

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY
(the “Terms and Conditions”)

1. APPLICABILITY

- 1.1 These Terms and Conditions govern and are applicable to all offers, purchase orders, order confirmations and other related agreements arising from them between **Stigterstaal Canada Inc.** (the “**Seller**”) and a customer (the “**Buyer**”) for the sale and delivery of goods and the performance of related services ordered by the Buyer.
- 1.2 The Buyer who provides the Seller with a purchase order acknowledges having read and accepted without exception or reservation, these Terms and Conditions whether they appear on the purchase order form or not.
- 1.3 In the event of a discrepancy between the provisions of an agreement concluded by and between the Buyer and the Seller and these Terms and Conditions, the provisions of the agreement shall prevail.

2. ORDER CONFIRMATIONS

- 2.1 All offers made by the Seller are subject to contract and constitute invitations to negotiate. The Seller does not intend to be bound and shall not be bound by any initial offers or any related communications.
- 2.2 An agreement will only be concluded if an order confirmation is confirmed in writing, including by email, by the Seller. If there is a difference between the Seller’s written confirmation and that of the Buyer’s, the Seller’s confirmation will be binding.
- 2.3 The Seller is entitled to assume that where the Buyer provides information to the Seller, the information is correct and complete, and the Seller will use this information as the basis for his offer.
- 2.4 All prices quoted in the offer are exclusive of applicable taxes.
- 2.5 Any models or samples shown or provided by the Seller to the Buyer are for reference purposes only and the Buyer may not derive any rights from these models or samples
- 2.6 The Buyer warrants that (i) when disposing of the goods, irrespective in what manner (by way of sale, lease, processing, or otherwise) he shall comply with all applicable laws and regulations, specifically all export controls and systems of sanctions of Canada, the United States of America, the European Union and the United Nations, and (ii) that the goods are not directly or indirectly intended or are not likely to be intended for a country on which sanctions are imposed in respect of the goods under Canadian, United States of America, European Union or United Nations resolutions, unless the Buyer has been granted exemption or received authorization to do so from a competent authority designated by Canada, the United States of America, the European Union or the United Nations. The Buyer shall include this warranty unlimited in its duration in any subsequent agreements under which the goods are disposed of.
- 2.7 Minor deviations that are customary in the industry or that arise from technical necessities, as well as, minor differences in quality, colour, dimensions, weight or finishing, shall not be deemed as defective performance by the Seller of its obligations to the Buyer. The Buyer acknowledges that the volume-bases price and/or weight of steel and/or stainless steel is based on a steel density of 8.0 kg/dcm³.

3. CONFIDENTIALITY

All information, knowhow, and knowledge, of any kind and in any form, provided by or on behalf of the Seller to the Buyer is to be considered confidential and to be treated by the Buyer as confidential information indefinitely and may not be disclosed to third parties. The Buyer may not use this information, knowhow, and knowledge for any purpose, other than in the performance of the agreement concluded with the Seller, without the Seller’s prior written consent. The Buyer acknowledges that any breach of this confidentiality obligation may cause irreparable harm to the Seller, for which monetary damages may be inadequate. In such circumstances, the Seller shall be entitled to seek injunctive relief to enforce this clause, in addition to any other remedies available at law or in equity. If the Buyer breaches this confidentiality clause, the Buyer will indemnify the Seller for any damages, losses or expenses incurred as a result, included but not limited to legal fees and costs.

4. INFORMATION RECEIVED

- 4.1 The Buyer shall not derive any rights from advice and information received from the Seller.
- 4.2 The Seller is entitled to rely on the accuracy and completeness of any information provided by the Buyer in the performance of the agreement.
- 4.3 The Buyer agrees to indemnify the Seller against any third-party claims in connection with the use of advice, drawings, calculations, designs, materials, models, and the like provided by or on behalf of the Buyer. The Buyer shall reimburse any loss and costs incurred by the Seller in this regard, including the full costs of legal defense.

