

Terms & Conditions

1. GENERAL

1.1 All Contracts entered for the sale or supply of goods between Oracle Special Metals Ltd (herein referred to as 'the Company') and yourself (herein referred to as 'the Buyer') after the date hereof shall be subject to the following conditions.

1.2 Any tender or quotation will have effect only for seven days (unless otherwise stated) from the date thereof and then will be subject to clause 1.4

1.3 A Contract to sell or supply goods shall be created only when the Company has accepted, in writing, an offer from the Buyer for the purchase by or supply of goods.

1.4 These terms and conditions are the whole agreement between the parties and no other terms and conditions, or verbal statements will be binding on the Company unless the Company express in writing otherwise.

2. PRICE

2.1 The prices charged by the Company are stated net Ex-Works and will be those ruling at the date of dispatch of the goods. The Company accordingly reserves the right in its unfettered discretion to vary the price from that quoted or from that prevailing at the Contract date to take account of any rise and fall in the cost of materials, labour, services, transport, or statutory charges between the date of the Contract and the date of dispatch.

2.2 Should overtime be worked in respect of the goods before dispatch at the request of the Buyer the additional costs may be charged at the then current rate as an extra and added to the price.

2.3 Any samples submitted by the Company shall be paid for by the Buyer at the equivalent price unless the Company in its discretion agrees to waive payment.

2.4 Value Added Tax (or any other similar tax in force from time to time) shall be added to the Contract price of the goods and any samples.

2.5 All goods are sold 'Ex-Works' unless otherwise stated, if the Company arranges or undertakes the carriage, freight, insurance, and any other transport costs beyond the point of delivery such costs shall be for the customer's account and shall not affect the provisions of the Contract as to the passing of risk.

3. DELIVERY

3.1 The goods shall be deemed to have been delivered to the Buyer at the moment of passing of the risk as mentioned in clause 6.

Rev 2 - 23/07/2023

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VAT No: GB365548369

3.2 The quoted time for dispatch or delivery shall not be of the essence of the Contract and shall run from the acceptance of the Buyer's order or if later the receipt by the Company of all necessary information and drawings to enable it to proceed with the order.

3.3 The time for dispatch or delivery shall be extended by a reasonable period if a delay in dispatch or delivery is caused by instructions or lack of instructions from the Buyer or by strikes, lockouts or other industrial action or any cause beyond the Company's reasonable control (including but not limited to failure of suppliers of raw materials or components to fulfil their Contracts with the Company).

3.4 In all cases where the Contract provides for delivery by instalments or part deliveries each instalment or part delivery shall be deemed to be a separate Contract and cancellation of any one instalment or part delivery shall not avoid or affect Contracts as to the other instalments or part deliveries.

3.5 The Company reserves the right to dispatch and invoice any part of any order when available.

3.6 If the Buyer refuses to take delivery of the goods, the Company will charge for return transport and storage.

3.7 Storage – the Company should notify the Buyer in writing when the goods are ready for dispatch or collection and if the Buyer fails to call upon the Company to make delivery of the goods or to collect the same within 14 days of such notification, then the Buyer shall pay to the Company a reasonable charge for the storage and insurance of the goods from 14 days after such delivery notification until the Buyer calls upon the Company to make delivery thereof or collect the same from the Company.

3.8 Unless otherwise agreed in writing, the Company reserves the right to charge the customer the cost of transportation on all orders.

3.9 All hire processing or storage of the Buyer's materials is at the Buyer's risk and the Company accepts no liability for any damage to or loss of such materials howsoever arising, including transportation to or from the Buyer's premises

3.10 The Company reserves the right to re-charge the Buyer any demurrage costs incurred in the event of vehicles being unduly delayed at the Buyer or Consignee's works when delivering.

3.11 The Buyer must examine the goods before collection or acceptance of goods, and must then sign the Company's delivery note. Collection or acceptance of the materials by the Buyer shall be conclusive evidence that the goods have been examined and that (except as noted on the delivery note) they are free of defects which such examination ought to reveal.

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4. MEASUREMENTS AND QUANTITIES

4.1 All goods supplied whether specifically made or cut to size are subject to a maximum 10% variance above or below the weight stated in the Contract.

4.2 No claim for shortages, measurements, quantities or for material damaged in transit will be considered by the Company unless: -

- (a) An appropriately qualified signature i.e., 'material damaged (together with a description of damage) signed' is made by the Buyer on the delivery note or
- (b) The Company is advised in writing, within 3 days of receipt of material.
- (c) 'Unexamined' signatures are Not acceptable.

No allowance for claims for short weight will be made unless the Company is given the opportunity of verifying the same within 3 days and advised in writing as above.

