

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "Hi-Tech Metals" shall mean and refer to Hi-Tech Metal Fabrications Limited, including its duly appointed agents and representatives, any associated companies and related entities and any successors and assigns.
- 1.2 "Customer" shall mean the person, firm or company purchasing goods and/or services from Hi-Tech Metals pursuant to this Agreement.
- 1.3 "Product", "Goods" and "Service(s)" shall mean all products supplied by Hi-Tech Metals to the Customer.
- 1.4 "Agreement" shall mean the quote for Goods and/or Services provided by Hi-Tech Metals affixed hereto and the Terms & Conditions of Trade herein.

2. ACCEPTANCE

- 2.1 An order received by Hi-Tech Metals from the Customer for the supply of Goods and/or Services pursuant to the quote provided by Hi-Tech Metals shall constitute acceptance of the Terms & Conditions of Trade contained herein. These Terms & Conditions of Trade shall apply to future orders placed by the Customer and any terms and conditions to the contrary of these Terms & Conditions of Trade shall not apply unless Hi-Tech Metals agrees in writing to change them (subject to clause 20 herein).
- 2.2 None of Hi-Tech Metals' agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the Manager of Hi-Tech Metals in writing, nor is Hi-Tech Metals bound by any such unauthorised statements.
- 2.3 Hi-Tech Metals will not be bound by any conditions included in the Customer's order unless it accepts the conditions in writing.
- 2.4 No order once accepted by Hi-Tech Metals may be cancelled and varied by the Customer except by written agreement of Hi-Tech Metals.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer agrees to permit Hi-Tech Metals to use information concerning the Customer provided to Hi-Tech Metals from time to time, and/or supplying it to third parties, for such purposes as Hi-Tech Metals deems fit including but not limited to, the provision of information for marketing purposes. Where the Customer is a natural person the authorities contained herein are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1 All prices provided in a quote are valid for 30 days.
- 4.2 All prices are GST inclusive unless specifically stated otherwise, and are in New Zealand dollars. All prices exclude any other applicable taxes and duties, transport or insurance charges and may be subject to increase due to exchange rate fluctuations and such items and increases are payable in addition to the price.
- 4.3 The price for the goods shall be the price agreed between Hi-Tech Metals and the Customer at the date of the order or if no such agreement is made then the current wholesale price charged by Hi-Tech Metals at the date of delivery.
- 4.4 Delivery charges are at the Customer's cost unless prior agreement in writing to the contrary is given by Hi-Tech Metals.
- 4.5 Any price agreed between Hi-Tech Metals and the Customer at the date of the order may be varied if wages, salaries, cost of materials, freight rates, taxes, government charges, insurance rates, duty and/or exchange rates are increased between the date of the order and the date of delivery.
- 4.6 All product is supplied on a request basis and subject to normal availability.

5. PLACEMENT OF ORDERS

- 5.1 If any dispute arises concerning any order (and including any measurement, quality, quantity, identity, or authority or any telephone, facsimile, e-mail or computer generated order) the internal records of Hi-Tech Metals will be conclusive evidence of what was ordered.
- 5.2 Each order placed will be and be deemed to be a representation made by the Customer at the time that it is solvent and able to pay all of its debts as and when they fall due.
- 5.3 Failure to pay in accordance with these Terms and Conditions of Trade will be and be deemed to be conclusive evidence that the Customer had no reasonable grounds for making the representation referred to in clause 5.2 and that the representations were unconscionable, misleading and deceptive.
- 5.4 When any order is placed, the Customer must inform Hi-Tech Metals of any material facts which would or might reasonably affect the commercial decision by Hi-Tech Metals to accept the order. Any failure to do so will create and be deemed to create an inequality of bargaining position and will constitute and be deemed to constitute the taking of an unfair advantage of Hi-Tech Metals and to be unconscionable, misleading and deceptive.

