

General Term and Condition of sales and purchasing

1. Scope of applicability

The overall current and future legal relationship between Hempel Special Metals (Asia) Ltd. (hereinafter referred to as "HSM") and the Buyer concerning the purchase of movable property ("Delivery Items") is to be governed exclusively by the following General Terms and Conditions of Sale and Delivery. Every order by the Buyer is deemed to have incorporated therein these General Terms and Conditions of Sale and Delivery. Should the Buyer use contrary, divergent or supplementary Terms and Conditions, the applicability thereof toward HSM is excluded, even if HSM does not explicitly oppose them.

2. Offer and conclusion of a contract

- 2.1 By means of the respective purchase order, the Buyer submits an offer which is irrevocable and open for three (3) weeks from the date of receipt by HSM. A contract will come into existence only upon the Buyer's receipt of the written acknowledgement of order from HSM. Verbal agreements or consents require written confirmation by HSM to be valid.
- 2.2 HSM reserves all rights to its own sales documents (in particular illustrations, weight and measurement information) and samples. They must not be made available to third parties and are to be returned to HSM immediately upon request.
- 2.3 Acknowledgements of orders from HSM are confidential and may be open to inspection only by persons who actually process these acknowledgements of orders on the part of the Buyer.
- 2.4 To the extent that the Delivery Items ordered are to possess particular qualities not resulting from HSM's standard product description or product identification, or that require special processing by HSM or third parties, the Buyer must attach to the respective purchase order the corresponding description of the qualities, plans, sketches, current drawings, etc. (hereinafter: "Quality Specifications").

3. Delivery times and deadlines

- 3.1 Delivery times and deadlines are binding only if they have been confirmed in writing by HSM and the Buyer has made available to HSM in a timely manner all information, Quality Specifications, released plans, documents, approvals and releases required for the delivery, and has paid the agreed deposits in accordance with this contract. The agreed delivery times start to run at the date of the Order Confirmation. For any supplementary or extended orders placed or any requested changes of confirmed orders at a later date, the delivery times will be extended accordingly.
- 3.2 Delivery times are deemed to have been observed once the goods have been handed over to a carrier for shipment.
- 3.3 Events that are unforeseeable, unavoidable and beyond the control of HSM and for which HSM is not responsible (force majeure), such as Acts of God, wars, natural disasters, strikes, lockouts, Government restrictions (including the denial or cancellation of any export or other necessary license) or similar occurrences release HSM from their duration from the obligation of timely delivery or performance. Agreed delivery times and deadlines will be extended by the duration of the force majeure event; the Buyer is to be informed of the occurrence of the force majeure event. Should the end of the force majeure event not be foreseeable or should it last longer than two (2) months, each Party is entitled to terminate this contract by serving written notice on the other party whereupon HSM shall refund the deposits (if any received earlier) to the Buyer and neither Party shall have any claim against, or liability or obligations to the other Party.
- 3.4 For Delivery Items which HSM does not itself manufacture, but rather purchases from sub-suppliers, delivery thereof is subject to proper and timely supply to HSM by its sub-suppliers.
- 3.5 Should HSM's deliveries be delayed, the Buyer is entitled to terminate this contract by serving written notice on HSM only if HSM is responsible for the delay and a reasonable grace period set by the Buyer for delivery has passed.
- 3.6 Should the Buyer be in default of acceptance of the Delivery Items, or should it breach any term of this contract, HSM is entitled, without prejudice to its other rights and remedies, (i) to withhold delivery of the Delivery Items until the Buyer has rectified its breach; or (ii) to terminate this contract by serving written notice on the Buyer and forfeit the deposit (if any received earlier) and re-sell the Delivery Items to mitigate its loss and any increase in price in such resale shall belong to HSM.
- 3.7 HSM may affect partial deliveries when justified by the circumstances, if these are reasonable for the Buyer.