4.3 The Company warrants that the goods are within usual Mill tolerances or buyers' specification requirements regarding quality and finish and if authorised by the Company will replace or refund the price of any goods which do not comply with this warranty provided the goods are returned in the condition in which they were supplied, having firstly agreed to do so, within six months of delivery, in writing within three days of defect occurring. Generally, the Company is unaware of the use to which its goods will be put but regardless of any express or implied knowledge of the use to which its goods will be put all conditions of warranties as to fitness for purpose whether expressed or implied and whether arising by statute, custom of the trade or at common law are excluded. The Company shall not be liable for loss of profit, plant damage, claim for work done, or for any consequential or special loss or damage sustained by the Buyer as a result of any break of Contract by the Company. Off-cuts will only be supplied at the Buyers' specific request.

5. TESTING AND INSPECTION

5.1 Testing and inspection if specified by the Buyer or their Agent may be at the Company's works or at an approved sub-contractor and such testing and inspection shall be final and conclusive as to the results thereof.

5.2 The Company shall not be obliged to produce test and performance certificates or safety critical certificates unless requested by the Buyer and accepted by the Company in writing.

5.3 The Company uses approved sub-contractor facilities for mechanical or metallurgical examination of its stock materials and obtains appropriate mechanical or metallurgical test certificates. If requested by the Buyer the Company will supply to the Customer a copy of any test certificate which may have been given to the Company by its suppliers or sub-contractors if available, but the Company does not warrant the accuracy of any such certificate and accepts no liability in respect thereof or for any loss resulting from an inaccurate or incorrect certificate.

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6. RISK

6.1 Subject to Clause 6.2 below, the risk in the goods shall pass to the Buyer on dispatch of the goods from the Company's works to the destination specified by the Buyer.

6.2 The risk in the goods which under the Contract are to be delivered by the Company in its own transport shall pass at the time of unloading of the goods at the Buyer's works or at such other place as the Buyer may have specified.

6.3 Where delivery is made by the Company's transport the Company shall not be liable for any loss or damage to the goods in the course of transit unless the Company is notified in writing within 3 days of delivery of the loss or damage complained of.

7. PAYMENT

7.1 If the Contract is not an export sale as defined in Clause 8, payment is expected according to the terms stated on the Contract. These terms usually require payment within 30 days from the invoice date, subject to the Contract. It is important to note that timely payment is crucial to the fulfilment of the Contract. However, if the Contract is an export sale as defined in Clause 8, payment is subject to approval from the client.

7.2 If payment is not made on or before the due date, interest shall be payable by the Buyer on the sum due for the goods or any outstanding part thereof at 8% above the bank base rate from time to time from the due date until payment is made. The Company reserves the right at any time to demand full or partial payment before proceeding further with an order

7.3 Should default be made by the Buyer in paying any sum due under any Contract the Company at its option shall be entitled either to suspend supplies until the default is made good or treat such default as a repudiation of the Contract in which case the Buyer shall (without prejudice to any right which the Company may have to return the goods or the payment of any compensation or damages by the Buyer) pay the Company's reasonable charges incurred in the course of all preparation of any kind whatsoever made by the Company or in the course of any part performance of the Contract by the Company.

In addition to any rights which the Company may have by law, the Company shall also have a general lien over all goods in its possession belonging to the Buyer or held to the Buyer's order or which may have been sold or agreed to be sold to the Buyer, whether paid for or not, for any moneys due from the Buyer to the Company.

If any lien (whether general as above or particular), is not satisfied within four weeks after payment of such money is due to the Company may give to the Buyer at its last known address four weeks' notice drawing attention to the substance of this term, and on the expiration of such notice the Company may at its absolute discretion sell such goods as agents for the Buyer and apply the proceeds towards the money due and then expenses of sale, and shall upon accounting to the Buyer for the balance remaining, if any, be discharged from all liability whatsoever in respect of the goods.

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8. EXPORT SALES

8.1 This condition shall apply if the Contract is an Export Sale that is to say a Contract between the Company and a Buyer which is outside Great Britain.

8.2 The Company shall discharge its obligations by presentation of the shipping documents i.e., the invoice and Bill of Lading or Delivery Note to the Buyer or his Agent. Where the Contract is on CIF or C & F terms the Bill of Lading shall be freight prepaid and in the case of a CIF Contract the certificate of insurance shall be deemed to be a shipping document.

8.3 The Contract price shall be paid against the presentation of the shipping documents and an irrevocable letter of credit in pounds sterling issued by a London Clearing Bank for the said price which shall be presented to the Company at least three working days before shipment or if the contract has been agreed on open account trading terms, the Contract price shall be paid in conjunction with those terms.

8.4 The Buyer hereby warrants that if an Import Licence or permit is required for the importation of the goods into the country of destination then such Import Licence or permit has been obtained or will be obtained before shipment.

