



ECCOMELT GENERAL TERMS AND CONDITIONS OF SALE

1. General Application; Acceptance.

The sale, shipment and delivery by House of Metal Co. Ltd., Eccomelt LLC or Eccomelt Texas LLC (in either case, “**Seller**”) of goods (“**Goods**”) to a customer (the “**Buyer**”) will be subject only to and governed exclusively by the terms and conditions set forth herein and in other documents which are referred to herein or attached hereto or in a document provided or signed or issued by Seller and referencing the transaction (all of which constitute the “**Sales Contract**”). Seller’s provision of credit, acceptance of any purchase order and/or sale of any Goods are expressly made conditional on the acceptance of the Sales Contract by the Buyer. Any conduct by Buyer which recognizes the existence of a contract between Seller and Purchaser including, without limitation, acceptance of delivery of any of the Goods, shall be conclusive evidence of Buyer’s acceptance of, and assent to, the terms and conditions set forth in this Sales Contract.

2. Sales Contract.

This Sales Contract sets forth the entire agreement between the parties hereto regarding this transaction. No waiver or modification of any of the terms or conditions hereof nor any additional or inconsistent terms shall be effective against Seller unless approved in writing by an authorized representative / officer of Seller. In the event that Buyer has or hereafter submits a purchase order or other document to Seller regarding this transaction and such document contains any additional or inconsistent terms, such additional or inconsistent terms shall not become a part hereof unless approved in writing by an authorized representative / officer of Seller. For greater certainty, the terms set out herein and in the sales order (a “**Sales Order**”) issued by Seller shall govern in the event of any inconsistency or conflict with any other document.

3. No Warranty or Guarantee.

SELLER WARRANTS THAT THE GOODS TO BE SOLD BY SELLER PURSUANT TO THIS SALES CONTRACT SHALL SUBSTANTIALLY CONFORM TO THE DESCRIPTION SET FORTH ON THE APPLICABLE SALES ORDER. SELLER MAKES NO OTHER REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THE MECHANICAL PROPERTIES OF THE GOODS.

4. Delivery and Packing.

Unless otherwise specifically provided on the applicable Sales Order, all Goods sold by Seller hereunder shall be delivered on a F.O.B. destination basis. Buyer acknowledges that the delivery date set forth on the applicable Sales Order is an approximate date only and that the actual date of delivery may vary due to freight schedules and other causes. A delivery which is made within thirty (30) days of the date set forth on the applicable Sales Order and which does not vary by more than five percent (5%) of the quantity specified in such Sales Order shall constitute full compliance by Seller with the delivery terms hereof. Any deliveries which are postponed at the request of

Buyer, and which are consented to by Seller shall be on a “bill and hold” basis and all expenses incurred by Seller as a result thereof shall be for Buyer's account. Seller shall provide any appropriate shipping documents. All expenses incurred due to changes or delays to shipping documents shall be at Buyer's expense. Delay in the delivery of the Goods hereunder shall not relieve Buyer of its obligations to accept and pay for goods under any other agreement or Sales Order. Unless Buyer specifies otherwise in writing, products will be packed as Seller may deem proper for protection against normal handling, demurrage and extra charges will apply for preservation, palletizing, waterproofing and similar added protection of goods. Claims for loss or damage in transit must be entered and prosecuted by Buyer against the carrier directly unless stipulated otherwise in the applicable shipping terms.

5. Excusable Delay.

Notwithstanding anything herein to the contrary, Seller's performance hereunder shall be suspended (at the option of the Seller) where prevented or hindered by causes beyond the control of Seller, including, without limitation, accidents, strikes or other labor disturbances, fire, flood, earthquake, natural disaster, pandemic, war, civil disturbance, governmental or military order, international trade disruptions (including tariff changes), sabotage, equipment failure or repair, plant shutdown, theft, acts of terrorism or acts of God. If Seller's performance is delayed for more than one month as a result of such event, Seller shall have the right to terminate any remaining performance of Seller under this Sales Contract. Seller hereby advises Buyer to carry its own insurance to protect itself against loss upon the occurrence of any such event.

