



## STEELWORKS NEW ZEALAND LIMITED STANDARD TERMS AND CONDITIONS OF SALE

### 1. General

- (a) Any goods supplied by Steelworks New Zealand Limited (hereafter referred to as "the Company") will be supplied on these terms and conditions only (unless otherwise expressly agreed in writing by the Company). These terms and conditions take precedence over any other terms offered by the Customer.

### 2. Quotations

- (a) Quotations are based on details supplied by the Customer.
- (b) Any variations will be at the Customer's expense.
- (c) The Customer shall ensure that the quoted items correspond with the Customer's requirements.
- (d) Once an order for goods has been placed with the Company, the Customer may not cancel the order without the prior written consent of the Company which may be given subject to various terms, for example, the Company may charge the Customer for any expenses or additional costs as a result of any such cancellation.
- (e) The acceptance of the Company's quotation, terms and conditions of sale, shall be in writing. The acceptance shall constitute the Customer's instruction to commence work, unless advised in writing to the contrary.

### 3. Price

- (a) Quotations are based on costs current at the date of quotation - prices quoted shall be valid for thirty (30) days from the date of communication. At the expiration of this thirty (30) days period, the Company may vary the quotation.
- (b) Where no quotation is given the price of the goods will be the price current at the date of despatch.
- (c) The price quoted for the goods excludes Goods and Services Tax (hereafter referred to as "GST"). GST will be paid by the Customer in addition to the price quoted.

### 4. Payment

- (a) Terms of payment shall be cash on delivery unless otherwise agreed.
- (b) If credit is requested, the Company's "Application for Credit" form must be completed in full and approved by the Company prior to work commencing.
- (c) If credit is given, the price of the goods, plus GST is payable in full on the 20th of the month following the date of the invoice.
- (d) The Company is also entitled to invoice and be paid for goods supplied, on a progress claim basis based on an agreed percentage of work done to date, whether delivered to site or not.
- (e) The Customer may not deduct or withhold any amount (whether by way of set-off, counterclaim or otherwise) from any money owing to the Company.
- (f) Should the value of any amount invoiced be disputed by the Customer, then the details of the dispute should be clearly set out in writing within fourteen (14) days of the date of the invoice.
- (g) If payment of the goods is not made to the Company by the due date for payment, the Customer must pay, at the Company's discretion and without prejudice to any other remedy the Company may have at law, on demand default interest at a rate equal to 10% above the current base lending rate from time to time set by the Company's bankers from the due date for payments until the date when payment is actually made to the Company.
- (h) It is further agreed that the Customer will pay the Company for all expenses and costs (including legal costs as between Solicitor and Client, Debt Collectors costs), incurred by the Company in obtaining or attempting to obtain a remedy for the failure to pay.
- (i) The Company may at any time require the Customer to pay for goods by bank cheque or post-dated cheque or (in addition to the Company's security interest in the goods) may require the Customer to procure such guarantees and securities as the Company considers necessary to secure to the Company payment for the goods.

### 5. Ownership

- (a) Ownership of the goods does not pass until:
  - i. All amounts owing by the Customer to the Company in respect of the goods have been paid.
  - ii. All other obligations of the Customer to the Company in respect of the goods have been met.
- (b) Until ownership passes, the Customer must keep full and complete records of the goods, give the Company the right to inspect the goods or any part of them at all reasonable times, must not change its name, address, or contact details without providing the Company with at least 30 days prior written notice.

## **6. Warranty**

- (a) All warranties, descriptions, representations or conditions whether implied by law, trade, custom or otherwise are, and all other liability of the Company, whether in tort (including negligence), contract or otherwise is, expressly excluded to the fullest extent permitted by law.
- (b) Insofar as the Company may be liable notwithstanding clause 6.e), the total liability of the Company whether in tort (including negligence), contract or otherwise for any loss, damage or injury arising directly or indirectly from any defect in or non-compliance of any Goods or any other breach of the Company's obligations is limited to the lesser of:
  - i. to the price of Goods complained of;
  - ii. the cost of repairing or replacing the defective goods; or
  - iii. the actual loss or damage suffered by the Customer.
- (c) Except where statute expressly requires otherwise (and subject to clause 6.e) the Company is not liable in any event for any loss of profits, consequential, indirect or special damage, loss or injury of any kind suffered by the Customer or any other person.
- (d) Subject to clause 6e while the Company will make every effort to ensure the accuracy of any advice, recommendation, information, assistance or service provided by the Company in relation to the Goods or their use or application, the Company does not accept any liability or responsibility in response to that advice, recommendation, information, assistance or service.
- (e) If the Customer is a "consumer" under the Consumer Guarantees Act 1993 (Act) the Act will not apply where the Customer acquires or holds itself out as acquiring the Goods for the purposes of a business.
- (f) Where the Customer is acquiring the Goods for the purpose of re-supplying them in trade, the Customer will:
  - i. include a provision in its terms of sale to the effect that the Act will not apply where a purchaser acquires or holds itself out as acquiring the Goods for the purposes of a business;
  - ii. notify its purchasers of the effect of clause 6.f.i; and
  - iii. indemnify the Company for and against any liabilities, losses, damages, claims, costs or expenses of whatever kind and nature incurred by the Company as a result of the Customer failing to take the action required under this clause 6.f.

