

## **GENERAL TERMS AND CONDITIONS OF SALE**

(ERW OCTG casing and tubing)

These General Terms and Conditions of Sale (these “Terms and Conditions”) govern the sales of ERW OCTG casing and tubing (“Goods”) by Hyundai Steel USA, Inc. (“Seller”) to the Buyer pursuant to a quotation, sales contract or purchase order (collectively referred to herein as the “Sales Agreement”). These Terms and Conditions are incorporated by reference in and become a part of every Sales Agreement. All references herein to “Buyer” refer to the purchaser of Goods from Seller pursuant to the Sales Agreement, and any terms used and not defined herein shall be as defined in the Sales Agreement.

### **1. Entire Agreement and Application**

These Terms and Conditions are incorporated by reference herein, become a part of, and supersede all prior negotiations, representations, commitments and agreements, whether oral and written, between Buyer and Seller with respect to the Sales Agreement and the sale of Goods to Buyer. Seller rejects any additional or inconsistent terms and conditions submitted by Buyer, whether oral or written, prior to or after the date of the Sales Agreement, unless expressly agreed upon in writing by an authorized representative of Seller. If no written objections are received from Buyer within seven (7) calendar days after receipt of these Terms and Conditions, the Terms and Conditions shall be deemed accepted in full by Buyer. These Terms and Conditions shall take precedence and shall prevail over any inconsistent terms in the Sales Agreement.

### **2. Delivery Terms & Price:**

If Buyer desires a change in the Goods outside the scope of the original Sales Agreement, Buyer shall submit a written change order (“Change Order”) to Seller. Seller shall review the newly issued requirements and evaluate Seller’s ability to deliver according to specification and delivery listed in the Change Order. If Seller agrees, a new Sales Order Confirmation will be issued as indication of acceptance. If the changes require a new quotation, whether for delivery date or price caused by factors outside the control of Seller including engineering, dimensions and specifications, Seller will issue a revised quotation. Seller reserves the right to reject any Change Orders given after the Seller has initiated production or procurement in the scope of the original Sales Agreement.

### **3. Transfer of Title and Risk of Loss and Damage**

The risk of loss and damage shall pass from Seller to Buyer once the Goods are delivered to Seller as per the delivery terms of these Terms and Conditions, meaning when loaded on the pick-up terms, meaning when picked up, as stated in Article 2 of these Terms and Conditions, and Buyer will become responsible for any and all risk of loss and damages in transit. Seller shall have no responsibility for any damages or injuries during delivery of the Goods to Buyer.

Title to the Goods shall pass to Buyer only upon full and complete payment by Buyer for the Goods. Upon Seller’s request, Buyer shall execute and deliver to Seller such financing statements and other instruments and agreements as Seller may reasonably require to evidence or perfect its security interest in the Goods until full payment is received from Buyer.

#### **4. Cancellations and Returns**

Buyer may not cancel or modify any Sales Agreement, in whole or in part, after execution of the Sales Agreement without Seller's prior written consent, to be given or denied in Seller's sole and absolute discretion, and which Seller may condition upon an adjustment of price and/or other terms and Buyer's reimbursement to Seller of its costs and damages in connection with the original Sales Agreement and its cancellations/returns. Except as provided for in Article 9 of these Terms and Conditions, no Goods shall be returned to Seller. Conforming Goods are not returnable in any respect, unless expressly agreed in writing any authorized representative of Seller, to be given or denied in Seller's sole and absolute discretion.

#### **5. Payment:**

Payment is due from Buyer to Seller no later than thirty (30) calendar days after the invoice date of the invoice submitted by Seller to Buyer, unless otherwise indicated in the Sales Agreement. Buyer's payment to Seller is not and shall not be conditioned on any other matter, including payment from a third party, and Buyer shall have no right of offset, retention or holdback against any amounts owed to Seller. If collected through court, bankruptcy proceedings, or if placed in the hands of an attorney for collection, Buyer shall be obligated to pay Seller its reasonable attorney's fees and court costs incurred in such collection or enforcement efforts. If the financial position of Buyer becomes, in Seller's judgment, weakened or if Buyer shall fail to comply with any provisions hereof or fail to make payments in accordance with the terms hereof under the Sales Agreement between Buyer and Seller, Seller may at its option, defer further shipments or, without waiving any other rights it may have, terminate the Sales Agreement and any subsequent Buyer orders pending with Seller. In addition, upon Seller's request, Buyer shall execute and deliver to Seller such financing statements and other instruments and agreements as Seller may reasonably require to evidence or perfect its security interest in the Goods until full payment is received from Buyer.

