1 Interpretation

In these conditions:

'**Alloy Surcharge**' the surcharge made to CSM by the manufacturers to reflect the changing cost of alloy elements, such surcharge being notified to CSM periodically.

'**Buyer**' means the organisation or person who buys Goods from the Seller;

'**Conditions**' the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller;

'**Contract Price'** The price for goods and services, to be paid in full to the seller on completion.

'**CSM**' means City Special Metals Limited Suit A, 263 Church Road, Benfleet, Essex, SS7 4QL, United Kingdom, Company registration number 4276827

'**Document(s)**' includes, in addition to a document in writing email, any plan, graph, drawing or photograph, any film, negative, tape or other device embodying visual images and any disc, tape or other device embodying any other data

'**Delivery date**' means the date specified by the Seller when the Goods are to be delivered;

'**Goods**' means the articles to be supplied to the Buyer by the Seller;

'**Intellectual Property Rights**' means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable;

'**Price**' means the price set out in the list of prices of the Goods maintained by the Seller as amended from time to time or such other price as the parties may agree in writing plus such carriage, packing, insurance or other charges or interest on such as may be quoted by the Seller or as may apply in accordance with these conditions;

'**Records**' means documented information required by AS9120 wherever AS1920 *states 'retain documented information'*

'**Seller**' means City Special Metals Limited Suit A, 263 Church Road, Benfleet, Essex, SS7 4QL, United Kingdom, Company registration number 4276827

'**Services**' means the services to be provided to the customer as set out in the quotation and accepted order.

2. General; these conditions shall apply to all contracts for the sale of Goods or services by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions to which the Buyer may seek to apply under any purchase order, order confirmation or similar document.

3. Acceptance; quotations are estimates and are without commitment, any order placed is not binding on CSM unless accepted**.**

3.1 All orders for Goods or services shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions.

3.2 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.

3.3 Any variation to these Conditions (including any special terms and conditions agreed between the parties including without limitation as to discounts) shall be inapplicable unless agreed in writing by the Seller.

3.4 Any advice, recommendation or representation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods or otherwise which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and, accordingly, the Seller shall not be liable for any such advice, recommendation or representation which is not so confirmed.

3.5 Nothing in these Conditions shall affect the statutory rights of any Buyer dealing as a consumer.

4. Price and Payment; payment of the Price is strictly pro-forma with all orders unless a credit account has been established with the Seller in which event payment of the Price is due 30 days, end of the month or sooner.

4.1 The Seller shall be entitled to charge interest on overdue invoices from the date when payment becomes due interest to accrue from day to day until the date of payment at a rate of 8% per annum above the base rate of the Bank of England from time to time.

4.2 The Seller reserves the right to grant, refuse restrict, cancel or alter credit terms at its sole discretion at any time.

4.3 If payment of the Price or any part thereof is not made by the due date, the Seller shall be entitled to:

4.3.1 Require payment in advance of delivery in relation to any Goods not previously delivered;

4.3.2 Refuse to make delivery of any undelivered Goods whether ordered under the contract or not and without incurring any liability whatever to the Buyer for non-delivery or any delay in delivery;

4.3.3 Appropriate any payment made by the Buyer to such of the Goods (or Goods supplied under any other contract) as the Seller may think fit;

4.3.4 Terminate the contract.

4.4 Payment shall not in any circumstances be dependent upon payment to the Buyer from any third party.

4.4.1 All prices quoted are exclusive of Value Added Tax or any other similar charge or levy.

4.4.2 The Buyer shall be responsible for the payment of any tax or duties to included goods subject to import Quotas and or any retaliatory tariff duties charges set out by the WTO or any other legal entity, or any other costs of importation and of obtaining all licences relevant to the sale and delivery and payment for the goods.

4.4.3 The Buyer shall be responsible for the payment of any legal costs incurred by CSM in recovering any overdue payments.

4.4.4 Unless price have been expressly agreed by CSM the price payable by the Buyer shall be CSM's price prevailing at the date of despatch.

4.4.5 Any price quoted for immediate delivery is only valid for the calendar month in which the quotation is given and is subject to the goods being held in stock by CSM.

4.4.6 Notwithstanding any quotation given the price may vary if the prevailing Alloy Surcharge is changed.

4.4.7 CSM reserves the right to charge a reasonable sum for any delivery in addition to our standard carriage charge (but not confined to) any request for a premium delivery or specialist packaging other than CSM's standard packaging.

