



GENERAL CONDITIONS OF SALE effective January 1st 2018

1. PRICE

1.1 The party purchasing the steel or other products (“**Customer**”) acknowledges that any Price Lists that may be issued by ArcelorMittal South Africa Limited (“**ArcelorMittal**”) from time to time, in respect of steel or other products that ArcelorMittal may offer for sale (the “**Material**”) are for information only and do not constitute an offer to sell the Material.

1.2 All Prices and any other tariffs are exclusive of Value Added Tax (VAT).

2. ORDERS

2.1 ArcelorMittal may upon request by the Customer issue a quotation in respect of a Product the Customer wishes to purchase from ArcelorMittal.

2.2 The Customer must place a written order (“**Order**”) with ArcelorMittal in respect of any Material the Customer wishes to purchase from ArcelorMittal, together with or containing written confirmation of, the order parameters.

2.3 Orders are subject to formal acceptance in writing by ArcelorMittal (“**Order Confirmation**”). It is the responsibility of the Customer to ensure the correctness of the Order as advised on Order Confirmation and failure to advise of any discrepancies within fourteen (14) days from the date of the Order Confirmation, shall be deemed to be an acceptance by the Customer of the Order as stated in the Order Confirmation.

2.4 Upon acceptance by ArcelorMittal, Orders shall not be subject to cancellation or any amendment by the Customer.

2.5 Subject to clause 5 below, Orders from Customers paying cash shall be accepted at Prices, transport tariffs and other formally announced ruling conditions at the time that the Customer makes full payment in respect of the Order.

2.6 Orders from customers with credit facilities will be governed by the prices, transport tariffs and other formally announced ruling conditions prevailing at the confirmed expected delivery date. As such the conditions stated in Order Confirmation may be superseded by the prevailing conditions at the time of expected delivery. Such a change shall not constitute a reason to amend or cancel the Order.

3. **REJECTED MATERIAL**

In the event of a Customer rejecting Material delivered or parts thereof, for any reason whatsoever, the Customer shall within seven (7) calendar days from the date of delivery raise the matter with ArcelorMittal, who may on a case by case basis, give written consent to the Customer to return the material. Where such consent has been obtained, the Customer shall bear the responsibility to transport the material back to ArcelorMittal no later than thirty (30) calendar days from the date of the consent. A Customer may not return, or sell as scrap, and/or otherwise dispose of rejected material without ArcelorMittal's prior written consent.

4. **CLAIMS**

4.1 Claims in respect of shortages shall be made in writing, immediately upon receipt of the consignment in respect of which a shortage is alleged. No such claims shall be entertained if lodged more than 7 (seven) calendar days from the date of delivery of the consignment. In the event of non-delivery of any consignment, whether by rail or road, the Customer shall advise ArcelorMittal in writing within twenty-one days from the date of receipt by them, or their consignee, of a copy of the relevant rail or road consignment note.

4.2 All other claims other than envisaged in clause 4.1 above and undetectable at delivery, shall be made upon discovery or latest within six (6) months from delivery and subject to Clause 6.3.

4.3 Unless otherwise expressly agreed, delivery times shall not be regarded as binding and delays in delivery shall not entitle Customer to claim any damages resulting there from. Delays in delivery shall only entitle Customer to cancel the Material not yet in the process of manufacture and only after having granted ArcelorMittal a reasonable grace period in order to remedy said delay and only after having sent ArcelorMittal a formal notice of default.

5. **PAYMENT TERMS**

5.1 ArcelorMittal's payment terms are cash on Order.

5.2 Notwithstanding the provisions of clause 5.1 above, a Customer may, subject to a separate approval process, be granted credit facilities in writing, in which case, payment in respect of the Material purchased and delivered during a particular month, including the charges for delivery and any other charges to be invoiced, shall be due and payable on or before the last day of the following month ("**Payment Date**").

- 5.2.1 Where the last day of the month falls on a weekend or a South African public holiday, payment should be made on or before the last work-day immediately prior to the weekend or the South African public holiday.
- 5.2.2 Payment shall be regarded as having been made once the funds are reflected in ArcelorMittal's bank account.
- 5.2.3 Failure to settle an account on or before the Payment Date shall entitle ArcelorMittal to disallow any settlement discount and to charge interest at a rate that is three percentage points (3%) above Standard Bank of South Africa's ruling prime overdraft rate and to suspend the Customer's credit facility as well as all pending deliveries until the account has been settled in full.
- 5.3 ArcelorMittal Prices are subject to various settlement discounts offered in return for early payment. Details of these discounts are available to Customers on request.
- 5.4 A Customer shall under no circumstances, whatsoever, be entitled to deduct or set-off any amount from or against amounts due as indicated in ArcelorMittal's monthly statement, unless ArcelorMittal has given written authority in this regard.
- 5.5 No interest will be payable or otherwise credited to the Customer as a result of any advance payment made. Payments for advance deliveries, requested by the Customer, may not be deducted from the balance due at the end of a particular month.
- 6. WARRANTY AND LIMITATIONS**
- 6.1 ArcelorMittal undertakes to ensure that the Material delivered conform to specifications and/or to any requirements accepted and confirmed in the Order Confirmation. ArcelorMittal however gives no warranty, express or implied, in respect of workmanship or fitness of material for any particular purpose. This remains the case whether or not such purpose is known to ArcelorMittal and whether or not ArcelorMittal's advice regarding such specifications and/or requirements was prior solicited and/or obtained.
- 6.2 In the event that the Material, for whatever reason, is found to be out of specifications and/or of any requirements accepted and confirmed in the Order Confirmation, ArcelorMittal shall not be liable for any associated direct and/or consequential loss to the Customer.

