



MAKIN METAL POWDERS (UK) LTD

TERMS & CONDITIONS

1. For the purpose of these conditions the party placing an order are hereinafter termed the Purchaser; the company supplying the goods are hereinafter termed the Sellers', the goods agreed to be supplied are hereinafter termed the goods and the Purchaser price agreed to be paid for the goods is hereinafter termed the price.
2. Unless otherwise stated the prices quoted in the contract to which these conditions apply are based upon present cost of raw materials, fuel, labour, carriage etc., and in the event of any of these or other costs being increased, the Sellers reserve the right to adjust their prices to cover the increased costs.
3.
 - a) Whilst the Sellers will use all reasonable endeavours to keep any stated dispatch or delivery date, they accept no liability whatsoever for any loss or damage resulting from delay howsoever the same shall have been caused.
 - b) If the Purchaser shall refuse to take deliveries at any time specified by the Sellers, the Sellers shall not afterwards be bound to make up such deliveries.
 - c) The Sellers shall be entitled (i) to suspend delivery under the contract to which these conditions apply and then to recommence or (ii) cancel or rescind the said contract without liability for loss or damage resulting therefrom if the performance of their obligations under the contract are in any way adversely affected by any war, strike, lock out, trade dispute, flood, accident to plant or machinery, shortage of any material or labour or any other cause whatsoever beyond the Sellers control.
4.
 - (a) The liability of the Sellers to the Purchaser shall be limited to the replacement value of any defective goods. Defective goods will be replaced free of charge as originally ordered or at the Sellers option, appropriate credit will be given provided that notice of any such defect shall have been given in writing to the Sellers as soon as the Purchaser know or ought reasonably to know of such defect or the possibility thereof but at the latest within 28 days of delivery. Unless such notice is given the Purchaser will be deemed to have accepted the goods and no liability whatsoever will be accepted by the Sellers.
 - (b) Shelf Life is 6 months from date of dispatch provided that the powder remains in its original, unopened container and that it is stored in a clean, dry environment at room temperature.
5. So far as it is legally possible so to do the foregoing is given in lieu of all conditions or warranties of every kind whether express or implied by law or otherwise all of which are hereby expressly excluded.
6. As the Sellers have no control over the use to which the Purchaser puts the goods. the Purchaser shall at all times indemnify the Sellers against any loss or damage to Third Parties caused directly or indirectly by the goods or arising by reason of their use.
7. Samples are only submitted to give an approximate idea of general quality and no warranty is given or implied that the goods will in all respects be equal to sample.
8. Risk shall pass to the customer on delivery to the customer or to his agent or any carrier acting for the customer (including any such agent or carrier instructed by the Seller acting on behalf of the customer). The Seller retains all title in the goods and the customer holds them as bailee having a fiduciary relationship to the Seller until he pays the Seller the full contract price.



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9. The property in the goods delivered shall not pass to the Purchaser and the Purchaser shall keep the goods as bailee and trustee for the Seller (returning them to the Seller upon request) until the price of the goods shall have been wholly paid and until any other sums whatsoever which are due from the Purchaser to the Seller whether under this contract or otherwise whatsoever shall have been paid in full. Notwithstanding the above, the Purchaser shall be entitled to sell the goods to third parties in the normal course of the Purchaser's business but the proceeds of any such sale shall whenever any sum whatsoever is due from the Purchaser to the Seller whether under this contract or howsoever otherwise to be held on trust for the Seller.
10.
 - a) Unless otherwise expressly stated payments are due and payable on the last day of the calendar month following the calendar month in which the goods were dispatched.
 - b) If the Purchaser shall fail to make payment in full in accordance with sub-paragraph (a) of this Condition then (without prejudice to any other rights of the Seller):
 - (i) The Sellers shall be entitled to suspend all or any other deliveries to be made under that or any other contract with the Purchaser; and in such event the Purchaser shall not in any respect be released from its obligations to the Sellers under that or any such other contract.
 - (ii) Instead of suspension in accordance with paragraph (i) above the Sellers shall be entitled to terminate the relevant contract or any other contract with the Purchaser in accordance with Condition 12 below and to claim damages from the Purchaser for breach.
11. Any variations or omissions to these conditions or any of them shall only be valid if made by a duly authorised officer of the Company, and confirmed in writing.
12. The contract to which these conditions apply shall be deemed to be upon the foregoing conditions only and no conditions in or incorporated in or implied by customers acceptance or order forms shall apply hereto.
13. The Sellers may without prejudice to any other rights they may have by notice in writing to the Purchaser terminate the contract to which these conditions apply forthwith if:-
 - (a) the Purchaser shall commit any breach of any of the terms (including without limitation terms concerning the time for payment of the Purchaser price) of this or any other contract with the Sellers and on its part to be observed or performed PROVIDED if such breach is remediable that the Sellers have previously given to the Purchaser notice thereof and the same has not been remedied within seven days thereafter:
 - (b) the Purchaser compounds with or negotiates for any composition with its creditors generally or permits any judgment against it to remain unsatisfied for seven days:
 - (c) being an individual the Purchaser shall die or have a receiving order made against him or commit any act of bankruptcy; or
 - (d) being a company the Purchaser shall call any meeting of its creditors or have a receiver of all or any of its assets appointed or enter into any liquidation.
14. The contract to which these Conditions apply shall be construed and take effect in all respects in accordance with English law. The Uniform Laws on International Sale of Goods as amended from time to time shall not apply to any contract between the Sellers and the Purchaser.