5. EXECUTION PERIODS

- 5.1 All stated execution periods, as defined under paragraph 5.2, are by way of approximation only.
- 5.2 The period for the Seller to execute the order of the Buyer (the “**Execution Period**”) shall be determined by the Seller as soon as agreement is reached on (i) all commercial and technical details; (ii) all information, final and approved drawings and the like are in the Seller’s possession; (iii) the agreed payment, or instalment, is received; and (iv) all other terms and conditions applicable to the execution of the order have been complied with.
 - 5.2.1 If the circumstances are different from the circumstances as they were known to the Seller when the Seller originally determined the Execution Period, the Seller may extend the Execution Period by an appropriate period of time to fulfill the order under the new circumstances. If as a result of the altered circumstances the work can no longer be executed within the period scheduled by the Seller, it will be executed as soon as the Seller’s schedule allows.
 - 5.2.2 If the Seller suspends compliance with its obligations, the Execution Period will be extended for the duration of the suspension. If as a result of the suspension the work can no longer be continued in the period scheduled by the Seller, the work will be executed as soon as the Seller’s schedule allows.

Unless otherwise agreed, the Execution Period ends with the transfer of risk to the Buyer according to paragraph 7.1.

- 5.3 Where a delay in the Execution Period referred to in this Article is attributable to the Buyer, the Buyer shall compensate all costs the Seller incurs as a result of this delay.
- 5.4 The Buyer is not entitled to any compensation or to rescind or terminate the agreement due to the Execution Period having been exceeded.
- 5.5 If total delivery of the order cannot take place within the Execution Period, the Seller reserves the right to make partial deliveries.

6. TAKING DELIVERY OF GOODS

- 6.1 The Buyer shall cooperate with the Seller, free of charge, to take Delivery (as defined under paragraph 7.1) and enable the Seller to deliver the goods according to the agreement.
- 6.2 The Buyer shall take Delivery of the goods at a mutually agreed upon place and time. Unless otherwise agreed, the Buyer undertakes to take Delivery of the goods within thirty (30) days from the goods being available for pick-up, at the location of Delivery, and to coordinate with the Seller to schedule pick-up at a time agreed to by the Seller.
- 6.3 If the Buyer does not take delivery of the goods as specified in, and in accordance with, section 6.2, the goods will be stored at the expense and risk of the Buyer. The Buyer is not entitled to suspend payment of the storage charges on the ground that Delivery has not yet occurred.
- 6.4 If the Buyer fails to comply with paragraphs 6.1, 6.2 or 6.3, the Buyer shall owe the Seller a penalty of \$150 per day. This penalty may be claimed in addition to any compensation for damages suffered by the Seller.

7. TRANSFER OF RISK

- 7.1 Unless otherwise agreed in writing, delivery of the goods shall occur on a Ex Works basis, in accordance with Incoterms 2010, from the Seller's place of business, (the "Delivery"). Delivery is considered completed, and the risk of loss or damage to the goods passes to the Buyer as soon as the Seller notifies the Buyer that the goods are available to be delivered.
- 7.2 The Buyer and the Seller may mutually agree that the Seller will assume responsibility for the transportation of the goods. In this case, the Buyer shall bear all risks associated with the storage, loading, transport, and unloading of the goods. The Buyer is encouraged to obtain insurance to cover against these risk.
- 7.3 The Buyer is obliged to verify whether the goods correspond with the agreed specifications immediately upon delivery.

8. PRICE CHANGES

The Seller reserves the right to charge the Buyer for any increases in cost price factors that occur after the date of the agreement.