6. DELIVERY

- 6.1 Hi-Tech Metals accepts no responsibility for delivery but may elect to arrange delivery at its discretion and without any liability and at the Customer's costs and responsibility in all things.
- 6.2 Delivery of goods may also be made by an external carrier by arrangement of the Customer. Any arrangement between an external carrier and the Customer shall not result in any liability of Hi-Tech Metals to the Customer or any external carrier.
- 6.3 The method of delivery shall be stated on the Order Confirmation as provided by Hi-Tech Metals.
- 6.4 Delivery shall be made to the Customer when the goods are first despatched from Hi-Tech Metals' premises unless agreed otherwise by the Hi-Tech Metals in writing.
- 6.5 A document (including without limitation a consignment note) purporting to be signed by an officer of Hi-Tech Metals confirming delivery will be conclusive evidence of delivery as will any signed delivery docket.
- 6.6 Hi-Tech Metals will not be liable for any delay, failure or inability to deliver any goods.
- 6.7 When Hi-Tech Metals delivers the goods, the Customer shall:
 - (a) Ensure Hi-Tech Metals has all-weather access to the site, to enable Hi-Tech Metals to deliver the goods safely;
 - (b) Obtain all necessary consents from the relevant local authority and inform Hi-Tech Metals of all matters relating to such consents;
 - (c) Locate, mark and advise Hi-Tech Metals of all pipes, cabling and other utilities that are on or near, or adjacent to the delivery point, and of any actual or possible hazard on the land where the goods are to be delivered; and
 - (d) Indemnify Hi-Tech Metals against any costs, claims and damages incurred in the delivery of the goods including any cleaning, repairing damage to the site or delivery equipment and returning the delivery vehicle to the road, provided Hi-Tech Metals has acted with reasonable care and skill.
- 6.8 The final decision on entry into any site will be at Hi-Tech Metals' discretion. Failure to deliver pursuant to this clause will not be deemed to be a breach of contract.
- 6.9 Where the Customer collects the goods from Hi-Tech Metals themselves, once the Customer has been notified that goods are ready for collection, the Customer agrees to pay any and all costs of holding or handling the goods.
- 6.10 Where the Customer collects the goods from Hi-Tech Metals themselves, the Customer agrees to comply with Hi-Tech Metals' rules applicable to health and safety at Hi-Tech Metals' site, including ensuring that they are inducted to an appropriate induction standard at the site. The Customer shall also assist Hi-Tech Metals to provide and maintain a safe and healthy workplace where all hazards, unsafe acts and/or conditions are identified and analysed before being controlled by elimination/isolation or minimisation of the risk of harm.
- 6.11 Hi-Tech Metals may unilaterally delay, cancel or suspend any delivery for any period or cancel any agreement for sale without any liability to any party.

7. RETURNS

- 7.1 If Hi-Tech Metals elects to take back product it must be in as new and saleable condition and upon terms agreed and a re-stocking fee of not less than 20% of invoice value will apply.
- 7.2 Custom made or custom processes goods or goods acquired by Hi-Tech Metals specifically for the Customer will not be returnable.
- 7.3 In the event that defective and/or incorrect goods are provided to the Customer, the Customer must inform Hi-Tech Metals within 5 working days of delivery and arrange for the goods to be returned to Hi-Tech Metals. Upon return of the defective and/or incorrect goods, Hi-Tech Metals will consult with the Customer regarding the defective or incorrect goods to ascertain liability.

- 7.4 The Customer must not make any amendments or alterations to any defective and/or incorrect goods.