5. Description; any description given or applied to the Goods is given by way of identification only and the use of such description shall not constitute a sale by description. For the avoidance of doubt, the Buyer hereby affirms that it does not in any way rely on any description when entering into the contract.

6. Sample; where a sample of the Goods is shown to and inspected by the Buyer, the parties hereto accept that such a sample is so shown and inspected for the sole purpose of enabling the Buyer to judge for itself the quality of the bulk, and not so far as to constitute a sale by sample.

7. Delivery; unless otherwise agreed in writing, delivery of the Goods shall take place at the address specified by the Buyer on the date specified by the Seller. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

7.1 The date of delivery specified by the Seller is an estimate only. Time for delivery shall not be of the essence of the contract and while every reasonable effort will be made to comply with such dates compliance is not guaranteed and the Buyer shall have no right to damages or to cancel the order for failure for any cause to meet any delivery date stated, unless the contract or quotation states upon it in writing "time critical delivery".

7.2 On delivery of the goods the buyer shall be responsible for unloading the goods from the vehicle which must be affected promptly, and which must take place under the Buyers direct supervision, CSM shall have no responsibility, for anything that occurs during the process of unloading.

7.3 If the Seller is unable to deliver the Goods for reasons beyond its control, then the Seller shall be entitled to place the Goods in storage until such time as delivery may be affected and the Buyer shall be liable for any expense associated with such storage.

7.4 If the Buyer fails to accept delivery of Goods on the delivery date or within 3 days of notification that they are ready for despatch whether prior to or after the delivery date the Seller reserves the right to invoice the Goods to the Buyer and charge him therefore. In addition, the Buyer shall then pay reasonable storage charges or demurrage as appropriate in the circumstances until the Goods are either despatched to the Buyer or disposed of elsewhere.

7.5 The Seller shall be entitled to deliver the Goods by instalments and where the Goods are so delivered, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat any other related contract as repudiated.

7.6 Where the Buyer requires delivery of the Goods by instalments, rescheduling requires the Seller's written agreement and will not be possible unless at least 3 month's written notice is provided and so agreed. Each delivery shall constitute a separate contract and failure by the Buyer to pay the Price in respect of any instalment shall entitle the Seller to treat any other related contract as repudiated in addition to any other rights of the Seller pursuant to these Conditions.

7.7 Notwithstanding that the Seller may have delayed or failed to deliver the Goods (or any of them) promptly the Buyer shall be bound to accept delivery and to pay for the Goods in full provided that delivery shall be tendered at any time within 3 months of the delivery date.

8. Quality; CSM will aim to provide goods from source mills which provide mill test certificates, or their authorised distributors.

8.1 CSM will aim to provide, where requested by you, Certificate of Conformity/Delivery Note/Mill Test Reports.

8.2 CSM will not dispose of records relevant to you without first informing you of this action.

8.3 CSM will stock-hold and supply special metals in accordance with CSM's AS9120-certifed QMS.

9. Risk, Title and Lien; Risk of damage or loss of the Goods shall pass to the Buyer in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection, or in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery.

9.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the Price of the Goods and of all other Goods and services agreed to be sold by the Seller to the Buyer for which payment is then due.

9.3 Until payment of the Price the Buyer shall be entitled to resell or use the Goods in the course of its business but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

9.4 Until such time as the property in the Goods passes to the Buyer (and provided that the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or of any third party where the Goods are stored and repossess the Goods.

9.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

9.6 The Seller shall be entitled to recover the Price notwithstanding that property in any of the Goods has not passed from the Seller.

10. Insolvency of Buyer; If the Buyer fails to make payment for the Goods in accordance with the contract of sale or commits any other breach of this contract of sale or if any distress or execution shall be levied upon any of the Buyer's property or the Goods or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented of if a receiver, administrator administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law or if any such matter as provided for in this clause is reasonably apprehended by the Seller all sums outstanding in respect of the Goods shall become payable immediately.

- 10.1 The Seller may in the circumstances set out in clause 9.1 above also in its absolute discretion, and without prejudice to any other rights which it may have, exercise any of its rights pursuant to clause 8 above.

11. Warranty; Where the Goods are suspected or found to be defective the Buyer will inform the Seller in writing immediately upon;

11.1 The defect becoming apparent;

11.3 The defect being due to faulty design, materials or workmanship;

11.3 Any Goods to be repaired or replaced shall be returned to the Seller at the Buyer's expense, if so requested by the Seller.

