purchase order or contract or any proposed terms and conditions. Any conditional, additional or inconsistent terms or conditions are not binding on ProTrade unless agreed to in writing by ProTrade. All purchase orders or contracts are subject to express acceptance by ProTrade. No notice of cancellation or termination shall relieve Buyer from any obligations created by this Contract, without the prior written consent of ProTrade, which consent may be withheld in ProTrade's sole and absolute discretion.
- 3. Warranties, Representations, and Covenants.** Material specified in the Contract is scrap metal that is being sold for the sole purpose of remelting or recycling. ProTrade warrants the Material will conform to the description of the Material on the face of the Contract with variations in size, composition, and quality consistent with norms in the trade. ProTrade is not the producer of the Material sold under this Contract, and ProTrade has not made any independent chemical or physical analysis, or any other test of the Material specified in the Contract. **SUBJECT TO THE FOREGOING, ALL MATERIAL BEING SOLD UNDER THIS CONTRACT IS BEING SOLD "AS IS." ALL EXPRESS AND IMPLIED WARRANTIES OF EVERY TYPE AND KIND, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED. IN NO EVENT WILL PROTRADE'S LIABILITY ARISING IN CONNECTION WITH THE MATERIALS OR ORDER (REGARDLESS OF CAUSE AND REGARDLESS OF THE THEORY OF LIABILITY ASSERTED BY BUYER, WHETHER CONTRACT, TORT OR OTHERWISE) EXCEED THE PURCHASE PRICE FOR THE MATERIALS.**
- 4. Inspection.** Buyer will inspect each shipment of Material within one (1) business day of arrival at destination and immediately notify ProTrade of any nonconforming Material for which Buyer rejects the shipment in part or in whole. If Buyer fails to give ProTrade such notice, all Material contained in any such shipment will be deemed to conform to the Contract, and Buyer will be deemed to have accepted the Material upon unloading and release of the transporting vehicle.
- 5. Export Sales Claims.** Notwithstanding the foregoing, if Buyer claims that Material shipped for delivery outside of the United States of America is nonconforming, such claim must be submitted to ProTrade in full with all required documentation within 75 days after the shipment date. Required documentation includes the following: booking number(s), container number(s), itemization of claim, calculation of claim amount and photographs of (i) the outside container number(s), (ii) the material in the container(s), (iii) the inside container(s) number, (iv) the material being removed from the container(s); (v) the weight of the material; and (vi) the issue upon which the claim is based. Claims based on weight shortage will be negotiated at the sole discretion of ProTrade. In the event of a weight discrepancy at the point of destination, shipped weight(s) shall govern. Under no circumstances will any claims be considered, negotiated or paid if they are received by ProTrade after that 75-day period.
- 6. Price Changes.** If the price stated in the Contract is based on market pricing as published in trade publications such as "Scrap Price Bulletin" or "American Metal Market" then ProTrade reserves the right to adjust its pricing formula in the event that such publication makes it known that they have

reassessed or changed their market appraisals independent of the market move for that month. Such non-market move driven changes are typically clearly marked by the publication.

