

VENTURE STEEL INC. - CONDITIONS OF SALE

BUYER'S PURCHASE ORDER (IF ANY) AND ANY TERMS CONTAINED THEREIN SHALL HAVE NO APPLICATION WHATSOEVER TO ANY CONTRACT OR AGREEMENT BETWEEN THE PARTIES, AND THE TERMS OF SALE SHALL BE THOSE SET OUT HEREIN UNLESS EXPRESSLY WAIVED BY VENTURE STEEL IN WRITING PRIOR TO SHIPMENT.

1. STANDARD PRACTICES

Unless otherwise specifically agreed to in writing by Venture Steel ("Seller"), all products sold hereunder (including those ordered to an exact specification) shall be produced and shipped in accordance with Seller's and, in the case of products not produced by the Seller, the manufacturer's standard practices and where applicable, shall be subject to standard mill tolerances and to variations in quality, dimensions, weight, straightness, section, composition, mechanical properties, and surface and internal conditions consistent with good mill practice and practical testing and inspection methods.

2. DELIVERY

Seller shall use its best efforts to deliver within the time specified herein but does not guarantee to do so. Seller shall not be liable for any loss or damage of any kind or nature whatsoever, whether direct, indirect, or consequential, caused by delay in delivery for any reason whatsoever.

3. TITLES AND RISK

Unless otherwise specifically agreed to in writing by Seller, all sales of products hereunder are F.O.B. Seller's plant and title to such products shall pass to Buyer upon delivery by Seller to a carrier for transportation to Buyer. Title to products sold F.O.B. destination shall pass to Buyer upon arrival at the destination specified and charges at destination for spotting, switching, handling, storage, demurrage, and other accessory services shall be for Buyer's accounts. All products shall be and remain at the risk of Buyer from and after the time at which title passes.

4. PRICES, TAXES, AND DUTIES

Unless otherwise specifically agreed to in writing by Seller, all shipments shall be priced at Seller's prices and transportation charges in effect at the time of shipment, and Buyer, unless it delivers to a Seller an appropriate certificate or other proof of exemption, shall be liable for and shall pay all present and future taxes and duties and any increases thereon relating to the sale or delivery of products hereunder, provided that any such taxes or duties required by applicable law(s) to be paid or collected by Seller shall be added and become part of the price payable to Buyer by Seller. Seller shall have the right to correct any typographical or mathematical error in any quotation, order, or invoice.

5. TERMS OF PAYMENT

Terms of payment shall be 30 days from date of invoice unless otherwise agreed to in writing by Seller at the time an order is accepted. Seller reserves the right to change the terms of payment at any time prior to shipment and to refuse to make delivery pending modification satisfactory to Seller of the terms of payment if, in Seller's sole opinion the financial position of Buyer has so changed prior to delivery so as to render Seller insecure. Unless otherwise requested by Seller, payment to buyer for products sold hereunder shall be made in Canadian funds to the seller at its offices in Toronto, Ontario. Seller reserves the right, if Buyer fails to make payment where due hereunder or even after part payment or part payment on account, to suspend production, shipment, or delivery of products then on order by Buyer or which may thereafter be ordered by Buyer, or to cancel the contract or as so much of contract as remains to be performed until such payment is made and until security arrangements satisfactory to seller are made with respect to any future payments due hereunder. Seller shall be entitled to charge interest on any past due account at the rate of 2% per month (24% per annum) up to and including the date of payment. Any part payment received by the Seller on an overdue account will be applied first to interest and then to principal.

6. WARRANTY AND CLAIMS

Subject to these conditions of sale, and provided claims are made by Buyer within 6 months of delivery, Seller shall, at its option, repair (at the delivery point specified), replace, or repay the price paid for any product which fails to conform to the specifications agreed to by Seller in writing. This excludes any claims related to rust, which must be made within thirty (30) days of receipt of material and noted on Bill of Lading prior to acceptance of material and Seller is given a reasonable opportunity to investigate, Buyer shall have no other remedy except as set out herein. Seller's liability hereunder shall, in all circumstances, be limited to the invoice price paid by the Buyer for the products purchased hereunder. Any claims made must reference the Seller's seven (7) digit shipping tag number to be processed. Claims must be made as they occur and not on an accumulated basis. Products shall not be returned without Seller's permission, except as specifically provided in this paragraph. Seller shall not be liable, whether in contract, tort, or otherwise, for any defect in any product or for failure to conform to specifications or for breach of warranty or condition, expressed or implied, statutory or otherwise, howsoever it may arise, or for any fault whatsoever, and shall not be liable for any loss or damage resulting from any such defect, failure to conform, breach of warranty or condition, or fault, whether such loss or damage is direct, indirect, or consequential. The terms of this paragraph shall survive any termination or cancellation of this contract, whether mutual or by either party, or whether due to any other type of discharge or due to any type of breach (including without limitation breach of a fundamental term of contract) or negligence or gross negligence on the part of the Seller. Copies of the Venture Steel claims policy are available on request or can be readily accessed from our website.