8. PAYMENT

- 8.1 Payment is to be by cash, cheque or bank transfer without set-off or deduction of any kind by the due date indicated on the Customer's invoice.
- 8.2 The due date for payment is pursuant to the payment terms as stated on quotes, invoices and statements issued by Hi-Tech Metals.
- 8.3 Payment not made by the due date shall be considered to be an overdue account.
- 8.4 Hi-Tech Metals may apply a payment received from the Customer to any amounts owed by the Customer (including interest, part payment of an invoice, administration, collection and other costs) in any order.
- 8.5 Hi-Tech Metals is entitled to set-off or deduct any amount payable by Hi-Tech Metals to the Customer.
- 8.6 A payment dishonour fee may be charged by Hi-Tech Metals if a Customer's payment is dishonoured in any way.
- 8.7 In the event of default the Customer shall pay to Hi-Tech Metals default interest at the rate of 1.5% per month, calculated daily, on all monies invoiced by Hi-Tech Metals, and not paid by the due date for payment, with interest continuing to accrue after judgment until payment is made.
- 8.8 In the event of default Hi-Tech Metals shall be entitled to recover from the Customer all legal and other associated costs howsoever incurred by Hi-Tech Metals arising from the enforcement and/or collection of the amount due and owing to Hi-Tech Metals including but not limited to solicitor's fees on a solicitor-client basis and/or indemnity basis and actual costs incurred of debt collection agency fees and/or repossession agent with such monies becoming immediately due and owing upon an invoice being provided to the Customer.
- 8.9 If the Customer is in default under this Agreement, commits an act of bankruptcy or goes into liquidation or receivership, all monies owed to Hi-Tech Metals will become immediately due and payable irrespective of whether or not the due date for payment has arisen.
- 8.10 If the Customer is in default under this Agreement, Hi-Tech Metals shall be entitled to retain all monies paid, call-up all monies due or owing (whether currently due and owing or not), cease further deliveries, recover from the Customer all loss of profits and/or take immediate possession of any product, without prejudice to any other of its rights and without liability to any party.
- 8.11 The Customer agrees not to commence or continue or permit to be commenced or continued any action against Hi-Tech Metals whilst the Customer is in default under any part of these Terms & Conditions of Trade.
- 8.12 If the Customer on-sells any product, the Customer agrees to pay to a Stakeholder nominated by Hi-Tech Metals, the cost price incurred or payable by Hi-Tech Metals for the acquisition of the product for supply to the Customer (estimated at 75% of the amount invoiced to the Customer by Hi-Tech Metals), before the Customer is entitled to take any step in any proceedings commenced by Hi-Tech Metals for payment for that product. The Customer agrees that this clause may be pleaded as a bar to any action by the Customer until payment to the Stakeholder has been made. The Stakeholder nominated is authorised to invest the moneys at 30 day call with any major banking institution in New Zealand. The money so held to be applied in accordance with any appropriate Court determination or agreement between the parties resolving the proceedings.
- 8.13 To better secure the obligations of Hi-Tech Metals the Customer hereby severally and irrevocably grants to Hi-Tech Metals an All Obligations registrable mortgage over all land in New Zealand in which the Customer has an interest (whether alone or with others), on the terms of the most current Auckland District Law Society All Obligations Memorandum of Mortgage (currently Memorandum 2018/4346). The Customer acknowledges that Hi-Tech Metals may lodge a caveat over all such land pending registration of such mortgage. The Customer hereby grants an irrevocable power of attorney to Hi-Tech Metals to execute such documents and instruct a solicitor on Hi-Tech Metals' behalf as may be required to perfect and register this interest, and agrees to provide such assistance as may reasonably be required by Hi-Tech Metals.
- 8.14 **General Charge:** The Customer hereby grants a security interest to Hi-Tech Metals over all of the present and after acquired or future property and undertaking of the Customer and including all tangible and intangible assets without limitation, and including the proceeds of such collateral, and the terms and conditions specified in the Auckland District Law Society Memorandum of 2018/4344 as registered under s209 of the Land Transfer Act 2017 shall apply.
- 8.15 Upon agreement to these Terms & Conditions of Trade, the Customer acknowledges and agrees that:
 - (a) these Terms & Conditions of Trade constitute a security agreement for the purposes of the Personal Properties Securities Act 1999 ("PPSA")
 - (b) a security interest is taken in all Goods supplied by Hi-Tech Metals to the Customer, and all Goods that will be supplied in the future by Hi-Tech Metals to the Customer during the continuance of their relationship.
- 8.16 The Customer irrevocably gives Hi-Tech Metals and its agents the right to enter the Customer's premises, without giving notice and without being in any way liable to the Customer, or to any person or Companies claiming through the Customer, if Hi-Tech Metals has sufficient cause to exercise any rights that it has under section 109 of the PPSA.
- 8.17 Where Hi-Tech Metals is a secured party under the PPSA:
 - (a) parties contract out of part 9 of the PPSA in the following manner: the rights and obligations contained in sections 114, 125, 129, 133, and 134 of that Part do not apply between Hi-Tech Metals and the Customer;
 - (b) the Customer waives its rights granted in sections 121 and 131 of the PPSA; and
 - (c) In accordance with section 148 of the PPSA, the Customer waives its right to receive any financing statement or financing change statement from Hi-Tech Metals.
- 8.18 The Customer will assist Hi-Tech Metals by completing any formalities or providing any information required by the Companies such that Hi-Tech Metals may establish and maintain the best security position that it is entitled to under the PPSA.

