



General Sales Terms & Conditions

1. General and definitions

These Terms and Conditions apply to any agreements between Specialty Metals Resources (**SMR**) and any SMR group companies (collectively **SMR**) and the Buyer of any goods traded by SMR (Goods). The term "**Buyer**" shall mean the person or the company to whom SMR supplies Goods of any kind. Except insofar as otherwise explicitly agreed in writing between SMR and the Buyer, these General Terms & Conditions (the **Conditions**) will apply to all agreements concluded between SMR and the Buyer, whether this is done in writing, electronically or verbally, as well as to all negotiations undertaken between the parties, as well as to any of extension or amendments (each a **Contract**). Any general or special terms and conditions used by the Buyer are hereby explicitly excluded.

2. Quotations and agreements

Unless otherwise stipulated in writing, all quotations are given without engagement and may be amended at any time. Acceptances of offers by the Buyer are regarded as irrevocable.

3. Prices and payment

Prices shall be as agreed when each Contract is finally concluded. Any price increase shall be agreed in writing between the parties. All agreed prices shall be exclusive of any tax or duty. All applicable taxes or duties shall be payable by the buyer in addition to the agreed price. Unless otherwise agreed payment shall fall due on date of shipment as specified in the relevant bill of lading. Buyer shall be deemed in default for failure to make payment when due as per the Contract. Default interest may be charged at the rate of 10% per annum. Failure to pay an invoice on the due date, any application for an amicable or judicial settlement or deferred payment, or any other circumstance implying the Buyer's inability to pay, will render all outstanding balances on all other invoices immediately payable, even if their balances have not yet become due and will entitle SMR to demand the payment at the time of dispatch for quantities still to be delivered, for all current transactions or orders with the Buyer. Any complaint relating to an invoice must be sent to us, by registered letter with proof of delivery, stating the date and number of the invoice, within a time period of 5 working days as from the receipt of the relevant invoice or request for payment. Receipt of invoice shall be deemed accomplished 3 working days as from the date stated on the invoice. After the expiration of this time period, the invoice will be considered as having been finally accepted by the Buyer, and no further complaint whatsoever will be taken into account. Under no circumstances shall a complaint justify suspension of payment. In case of significant modification to the credit worthiness of Buyer, SMR reserves the right to demand, by simple notification, reasonable guarantees to ensure the proper performance of its commitments and to alter Buyer's payment terms, which may include withdrawing or altering any credit limit previously granted, requiring prepayment, and demanding adequate assurance of due performance by Buyer through the provision of a bank guarantee. SMR reserves the right to terminate all Contracts or ongoing orders with the Buyer if the requested guarantees were not provided within 8 days after notification.

4. Delivery and transportation

The quantities to be delivered shall be consistent with the quantities specified in each Contract. SMR shall make every effort to ensure that delivery shall be made within the period agreed in the Contract. Failure to meet the agreed delivery time does not provide grounds for the cancellation of an order or agreement, nor does it entitle the Buyer to any kind of compensation. We explicitly reserve the right to deliver by instalments, each of which will qualify as partial sale. The delivery of an order by instalments cannot in any event justify the refusal to pay for the Goods supplied. Any liability on the part of SMR for failure or delay in delivery is hereby excluded. Delivery shall be subject to the Incoterms agreed in each Contract. The method of transport, shipping, packaging, etc., is determined by SMR if no further indication is provided by the Buyer. Any specific requirements of the Buyer on the transport / shipment will only be performed if the Buyer has declared that it will bear the additional costs.

