

GENERAL SALES CONDITIONS

INTRODUCTION

1. In these conditions the following words shall have the following meanings:

- (a) "Seller" means Industrial Metal Supplies Ltd.
- (b) "Buyer" means the purchaser of goods from the seller
- (c) "Goods" means all products supplied by the seller and, in respect of each order of goods from the buyer accepted by the seller, means the goods described in the invoice issued by the seller in respect of the relevant order
- (d) "Conditions" means these general sales conditions and, in respect of each order of goods from the buyer accepted by the seller, includes the invoice issued by the seller in respect of the relevant order

(e) "PPSA" means the Personal Property Securities Act 1999

2. Unless the seller and buyer otherwise agree in writing

- (a) These conditions shall apply to all sales of goods and no other conditions shall apply. In the event of any conflict arising between these conditions and any other document, including but not limited to the buyer's order, the invoice and/or any terms and conditions hand-written on the face of this document, these conditions shall prevail;
- (b) Quotations by the seller remain open for acceptance within 15 days from the date of the quotation;
- (c) Unless this quotation is accepted without qualification, the seller shall not be bound until the order is confirmed by the seller by a written acknowledgement or by delivery of the goods;
- (d) The seller shall have the right to over or under deliver the quantity of goods ordered according to generally applied customs within the trade, as a rule plus/minus 10 per cent;

PRODUCT INFORMATION AND STATEMENTS

3. No warranty is given as to

- (a) the accuracy of any technical and other data given to the buyer in printed material relating to goods, unless the seller and the buyer otherwise agree in writing.
- (b) The conformity of delivered goods to any samples supplied.

4. All drawings and technical documents delivered by one party to the other party shall remain the property of the first party and must not be used by the other party or reproduced or brought to the knowledge of third persons without the consent of the first party. Where the seller has made any goods to the specifications supplied by the buyer the buyer shall indemnify the seller from any cost, claim, loss or expense arising as a result of those specifications infringing or being alleged to infringe any patent, copyright, registered design or other intellectual property right of any other person.

5. No employee, agent or representative of the seller is authorised to make any representations, statements, warranties or agreements not expressed in these conditions or agreed in writing by the seller.

INSPECTION AND TESTING

6. All inspection and testing relating to goods and documentation relating to such inspection and testing requested by the buyer shall be paid for by the buyer in addition to the purchase price for the goods.

DELIVERY AND RISK

7. Delivery shall occur when the goods have either been dispatched from the seller's works or reported by the seller as ready for dispatch or for inspection if inspection has been requested by the buyer.

8. Risk in the goods shall pass on delivery.

DELAY IN DELIVERY

9. If either party finds that it is probable that it will not be able to comply with the agreed date of delivery it shall immediately notify that other party of an alternative required delivery date.

10. If a delay in delivery is caused by the seller the buyer shall have the right to cancel the order upon receipt of a notice in accordance with clause 9, if the seller was aware that the delay in delivery would have caused the buyer loss.

11. If a delay in delivery is caused by the buyer, the seller shall have the right to delay delivery for such period as it considers reasonable, or to cancel the order with respect to the delay in delivery.

12. Upon receiving notification in accordance with clause 9, the buyer, or the seller, as appropriate, shall if it intends to cancel the order under clause 10 or 11 it shall do so without delay. If the order is not cancelled then the delivery note notified pursuant to clause 9 shall apply.

13. The party who has caused delay shall not be liable for any penalty or damages as a result of that delay.

INSOLVENCY OF THE PURCHASER

14. If before delivery there arise reasonable grounds for belief that the buyer will not be able to fulfill its payment obligations to the seller on the required date, the seller shall have the right to demand security or payment in advance of delivery. If security to the reasonable satisfaction of the seller is not offered or, if payment in advance of delivery is not made without delay, the seller may cancel the order.

DEFECTS AND LIABILITY

15. When the buyer has received the goods it shall inspect the goods thoroughly in accordance with what is customary. If the buyer finds a defect it shall specify the extent of the defect within 5 working days after receipt of goods. If the buyer does not notify the seller of defects that it has discovered or ought to have discovered within the time limits stated above it shall be deemed to have waived any claim against the seller. The seller's liability for defects in any event is limited to within 90 days after the buyer having received the goods.

16. It is agreed by the seller and buyer that:

(a) The buyer shall have no claim against the seller except where the buyer proves to the seller's satisfaction that the goods are faulty due to defective workmanship or materials. Where the buyer proves such a defect and elects to return the goods to the seller within 5 working days after receipt of goods, the seller will at its own cost and at its option repair or replace the faulty goods and shall pay for reasonable transportation costs for the defective goods but shall not be liable to pay for costs of dismounting, mounting and processing of the goods.

(b) The buyer shall have no claim against the seller if the buyer has put the goods through further processing.

(c) The liability of the seller, its agent or servant shall be limited to the lesser of the cost of replacement or repairs of the goods and shall not include damages for indirect or consequential loss.

(d) The guarantees contained in the Consumer Guarantees Act 1993 are expressly excluded where the buyer acquires or holds itself out as acquiring the goods for the purposes of a business.