9. OWNERSHIP AND PROPERTY

- 9.1 Ownership in Goods will not pass until payment is made in full of all monies owed to Hi-Tech Metals on any basis ("Full Payment").
- 9.2 Hi-Tech Metals reserves the right to take possession and dispose of goods as it sees fit at any time until Full Payment and the Customer grants permission to Hi-Tech Metals to enter any property (whether owned by it or otherwise) where any Goods are, in order to do so and with such force as is necessary.
- 9.3 A document signed by an officer of Hi-Tech Metals identifying Goods and certifying that monies are owing to Hi-Tech Metals will be conclusive evidence of Hi-Tech Metals' title thereto.
- 9.4 Upon sale or disposition of Goods prior to Full Payment the Customer agrees to hold all proceeds Upon Trust for Hi-Tech Metals in a separate bank account, agrees not to mix proceeds with any other monies and will immediately account to Hi-Tech Metals therefore even if Hi-Tech Metals may have granted any time to pay. Failure by the Customer to comply with this subclause does not render invalid the trust to be established under this subclause.
- 9.5 Until Full Payment the Customer agrees:
 - (a) to keep all goods as fiduciary for Hi-Tech Metals and to store them in a manner which shows Hi-Tech Metals as owner and will keep them safe and free from deterioration, destruction, loss or harm.
 - (b) only to sell goods in the usual course of business; and
 - (c) sale on terms, at cost or less than cost will not be "in the usual course".
- 9.6 Clause 10 is not intended to create a charge and must be read down to the extent necessary to avoid being a charge.
- 9.7 If the Customer uses or incorporates any goods in any production, process or manufacture or combines them with anything to create a finished or combined new thing for disposition then upon such disposition prior to Full Payment, the Customer agrees to hold such part of the proceeds thereof (and until payment is received by the Customer, that part of any applicable book debt) as equals the costs of the goods used and/or incorporated therein (at the prices invoiced by Hi-Tech Metals to the Customer) Upon Trust for Hi-Tech Metals until Full Payment.

10. ON-SALE

- 10.1 The Customer agrees upon the on-sale of any Goods to inform any third party involved of these Terms and Conditions of Trade.

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11. RISK

- 11.1 The risk in the Goods shall pass to the Customer upon delivery even though ownership of the goods may not have passed to the Customer.

12. DESCRIPTION

- 12.1 The Customer shall rely upon its own judgement as to the nature, quality and condition of the Goods and their suitability for any purpose and not upon any representation made by Hi-Tech Metals. Any description of the Goods given by Hi-Tech Metals shall not constitute a sale by description.
- 12.2 An inspection by the Customer of a sample of the Goods shall not constitute a sale by sample.

