



J M VASSALLO VIBRO STEEL LIMITED

Our Terms & Conditions of Sale

We: - all references to 'we' below shall be taken as meaning J.M. Vassallo Vibro Steel Limited.

You: - all references to 'you' below shall be understood to mean the beneficiary of this sale.

Our vehicle:- shall be understood to mean any truck, van, articulated trailer or any other such vehicle owned by us or by any hauler, courier or other third party contracted to us to deliver your goods.

Available Credit:- shall mean the sum of your 'credit limit' less the value of all invoices outstanding for payment on your account less the value of all goods in transit to you or in production for you.

Credit Limit:- shall mean either a credit insurance limit afforded you by our credit insurers or otherwise granted at our sole discretion.

Price

- 1.1 The price quoted excludes VAT. VAT, duty and any other applicable taxes will be charged at the prevailing rate at the time of delivery.
- 1.2 Our quotations lapse after 30 days (unless otherwise stated).
- 1.3 The price quoted excludes delivery (unless otherwise stated).
- 1.4 Unless otherwise stated in writing, the price quoted is an illustrative estimate only and the price charged will be our price current at the time of delivery.
- 1.5 At any time before delivery we may adjust the price to reflect any increase in our costs of supplying the goods.

Delivery

- 2.1 All delivery dates and times are estimates only.
- 2.1.1 If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:
- 2.1.2 you may not cancel if we receive your notice after production of your order has commenced
- 2.1.3 if you cancel the contract, you can have no further claim against us under that contract.
- 2.2 If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss, or increase in the price of the goods).
- 2.3 We may deliver the goods in instalments. Each instalment is treated as a separate contract.
- 2.4 Our obligations to fulfil all or part of any order you place with us shall at all times be subject to our being able to obtain adequate supplies of raw materials of the appropriate specification and at reasonable cost.

Delivery and Safety

- 3.1.1 We may decline to deliver if:
- 3.1.1 we believe that it will be unsafe, unlawful or unreasonably difficult to do so: or
- 3.1.2 the premises (for the access to them) are unsuitable for our vehicle.
- 3.2 If you do not accept delivery when attempted, or if you do not collect the goods by the date we give for collection, we may:
- 3.2.1 treat the goods as having been delivered on that day (for the purposes of risk, inspection and payment); and
- 3.2.2 charge you for the storage, demurrage and/or redelivery of those goods
- 3.3 We will have loaded the goods in the manner most effective for the purposes of safe transit. You are responsible for employing whatever measures are necessary to offload the goods safely and for ensuring that appropriate equipment is available for the safe off-loading of the delivery.
- 3.4 All slings, timbers, crates, cartons or bindings used in the loading, packaging and securing of goods for transit remain our property and you are responsible for ensuring the safe return of these items to us. If you fail to return this property to us we reserve the right to charge you for these items.
- 3.5 Where we undertake to deliver to you our obligations to do so are satisfied upon arrival at the point of the public main road nearest to your premises. Should you require our vehicle to leave the public main road to make the delivery, we will do so only on the express understanding that the vehicle is working to your direct instruction, that you are assuming all liability arising and you are indemnifying us against any and all claims however caused.
- 3.6.1 You are responsible for providing our vehicle with a safe (and legal) place to park adjacent to your premises.
- 3.6.2 You must offload the goods expediently on delivery. Should you be unable to do so for whatever reason, you are liable for any waiting time, re-delivery or storage costs incurred.
- 3.6.3 When unloading and lifting of goods is possible by our own transport vehicle you have to provide your own personnel to direct the movement in place and unhook the lifting slings or other tools required for the unloading of goods.
- 3.6.4 Where you require us to leave our vehicle on your site, it is on the express understanding that you fully insure the vehicle whilst on your premises and that you accept all liability for damage to or by the vehicle and subsequent collection costs.

RISK

- 4.1 The goods are at your risk from the time of delivery
- 4.2 Delivery takes place either:
 - 4.2.1 at our premises (if you are collecting them or arranging carriage); or
 - 4.2.2 at our premises (if we are arranging carriage)
- 4.3 You must inspect the goods on delivery. If any goods are damaged (or not delivered), you must write to tell us within three days of delivery (or the expected delivery time). You must give us (and any carrier) a fair chance to inspect the damaged goods.