11.4 Where the Goods have been manufactured and supplied to the Seller by a third party, any warranty granted to the Seller in respect of the Goods shall be passed on to the Buyer and the Buyer shall have no other remedy against the Seller
11.5 The Seller shall be entitled in its absolute discretion to refund the Price of the defective Goods if the Price has already been paid.
11.6 The remedies contained in this Clause are without prejudice and subject to the other Conditions herein, including, but without limitation, to conditions 12 below.
12. Liability; No liability of any nature shall be incurred or accepted by the Seller in respect of any representation made by the Seller, or on its behalf, to the Buyer, or to any party acting on its behalf, prior to the making of this contract where such representations were made or given in relation to:-
12.1.1. The correspondence of the Goods with any description or sample;
12.1.2. The quality of the Goods; or
12.1.3. The fitness of the Goods for any purpose whatsoever.
12.2 No liability of any nature shall be accepted by the Seller to the Buyer in respect of any express term of this contract where such term relates in any way to:
12.2.1. The correspondence of the Goods with any description;
12.2.2. The quality of the Goods; or
12.2.3. The fitness of the Goods for any purpose whatsoever.
12.3 Except where the Buyer deals as a consumer all other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods, whether express or implied by statute or common law or otherwise are hereby excluded from the contract to the fullest extent permitted by law.
12.4 For the avoidance of doubt the Seller will not accept any claim for consequential or financial loss of any kind however caused.
13. Limitation of Liability; Where any court or arbitrator determines that any part of Clause 11 above is, for whatever reason, unenforceable, the Seller shall be liable for all loss or damage suffered by the Buyer but in an amount not exceeding the contract price.
13.1 Nothing contained in these Conditions shall be construed so as to limit or exclude the liability of the Seller for death or personal injury as a result of the Seller's negligence or that of its employees or agents.
14. Intellectual Property Rights; Where any Goods supplied by us embody, include or contain computer program(s) and/or related documentation the copyright in which is owned by a third party, all rights and liabilities associated with the use and/or reproduction thereof will be subject to the terms of the applicable end user licence, to the exclusion of all liabilities and obligations on our part.
14.1 The Buyer will indemnify us against all liabilities for infringement of third-party intellectual property rights arising from our compliance with the Buyer's specific requirements regarding design or specification for the Goods or arising from the use of the Goods in combination with other products.
14.2 In the event that all the Goods or the use thereof (subject as aforesaid) are held to constitute an infringement of any intellectual property rights and the use is thereby prevented, the will at its own expense and option either procure for the Buyer the right to continue using the Goods or replace the same with a non-infringing product, or modify the Goods so that they become non-infringing, or may elect to retake possession of the Goods and refund the Price. Subject to the foregoing, the Seller shall be under no liability to the Buyer for any loss, damage or enquiry, whether direct or indirect, resulting from any intellectual property right infringement of the Goods.
14.3 All Intellectual Property Rights produced from or arising as a result of the performance of any contract shall, so far as not already vested, become the absolute property of the Seller, and the Buyer shall do all that is reasonably necessary to ensure that such rights vest in the Seller by the execution of appropriate instruments or the making of agreements with third parties.
14.4 All orders are processed in accordance with the quality system elements of AS9120 however the Goods may not have been procured from a quality assured source unless there is an asterisk (*) against the relevant items
15. Force Majeure; The Seller shall not be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, pandemics, epidemics, or work stoppages, breakdown of plant or machinery, shortages or unavailability of raw materials, material shortages, increased costs or delays in obtaining goods, or transportation., and the Seller shall be entitled to a reasonable extension of its obligations. If the delay persists for a consecutive period of 6 months, it may without liability on its part, terminate the contract or any part of it.
16. Relationship of Parties; Nothing contained in these Conditions shall be construed as establishing or implying any partnership or joint venture between the parties and nothing in these Conditions shall be deemed to construe either of the parties as the agent of the other.
17. Assignment and Sub-Contracting; The contract between the Buyer and Seller for the sale of Goods shall not be assigned or transferred, nor the performance of any obligation sub-contracted, in either case by the Buyer, without the prior written consent of the Seller.
18. Waiver; The failure by either party to enforce at any time or for any period any one or more of the Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Conditions of this Agreement.
19. Severability If any term or provision of these Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.
20. No set off The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set-off or counterclaim which the Buyer may have or allege to have for any reason whatsoever.
21. Entire Agreement These Conditions and any documents incorporating them or incorporated by them constitute the entire agreement and understanding between the parties.
22. Governing Law and Jurisdiction This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusion jurisdiction of the English courts.