8.5 Where goods are sold FOB the responsibility of the Company should cease immediately the goods are placed on board ship and the Company shall be under no obligation to give the Buyer the notice specified in Section 32/3 of the Sale of Goods Act 1893.

9. Title of Goods

9.1 Until full payment for the goods has been received by the Company the property in the goods shall remain with the Company.

9.2 The Buyer shall keep and store the goods in such a manner that they can be identified as being the property of the Company.

9.3 The Buyer's power of sale shall automatically cease if a receiver or manager is appointed over any of the assets or the undertaking of the Buyer or a winding-up petition is presented against the Buyer, or the Buyer goes into voluntary liquidation or calls a meeting of or makes any arrangement or composition with creditors or commits any act of bankruptcy.

9.4 Upon determination of the Buyer's power of sale under clauses 9.1 and 9.2 the Buyer shall place the goods at the disposal of the Company who shall be entitled to enter upon any premises of the Buyer for the purpose of removing goods from the premises (including severances from the realty where necessary)

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10. QUALITY

10.1 No condition or warranty, express or implied is given by the Company as to the quality or fitness of the goods for any particular purpose unless such purpose is expressly notified to and expressly warranted by the Company in writing.

10.2 The liability of the Company in respect of or consequent upon any such defect whether in original or replaced material shall not extend to any damage suffered by the Buyer or any third party whether by way of consequential damages, loss of profit or otherwise.

11. GENERAL LIABILITY

11.1 Subject to Clause 10 relating to quality, the Company shall not be liable for any loss of profit, damage to plant machinery or extra expenditure of any consequential or other loss suffered by the Buyer or by any third party through a breach of any of its obligations under the Contract or through the negligence of the Company or its employee's agents or Contractors (except in the case of personal injury or death).

11.2 The Company shall be under no liability for any delays, loss or damage caused wholly or in part by war, civil commotion, act of God, or by any act done or not done pursuant to a trade dispute whether such dispute involves the Company's servants or not.

11.3 The Company shall be granted all necessary time and other indulgences necessary in the event of a fire, breakdown of machinery or other circumstances beyond its reasonable control

12. COMMERCIAL RIGHTS

12.1 The Buyer shall indemnify the Company against all costs expenses loss or damage incurred by it arising as a result of any claim or proceedings for or on account of infringement of letters patent trademark or trade name or registered design or any other protected right in relation to goods supplied by the Company and which were manufactured or designed by the Company in accordance with specifications and or drawings produced to the Company by the Buyer or on its behalf.

12.2 Having manufactured designed or assembled products to specifications supplied by the Buyer the Company shall in no way be liable for any loss or damage of whatsoever nature arising in any way out of the use of defective designs specifications or information supplied by or on behalf of the Buyer which will keep the Company fully and effectually indemnified in respect thereof.

13. CANCELLATION

13.1 Orders placed cannot be cancelled except with the Company's consent in writing and a charge made and on terms which will indemnify the Company against loss, and goods returned without the Company's consent will not be accepted for credit.

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14. TERMINATION

14.1 The Company shall be entitled without prejudice to its other rights whether under this Contract or under general law to terminate the Contract or at its option to suspend further deliveries in any of the following events:

- a) If the Buyer has not paid any sum due after written demand has been made for payment thereof or if the Buyer shall fail to provide any letter of credit bill of exchange guarantee or other security required by the Contract
- b) If the Buyer shall fail to take delivery of any goods under the Contract otherwise than in accordance with the Buyer's Contractual rights
- c) If any event mentioned in clause 13 of these conditions shall occur
- d) If the Buyer is in breach of the Contract
- e) If performance of this Contract by the Company is prevented, delayed or interrupted by rules, regulations, requisitions or orders of the Government or any Local Authority or war, strike, accident, fire or shortage of labour or materials or non-delivery by the Company's suppliers or damage to or destruction of the whole or part of the goods or any other cause beyond the Company's reasonable control and in the event of the Company lawfully suspending delivery under this clause it shall be entitled as a condition of resuming delivery to impose such conditions as to payment and or as to the provision of security for payment as it may reasonably require.

15. STATUTORY LIABILITY

15.1 Should any limitation of the Company's liability contained in these conditions be found to be valid under any applicable statute or rule of law it shall to that extent only be deemed omitted but if the Company thereby becomes liable for loss or damage such liability shall be subject to all other relevant limitations contained in these conditions

16. PROPER LAW

16.1 The above conditions shall be construed according to the laws of England and the Company, and the Buyer submits to the jurisdiction of the Courts of England in connection with any dispute or proceedings arising out of any Contract containing these conditions

16.2 If the Law determines that any one section of the Contract is void, that clause only will be void from the Contract.

17. SUB-CONTRACTING

17.1 The Company reserves the right to sub-Contract the whole or any part of the Contract.

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