- 6.3 Notwithstanding the provisions of this clause 6, ArcelorMittal may at its sole discretion, on a case by case basis and subject to the provisions of its Claims Allowance Policy (a copy of which is available on request), compensate a Customer for material that does not conform with specifications, either:
- 6.3.1 by way of a credit note, taking into account the scrap value of the material in cases where it was agreed that material would not be returned to ArcelorMittal, plus the transport component of the price initially charged for the material; or
- 6.3.2 by the replacement of the material with material that does conform to the specifications, delivered to the originally specified address at no extra cost to the Customer.
- 6.4 Requests for either a credit note or replacement of material shall be submitted together with the claim, in all cases, not later than six (6) months after the initial delivery. A replacement order shall be placed and a reasonable time allowed for such replacement.
- 6.5 Replacement will not be an option in instances where the mass of the non-conforming material is less than the minimum order mass which can be accepted for that particular material.

7. **DELIVERY DATES**

Unless otherwise expressly agreed, delivery dates or periods are best estimates meant to assist the Customer to plan their operations and should not be construed as an express guarantee that is binding on ArcelorMittal.

8. **PACKAGING**

Where the Material is dispatched in containers, such as drums or crates, or on pallets, such containers or pallets shall, subject to an additional charge, be deemed to have been sold together with the Material, unless otherwise agreed in writing. Where applicable, the value of/or deposit on the containers or pallets will be indicated separately on the invoice and it is due and payable at the same time that payment is due for the Material dispatched in this manner.

9. **DELIVERY AND TRANSFER OF RISK AND OWNERSHIP**

- 9.1 ArcelorMittal shall deliver the Material by rail or road, at the delivery charges determined by ArcelorMittal from time to time, unless otherwise agreed in writing prior to placing an Order. For purposes of this clause, delivery shall take place, on the date the truck or railway wagon passes the Customer's weighbridge (if any) or enters the Customer's premises, or arrives at the Customer's

premises and access is not immediately allowed (“**Delivery Date**”). It should be noted that where the agreed point of delivery is a place other than the Customer’s site this provision will apply to delivery at that place of delivery. The Customer undertakes to take all such steps and do all such things as may be required to be done (at all times, in the manner and to the standards required) so as to comply with its obligations under this Agreement to receive and accept delivery in terms hereof.

9.2 Whenever ArcelorMittal is ready to deliver the Material and informs the Customer that it is ready to deliver the Material or proceeds to deliver the Material, and the Customer delays, fails, refuses, or neglects to accept delivery, or is not available to accept delivery or frustrates the delivery of the Material then delivery shall be deemed to have taken place on the earlier of the date ArcelorMittal informs the Customer that it is ready to deliver the Material or on the date the truck or railway wagon is refused entry into, or is otherwise impeded from entering, the Customer’s premises or passing the Customer’s weighbridge (if any), or the designated delivery point if applicable (“**Deemed Delivery Date**”).

9.3 For the purposes of clause 5, ArcelorMittal shall be entitled to invoice the Customer in respect of the Material on the basis that delivery thereof has taken place on the Deemed Delivery Date.

9.4 Ownership of the Material shall remain with ArcelorMittal until payment in respect thereof has been made in full.

9.5 The risk of loss or damage in or to the Material shall pass to the Customer on the Delivery Date, or Deemed Delivery Date if applicable.

10. **OFF-LOADING OF MATERIAL**

10.1 The duty of the ArcelorMittal transport contractor and/or driver shall be limited to the delivery of material to the Customer at the Customer’s premises or specified location and shall under no circumstances be responsible for, or obliged to do, the slinging or physical offloading of the Material from the motor vehicle. This remains the responsibility of the Customer and/or the Customer’s employees and/or agents.