6. Risk of Loss.

Notwithstanding any prior inspection, and irrespective of the F.O.B. point named herein, all risks of loss, damage, or destruction to the Goods shall pass to Buyer immediately upon loading of the Goods on the carrier's trucks, rail cars or vessels, except that risk of loss on “bill and hold” Goods shall pass to Buyer on such loading or invoicing by Seller, whichever occurs first. Seller shall have no obligation to insure any Goods, unless otherwise stated on the applicable Sales Order. Buyer consents to any chartering or other transportation arrangements made by Seller. If Buyer has any particular requirements regarding chartering or transportation arrangements, Buyer must notify Seller thereof at least thirty (30) days prior to the scheduled date of shipment or delivery. Seller reserves the right to reject any such requirements which are unacceptable to Seller.

7. Payment.

Cash payment: Net 30 days unless otherwise stated on the applicable Sales Order. A finance charge of 26.82% per annum, calculated and compounded monthly may be charged on all past due accounts and Buyer shall indemnify Seller for all costs incurred in collecting any past due account from Buyer, including court costs and solicitors fees on a substantial indemnity basis and Buyer shall promptly reimburse Seller for same. If the foregoing charges exceed that rate which is the maximum permitted by applicable law, then such charges shall be the highest allowable lawful rate. Buyer shall not have any right to setoff against or deduct from the amount owing hereunder/pursuant to a Sales Order or otherwise any amount which it may claim against or be entitled to receive from the Seller.

8. Currency; Taxes.

Unless otherwise stated on the applicable Sales Order, the purchase price for the Goods is payable in U.S. Dollars currency without deduction or offset, and free of any exchange. Any taxes, levies or other charges which may be imposed or levied by any federal, state, municipal or other governmental authority on the sale of the Goods by Seller shall be the responsibility of Buyer. Buyer agrees to pay all such taxes and further agrees to reimburse Seller for any such payments made by Seller. The rate of existing duties, taxes, exchange taxes or other charges shall be the rate in effect at the time of transfer of title to Buyer.

9. Credit Approval.

Buyer acknowledges that Seller's obligations under this Sales Contract are subject to Seller's approval of Buyer's credit. Seller shall have the continuing right until the time of shipment to approve or disapprove of Buyer's credit. If, at any time prior to shipment of all of the Goods subject to this Sales Contract, Seller becomes dissatisfied with Buyer's credit for any reason, Seller may, in its sole discretion, elect to: (a) require payment in full for all Goods before shipment of any remaining Goods; (b) require satisfactory security or personal guaranties; or (c) cancel this Sales Contract. If Seller elects option (c) above, Seller shall refund any advance payments made by Buyer less expenses incurred by Seller and Buyer shall return at Buyer's expense all Goods previously shipped by Seller; Seller shall have the right to reclaim such Goods, wherever located, without notice, if Buyer fails to return such Goods promptly.

10. Claim Notification.

Buyer must notify Seller in writing of any claims of rejection, downgrades, defectiveness, weight shortages, or other nonconformity of Goods so that Seller actually receives the written notice within two (2) business days after Buyer has received the Goods. If Seller does not receive a written notice of claim within such period, Buyer shall be deemed to have irrevocably waived any rights to assert any claims of rejection, downgrades, defectiveness, weight shortages, or other nonconformity of Goods.

11. Limitation of Liability.

BUYER'S EXCLUSIVE REMEDY AGAINST SELLER, AND SELLER'S SOLE OBLIGATION, FOR ANY AND ALL CLAIMS, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL BE LIMITED TO SELLER'S REPLACING GOODS THAT DO NOT CONFORM TO SPECIFICATIONS OR, AT SELLER'S OPTION, REFUNDING THE PURCHASE PRICE. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE GOODS SOLD HEREUNDER, NOR SHALL SELLER HAVE ANY LIABILITY FOR SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, REVENUE OR PRODUCTION OR COMMERCIAL LOSS IN ANY WAY CONNECTED WITH THE GOODS, WHETHER SUCH CLAIM IS BASED IN CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

12. Right of Offset.

In the event that Buyer is delinquent on any payments or amounts owed to Seller pursuant to the terms of this Sales Contract or any other agreement between Seller and Buyer, Seller shall have the following rights: (a) Seller may, upon three days written notice to Buyer, offset any such outstanding amounts against payments, deposits or amounts Buyer owes to Seller and/or its affiliates; (b) Seller may divert the Goods to another buyer, and offset any costs incurred due to reselling the Goods, including, but not limited to market losses, interest-cost, freight costs, demurrage fees, destination port fees, legal fees, or other expenses incurred; and (c) Seller may cancel all existing Buyer orders whether shipped or not.