5. Force majeure and hardship

All delivery and other obligations of SMR will be suspended in the event of force majeure. In such cases, SMR is only obliged to deliver or perform its obligations to the extent possible. 'Force majeure' includes the following, although this is not an exhaustive list: war, mobilisation of troops, embargo, partial or complete strike, lock-out, riot, epidemics, natural disasters, import and export restrictions, machinery failure, staff sickness, fire, explosion, accidents of any kind and any cause hampering the normal supply by our suppliers of raw materials, fuels and inventory for our normal production, transportation or dispatch, as well as all similar circumstances affecting SMR, its subcontractors or suppliers. If a force majeure situation continues for more than three (3) months, either party will be entitled to cancel the agreement without any right to compensation. In case of any shortages of raw materials or component parts SMR reserve the right to apportion our Goods on an equitable basis in our sole discretion. SMR shall not be liable for any loss (whether direct indirect) arising from delay or failure of performance under any Contract caused by or resulting from any force majeure event. In case of unforeseeable economic events or events excluded by the forecasts accepted by Buyer and SMR (such as modifications of charges of all types including price increase of raw materials, fluctuations in exchange rates of more than 20%, significant changes in applicable duties or tariffs or other causes leading to considerable increase of production costs) and if these events result in the upheaval of economic bases of the contract, the affected party shall notify the other of said events, the parties will agree to carry out the necessary adjustments in order to preserve the good faith prevailing at the time of signature of the contract so that it can be performed or continue to be performed without disproportionate prejudice to either party. If they do not reach agreement within two (2) months after the above mentioned notification, each of the parties may terminate the contract, or the non-delivered part of the order, all without compensation.

6. Defects, Claims and Liability

Buyer shall inspect the Goods immediately prior to acceptance of the Goods. In the event that the Goods supplied are damaged or incomplete, or not in compliance with Contract, the Buyer is obliged to refuse the Goods on delivery or to only accept them subject to a written reservation. Every complaint or claim relating to the Goods as delivered must be sent to us in writing within 10 working days as from the delivery date. After that period, the Goods will be deemed to have been finally accepted by the Buyer and no further complaints will be taken into consideration. No goods may be returned without written permission from our management. Such permission will not in any way imply that the goods have been acknowledged by SMR as being defective or not in conformity. Goods being returned, in whatever way they are being sent, remain at the Buyer's risk and will be sent to our warehouse, carriage free. The sole obligations of SMR as a result of an attributable shortcoming are, at SMR's choice, limited to (free) repair of the defect, replacement of the defective Goods and / or re-performance of the obligations provided, or reimbursement of the amounts received from the Buyer in connection with the poor performance, in which case the agreement is terminated as far as the poor performance is concerned. SMR shall not be liable for or responsible for treating any defect or other claim which arises from (i) normal wear and tear, misuse, negligence, accident, abuse, use not in accordance with standards of proper practice and in accordance with the conditions in the quotation or normal usage conditions supplied to the Buyer, modification or alteration not authorised by SMR, or use in conjunction with a third party product, or (ii) Buyer's negligence, or (iii) the breach of Buyer's obligations under this Agreement. SMR reserves the right to determine whether any Goods are defective. The Buyer will not be in a position to file any complaint, on any ground whatsoever, more than one month after the occurrence of the events on which he bases such a claim. Buyer shall indemnify SMR, its employees and any assistants it has engaged for the performance of the Agreement against any third-party claim in connection with SMR's performance of the Agreement, insofar as these claims are more or different than that which accrue to Buyer in respect of SMR. Buyer is not entitled to extend or transfer the foregoing warranties to any other party. All warranties conditions or terms implied by law are hereby excluded to the extent such exclusion is permitted by law. Except as expressly provided in these Conditions, SMR shall not be liable to Buyer for any financial, consequential or other loss or



damage caused to Buyer by reason of any representation, warranty (either express or implied), condition or other term, or any duty at common law; or for any special, indirect, incidental or consequential damages (including loss of profits, revenue, expected savings, use, records or data, costs of procurement of substitute Goods, damage to reputation or goodwill) or for any other claims for compensation however caused (whether caused by the negligence of SMR, its employees, agents, suppliers or otherwise) which arise out of or in connection with these Conditions or a Contract hereunder, even if SMR or its Suppliers have been advised of the possibility of such loss, liability or damages.

Nothing contained herein shall be construed as excluding or limiting SMR's liability for:

- (i) personal injury or death resulting from SMR's negligence;
- (ii) its fraudulent misrepresentation; or
- (iii) any matter for which SMR may not exclude or to attempt to exclude its liability under applicable law.