11. **INDEMNITY AND UNDERTAKINGS**

11.1 The Customer hereby indemnifies and agrees to defend, keep indemnified and hold harmless ArcelorMittal, its parent company, affiliated and associated companies, in respect of all losses

(including attorneys' fees and costs on a scale as between attorney and client), liability, damage or expense, suffered or incurred by ArcelorMittal or any person including third parties arising –

- 11.1.1 out of the performance of the Customer's obligations under these General Conditions of Sale or breach by the Customer and/or the Customer's employees and/or agents of any of the terms of these General Conditions of Sale;
- 11.1.2 from breach of any contractual right of a third party, or infringement of any intellectual property of a third party, including rights under patents, trademarks, copyright, trade secret, or confidentiality obligations, or rights of privacy and publicity resulting from, relating to or arising out of the performance, by the Customer, of its obligations in terms of these General Conditions of Sale, except where any such claim relates to or arises out of any material furnished by ArcelorMittal;
- 11.1.3 any breach of the provisions of any agreement between the Customer and the Customer's employees and/or agents;
- 11.1.4 injury or death of the Customer's employees and/or agents for any reason whatsoever;
- 11.1.5 any loss to or caused by the Customer and/or the Customer's employees and/or agents;
- 11.1.6 any acts or omissions including anti-competitive conduct, corruption, fraud and criminal acts of the Customer and/or the Customer's employees and/or agents; and/or
- 11.1.7 damage to property or equipment by the Customer and/or the Customer's employees and/or agents.
- 11.2 ArcelorMittal will co-operate with the Customer in the conduct of any proceedings arising pursuant to this clause 11 and shall have the right (but not the obligation) to participate in such proceedings, provided that the cost thereof shall be borne by the Customer.
- 11.3 For as long as there shall be any amount of money due and payable to ArcelorMittal by the Customer, the Customer shall not enter into any settlement arrangement or compromise, or make any settlement or compromise offer, without the prior written consent of ArcelorMittal.
- 11.4 The indemnity under this clause 11 shall survive termination of this Agreement

12. **FORCE MAJEURE**

In the event of any act of God, war, warlike operation, strikes, breakdowns of plants or any machinery at any of ArcelorMittal's Plants, rebellion, riot, civil war, operational disaster or any like circumstances arising or action taken beyond or outside the reasonable control of ArcelorMittal and preventing ArcelorMittal from supplying any material or otherwise performing any one or more of its obligations in terms of these General Terms and Conditions (any such event hereinafter referred to as "**Force Majeure**"), then ArcelorMittal shall be relieved of such obligation(s) during the period of the Force Majeure to the extent of the nature of the Force Majeure and shall not be liable for any loss (direct and / or consequential) and /or damage which the other Customer may suffer due to or resulting from the Force Majeure, provided always that a written notice shall be promptly given to the Customer in regard the Force Majeure.

13. **APPLICABLE LEGAL SYSTEM**

These General Conditions of Sale are subject to law of the Republic of South Africa and courts of South Africa shall have sole jurisdiction.

14. **ENTIRE AGREEMENT AND VARIATION**

This document embodies the entire agreement between the Parties hereto and no amendment or variation of any of the provisions of this General Conditions of Sale shall be of any force or effect unless reduced to writing and signed by both Parties.

15. **DISPUTE RESOLUTION**

- 15.1 If a dispute of any nature arises between the Parties, including in regard to the interpretation of, the effect of, the Parties' respective rights or obligations hereunder, a breach of or the termination of this General Conditions of Sale, then, upon written request of either Party, each of the Parties will appoint a senior representative whose task it will be to meet for the purposes of resolving such dispute. Such representatives will discuss the matter in dispute and negotiate in good faith in an effort to resolve the dispute on amicable terms within 14 (fourteen) days. No formal proceedings may be commenced until the designated representatives conclude in good faith that an amicable resolution of the matter is not likely to occur.
- 15.2 Should the representatives of the Parties be unable to resolve a dispute in accordance with the foregoing, such dispute will be submitted to and decided by a court of competent jurisdiction or,

upon agreement between the Parties, by arbitration in terms of the rules of the Arbitration Foundation of Southern Africa or such other body of arbitrators as the Parties may agree having regard to the nature and complexity of the dispute.

16. NOTICES AND DOMICILIUM

16.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings), their respective addresses set out in the Order or Order Confirmation, at which addresses all processes and notices arising out of or in connection with this General Conditions of Sale, its breach or termination may validly be served upon or delivered to the Parties.

16.2 Any notice given in terms of this General Conditions of Sale shall be in writing and shall:

16.2.1 if delivered by hand, be deemed to have been duly received by the addressee on the date of delivery;

16.2.2 if posted by prepaid registered post, be deemed to have been received by the addressee on the 8th (eighth) Business Day following the date of such posting;

16.2.3 if sent electronically, shall be deemed to have been received on the first Business Day following the successful transmission thereof as evidenced by the electronic confirmation of receipt (unless the contrary is proven).

16.3 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen address set out above shall be an adequate written notice of communication to such Party.