13. PRODUCTS AND SERVICES

- 13.1 Hi-Tech Metals disclaims any responsibility or liability whatsoever relating to suitability for any particular purpose or process.
- 13.2 The Customer agrees to check all Goods prior to use, alteration or any application thereof whether in relation to suitability for any particular purpose, process or otherwise.
- 13.3 The Customer agrees to check and test all Goods for compliance with all relevant applicable standards and regulatory bodies before use, on-sale or application and to use or apply same in accordance with all applicable standards, regulations and guidelines, with all manufacturers and/or Hi-Tech Metals' recommendations and directions as well as with good commercial practice.
- 13.4 Hi-Tech Metals may update, modify, make substitution or alter any of its goods or any component or raw material incorporated in or used in forming any part of any Goods as part of its ongoing business. The Customer agrees to accept current goods in substitution for any goods ordered provided they are not materially different.
- 13.5 Hi-Tech Metals disclaims any responsibility or liability relating to any Goods:
- processed or made to designs, drawings, specifications or measurements etc. or with materials which are provided or approved (whether in part or fully) by or on behalf of the Customer; and/or
 - utilised, stored, handled or used incorrectly or inappropriately.
- 13.6 The Customer will accept variation in quantities at plus or minus 5% and will pay pro-rata for the actual quantity delivered.

14. CONSUMER GUARANTEES ACT

- 14.1 If the Customer is or holds itself out as purchasing the Goods for the purposes of a business (as defined in the Consumer Guarantees Act 1993 ("CGA")) it is hereby expressly agreed that the guarantees implied by the CGA are excluded.
- 14.2 If the Customer is purchasing the Goods for personal or domestic use, the Customer's rights under these terms and conditions are subject to the Customer's rights expressly conferred by the CGA and are subject to the following:
- all representations or terms (including any condition or warranty expressed or implied by law, statute or otherwise) not expressly included in these Terms & Conditions of Trade are hereby expressly excluded.

15. INDEMNITY

- 15.1 Where the supply of the goods is to a buyer (as defined in the CGA) the Customer covenants with Hi-Tech Metals that it will not make or allow to be made in respect of the Goods supplied any statements or representations as to quality or description other than those made by Hi-Tech Metals expressly. Where any statements or representations are made by the Customer, or any party on behalf of the Customer, contrary to the provisions of this clause then the Customer hereby indemnifies and will keep indemnified Hi-Tech Metals against any claims, losses, damages and costs which may be made against Hi-Tech Metals in respect of such statements or representations.

16. TERMINATION

- 16.1 Hi-Tech Metals may terminate this Agreement without written notice to the Customer, and all outstanding monies shall become immediately due and payable from the Customer, if the Customer:
- ceases, or threatens to cease carrying on business with Hi-Tech Metals; or
 - becomes unable to pay its debts as they fall due or otherwise commits an act of bankruptcy or goes into liquidation or receivership; or
 - breaches any of the terms of this Agreement and fails to remedy the breach within ten days of written notice requiring the breach to be remedied;
- but such termination will be without prejudice to Hi-Tech Metals' other rights and remedies whether such rights and remedies arise under this Agreement or at law.

17. LIABILITY

- 17.1 To the maximum extent permitted, Hi-Tech Metals (including any agent or employee) shall have no liability to the Customer (or any of their agents or employees) whether in contract, tort or otherwise for any physical, direct or indirect loss or damage not for any economic or consequential loss or damage resulting from or contributed to by a breach of this Agreement or any estimate, order, representation or otherwise. Without limiting this clause, any liability that Hi-Tech Metals may have shall nevertheless be limited to the lesser of:
- Replacement or repair of the affected Good; or
 - Payment of the actual cost of replacing or repairing the affected Good; or
 - The price of the affected Good or Service; or
 - The total price of the invoice the Goods or Services relate to; or
 - The price of the goods under the relevant invoice to which the Goods or Service giving rise to a claim relate.

18. DAMAGE OR LOST IN TRANSIT

- 18.1 If Hi-Tech Metals will deliver the Goods to the Customer, then Hi-Tech Metals will insure the Goods and charge the cost of the freight and the insurance to the Customer. If the Goods are damaged, lost or destroyed in transit the Customer shall make a claim against the insurer and in doing so shall comply with the insurer's requirements with regard to the claim.
- 18.2 If the Goods are delivered to the Customer by an external carrier at the arrangement of the Customer, then insurance of the Goods during transit is to be arranged by the Customer and/or external carrier and shall not result in Hi-Tech Metals having any liability to the Customer or external carrier.

