

GENERAL TERMS AND CONDITIONS OF SALE

1. Acknowledgement

- a) These terms and conditions of sale (the “**Terms**”) shall apply to and shall form part of any contract for the sale (the “**Contract**”) of the Seller’s Goods to the Purchaser.
- b) If the sale arises pursuant to an agreement in writing between Purchaser and Seller (the “**Agreement**”), the terms of that Agreement shall govern in the event of any inconsistency.

2. General

- a) **Definition: “Goods”** means products to be supplied by Seller as more particularly described in the Seller’s Order Confirmation.
- b) **Extended Meanings:** Words importing the singular number include the plural and vice versa and words importing gender include all genders.
- c) **Governing Law:** The Contract shall be construed and governed in accordance with the laws of Quebec, Canada. The parties attorn to the exclusive jurisdiction of the Courts in Montreal, Quebec in connection with any disputes.
- d) **Severability:** The invalidity or unenforceability of any provision of the Contract shall not affect any other provision hereof.
- e) **Waiver:** Failure by either party to enforce any of its rights under the Contract in a particular instance shall neither constitute a waiver of its rights under the Contract, nor shall it constitute a continuing waiver or preclude subsequent enforcement thereof.
- f) **Delivery by Facsimile or Email:** The Contract may be communicated by facsimile transmission or email in pdf format and a document executed and delivered by electronic means shall be deemed to be an original document.
- g) **Entire Agreement:** The Agreement (if any), the Contract, and the Terms are the entire agreement between the parties, and there are no verbal, express or implied promises, representations, agreements, or terms between Seller and Purchaser for the purchase of Seller’s Goods other than as set out therein. Without limiting the generality of the foregoing, none of Purchaser’s terms and conditions shall apply and Purchaser’s acceptance of Seller’s Goods shall be conclusively presumed an acceptance of the Seller’s terms. Amendments to the Contract (and Agreement, if any) will be made in writing and by mutual agreement only, and must be signed by the parties or their duly authorized representatives.
- h) **Conflict:** Subject to paragraph 1(b), if there is a conflict between the provisions of the Order Confirmation and the Terms, the provisions of the Order Confirmation shall prevail.

3. Prices and Payment

- a) **Price:** The price for Goods is the price in effect on the date of Seller’s Quote to supply Goods and for thirty (30) days thereafter. The Seller reserves the right to revise the price of any Goods following the expiry of the Quote.
- b) **Currency:** All prices are in the currency specified in the Order Confirmation.
- c) **Sales Tax:** Purchaser shall pay any applicable sales taxes imposed by any governmental (federal/state/provincial/municipal) authority.
- d) **Invoices Due:** Subject to the further provisions of these Terms and the provisions of the Order Confirmation, invoices are due for payment within thirty (30) days of receipt of the invoice, and interest shall accrue on the balance of any invoice that is due and payable and unpaid thereafter at the rate of two percent (2%) per month.
- e) **No Offset:** The Purchaser may not deduct or offset any amount from the amount due to the Seller under any invoice for any reason.
- f) **Unit Price:** If there is a unit price error in any invoice, the unit price set out in the Order Confirmation will be used as a basis for correcting the invoice.

4. **Breach:** If Purchaser breaches any term of the Contract or any other contractual obligation in favor of Seller, (a) Seller may choose to defer any or all further shipments or other performance under the Contract and performance of any other contractual obligation in favor of Purchaser until Purchaser cures its breach, or (b) Seller may immediately terminate the Contract if Purchaser fails to cure such breach within ten (10) days after receipt of written notice from Seller describing such breach. In the event of a termination, all outstanding payment obligations or other indebtedness of Purchaser to Seller shall be immediately due and payable. Acceptance by Seller of less than the full amount due shall not be a waiver of any of Seller’s rights under the Contract or applicable law.

Seller shall have no obligation to pay any rebate, issue any credit or make any other payment to Purchaser unless Purchaser is fully in compliance with its payment and other obligations under the Contract and any other contractual obligation in favor of Seller. In addition, in the event that Purchaser fails to make any payment when due, Seller shall have the right to offset any outstanding payment obligations or other indebtedness of Purchaser to Seller against any outstanding payment obligations or other indebtedness that Seller or any of its affiliates may owe Purchaser.