13. Disclaimer, Release and Indemnity.

13.01 Buyer acknowledges that the Goods were packaged according to specifications known to and/or provided by Buyer. Buyer's inspection of the Goods shall be deemed conclusive and binding upon the parties hereto, and upon subsequent acceptance of such Goods by Buyer, Buyer shall be deemed to have declared itself familiar with the nature, hazards and use of the products and their containers and shall assume all liability resulting from, or in any way connected with, their possession, transportation, handling or the use thereof or their suitability for any particular end use. Buyer further acknowledges that the Goods may contain certain materials known, suspected, or alleged to be hazardous, including, without limitation, aluminum, lead, beryllium, mercury, chromium, copper, zinc, iron, manganese, titanium, and nickel. Buyer acknowledges receipt, review, and understanding of Seller's material safety data sheet(s) applicable to the Goods, including the warnings and recommendations as to necessary or advisable health and safety precautions provided therein as appropriate for Buyer's operations. Buyer further acknowledges that: (a) Buyer is a purchaser of raw and/or bulk materials; (b) Seller is unaware of the specific uses Buyer intends to put the Goods; (c) Seller is unaware of the nature, extent, or environment of Buyer's operations; and (d) Buyer is solely responsible for determining the appropriate health and safety precautions necessary for its use of the Goods.

13.02 Buyer hereby irrevocably and unconditionally forever waives and releases and discharges all claims, demands or liabilities, known or unknown, past, present, or future, that it may have against Seller that arise directly or indirectly from, or in connection with, or that relate in any way to, the generation, storage, transportation, use, release, treatment, melting or disposal of the Goods, including any alleged hazardous materials, substances, or waste contained in the Goods, under any applicable federal, provincial, municipal, foreign or local law, regulations or ordinances, specifically including, without limitation, the *Transportation of Dangerous Goods Act*, the *Hazardous Product Act*, the *Occupational Health and Safety Act*, the *Comprehensive Environmental Response, Compensation, and Liability Act*, the *Resource Conservation and Recovery Act*, the *Occupational Safety and Health Act* or any other federal, provincial, municipal, foreign or local law, regulations or ordinance that concern the production, handling, presence, transportation, use, treatment, or cleanup of or responsibility for any hazardous material, substance or waste ("**Environmental Claims**").

13.03 Buyer further agrees to hold Seller harmless and indemnify Seller against all losses, damages, injuries, liabilities, actions, claims or proceedings, including court costs, expert costs, and reasonable legal fees incurred by lawyers of Seller's choosing, for any Environmental Claims and any other claim, action, or demand related to the Goods or use of the Goods asserted against Seller, its subsidiaries and associated and affiliated companies and all directors, officers, agents and employees, thereof (collectively, the **"Seller Parties"**) resulting from: (a) the breach of any representation or warranty by Buyer set forth herein; (b) injury to or death of persons and/or damage to or loss of property allegedly caused by the Goods or use of the Goods; and (c) the negligent acts or omissions of Buyer, its agents, servants, employees or customers to the fullest extent allowed by law.

14. Indemnification re Emergencies.

In the event that Seller agrees to respond to an emergency involving Goods sold by Seller to Buyer where Buyer has a legal responsibility to respond to an emergency, Buyer agrees to accept the actions of Seller Parties and agrees to indemnify and hold them harmless from and against all losses, damages, injuries, liabilities, actions, claims or proceedings resulting from their actions at the emergency except for such claims caused solely by their willful misconduct or gross negligence.

15. Benefit of Indemnities

The Seller shall hold the benefit of the indemnities provided herein in trust for the Seller Parties other than the Seller, each of whom shall be entitled directly to the full benefit thereof.

16. Intellectual Property.

Neither Buyer, nor its affiliates (nor their respective successors, assigns, licensees or other transferees) shall enforce (or attempt or purport to enforce) against Seller or its affiliates, (sub)licensees, manufacturers or distributors any existing or future patent or other intellectual property right that claims (or purports to claim) any or part of the Goods or the use, design, manufacturing, layout and packaging thereof. Buyer expressly acknowledges that Seller retains any and all intellectual property rights in and to the Goods. Buyer agrees and covenants that at no time will Buyer engage in or be a party to or assist other persons in any form of chemical analysis, reverse engineering, decompiling, disassembly or component breakdown for purposes of determining, analyzing, deriving or using any proprietary information in respect of or associated with the Goods.