7. Retention of title

The Goods remain the property of SMR until the Buyer has fulfilled all of its contractual obligations, including the payment of the full sales price and any associated amounts (expenses, VAT, any compensation due, any late payment interest that is due, etc.). Until that moment in time, the Buyer must provide for adequate insurance for our Goods and store them separately, and the Buyer is explicitly forbidden from using the Goods supplied, and more specifically from transferring ownership of them, changing them, leasing them, pledging them or encumbering them with any form of security or preferential right whatsoever. SMR remains entitled to recover the Goods belonging to it, or to demand their return at any time until the Goods are fully paid.

8. Suspension and cancellation

If you do not properly or timely fulfil an obligation to SMR, and/or if in the sole opinion of SMR your economic situation has deteriorated SMR will be entitled, without notice of default or judicial intervention to unilaterally: (I) suspend the performance of any agreement until payment is adequately secured; and/or (II) cancel all of its agreements with you, either in whole or in part. Notwithstanding any other provision of these Conditions, all sums outstanding under the Contract will become due immediately on termination of the Contract.

9. Compliance with Laws.

Buyer hereby confirms it is familiar and will comply with all applicable legislation and regulation, by-laws and rules relevant to the Goods including but not limited laws relating to preventing bribery and corruption (including but not limited to the US Foreign Corrupt Practices Act, any legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials); all laws and regulations applicable to the storage, use, handling, installation, registration and labelling of all Goods as from their delivery and the disposal of all wastes and residues (including packaging) resulting from your use of the Goods.

The Goods supplied may not in any way whatsoever directly or indirectly be used in connection with the design, production, storage or use of chemical, biological or nuclear weapons or transport systems. The goods supplied may not be used for military or nuclear applications without SMR's prior written permission. At SMR's request, Buyer agrees to confirm, in writing, its compliance with the provisions of this article. Any breach by Buyer of any of the obligations contained in this article 14 is a fundamental breach of the Agreement and shall give SMR the right to terminate the Agreement by operation of law with immediate effect, without prejudice to any other of SMR's rights or means of redress under the Agreement or the applicable legislation. Buyer shall indemnify, defend and hold SMR harmless from any liability, damage, costs or expenses and for each loss that SMR would suffer caused by the violation or alleged violation by Buyer of the terms of this article and the resulting termination of the Agreement.

10. Privacy

Buyer agrees that SMR and entities related with it may collect, store and use Buyer data, including personal data, for the purpose of facilitating its marketing and sale of the Goods, and Buyer hereby consents to such collection, storage and use of Buyer data by SMR and entities related with it for these purposes. SMR is part of a global group and Buyer accepts that SMR and entities related with it may process such data in and transferred such data to countries that do not guarantee the protection of personal data in a manner identical to that applicable in the country of the Buyer. Buyer further consents to the use of such data for communicating SMR product and promotional information to Buyer via email or other electronic means unless Buyer notifies SMR in writing that it does not wish to receive such promotional information. The Buyer shall ensure that when it provides data of third parties to SMR, Buyer has obtained the approval of that third party for the use and processing of such data by SMR.

11. Miscellaneous

11.1 These Conditions may be amended by SMR. SMR will inform the Buyer about such changes via a message on its home page <http://www.SMR.HK>, on the invoice, by e-mail or via written notification.

11.2 Any provision in these Conditions which is void or inapplicable shall have no effect on the validity of the other provisions. Any invalid clause will be replaced by another one that is appropriate.

11.3 SMR shall be entitled to carry out its obligations under the Contract through any agents or sub-contractors appointed by it in its absolute discretion for that purpose.

11.4 SMR may at any time assign or transfer (in whole or in part) any of its rights and/or obligations under the Contract or these Conditions, including, without limitation, pursuant to any receivables purchase arrangements or similar transactions which SMR may from time to time enter into. The Buyer may not assign, sub-contract, sublicense or otherwise dispose of any of its rights and/or obligations arising from the Contract or these Conditions without the prior written consent of SMR (such consent not to be unreasonably withheld or delayed).

12. Applicable law, competent judge

All Contracts are deemed executed at the registered office of SMR. This agreement is governed by the laws of Hong Kong. Any dispute concerning the interpretation, implementation and cancellation of the present agreement which cannot be settled amicably will be resolved exclusively by the Courts of Hong Kong. SMR may also, however, introduce any proceedings before the courts of the residence of the debtor. The Vienna Sales Convention does not apply.