7. LIMITATION OF LIABILITY

Without limiting paragraph 6 hereof, Seller accepts to responsibility, risk, or liability to Buyer or other concerning, relating or arising out of: (a) the merchantability or otherwise of the products sold hereunder, (b) the fitness or otherwise for Buyer's purposes of the product sold hereunder, or (c) the performance, non-performance, failure, efficacy, length of life of, or any defect in the whole or any part or parts of any product or products manufactured or fabricated from or incorporating or otherwise using the products sold hereunder, in each case whether or not the products sold hereunder were selected or used in accordance with any recommendations, assistance, or instructions of Seller. Buyer assumes all such responsibility, risk, and liability and agrees to indemnify and save harmless Seller from and against any liability, loss, costs, damages, claims, or expenses in respect thereof.

8. FORCE MAJEURE

Without limiting any other provisions of these conditions of sale, including sales price for product not manufactured by the Seller, Seller shall not be liable for any loss or damage of any kind or nature whatsoever, whether direct, indirect, or consequential, caused by a failure or delay in performance when such failure or delay is caused by strikes, lockouts, labour disputes, accidents, fires, delays in manufacturing, transportations or delivery of material, acts of God, embargo, civil commotion, government action whether federal, provincial, municipal, foreign, or otherwise, or any other cause or causes beyond Seller's control, including surcharges or other levy imposed on the Seller by the manufacturer.

9. INSPECTION

Where a mill inspection is made by or on behalf of Buyer, Buyer's inspector shall be deemed to be the agent of the buyer and shall have authority to waive specified tests and details of testing procedure, and to accept any product as conforming to this contract with respect to all characteristics of such product for which inspection is made.

10. PATENT INFRINGEMENT

Provided that Buyer promptly notifies Seller of the claimed patent infringement, permits Seller to assume the defense thereof, and co-operates with Seller with respect to such defense, Seller shall indemnify Buyer against all direct and actual costs and damages recovered from Buyer by third person in any legal proceedings for infringement of Canadian patents by the normal intended use of the products furnished hereunder or by the resale of such products. If any product is produced under special design and/or specification of Buyer not customarily followed by Seller, no liability under this paragraph shall arise against the Seller, and Buyer shall save Seller harmless from all direct and actual costs and damages arising from or based upon alleged patent infringements resulting from Seller's use of any such design and/or specification originating with Buyer.

11. ENTIRE AGREEMENT: DISCLAIMER OF WARRANTIES

These conditions of sale and any other terms and conditions specifically agreed to in writing by Seller contain all of the specifications, terms, representations, warranties, and conditions applicable to the products and services furnished hereunder and all others, whether written, oral, implied, or statutory, are specifically excluded unless otherwise specifically agreed to in writing by Seller and Buyer. In particular, any and all implied warranties of merchantability, fitness for a particular purpose, course of dealing, or usage of trade are hereby expressly disclaimed and excluded. If any provisions in Buyer's purchase order or any other document conflict with, or contradict the terms hereof or include additional terms not set forth herein, such conflicting or additional provisions shall be of no force and effect, and these conditions of sale shall govern.

12. NO RIGHT OF OFFSET

Each order placed by the buyer constitutes a separate and distinct contract of sale such that the buyer may not, under any circumstances, withhold the payment of an invoice in whole or in part to offset same against sums which it claims are due to it by the seller in respect of another order or invoice.

13. WAIVER, ALTERATION, AND MODIFICATION

No waiver, alteration, or modification of any specification, term, warranty, or condition applicable to the products and services furnished hereunder or of any term or condition of this contract shall be binding upon Seller unless made in writing and signed by and authorized representative of Seller. Waiver by Seller of any breach of these provisions shall not be construed as a waiver of any further or other breach.

14. LAW APPLICABLE

This contract shall be deemed to have been made in the Province of Ontario and the laws of the province of Ontario shall govern its provisions, interpretation, and performance. The Seller and the Buyer agree that all disputes arising from or out of this sales contract shall be determined exclusively by the Courts of the Province of Ontario, at Toronto and the parties hereby exclusively attorn to such jurisdiction.