9. FORCE MAJEURE

- 9.1 If the Seller is temporarily unable to comply with his obligations towards the Buyer due to an event of force majeure, the Seller may suspend the performance of its obligations.
- 9.2 For the purpose hereof, "force majeure" means the circumstance that suppliers, the Seller's subcontractors, or carriers hired by the Seller are unable to fulfil their obligations, or to do so in time, due to shortage of materials; adverse weather conditions; acts of God; epidemics or pandemics; fire; power outages; disruption of telecommunication; terrorism; loss, theft, or disappearance of tools or materials; road blocks; strikes or work stoppages; import or trade restrictions; or cybercrime.
- 9.3 The Seller may no longer suspend performance, pursuant to section 9.1, if the temporary inability to perform the agreement has lasted more than (3) three months. After this period, either of the parties may terminate this agreement with immediate effect, but only in respect of those obligations that have not yet been fulfilled.
- 9.4 If performance is or becomes permanently impossible due to an event of force majeure, either of the parties may terminate this agreement with immediate effect in respect of those obligations that have not yet been fulfilled but for clarity, the Buyer will pay the Seller for any goods or services which were completed before such termination
- 9.5 The parties are not entitled to any compensation of loss suffered as a result of the suspension or termination referred to in this Article.

10. LIMITATION OF LIABILITY

- 10.1 The Seller's obligation to compensate on the basis of any statutory rule shall be limited to 15% of the aggregate contract price (excluding applicable taxes). If the agreement is made up of different components or partial deliveries, the obligation to compensate shall be limited to 15% (excluding applicable taxes) of the contract price for the component or partial delivery that has caused the damage.
- 10.2 The following types of losses are not eligible for compensation by the Seller:
- 10.2.1 consequential and indirect losses. This includes, but is not limited to, business interruption loss, fines, loss of production, loss of profit, transport costs, and travelling and subsistence costs. The Buyer may obtain insurance against this loss, if possible;
- 10.2.2 damage caused to goods during the performance of the work, or to goods that are located near the place where the work is carried out. The Buyer may take out insurance against this type of damage if possible;
- 10.2.3 disassembly and assembly costs;

10.2.4 damage caused by an intentional act or willful recklessness on the part of ancillary persons or non-supervisory subordinates of the Seller.

10.3 The Seller shall not be liable for any damage to materials supplied by or on behalf of the Buyer, including damages resulting from the Seller's processing or handling of such materials, unless it is established that the damage was caused by the Seller's gross negligence or willful misconduct. The Buyer is responsible for ensuring the suitability and quality of any materials it provides to the Seller.

10.4 The Buyer agrees to indemnify the Seller against any third-party claims for liability due to a defect in a product supplied by the Buyer to a third party and that consisted of or included products and/or materials supplied by the Seller. The Buyer shall reimburse any loss and costs incurred by the Seller in this regard, including the full costs of legal defense.

10.5 The provisions of this Article do not apply if the loss is caused by an intentional act or willful recklessness on the part of a supervisor of the Seller.

11. WARRANTY AND OTHER CLAIMS

11.1 Subject to the provisions of this Article 11, the Seller makes no warranties and expressly disclaims any warranty of any kind, express or implied, including but not limited to, warranties of merchantability or fitness for a particular purpose, warranties of title or product or service guarantees. If applicable, the Buyer expressly waives the guarantees provided for in Chapter I (1) of Title Two (2), Book Five (5) of the *Civil Code of Quebec*, including the warranty of ownership and warranty of quality.

11.2 In the event of a defective performance, the Seller may, at its discretion, either remedy the defect, or provide the Buyer a proportional refund of the invoiced amount. If the Seller opts to remedy the defect, it undertakes to do so within a reasonable period of time.

11.3 At the Seller's first request the Buyer shall submit to the Seller, at the Buyer's expense, any parts or materials to be repaired or replaced by the Seller.

11.4 The Buyer shall give the Seller in all instances the opportunity to correct any defect.

11.5 Without limiting the foregoing, the Seller further disclaims all liability for the following:

11.5.1 normal wear and tear;

11.5.2 defects due to improper use;

11.5.3 defects caused by non or incorrect maintenance;

11.5.4 installation, assembly, alterations, or repairs carried out by the Buyer or third parties;

11.5.5 defects to or unsuitability of goods provided or prescribed by the Buyer;

11.5.6 defects to or unsuitability of materials or resources used by the Buyer.

11.5.7 supplied goods that were not new at the time of delivery;

11.5.8 parts that are subject to a factory warranty.

11.6 The provisions of this Article 11 apply mutatis mutandis to any claims submitted by the Buyer due to breach of contract, non-conformity, or on any other ground.