19. CANCELLATION

- 19.1 The Customer shall not be entitled to cancel any order or any part of an order without the written consent of Hi-Tech Metals and then only if it agrees to reimburse Hi-Tech Metals for all costs (including the costs of reallocating labour and materials and tooling costs) directly or indirectly incurred by Hi-Tech Metals to the date of cancellation.
- 19.2 Hi-Tech Metals shall be entitled to cancel any order if the Customer being a company or body corporate shall go into liquidation or receivership or being a person shall become bankrupt, or if Hi-Tech Metals or the Customer is refused any requisite export or import permits in respect of the Goods.

20. NOTICES

- 20.1 Any notice required to be given under this Agreement must be in writing and is deemed to be properly served if left at, sent by prepaid letter, document exchange, electronic mail or facsimile transmission to the address specified on the face of this Agreement by the party to be the recipient of the notice or such other address as either party may from time to time notify for such purpose.
- 20.2 Any notice sent by post or document exchange is deemed to have been properly served three working days after the date upon which it was sent. Notices sent by courier, delivered by hand or facsimile transmission are deemed to have been received on the date of delivery or transmission if made before 5pm on a working day in the area in which the notice is to be received, otherwise, the next working day.

21. AMENDMENT

- 21.1 Hi-Tech Metals reserves the right to change the terms of this Agreement from time to time by posting an updated or new version of these Terms & Conditions of Trade on Hi-Tech Metals' website. By continuing to order Goods from Hi-Tech Metals pursuant to this Agreement the

Customer is deemed to have accepted the updated or new version of the Terms & Conditions of Trade of this Agreement.

22. CUSTOMER RESTRUCTURE

- 22.1 The Customer will notify Hi-Tech Metals of any change in its structure or management including any sale or disposition of any part of the business of the Customer, any change in director, shareholder, management, partnership or trusteeship or sale of any material part of its business ("Restructure") within 7 days of any such change.
- 22.2 The Customer agrees it will:
- cause any new entity created by virtue of a Restructure ("New Entity") to be bound by these Terms & Conditions of Trade; and
 - continue to be bound by these Terms & Conditions of Trade despite a Restructure and will indemnify Hi-Tech Metals for any loss or damage it suffers as a result of a breach of these Terms & Conditions of Trade by the New Entity.

23. LAW AND JURISDICTION

- 23.1 This contract takes effect, is governed by, and shall be construed in accordance with the laws from time to time in force in New Zealand and the parties submit to the exclusive jurisdiction of the Courts of New Zealand.

24. DISPUTED ACCOUNTS

- 24.1 In the event of any dispute in relation to this Agreement, the undisputed portion of the Customer's account with Hi-Tech Metals shall be payable immediately in terms of this Agreement without any deduction by way of set-off, counterclaim or other legal or equitable claim without the prior written consent of Hi-Tech Metals. Payment of the disputed portion may be withheld provided the matter is brought to Hi-Tech Metals' attention immediately once it is discovered and a letter of explanation setting out the particulars of the dispute is sent to Hi-Tech Metals within seven days of the dispute arising.
- 24.2 After receipt of the notice, senior management of both parties shall meet within ten (10) working days and shall attempt in good faith to resolve the Dispute.
- 24.3 If the senior management fail to resolve the Dispute within twenty (20) working days of notice of the Dispute, either party may take such legal action including the commencement of legal proceedings as deemed appropriate or necessary to resolve or determine the Dispute.

25. FORCE MAJEURE

- 25.1 If Hi-Tech Metals is prevented from carrying out any obligation imposed upon it by the terms of this Agreement by reason of any act of God, act of State, riot, insurrection, civil commotion, strike, sanctions, boycott, embargo, or any other circumstance beyond Hi-Tech Metals' reasonable control, it must advise the Customer of the existence of the circumstances and the expected duration thereof. The performance of this Agreement will, to the extent that it is made impossible by such circumstances, be suspended until such circumstances cease to prevail.

