

## Huerner Welding Technology NZ Ltd (Huerner)

### Terms and Conditions

Effective from 6 September 2017

#### 1. Validity

- 1.1. These general terms of business are applicable to all transactions with Huerner.
- 1.2. These general terms shall prevail over all the purchaser's terms and conditions.

#### 2. Offers

Huerner's offers are not enforceable in any respect. The contract will only become enforceable following the dispatch of Huerner's written confirmation order. Plans, sketches and other technical information as well as folders, catalogues, samples or anything like that remain the intellectual property of Huerner.

#### 3. Prices

Unless otherwise agreed, the prices are quoted FCA Auckland, including standard packaging. The pallets for sheet consignments are separately invoiced. All extra costs - for example freight, insurance, export- import- or other approvals and certifications - are payable by the purchaser. The purchaser also bears the costs for all types of taxes, imposts, fees and customs duties.

#### 4. Delivery

- 4.1. Delivery period: Any delivery periods are indicative only and Huerner will not be liable for any delays.
- 4.2. Insurance: Our sales prices do not include delivery costs, assembly or installation. On request Huerner supplies these services for additional charge. When delivery is refused by the purchaser Huerner is entitled either to put the goods into storage, for which it will charge 0.25% of the invoiced amount per each calendar week or part thereof and to insist on performance of the contract at the same time, or to cancel the contract after fixing a reasonable extension and to use the merchandise elsewhere; in this case liquidated damages in the amount of 10% of the invoiced amount is payable.
- 4.3. Mode and route of shipment: Depending of the agreed terms of delivery Huerner has the sole right to select the transit route. Additional costs incurred due to special transport requests of the buyer, for example for expedited shipments, express deliveries or another special method of delivery, are at the purchaser's expense. Specific requests with regard to mode and route of shipment have to be made within a reasonable time. The obligation to deliver is fulfilled when the merchandise has left Huerner's factory or when Huerner has advised that the goods are ready for shipment.
- 4.4. Transfer of liability: Risk passes to the purchaser when, the goods are collected by it, or when the goods are delivered to the purchaser by Huerner or when the goods are delivered to the purchaser's freight company or agent in Auckland. When the goods are returned to Huerner risk doesn't pass until the goods are unloaded back in its premises.

#### 5. Technical information and documents:

Technical documents such as drawings, descriptions, illustrations, as well as any data as to dimensions, weight or other characteristics, are guide lines only. Huerner reserves the right to make suitable technical modifications. The product properties are those as shown in Huerner's technical documents.

#### 6. Regulations at place of destination:

The purchaser must notify Huerner of any local, legal or other regulations, and standards which relate to delivery and/or compliance with security and registration regulations.

#### 7. Prices and Payment:

All prices are subject to change and do not include GST.

The purchase price must be paid by the 20<sup>th</sup> of the month following the invoice date without set-off, counter-claim or deduction.

The purchase price and any other charges unpaid after 30 days will incur an interest charge of 2% per month or part thereof until paid. Any legal fees and/or enforcement costs incurred to recover any outstanding purchase price and any other charges shall be reimbursed to Huerner on a full indemnity basis (including solicitor and client costs) When a payment date has fallen due, payments will be applied to the oldest invoice.

#### 8. Jurisdiction:

This agreement and these general terms and any claim or dispute arising out of or in connection with this agreement shall be subject to New Zealand law and the New Zealand Courts shall have exclusive jurisdiction unless the purchaser is located outside New

Zealand in which case Huerner only may enforce payment in the country or state where the purchaser is in business or resides.

#### 9. Proprietary rights:

The goods remain the property of Huerner until all payments are made in full. All expenses incurred in connection with protecting Huerner's goods are to be fully reimbursed by the purchaser (on a solicitor and client basis).

#### 10. Guarantee and Indemnification:

The period of guarantee is 1 year. After delivery, the goods are to be inspected immediately by the purchaser. Notice of any defects is to be made to Huerner in writing immediately and in any event not later than 14 days after delivery. Any notice is to refer to the kind and extent of the defect. Any claim for damages made after this time will not be accepted and the goods will be deemed to have been accepted. Returns of goods to Huerner can only be made with Huerner's prior written consent. If the purchaser effects modifications or repairs on the delivered goods, Huerner's guarantee is nullified. Huerner's guarantee obligation is limited to replacement of the defective delivered goods and it will have no liability for indirect, economic nor consequential loss.

The existence of any defect does not entitle the purchaser to repair it or by a third party. Huerner must be given the opportunity to replace, repair or cancel within a reasonable period of time. Excluded from the guarantee are: damages as a result of natural attrition, inadequate storage, disregard of working instructions, excessive stressing, as well as improper handling by the purchaser or by a third party. All guarantee and liability claims expire and are excluded after 1 year following delivery.

#### 11. Disclaimer:

Huerner disclaims all representations made and any warranties, express, implied or statutory, including any implied warranties or representations as to merchantability and fitness for a particular purpose.