FORCE MAJEURE

17. The buyer has no right to claim compensation because the order is not fulfilled, if the fulfilling of the order is directly or materially hindered or impeded because of circumstances beyond the control of the seller including without limitation war, calling up of personnel for military service, governmental measures of various kinds such as confiscation and export and import

prohibitions as well as refusal of licenses on part of various authorities, delays in delivery of imported goods, inability to obtain components or materials locally, fire, floods and other natural events, any labor disputes, strikes, lockouts, go-slow procedures by workers and other withholding of labor, power shortage, traffic disturbances, damage to machinery or other dislocation of manufacture or rejections during manufacture which would not reasonably have been foreseen and faulty or delayed delivery by the seller's suppliers caused by circumstances as referred to in this clause. If the seller cannot fulfill the order within a reasonable time because of the occurrence of an event mentioned in this clause, the buyer shall be entitled to cancel the order with regard to such part of the order as has not yet been fulfilled. Cancellation in accordance with this clause shall be the buyer's sole remedy. If the buyer cancels the order the seller shall be entitled to compensation from the buyer for the costs that it has incurred for fulfilling the order up till the day of cancellation.

PAYMENT

Payment for goods supplied and any inspection charges, freight or insurance charges and goods and services tax shall be made by the buyer no later than the 20th day of the month following the month within which the goods were delivered unless the seller has otherwise agreed in writing. Interest at the rate of 21% per annum shall be payable on all amounts overdue calculated as from the date when due and payable until the date of payment and the charging of interest shall be in addition to all other rights of the seller.

The seller may set-off:

Any amount owing by the seller to the buyer from any amount owing by the buyer to the seller; and
any amount in credit in any account of the buyer with the seller against any amount owing by the buyer to the seller under another account of the buyer.

TITLE TO GOODS

19. Until payment in full of all indebtedness to the seller in relation to the supply of the goods to the buyer, the seller and the buyer agree that:

- (a) The title to the goods supplied remains with the seller;
- (b) The buyer shall keep full and complete records of the goods;
- (c) the buyer shall store and identify all goods supplied in such a way that it is clear that they are the property of the seller and all storage and insurance costs shall be met by the buyer;
- (d) the buyer shall return the goods if requested to do so by the seller following non-payment of any amount owing by the buyer to the seller or non-fulfillment of any other obligation of the buyer to the seller, without limiting any other right the seller may have;
- (e) the buyer hereby irrevocably gives the seller, its agents and servants, license upon giving reasonable notice to enter on and into premises occupied by the buyer to inspect, search for and remove any of the goods supplied and if the goods or any of them are wholly or partially attached to or incorporated in any other goods the seller may where practical disconnect or sever the goods in any way whatsoever as may be necessary to remove the goods without in any way being liable to the buyer or any person claiming through the buyer;
- (f) if the seller exercises its right to reclaim any goods in the buyer's possession or control (including any goods that have become an accession under the PPSA) it shall be entitled to remove the goods and either dispose of them or retain them for its own benefit and for that purpose the seller may, without notice, enter directly or by its agents, on any premises where it

believes goods may be stored, without in any way being liable to any person, and the buyer shall indemnify the seller for:

- (i) Any loss in price incurred by it on realization against the price at which such goods were contracted to be bought by the buyer;
- (ii) Any costs incurred by the seller in exercise of its right to reclaim the goods whether relating to the repossession, storage or resale of the goods (including legal costs as between solicitors and own client);
- (g) The buyer shall not change its name, address or contact details without providing the seller with at least 20 working days prior written notice;
- (h) Nothing in this clause shall be construed as permitting the buyer to return the goods or any part of them for any reason.

PERSONAL PROPERTY SECURITIES ACT 1999 (PPSA)

20. (a) The buyer acknowledges that it has received value as at the date of first delivery of the goods and has not agreed to postpone the time for attachment of the security interest (as defined in the PPSA) granted to the seller under these conditions.

(b) Until ownership of the goods passes, the buyer agrees to waive its right under the PPSA to:

- (i) Receive a copy of any verification statement;
- (ii) Receive a copy of any financing change statement;
- (iii) Receive any notice that the seller intends to sell the goods or to retain the goods on enforcement of the security interest (as defined in PPSA) granted to the seller under these conditions;
- (iv) Object to the seller's proposal to retain the goods in satisfaction of any obligation owned by the buyer to the seller;
- (v) Receive a statement of account on sale of the goods;
- (vi) Redeem the goods; and
- (vii) Where any good becomes an accession, as defined in the PPSA, receive notice of removal of the accession, apply to the court for an order concerning the removal of the accession and not have any goods damaged when the seller removes the accession.

(c) The buyer must not:

- (i) Give to the seller a written demand, or allow any other person to give the seller a written demand requiring the seller to register a financing change statement, or lodge a change demand or allow any other person to lodge a change demand, in each case in relation to a financing statement registered by the seller under the PPSA;
- (ii) Enter into or accept, or allow any other person to enter into or accept, a financing change statement in relation to a financing statement registered by reference to it under PPSA; or
- (iii) Consent to or enter into any agreement which permits any supplier or other person to register a security interest in respect of the goods (whether in an accession or otherwise) which ranks in priority to the seller's rights as first ranking security holder.

(d) The buyer is to execute documents and do such further acts as may be required by the seller to register the security interest granted to the seller under these conditions, under the PPSA or for any other purpose whatsoever.

NON-WAIVER

21. All rights power and remedies of the seller shall remain in full force notwithstanding any neglect forbearance or delay in enforcement

Signature: _____

Date: _____