4. Shipment, transfer of risk, insurance

- The following sub-clauses 4.1 to 4.4 apply only if and to the extent the Parties have not effectively agreed on their respective duties according to the INCOTERMS 2010 or such INCOTERMS 2010 do not provide for such responsibilities of the parties as mentioned in the sub-clauses 4.1 to 4.4.
- 4.1 Unless specified by the Buyer, shipment is to be effected by reasonable shipment method in the customary packaging.
- 4.2 The risk is transferred to the Buyer with the handing over of the Delivery Items to the carrier or the Buyer itself (whichever is the earlier). Should the transfer or shipment be delayed for reasons that are the responsibility of the Buyer, the risk is transferred on the day the Buyer is notified that the Delivery Items are ready for delivery or shipment.
- 4.3 Costs for packaging and shipment are to be borne by the Buyer and will be shown by HSM separately on the invoice.
- 4.4 Cargo insurance will be arranged only at the Buyer's request and at its expense.

5. Prices, payment terms

- 5.1 The prices of Delivery Items agreed between HSM and the Buyer are (subject to sub-clause 5.3) fixed prices, unless the Parties have agreed otherwise.
- 5.2 The prices of semi-finished goods ordered from HSM will be according to the weight of such goods as weighed by HSM unless some other pricing basis has been agreed upon (e.g. per piece or theoretical weight).
- 5.3 In the event that after the signing of the contract unforeseeable increases in materials and labour costs to HSM have arisen, HSM is entitled, in its reasonable discretion, to make a corresponding increase in the agreed price.
- 5.4 All HSM prices are in US Dollars (USD), if not otherwise specified in order acknowledgement, ex distribution warehouse or ex works, but exclusive of the packaging and shipping costs (incl. duties), which can be charged separately. Applicable statutory value added tax (VAT) shall be borne by the Buyer and charged separately.
- 5.5 HSM is entitled to submit invoices for partial shipments within the meaning of sub-clause 3.7.
- 5.6 Each invoice from HSM will be due according to agreed payment terms after Buyer's receipt of the invoice. It is a breach of this contract if the Buyer fails to make full payment of the invoiced sum to HSM within the aforesaid period.
- 5.7 In the event the Buyer is in default of payment, the Buyer shall pay a default interest on the outstanding sum equivalent to HSM's cost of funds from the due date to the actual payment date and HSM is entitled to refuse further shipments until all outstanding amounts, including default interest, are paid. HSM's claim for additional damages is unaffected by the payment of default interest.
- 5.8 Payments by the Buyer are made only when and to the extent that funds are immediately available to HSM.
- 5.9 Save as otherwise expressly provided herein, all sums payable by the Buyer shall be paid in full without set-off or counterclaim or any restriction or condition and free and clear of any tax, bank charges or other deductions or withholding of any nature. The Buyer is entitled to offset a sum owing from HSM to the Buyer ("Counterclaim") against the sum payable by the Buyer under this contract on a dollar to dollar basis only if and to the extent that the Counterclaim arises from this contract and is not disputed by HSM or a court of competent jurisdiction has awarded the Counterclaim to the Buyer.
- 5.10 HSM has the absolute discretion to cancel or withdraw at any time any credit term of payment previously granted to the Buyer under this contract or otherwise, in which case, HSM is entitled to make outstanding deliveries only against prepayment or the provision of security. Should the prepayments or provision of security not have been made by the expiration of the period specified by HSM, HSM may terminate this contract by serving a written notice on the Buyer, without prejudice to other HSM's rights or remedies.

6. Reservation of title

- 6.1 The Delivery Items remain the property of HSM until full payment of all purchase prices thereof together with any other sums that may be due to HSM hereunder or in connection therewith. Until payment in full is made by the Buyer, the Buyer shall store the Delivery Items separately from its own property and shall hold the Delivery Items only as bailee and trustee for HSM.
- 6.2 For current accounts, the reserved title will serve to secure HSM's claim to the outstanding balance.
- 6.3 The Buyer is authorized to sell the Delivery Items that are under reservation of title ("Reserved Products") before full payment of the purchase prices thereof only in its normal course of business. The Buyer now agrees to transfer all resale proceeds of the Reserved Products to HSM forthwith at HSM's demand. The Buyer is authorized, subject to revocation, to collect and hold the resale proceeds of the Reserved