If Buyer fails to make payment in full for Goods within the time period set forth above or within the time period expressly agreed upon in the Sales Agreement, such failure to pay on time constitutes a material breach of the Sales Agreement by Buyer, permitting Seller to defer further delivery and suspend the production, under these Terms and Conditions and the Sales Agreement. In such an event, Seller has the right to cover from Buyer all additional charges that may occur in relation to the return and Seller's resale of the Goods, including, but not limited to, reasonable commercial charges, transportation, insurance, interest, and attorneys' fees, costs, and expenses.

#### **6. Security**

All orders and deliveries are subject to Seller's satisfaction of the creditworthiness of Buyer. Upon Seller's request, at any time before full payment for the Goods, Buyer shall execute and deliver to Seller such financing statements and other instruments and agreements as Seller may reasonably require evidencing or perfect its security interest in Goods. Seller reserves the right to decline any order or to continue performing pursuant to the Sales Agreement if it feels Buyer's creditworthiness has created a risk of payment to Buyer. In such an event, Seller and Buyer agree to act in good faith and use reasonable efforts to provide Seller security with respect to payment under the Sales Agreement, even if it required additional security other than what Seller already has, to sell or continue to provide the Goods to Buyer.

**7. Inspection**

Buyer shall (i) inspect the Goods for transportation-related damage or shortage immediately upon delivery; (ii) describe any such damage or shortage on the bill of lading; and (iii) immediately report the damage or shortage to Seller and transporter's local representative (if any). Buyer may not reject or revoke the acceptance of Goods or fail to make payment for Goods without filing a claim with proof of such damage or non-conformance. The claim must include photographs and a copy of the original bill of lading signed by Buyer noting in detail the claimed damage or non-conformance.

Seller shall be provided written notice of non-transportation-related claims within five (5) days from the date of discovery of a hidden non-conformance or from the date on which a diligent purchaser should have discovered the hidden damage or non-conformance; and within fifteen (15) days from the date of delivery of the Goods in case of patent damage or non-conformance. Failure to give written notice within the aforesaid period shall release Seller from any liability thereof.

The direct or indirect purchaser must grant reasonable access for inspection and shall not make any alteration or repair to Goods before Seller inspects them. If Seller's inspection confirms that Goods do not conform with the warranty set forth herein, then Seller will, as its sole option, either replace the non-conforming Goods or refund the original uninstalled purchase price for the non-conforming Goods or, where the Goods have already been installed, reimburse the direct or indirect purchaser, as the case may be, for the reasonable cost of repair or replacement of the non-conforming Goods.

**8. Disclaimer, Representation and Warranties:**

Except as otherwise stated herein or in an acknowledgement delivered to Buyer, Seller warrants and represents to Buyer that the Goods shall comply with the specifications provided by Seller and be free from defects in material and workmanship for 9 months from the delivery date or 6 months from use of the Goods, whichever the earlier. Such warranties and representations will not apply to Goods with respect to which there has been (i) improper installation or testing, (ii) failure to provide a suitable operating environment, (iii) use of the Goods for purposes other than that for which it was designed, (iv) failure to store the Goods in accordance with applicable specifications or good industry practice, (v) unauthorized attachment or alteration of part of the Goods, (vi) unusual mechanical, physical or electrical stress, (vii) modifications or repairs done by other than Seller, or (viii) any other abuse, misuse, mishandling, neglect, or accident that is not attributable to Seller.

Also, except for the express warranty set forth above, Seller hereby expressly disclaims and excludes any and all other or further warranties, express or implied, statutory or otherwise, regarding the Goods, or their fitness for any purpose, quality, merchantability, non-infringement or otherwise. No employee of Seller or any other party is authorized to make any other representations or warranties for the Goods other than as set forth herein.

**9. Limitation on Liability:**

In no event shall Seller be responsible or held liable to Buyer for punitive, indirect, incidental or consequential damages, including, without limitation, liability for loss of use or loss of profits, however the same may be caused, including fault or negligence of Seller.

To the fullest extent permitted by law, and notwithstanding any other provision of these terms and

conditions, the total liability, in the aggregate, of Seller and Seller's affiliates, and its and their officers, directors, partners, employees and subcontractors, to Buyer and anyone claiming by or through the buyer, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims and expenses resulting from or in any way related to the sales of Goods or the Sales Agreement, from any cause or causes whatsoever, shall not exceed the invoiced amount of the defective Goods. It is intended that this limitation shall apply to any and all liability or causes of action however alleged or arising, unless otherwise prohibited by law.

No claims of any nature, whether based in contract, tort, statute, or otherwise, may be brought or filed against Seller or any of its parent or affiliates or its and their officers, directors, partners, employees, and subcontractors, more than twelve (12) months after delivery of Goods to Buyer.