Credit Limits & Payment Terms

- 5.1 You are to pay us in cash or otherwise in cleared funds in advance of commencement of production, unless you have an approved credit account.
- 5.2 If you have an approved credit account, payment is due no later than 30 days after the date of our invoice unless otherwise agreed in writing.
- 5.3 Credit account facilities will only be offered subject to our being able to secure an appropriated credit insurance limit.
- 5.4 We will only place orders into production where there is sufficient available credit and your account is within agreed terms.
- 5.5 If you fail to pay us in full on the due date:
 - 5.5.1 we may suspend or cancel future production and/or deliveries
 - 5.5.2 we may cancel any discount offered to you
 - 5.5.3 we may cancel any supply agreements between us and upon reinstatement of your account we reserve the right to renew supplies only on revised terms.
 - 5.5.4 you must pay us interest at the rate applicable by law at that time calculated (on a daily basis) from the date of our invoice until payment; Compounded on the first day of each month; and before and after any judgement (unless a Court orders otherwise);
 - 5.5.5 we may claim fixed sum compensation from you to cover our credit control overhead costs; and
 - 5.5.6 we may recover the costs of taking legal action to make you pay.
- 5.6 If you have an approved credit account, we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may do any of those at any time without notice.
- 5.7 If we reduce or cancel your credit limit or if such limit is reduced or withdrawn by our Credit insurers and, as a consequence we are unable to supply to you, we will consider that you have cancelled the contract and that you have no further claim against us for any consequences of this action.
- 5.8 You do not have the right to set off any money you may claim from us against anything you may owe us.
- 5.9 While you owe money to us, we have a lien on any of your property in our possession.
- 5.10 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly including financing costs and including legal costs on a full indemnity basis) following any breach by you of any of our obligations under these terms.

Title

- 6.1 Until you pay all the debts you may owe us:
 - 6.1.1 all goods supplied by us remains our property;
 - 6.1.2 you must store them so that they are clearly identifiable as our property;
 - 6.1.3 you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;
- 6.2 You must inform us (in writing) immediately if you become insolvent or enter into any arrangement with your creditors.
- 6.3 If your right to use and sell the goods ends you must allow us to remove the goods.
- 6.4 We have your permission to enter any premises where the goods may be stored:
 - 6.4.1 at any time, to inspect them; and
 - 6.4.2 after your right to use and sell them has ended, to remove them, using reasonable force if necessary.
- 6.5 Notwithstanding our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.
- 6.6 You are not our agent. You have no authority to make any contract, representations or warranties of any kind on our behalf or in our name.

Warranties

- 7.1 We warrant that the goods:
 - 7.1.1 comply with their description on our dispatch documentation; and
 - 7.1.2 are free from material defect at the time of delivery (as long as you comply with clause 7.3).
- 7.2 We give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose.
- 7.3 If you believe that we have delivered goods which are either defective (in material or workmanship) or at variance to your order, you must inform us (in writing), with full details. Within three working days of the defect becoming apparent; and
 - 7.3.1 allow us to investigate (we may need access to your premises and product samples)
 - 7.3.2 If the goods are found to be defective, incomplete or at a variance to the product ordered (following our investigations, and you have complied with those conditions (in clause 7.3) in full, we will (at our option) replace the goods or provide credit for the price.
- 7.4 If the goods are found to be defective, incomplete or at a variance to the product ordered (following our investigations, and you have complied with those conditions (in clause 7.3) in full, we will (at our option) replace the goods or provide credit for the price.
- 7.5 We are not liable for any other loss or damage (including indirect or consequential loss, financial loss of profits or loss of use) arising from the contract or the supply of goods or their use, even if we are negligent.
- 7.6 For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the goods.
- 7.7 Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.

Specification

- 8.1 If we prepare the goods in accordance with your specifications or instructions you must ensure that
 - 8.1.1 all specifications or instructions are received in writing
 - 8.1.2 the specifications and instructions are accurate;

- 8.1.3 goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and
- 8.1.4 your specifications or instructions will not result in the infringement of any intellectual property rights of a third party, or in the breach of any applicable law or regulation.
- 8.2 All goods are supplied in accordance with the specified standard in operation on the date of the quotation. The presence of a film of rust or mill scale on the goods supplied is inherent to the nature of the goods and does not constitute a defect in the goods.
- 8.3 We reserve the right to make any changes in the specifications of our goods which are necessary to ensure they conform with any applicable safety or other statutory requirements.
- 8.4 We also reserve the right to make without notice any minor modifications in our specifications we think necessary or desirable.
- 8.5 In the event of that material of a certain specification is unavailable we may offer to substitute material of an equal or greater specification and, in this event, to charge any differential in cost to your account.
- 8.6 where product is sold to you on the basis of weight either by our weighbridge readings or such weight shall be calculated on the basis of the notional weights from time to time to take account of the rolling tolerances of the material.
- 8.7 Any price quoted in our offer, your order or other such documentation shall be taken as indicative only and subject to confirmation upon calculation of the weight by our software systems.