12. NO TRANSFER OR PLEDGE

The Buyer is not entitled to transfer, assign, encumber or pledge the rights or obligations under any Article of these Terms and Conditions or the agreement concluded on the basis thereof without the prior written consent of the Seller.

13. COMPLAINTS

13.1 If the Buyer has not submitted a written complaint to the Seller within fourteen days after a defect is detected or should reasonably have been detected, the right to invoke the defective performance has lapsed.

13.2 All complaints concerning the accuracy of an invoice must be submitted to the Seller before the due date of the invoice, or the right to do so has lapsed. If the term of payment is more than 30 days, the complaint must be submitted within 30 days of the date of the invoice.

13.3 If the Buyer has not brought legal action within two (2) years after the defect has been detected, the right to do so has lapsed.

14. PAYMENT

14.1 All payments are to be made by wire transfer to the bank account designated by the Seller.

14.2 All payments are due within 30 days of the date of the invoice, unless otherwise agreed.

14.3 If the Buyer, being in default for five (5) business days, has failed to pay the full amount owed to the Seller, the Seller may consider the sale cancelled and reclaim the goods. The Seller shall also have the option, at its discretion, to redeem the goods in lieu of payment, without affecting its right to pursue other remedies, including claiming damages or reselling the goods.

14.4 The Buyer's right to set off its claims against the Seller or suspend payment is excluded

14.5 Anything the Buyer owes or will owe the Seller under an agreement shall be immediately due and payable, irrespective of whether the Seller has fully performed the agreed order, if:

14.5.1 the Buyer defaults on his payment obligations;

14.5.2 a petition for bankruptcy or a request for suspension of payments is filed in respect of the Buyer;

14.5.3 the goods or receivables of the Buyer are seized;

14.5.4 the Buyer, being a company, is dissolved or liquidated;

14.5.5 the Buyer, being a natural person, requests that the statutory debt restructuring be applied to him, or he is placed under guardianship, or dies;

14.5.6 the Buyer, after having been held in default in writing whereby he is granted a reasonable grace period, fails to comply with his obligations under Article 14.

14.6 If no payment is received within the agreed term of payment, the Buyer shall immediately owe the Seller interest, at the higher of an annual rate of 12%. When calculating the interest, part of a month shall be counted as a whole month.

14.7 The Seller may set off its debts to the Buyer with any claims any affiliates of the Seller may have against the Buyer. The Seller may also set off its claims against the Buyer with any debts owed by the Seller's Affiliates to the Buyer. The Seller may furthermore set off its debts to the Buyer with claims against Affiliates of the Buyer. For the purposes of this Agreement, "**Affiliate**" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement. Control shall mean the ownership of more than fifty percent (50%) of the voting rights or equity interests in an entity. Affiliates may include subsidiaries, parent companies, and any other related entities that share common ownership or management.

14.8 If the Buyer defaults on its payment obligations, the Buyer owes the Seller all extra-judicial costs with a minimum of \$150.

14.8.1 These costs shall be calculated as follows (principal plus interest):

14.8.1.1	on the first \$3,000	15%
14.8.1.2	between \$3,001 and \$6,000	10%
14.8.1.3	between \$6,001 and \$15,000	8%
14.8.1.4	between \$15,001 and \$60,000	5%

14.8.1.5 \$60,001 and up 3%

14.8.2 If the actually incurred extra-judicial costs are higher than would be payable according to the above table, the actual costs shall be due.

14.9 If in legal proceedings the court finds for the Seller, the Buyer shall be responsible for and pay all costs associated with those proceedings.

15. SECURITY

15.1 At the Seller's first request, the Buyer shall provide sufficient security, to be determined by the Seller, for the payment of its debts, irrespective of the agreed payment terms. If the Buyer fails to do so within the stipulated time, the Buyer shall immediately be in default and the Seller shall be entitled to terminate the agreement and demand compensation for losses suffered

15.2 In addition to the foregoing, any goods delivered shall remain the Seller's property until the Buyer:

15.2.1 has complied with each of his obligations under these Terms and Condition and any other agreements;

15.2.2 has paid all amounts due in connection with its failure to comply with the above-mentioned agreements, including losses, penalties, interests, and costs.