17. Governing law; Arbitration.

The Sales Contract shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without giving effect to any choice of law principles that may require the application of the laws of another jurisdiction. Each of the Buyer and Seller hereby attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

18. Authority.

If Buyer is a corporation, partnership or other entity, the person executing this Sales Contract on behalf of Buyer hereby represents and warrants to Seller that this Sales Contract has been duly authorized by Buyer and is a legal and valid binding agreement of Buyer, and that he/she has been duly authorized to execute and deliver this Sales Contract on behalf of Buyer.

19. Terms and Conditions of Deposit for Goods.

- 19.01 When a deposit is required it shall be paid within three (3) business days from date of this Sales Contract via wire transfer. Any wire transfer fees shall be for the account of Buyer.
- 19.02 Full payment for each container-load of Goods, less deposits received by Seller, shall be forwarded by Buyer, in U.S. Dollars, (unless otherwise agreed), via wire transfer, no later than 10 days prior to scheduled arrival of the container-load of Goods at its destination port, unless otherwise stated on the applicable Sales Order.
- 19.03 In the event of breach of Section 19.01 by Buyer, Seller will notify Buyer in writing of its breach and Seller's intention to re-sell the contracted Goods. Buyer will then have three (3) business days to remedy the situation by making payment via wire transfer. In the event that Buyer fails to remedy its breach within such three (3) business day period, Seller may divert and re-sell any affected container-load of Goods in any commercially reasonable manner. Buyer and Seller agree that due to the price fluctuations inherent in this industry, three (3) business days shall constitute commercially reasonable notice hereunder of Seller's intention to re-sell, and exercise its rights pursuant to Section 12 (Right of Offset) above.
- 19.04 Remit wire transfers to: *Information available upon request*

20. Deposit Margin Requirement.

Where Seller requires a deposit to be used in case of Buyer's inability to meet the terms and conditions stated within this Sales Contract, and should this margin requirement deposit be insufficient to cover any subsequent changes in the market value stated on this Sales Contract, Buyer may be required to send an additional deposit in an amount equal to such change in the market value during the time this Sales Contract is in effect. Seller will notify Buyer in writing in the event an additional deposit is required. If Buyer fails to pay the additional deposit within three (3) business days of receiving such written notice from Seller, Seller has the right to cancel this Sales Contract and exercise its rights pursuant to Section 12 (Right of Offset) above.

21. Miscellaneous.

(a) Waiver. No action or inaction by a party shall constitute a waiver of such party's right to insist on full timely performance of all covenants in this Sales Contract. No waiver of any provision of this Sales Contract is deemed to constitute a waiver of any other provision, nor does such waiver constitute a continuing waiver. **(b) Assignment.** Buyer may not assign its rights hereunder without Seller's prior written consent. **(c) Binding Effect.** This Sales Contract shall inure to and shall be binding upon the parties hereto and their respective heirs, representatives, successors and permitted

assigns. **(d) Severability.** If any provision hereof is rendered ineffective or invalid, such provision shall not invalidate any other provision **(e) Setoff.** All claims hereunder by Seller are subject to setoff by Seller for any counterclaim arising out of any transaction with Buyer. **(f) Definitions.** As used herein, “including” means “including without limitation. **(g) Notice.** Any notice, request, instruction or other communication to be given under this Sales Contract shall be in writing and shall be deemed to have been given: (i) when received if given in person; (ii) on the date of transmission if sent by facsimile, e-mail or other wire transmission; (iii) upon delivery, if delivered by a reputable commercial courier service providing next day delivery service; or (iv) three days after being deposited in the mail, certified or registered mail, return receipt requested, postage prepaid. **(h) United Nations re Sale of Goods.** The United Nation’s Convention on Contracts for the International Sale of Goods, and/or any local implementing legislation, shall not apply to this Sales Contract and is hereby disclaimed. The parties hereto hereby agree that their respective rights and obligations hereunder shall be solely and exclusively as set forth herein. **(i) Time is of the essence hereof.**