26. INTELLECTUAL PROPERTY RIGHTS

- 26.1 Notwithstanding Hi-Tech Metals' right to charge a fee for development costs, and unless there is an express written term to the contrary, the property in all designs, formulations and specifications made and/or formulated by Hi-Tech Metals shall be and remain that of Hi-Tech Metals. The Customer warrants that any design or drawing provided by it does not infringe any intellectual property rights of any other person and further indemnifies Hi-Tech Metals against any claim, proceeding, damages or liability for any loss, cost or expense arising as a result whether for any alleged infringement of any intellectual property or otherwise.

27. GENERAL

- 27.1 Hi-Tech Metals may at any time assign this Agreement in whole or in part, including the assignment of any payments made by the Customer hereunder to any person, company, or business entity. The Customer may not assign or otherwise transfer their rights hereunder.
- 27.2 If any clause or term of this Agreement shall be invalid, unenforceable, or illegal then the remaining terms and provisions of this Agreement will be deemed to be severable therefrom and will continue in full force and effect unless such invalidity, unenforceability or illegality is fundamental to this Agreement.
- 27.3 The failure by either party at any time or times to require performance by the other part of any term of this Agreement will not affect the right to enforce the same. The waiver by either party of any breach of any one or more terms contained in this Agreement will not be construed to be a waiver of any succeeding breach of such term or any other term.
- 27.4 No neglect, forbearance or delay by Hi-Tech Metals in enforcing its rights, powers or remedies under the terms and condition shall operate as a waiver of such, nor shall any single or partial exercise of such rights, powers or remedies preclude any other or further exercise of such or the exercise of any other rights, powers or remedies.
- 27.5 Except as required by law both parties shall preserve as confidential any information of a confidential nature that they acquire in relation to the other.
- 27.6 Notwithstanding any provision of these Terms & Conditions of Trade, the parties agree that the relationship between them is not and shall not be construed to be a partnership.
- 27.7 The Customer shall execute all documents and do all acts and things as may reasonably be required by Hi-Tech Metals to carry into effect the matters contemplated by these Terms & Conditions of Trade.
- 27.8 Stock Discretion: Hi-Tech Metals has a continuing discretion to allocate available stock and gives no warranty as to certainty of supply unless expressly agreed in writing in advance.

28. PARTIAL DELIVERY/FORWARD ORDERS

- 28.1 If the Customer places forward orders or request partial or instalment delivery, the Customer agrees:
- to pay for so much of any order as is from time to time delivered by Hi-Tech Metals and/or any external carrier delivering Goods ordered from Hi-Tech Metals; and
 - that no delay or failure to fulfil any part of any order will entitle the Customer to cancel or vary any order or delay or reduce any payment.

29. STEEL

- 29.1 The Customer acknowledges that the steel and/or other metals in its bulk initial form which is then processed by Hi-Tech Metals is not manufactured by Hi-Tech Metals and accepts all risks associated with any failure.
- 29.2 While Hi-Tech Metals will endeavour to source the highest quality materials suitable to the Customer's instructions, the Customer acknowledges and accepts that from time to time Hi-Tech Metals may source materials from different manufacturers and as such slight variations in colour, texture and inherent quality may occur.

30. REUSABLE PACKAGING

- 30.1 The Customer will return all pallets and any re-useable packaging provided with Goods and indemnifies Hi-Tech Metals for the full replacement cost thereof, if not returned to Hi-Tech Metals promptly and in good order.

31. EXCLUSION OF WARRANTY

- 31.1 Hi-Tech Metals is not bound by any warranty (and the Customer agrees not to make any claim against Hi-Tech Metals in relation to any warranty) in respect of Goods or Services unless all Goods and Services have been paid for in full without set-off or deduction of any kind.