Products as a trustee for HSM. HSM may revoke this authority, as well as the right to resale, if the Buyer is in default with its contractual obligations, such as, its payment to HSM. In the event of a revocation, HSM is entitled to collect the resale proceeds itself. The Buyer is not entitled to pledge the Reserved Products, to transfer the title thereof as security or to make other dispositions that may endanger the property of HSM. Should the Buyer sell the Reserved Products after processing or conversion or after combination or commingling with other goods or otherwise together with other goods, then the transfer of resale proceeds will be limited to the amount of the portion representing the price agreed between HSM and the Buyer, plus a security margin of 10% of this price.

- 6.4 Processing or conversion of the Reserved Products by the Buyer is always to be carried out on behalf of HSM. If the Reserved Products are processed with other items, HSM acquires co-ownership in the new items in proportion to the value of the Reserved Products to the other processed items at the time of the processing. In all other respects, the new products produced through the processing are subject to the same conditions as the Delivery Items delivered under the reservation of title.
- 6.5 Should the Reserved Products be combined or commingled with other items, HSM acquires co-ownership in the new items in proportion to the value of the Reserved Products to the other items at the time of the combination or commingling. Should the combination or commingling occur in such a way that the Buyer's item appears to be the main item, it is deemed to have been agreed that the Buyer is transferring co-ownership to HSM proportionately. The co-ownership thus produced is to be held in custody by the Buyer for HSM.
- 6.6 The Buyer will provide to HSM at any time all requested information on the Reserved Products or the resale proceeds thereof. Access or claims by third parties to Reserved Products must be reported by the Buyer immediately to HSM, along with sending of the necessary documentation. At the same time, the Buyer will inform the third party of HSM's reservation of title. The costs of a defence against such access and claims are to be borne by the Buyer.
- 6.7 The Buyer is obligated to treat the Reserved Products with care for the duration of the reservation of title.
- 6.8 Should the realizable value of the Reserved Products or the resale proceeds thereof exceed the total of HSM's claims for the relevant purchase prices and other sums hereunder by more than 10 %, the Buyer is entitled to demand release to such extent.
- 6.9 Should the Buyer be in default with its contractual obligations such as, payment to HSM, then HSM, without prejudice to its other rights and remedies, may take back the Reserved Products. In the event of a request for the surrender of possession, the Buyer will immediately grant HSM or HSM's agent access to the Reserved Products and surrender these. Should HSM demand the surrender based on this provision, this alone shall not be construed as a termination of the contract by HSM.
- 6.10 The Buyer will take actions and execute such documents that are necessary and expedient for the purpose of reservation of HSM's title to the Reserved Products. In particular, the Buyer now declares in advance its consent to the entry of the reservation of title in the relevant register of charges or reservations of title pursuant to the applicable law, and agrees to provide any additional declarations that are necessary or expedient at HSM's first request.
- 6.11 Upon HSM's request, the Buyer has to take out adequate insurance for the Reserved Products, to provide HSM with the proof of such insurance coverage, and to assign claims from the insurance policy to HSM.