5. **Title:** Unless otherwise provided in the Order Confirmation, title to and risk of loss of Product shall transfer to Purchaser upon delivery to the carrier at Seller’s shipping point. Purchaser shall bear all risk of loss or damage in transit.

6. **Warranties:** Seller warrants that at the time of shipment (i) Goods are free and clear of all liens, encumbrances and security interests and (ii) Goods comply with Seller’s published specifications (or as otherwise referenced in the Contract). Seller expressly disclaims all other representations, warranties, or conditions of any kind, whether express, implied, statutory, written or oral, including without limitation warranties or representations of merchantability or fitness for a particular purpose.

Purchaser shall inspect the Goods supplied hereunder immediately after delivery. Claims for shortages must be received by Seller in writing within forty-eight (48) hours after delivery of Goods. Seller shall be given a reasonable opportunity to inspect any shipment claimed by Purchaser to contain a shortage. Seller makes no warranty or representation, express or implied, in respect of any technical advice furnished or recommendation made by Seller or its representatives concerning any use or application of any Goods. Any attempt to remedy or correct a claimed defect by anyone not authorized by Seller to perform such work or continued use of such Goods shall void the warranty set forth above and Purchaser shall be deemed to have accepted the Goods as is, with no further obligation of Seller to Purchaser. If requested by Seller, Purchaser shall return nonconforming Goods to Seller strictly in accordance with Seller’s written instructions concerning shipping, handling, insurance, and other matters. Failure to comply with these provisions shall invalidate any claim by Purchaser for breach of warranty.

Limited Guarantee of Goods - Seller provides various limited guarantees of its Goods, which are the sole remedy for a defect or any deficiency of Seller’s Goods. These Limited Guarantees are subject to the terms and conditions found at www.metalunicdesign.com, which Purchaser acknowledges having reviewed and agreed to.

Pass-Through Warranties – Seller agrees to pass through to Purchaser any warranties given by its third party suppliers in connection with Goods sold by Seller to the Purchaser, to the extent permitted by the terms and conditions of such warranties.

7. **Limitation of Liability:** Seller’s sole obligation and liability and Purchaser’s exclusive remedy for any claim connected with or arising out of the Contract or any Goods supplied, whether based in tort, contract, strict liability or any other legal theory shall be for direct damages only and is expressly limited to, at Seller’s option, replacement or repair, as applicable, of nonconforming Goods or payment in an amount not to exceed, in the aggregate, the purchase price of the Goods for which damages are claimed. Seller shall not be responsible to Purchaser, its customers, end users or others for any consequential or other damages, loss of profits or savings, loss of business, loss of goodwill, loss of use or production, business interruption, or any indirect, special, aggravated, punitive or exemplary damages. The limitations set out in these Terms shall survive termination of the Contract.

8. **Force Majeure:** Seller shall not be liable for delay in or non-performance of the Contract or any part thereof, resulting directly or indirectly from earthquakes; epidemics; act of any governmental authority, domestic or foreign, including but not limited to war, quarantines, embargoes, accidents and disruptions; acts of terrorism; fires, explosions and power shortages; labour difficulties including strikes, slowdowns and sabotage; cyber-related disruptions, including ransomware and other cyberattacks; inability to secure power, materials, labor, equipment or transportation at commercially feasible prices; or any cause beyond its reasonable control.

9. **Seller’s Confidential Information:** Purchaser agrees to keep in confidence all information of Seller that may be disclosed to it or that may be developed in connection with the Contract and to require a similar obligation on the part of any subcontractors and agents of Purchaser to whom any work or duty in relation to the Contract may be allotted, with the written permission of Seller.

10. **Language:** It is the express intention of the parties that these Terms and Conditions be written in the English language only.
Il est dans l’intention expresse des parties que ces termes et conditions soient écrites dans la langue anglaise seulement.