## **7. Breach**

- (a) if:
  - i. Any amount payable by the Customer to the Company is overdue, or the Customer fails to meet any other obligation of the Company (whether in relation to the sale of Goods or otherwise) or in the Company's opinion the Customer is likely to be unable to meet its payments or other obligations to the Company; or
  - ii. The Customer becomes insolvent, has a receiver appointed in respect of all or some of its assets, makes or is likely to make an arrangement with its creditors or has a liquidator (provisional or otherwise) appointed or is placed under statutory or official management; or
  - iii. The ownership or effective control of the Customer is transferred or, in the Company's opinion, the nature of the Customer's business is materially altered; then;
    - A. the Company may cancel any outstanding order with the Customer for all or any part of any contract or contracts with the Customer which remains unperformed, in addition to and without prejudice to its other remedies; and
    - B. all amounts outstanding under these terms and conditions or any other contract with the Company shall, whether or not due for payment, immediately become due and payable; and
    - C. the Company may reclaim any Goods in the Customer's possession or control and dispose of them for its own benefit and for that purpose the Company may, without notice enter directly or by its agents or any premises where it believes Goods may be stored, without in any way being liable to any person.

## **8. Miscellaneous**

- (a) The Customer is responsible for disposing, at its own cost, of all materials used in the packaging or deliver of Goods supplied by the Company.
- (b) If at any time the Company does not enforce any of these terms and conditions or grants the Customer time or other indulgence, the Company shall not be construed as having waived that term or condition or its rights to later enforce that or any other term or condition.
- (c) The Customer is to execute documents and do such further acts as may be required by the Company to register the Company's security interest under the PPSA or for any purpose whatsoever.
- (d) These terms will be governed by New Zealand law and the Customer agrees to submit to the exclusive jurisdiction of the New Zealand courts.

## **STEELWORKS NEW ZEALAND LIMITED SPECIAL TERMS AND CONDITIONS OF TRADE**

### **1. Site Access**

- (a) When the Company's quotation includes delivery to site, the provision of suitable access into the site for cranes and other heavy vehicles shall be provided by the Customer/Head Contractor.
- (b) Suitable access around the site and hard standing for cranes, heavy trucks, scissor lifts etc shall be available. Suitable levelled hardstanding for mobile cranes in close proximity to the work area shall be made available. If a larger capacity crane then is necessary to erect the steel, then the additional costs of hireage of the larger capacity crane will be an extra to the quoted price.
- (c) The provision of suitable ramps to provide access from ground level up onto the floor slab shall be provided by the Customer/Contractor.
- (d) The provision of suitable laydown areas in close proximity to the work face shall be provided for the storage of the structural steelwork.

### **2. Equipment Supply**

- (a) Unless noted otherwise in the Company's quotation, the Customer/Contractor shall provide at no cost the Company -
  - i. Suitably sized cranes for the hoisting of structural steel into place
  - ii. Scissorlifts, cherrypickers or other suitable mobile elevating work platforms
  - iii. The supply, erection, dismantling of suitably placed scaffold, or other working platforms

### **3. Cast in Items, Steel Fixings**

- (a) Where the quotation includes the supply of holding down bolts, cast in anchor plates or weld plates, then it is the Customer's/Contractor's responsibility to cast in the items to line and level and to within the specified tolerances.
- (b) The establishment of grid lines and RLs or other setout points, required for the accurate placement of the structural steelwork shall be established by the Customer/Contractor.
- (c) Should the Customer/Contractor cast in holding down bolts of weld plates/anchor plates and the like out of position, then any additional work required by the Company to modify the prefabricated steel to bring into the correct alignment will be a variation to the Company's contract price.

### **4. Grouting / Packing**

- (a) The supply and installation of dry pack mortar or epoxy grouts to base plates of steelwork is the Customer's/Contractor's responsibility unless noted otherwise on the Company's quote.
- (b) Packers and shim plates are included where shown on the drawings and to the sizes detailed. Additional packers and shim plates materials and labour required due to overcoming construction discrepancies will be a cost variation.

### **5. Contract Documents**

- (a) The Customer will supply the Company with a full sized set of the contract drawings suitably marked or stamped "Approved for Construction" or similar.
- (b) Revised drawings shall be accompanied by a document transmittal notice or similar to verify receipt of the revisions by the Company.

### **6. Variations / Site Instructions**

- (a) Extras or variations to the contract should be confirmed in writing.
- (b) The instruction should clearly instruct the Company whether the variation is to proceed on a charge up basis, a schedule of rates basis, or be quoted as a variation price request. If no cost is involved the wording should include Site Instruction Only.
- (c) Extra work required by the Customer/Contractor and not forming part of the contract works should be in writing on the Customer's/Contractor's Purchase Order.

### **7. Electric Power**

- (a) Single phase power outlets should be made available to within a reasonable distance of the work area. Power will be made available to Steelworks New Zealand Limited at no charge.
- (b) Site Welding - unless notified otherwise at the time of quoting, Steelworks New Zealand Limited expects 3 phase power via 30 amp Reynoll outlets to be made available at no cost and in close proximity to the work area for running electric arc welders. If Steelworks New Zealand Limited is not advised to the contrary regarding the availability of 3 phase power, then the hireage costs of mobile diesel/petrol driven generators, including delivery and running costs, shall be deemed to be an extra to the quoted price.