7. Quality, Buyer's rights in the event of defects, duty to examine

- 7.1 Upon transfer of risk, the Delivery Item must exhibit the agreed quality. Such qualities are exclusively governed by the specific written agreements between the Parties regarding properties, features and performance characteristics of the Delivery Item. Any warranty for the value or suitability for its implied purpose is expressly excluded.
- 7.2 In the event of processing according to the warranted characteristics drawn up and released by the Buyer, the quality is measured exclusively according to these released and warranted characteristics and any additional specific written agreements drawn up between the Parties regarding properties, features and performance characteristics of the Delivery Item ("Quality Agreement"). For defects in the Delivery Item due to the inaccuracy or mistakes in the Quality Specifications released by the Buyer, the Buyer has no warranty claims against HSM. In particular, the Buyer is responsible for the accuracy and usability of all Quality Specifications and supplements thereto prepared by the Buyer and given and released to HSM.
- 7.3 Information in catalogues, price lists and other informational material given to the Buyer by HSM, as well as product description information are in no way to be understood as warranties of a particular quality of the Delivery Item; such quality warranties must be agreed upon explicitly in writing.
- 7.4 The usual deviations in quantity and weight of up to 10% of the ordered quantity are permissible. The Buyer is not entitled to reject the Delivery Items or claims for damages by reason of such deviations. Deviations in quality / condition are also permissible if they are a function of the Delivery Item.
- 7.5 The Buyer has a duty to examine the Delivery Item upon receipt and to send a written report of defects to HSM without delay, but not later than two (2) weeks from delivery, stating the invoice number; in any event, obvious transport damage is to be reported in writing to HSM without delay. Hidden defects must be reported in writing to HSM immediately upon their discovery.
- 7.6 For any notice of defects, HSM has the right to examine and test the Delivery Item that is the subject of the complaint. The Buyer will provide HSM the necessary time and opportunity for this purpose. HSM may also demand from the Buyer to send back the Delivery Item that is the subject of the complaint to HSM at HSM's expense.
- 7.7 Defects are to be remedied by HSM, at its own discretion, either by repair of the defect free of charge to the Buyer, or substitute delivery of an item free from defects (jointly "Subsequent Performance"). HSM may, however, refuse Subsequent Performance if this would cause disproportionate effort and/or costs.
- 7.8 HSM will bear all forwarding charges, infrastructure, labor and materials costs incurred within the scope of Subsequent Performance. If the complaint regarding a defect proves to be unjustified, Buyer must compensate HSM for all expenses incurred by it in connection therewith (for example travel or shipping costs).
- 7.9 If the Subsequent Performance does not succeed, if the acceptance thereof may not be reasonably expected from Buyer, or if HSM has refused it pursuant to sub-clause 7.7, the Buyer may terminate the contract by serving written notice on HSM. In such case, the Buyer will be reimbursed for the purchase price.
- 7.10 The time limit for the Buyer to claim against HSM in the event of defects in Delivery Items is twelve (12) months from the delivery of the Delivery Item to the Buyer.

8. Liability and damages

- 8.1 HSM's liability for defects is limited to Subsequent Performance pursuant to sub-clause 7.7. Any further liability for defects or other contractual violations (e.g. reduction of purchase price, damages for indirect and consequential damage, for delayed delivery, etc.) is explicitly excluded in the scope permitted by law.
- 8.2 The Buyer is obligated to take reasonable measures to prevent and mitigate loss.

9. Product liability

- Should the Buyer sell the Delivery Item, it must release HSM within their relations inter se from and full indemnify HSM against product liability claims by third parties to the extent that the Buyer it is responsible for the faults that trigger the liability.

10. General provisions

- 10.1 The Buyer may not assign its rights, benefit or obligations to third parties without HSM's written consent.
- 10.2 Amendments and supplements to the contract and/or these General Terms and Conditions of Purchase and any side agreements require written form signed by both Parties. This applies as well to any modification of this requirement for written form.
- 10.3 Should any provision of this contract and/or these Terms and Conditions of Sale and Delivery be wholly or partially invalid, the validity of the remaining provisions will remain unaffected thereby. The Parties agree in such case, to replace the invalid provision with a valid one that most closely corresponds to the economic purpose of the invalid provision.
- 10.4 The Buyer submits to the exclusive jurisdiction of the Hong Kong Court over all disputes between the Parties arising out of the contract, HSM is nevertheless entitled to file an action against the Buyer before any competent court in any other jurisdiction.
- 10.5 This contract and/or these Terms and Conditions of Sale and Delivery are governed by Hong Kong law, to the exclusion of international private law, including, but not limited to the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 10.6 Any notice, demand or other communication to a Party hereunder shall be deemed to be duly delivered to such Party (a) if given or made by personal service, when actually delivered to or left at the address specified by such Party or the last known address of such Party; (b) if given or made by post to the aforesaid address of such Party, 7 days after the date of posting; (c) if given or made by electronic means to the address or number specified by such Party or the last known address or number of such Party, when dispatched.