Return of goods

- 9.1 We will accept the return of goods from you only:
- 9.1.1 by prior arrangement (confirmed in writing)
- 9.1.2 on payment of an agreed handling charge (unless the goods were defective when delivered); and
- 9.1.3 where the goods are as fit for sale on their return as they were on delivery.

Export Terms

- 10.1 The 'Incoterms' of the International Chamber of Commerce which are in force at the time when the contract is made apply to exports, but these terms prevail to the extent that there is any inconsistency.
- 10.2 Unless otherwise agreed, the goods are supplied ex works our place of manufacture.
- 10.3 You are responsible for arranging testing and inspection of the goods at our premises before shipment (unless otherwise agreed). We are not liable for any defect in the goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit.

Cancellation

- 11.1 You may not cancel the order unless we agree in writing (any clauses 2.2.2 and 11.2 then apply).
- 11.2 If the order is cancelled (for any reason) you are then to pay us for all stock (finished or unfinished) that we may then hold (or to which we are committed) for the order.
- 11.3 We may suspend or cancel the order, by written notice if:
- 11.3.1 you fail to pay us any money when due (under the order or otherwise);
- 11.3.2 you become insolvent;
- 11.3.3 you fail to honour your obligations under these terms.

Waiver and variations

- 12.1 Any waiver or variation of these terms is binding in honour only unless:
- 12.1.1 made (or recorded) in writing;
- 12.1.2 signed on behalf of each party; and
- 12.1.3 expressly stating an intention to vary these terms.
- 12.2 All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with our terms.

Force majeure

- 13.1 If we are unable to perform our obligations to you (or able to perform them only at unreasonable costs) because of circumstances beyond our control, we may cancel or suspend any our obligations to you, without liability.
- 13.2 Examples of those circumstances include Act of God, accident, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

General

- 14.1 Maltese Law is applicable to any contract made under these terms.
- 14.2 If you are more than one person, each of you has joint and several obligations under these terms.
- 14.3 If any of these terms are unenforceable as drafted:
- 14.3.1 It will not affect the enforceability of any other of these terms; and
- 14.3.2 If it would be enforceable if amended, it will be treated as so amended.
- 14.4 We may treat you as insolvent if:
- 14.4.1 you are unable to pay your debts as they fall due; or
- 14.4.2 you (or any item of your property) become the subject of:
 - any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy); any application or proposal for any formal insolvency procedure; or any application, procedure or proposal overseas with similar effect or purpose.
- 14.5 All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.
- 14.6 Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or fax) the other's registered office or principle place of business. All such notices must be signed.
- 14.7 No contract will create any right enforceable by any person not identified as the buyer or seller.

- 14.8 The only statements upon which you may rely in making the contract with us, are those made in writing by someone who is our authorised representative and either:
- 14.8.1 contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or
- 14.8.2 which expressly state that you may rely on them when entering into the contract.
- 14.9 Nothing in these terms affects or limits our liability for fraudulent misrepresentation.
- 14.10 Any price offered by us is adequate for the quality, quantity of the work and the timescales over which this work is to be undertaken as understood by us at the time of making our offer. A significant change in any of the above factors affects the adequacy of the price quoted and entitles us to adjust the price of our goods to reflect the effect of such changes.

Documentation

- 15.1 All goods dispatched to you (or sold to you on an ex-works basis) will be accompanied by a Delivery Note.
- 15.2 We will require you at the point of delivery/collection to sign two copies of this delivery note (one for retention by us and the other by yourselves) which signature shall be deemed as proof that the delivery has been made.
- 15.3 You are responsible for appointing a suitable person to be your signatory for all such proofs of delivery.
- 15.4 You may not refuse to sign the proof of delivery documentation for any reason.
- 15.5 Annotation of the proof of delivery documentation shall not be deemed as notice of deficiency as defined in 7.3.1 above