**10. Indemnification:**

Buyer shall release, protect, defend and indemnify and hold Seller and Seller's parent and affiliates, and its and their officer, directors, employees, agents, representatives, and invitees (the "Seller Group") harmless from and against any and all losses, claims, damages or expenses (including any reasonable attorneys' fees) incurred, either directly or indirectly, by any member of Seller Group, including but not limited to those arising or related to illness, bodily injury, death or damage to property, by reason of:

- a. the failure of Buyer, or any its affiliates, carriers, customers, or contractors (excluding any member of Seller Group), and its or their officers, directors, employees, agents, representative, and invitees (collectively the "Buyer Group"), to follow specifications, instructions, labels, warnings or recommendations respecting the Goods furnished by Seller Group;
- b. the failure of any member of Buyer Group to comply with all applicable legal requirements respecting Goods;
- c. the failure of Buyer's carrier to properly secure Goods for transportation;
- d. the loading of Goods as directed by any member of Buyer Group;
- e. misuse, modification or misapplication of Goods by any member of Buyer Group;
- f. the installation of Goods by Buyer Group or any other third-party;
- g. the ingress and egress on Seller Group's property to facilitate the delivery and transportation of Goods to Buyer Group;
- h. the transportation and delivery, including loading and unloading, of Goods to Buyer Group;
- i. any breach of the Sales Agreement by Buyer Group;
- j. any misrepresentation by Buyer Group; or
- k. any infringement or alleged infringement of any patent, trademark, copyright or trade secret by Buyer Group.

**11. Force Majeure:**

Except for Buyer making timely payments to Seller for Goods, no party (the “Affected Party”) shall be responsible to the other party (the “Non-Affected Party”) for any nonperformance (either in whole or in part) or delay in the performance of these Terms and Conditions or Sales Agreement due to war, war-like operation, acts of God, riot, strikes, sabotage or other labor disturbances, industry-wide material or component shortages, industry-wide utility or communication failures or delays, epidemics, floods, earthquakes, typhoons, embargoes, acts of any Governmental Authorities or any other causes beyond the control of the parties. In case of any such event these Terms and Conditions or Sales Agreement relating to time and performance shall be suspended during the continuance of the event of force majeure.

Within 2 business days from the date of commencement of the event of force majeure, the Affected Party shall advise the Non-Affected Party in writing of the date when such event of force majeure commenced, and the reasons therefore, if applicable. Similarly, within 2 business days from the conclusion of the event of force majeure, the Affected Party shall advise Non-Affected Party in writing of the date when such event of force majeure concluded, and shall also specify the new time by which the performance of the relevant obligation is to be completed.

**12. Confidentiality:**

The existence of and the terms of these Terms and Conditions or the Sales Agreement shall be held confidential by the parties save to the extent that such disclosure is made to a party’s banks, or as may be required by law, a competent court or administrator of a party, or the other party has consented in writing such disclosure.

**13. Assignment:**

Buyer may not assign its rights or obligations hereunder in whole or in part without the prior written consent Seller.

**14. Governing Law:**

These Terms and Conditions and the Sales Agreement by and between Buyer and Seller for the purchase and sale of Goods created hereunder are deemed made in Texas and shall be governed as to validity, interpretation, construction, effect, and in all other respects, by the laws of the State of Texas, without giving effect to the conflict of laws principles thereof. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms and Conditions or the sale of Goods from Seller to Buyer.

Buyer and Seller irrevocably consent and submit to the exclusive jurisdiction and venue of any state or federal court situated in Harris County, Texas with respect to any litigation arising out of the Sales Agreement or these Terms and Conditions or the performance of breach thereunder, and hereby irrevocably designates the Secretary of the State of Texas as their agent for service of process unless another agent has been registered in the State of Texas and agree that process may be served upon Buyer and Seller in any manner permitted by Texas law.

**15. Entire Agreement:**

This Contract constitutes the entire agreement and understanding of the parties with respect to the

subject matter hereof, and supersedes all prior agreements and understandings, both written and oral, of the parties relating to the subject matter hereof.

**16. Severability:**

The invalidity, illegality or unenforceability of any one or more of the provisions of these Terms and Conditions shall in no way affect or impair the validity and enforceability of the other provisions of these Terms and Conditions.

**17. Modification:**

These Terms and Conditions shall not be modified, amended, supplemented, or superseded without the written consent of both Buyer and Seller.

**18. Waiver**

Neither any failure nor any delay on the part of Seller in exercising any rights hereunder or under the Sales Agreement shall operate as a waiver of any of Seller's rights. Any waiver by Seller of any breach of, or any default under, any provision of these Terms and Conditions or the Sales Agreement by Buyer will not be deemed a waiver of any subsequent breach or default. All rights and remedies granted herein are in addition to all remedies available at law or in equity.