7. **Payment; Invoices.** Buyer will make payment to ProTrade in the manner and strictly in accordance with the payment terms set forth on the face of the Contract. Buyer may not withhold payment due ProTrade on the Contract, or on any future delivery by or contract with ProTrade, under any circumstances or for any reason, including, without limitation, the assertion of a claim for delivery of nonconforming material. Payment to ProTrade in full and in strict accordance with the terms of the Contract is required and payment shall not be withheld, in whole or in part, without ProTrade's prior written approval. If the Contract allows shipment of Material specified in the Contract without prior payment, such shipment is subject to approval of ProTrade's Credit Department. In such a case, ProTrade, in its sole discretion, may at any time decline to make shipment ("Credit Hold") prior to receipt of payment or adequate assurances of payment. In the event of any Credit Hold, the time period specified in this Contract for shipment shall be extended for a period equal to the time lost because of the Credit Hold.
8. **Buyer Representations and Warranties.** Buyer hereby represents and warrants to ProTrade that Buyer is solvent as that term is defined in the Uniform Commercial Code ("UCC") and has the unrestricted ability to pay its debts in the ordinary course of business as and when such debts are due and payable. Buyer also acknowledges and agrees that each purchase order or request from Buyer to ProTrade shall constitute a written reaffirmation of Buyer's representation of solvency as of the date of Buyer's request, which representation shall be deemed to grant to ProTrade the maximum right of reclamation available at law or in equity under either under the UCC or any other applicable state law, or in any bankruptcy or insolvency proceeding.
9. **Title and Risk of Loss.** Risk of loss of the Material passes to Buyer at the F.O.B. point specified in the Contract.
10. **Security Interest.** ProTrade shall have, and Buyer hereby grants to ProTrade, a security interest in all of the Material, and in any proceeds thereof, to secure payment of the Contract price of the Material, and ProTrade shall have all of the rights and remedies of a secured party under the UCC in force in the jurisdiction where ProTrade seeks to enforce any of such rights or remedies. If requested by ProTrade, Buyer shall sign and deliver to ProTrade such documents, in a form acceptable to ProTrade, as ProTrade may require in order to confirm or perfect its security interest in the Material and proceeds thereof.
11. **Delay or Failure to Perform.** ProTrade shall not be liable to Buyer for any failure to perform, failure to deliver, or for any delay in delivery due to an Act of God, any act, omission or failure of Buyer, or any actions, events, conditions, inactions or any other cause beyond ProTrade's or its suppliers' reasonable control. In the event of any such delay, the date for performance or delivery shall be extended for a period equal to the time lost by reason of the delay.
12. **Termination and Cancellation.** If Buyer breaches or repudiates any provision of or fails to comply with this Contract, ProTrade may at its option, (i) cancel this Contract, (ii) resell the Material in the open market after due notice and within a commercially reasonable time and recover from Buyer the difference between the market price of the Material at the time of resale and the Contract price, or (iii) obtain any other remedy or relief provided by law including, but not limited to, the right to a setoff against any amount Buyer is due from ProTrade or its affiliate companies, provided, however, that written notice of such breach, repudiation, or noncompliance is provided to Buyer.
13. **Limitations of Liability, Remedy and Damages. IN NO EVENT WILL PROTRADE BE LIABLE FOR ANY SPECIAL, INDIRECT INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR INJURIES TO PERSONS OR TO PROPERTY OR LOSS OF PROFITS OR LOSS OF FUTURE BUSINESS OR REPUTATION, WHETHER BASED ON TORT OR BREACH OF CONTRACT OR OTHER BASIS, EVEN IF PROTRADE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
14. **Indemnification.** Buyer shall indemnify, defend, and hold ProTrade harmless from any claim, liability, damages, lawsuits, and costs (including attorney's fees), whether for personal injury, property damage or other, brought by or incurred by Buyer, Buyer's employees, or any other person, arising out of Buyer's use, storage, sale, processing, application, or other disposition of the Material or products produced with the Material. This provision will survive the termination or expiration of this Contract.
15. **Assignment.** No assignment of this Contract shall be made by Buyer without prior written consent of ProTrade.

16. **Waiver.** ProTrade's failure to require Buyer's performance of any obligations hereunder shall in no way affect its rights to require such performance at any time thereafter.
17. **Severability.** The invalidity and unenforceability of any term of this Contract shall not affect the validity and enforceability of the remainder of this Contract or any of its other terms, and such other terms shall be construed as though such invalid or unenforceable term was not included herein.
18. **Governing Law; Jurisdiction.** This Contract shall be governed by, and construed and enforced in accordance with the laws of the State of Ohio, without giving effect to the conflict of law rules thereof. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to this contract. All parties hereby submit and consent to the venue and the jurisdiction of the Courts of the State of Ohio. Under no circumstances shall ProTrade be subjected to the jurisdiction of foreign courts without its prior written consent.
19. **Amendment.** No waiver, alteration or modification of the terms of this Contract as herein set forth, nor any understanding or agreements not set forth herein, shall be valid and binding upon ProTrade unless made in writing and signed by a duly authorized representative of ProTrade. Notwithstanding the foregoing, ProTrade may make any changes to these Terms and Conditions without the consent of Buyer by emailing, mailing, or posting the updated terms and conditions on ProTrade's website. ProTrade will use commercially reasonable means to inform Buyer of any such changes to the Terms and Conditions.