15.3 The Buyer is not entitled to charge or dispose of goods that are delivered subject to the Seller's retention of title. The Buyer shall keep the goods delivered by the Seller separate and mark these as the property of the Seller and insure these at its own expense against the usual risks, including but not limited to loss, embezzlement, theft, disposal, damage, and full or partial destruction.

15.4 Notwithstanding that the Buyer has not yet taken ownership of the goods, the Buyer shall be liable to the Seller for any partial or total loss of the goods, regardless of the circumstances, including events of force majeure as defined in Article 9.

15.5 The Seller has a right of pledge and a right of retention on all goods in his possession or that he will acquire, on any ground, as well as to any claims he has or may acquire against the Buyer towards any party that demands surrender thereof.

16. EXPORT PROGRAM COOPERATION

16.1 The Buyer undertakes to cooperate as needed with the Seller to allow the latter to benefit from any insurance or export help program offered by Export Development Corporation (EDC), Investissement Québec or Global Affairs Canada and, subsequently, to take no action which may prevent the continuation of such programs.

17. UNILATERAL TERMINATION OF THE AGREEMENT

17.1 The Seller may terminate any agreement with the Buyer with immediate effect, without intervention of the court, if:

17.1.1 a situation as referred to in paragraphs 14.5.1 to 14.5.6 occurs;

17.1.2 the Buyer fails to comply with one or more of his obligations after having been demanded in writing to do so whereby he is offered a reasonable grace period;

17.1.3 the ownership or management structure of the Buyer is materially changed or a change in control of the Buyer occurs;

17.1.4 the Seller has reason to suspect that the goods are directly or indirectly intended for a country on which sanctions are imposed in respect of the goods under Canadian, European, United States of America or United Nations resolutions, unless the Buyer has been granted exemption or has received the proper authorization from all competent authorities.

17.2 If the agreement is terminated for the reasons referred to in paragraph 17.1 the Buyer shall not be entitled to any compensation.

17.3 If the Buyer is in the Province of Quebec, the Buyer waives its right to unilaterally terminate any agreement with the Seller pursuant to section 2125 of the *Civil Code of Quebec*.

18. APPLICABLE LAW AND FORUM

18.1 The Terms and Conditions and related agreements will be governed by and interpreted in accordance with the Laws of the province of Ontario

18.2 The parties expressly acknowledge and agree that the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention or C.I.S.G.) is not applicable, nor is any other international regulation the exclusion of which is allowed under law.

18.3 Any disagreement, dispute or litigation relating to the Terms and Conditions or related agreements will be subject to the jurisdiction of the courts of Ontario located at the City of Toronto, to the exclusion of any other jurisdiction.

18.4 The Parties have requested that this agreement be drafted in English only. *Les Parties ont demandé que la présente entente soit rédigée en anglais seulement.*

18.5 If a version is prepared of these Terms and Conditions in a language other than the English language, the English version shall at all times prevail in the event of discrepancies.

19. GENERAL PROVISIONS

19.1 **Notices.** Any notice or other communication to the Seller required hereunder is sufficient if it is in writing and sent by a means of communication that enables the Buyer to prove that the notice or communication was delivered to the Seller at the address set out herein:

Stigterstaal Canada Inc.

145 King Street West, Unit 2701,
Toronto, Ontario, M5H1J8
Canada

or

sales@stigterstaal.ca

19.2 **Amendment.** No amendment, modification or waiver of any provision of these Terms and Conditions shall be effective in any event unless confirmed in writing by the Seller.

19.3 **Relationship between the parties.** The Buyer and Seller have entered into the Terms and Conditions and related agreements as independent parties and agree to remain independent parties throughout the term hereof. These Terms and Conditions do not create and may not be interpreted as creating any relationship of agency, partnership or employment between the Buyer and the Seller.