

BHD Tubular Limited
Terms & Conditions

1. **Terms and Conditions to apply.** These Terms & Conditions of Sale (the "Terms and Conditions") govern the sale of all goods and/or services (a "Product", or collectively, the "Products") by BHD Tubular Limited ("BHD") to a buyer (the "Buyer"), unless expressly provided otherwise in writing.
2. **Prices.** Unless otherwise specified, all prices are in Canadian dollars and do not include any taxes or duties which BHD may be required to pay to any authority (on its own behalf or on behalf of the Buyer) related to the sale of the Products. Prices do not include any costs of transportation of the Products. Where not included, all such taxes, duties and transportation costs shall be the responsibility of the Buyer.
3. **Payment.** Payment shall be made by the Buyer to BHD, without any retention or setoff, at the address or by other means as specified in BHD's invoice and, unless, otherwise specified, within thirty (30) days of receipt by the Buyer of BHD's invoice. BHD may invoice the Buyer for the amount due in relation to the sale of any Products upon delivery of the Products. Overdue amounts shall bear interest at a rate equal to the lesser of 1.5% per month (18% per annum), and the maximum interest rate able to be charged in relation to the sale of the Products at law until paid, both before and after demand or judgment. The Buyer shall be responsible for all BHD's costs (including legal fees on a solicitor and own client full indemnity basis) incurred in relation to the collection of overdue amounts owing by the Buyer to BHD.
4. **Title and risk of loss.** When freight is arranged by the Buyer, title and risk of loss pass upon completion of loading the truck, trailer or other vehicle provided by the Buyer if loading occurs at a location not on a BHD premises, or upon the vehicle leaving BHD's gate if loading occurs on BHD's premises. For truck deliveries, title and risk of loss pass at the FOB point at BHD's terminal, warehouse or other facility.
5. **Inspection.** The Buyer shall conduct a timely inspection of all Products upon receipt and provide notice of any rejection or non-conformity within ten (10) business days of the receipt of the Products. Failure to provide notice of any claims within the said time period of use of the goods by the Buyer shall be deemed acceptance of the Products.
6. **Customer obligations.** The Buyer represents and agrees that (a) it will load, handle, store, sell, transport, use and/or dispose of Products in compliance with all applicable federal, provincial, municipal and other laws and regulations, and any applicable product specification sheet or similar document; (b) it is familiar with the characteristics, qualities and uses of Products supplied by BHD and is not relying on BHD to select the Product suitable for any particular purpose or to achieve a particular result; (c) it assumes all risk and liability for the use of Products, whether alone or in combination with other materials; (d) it carries and will maintain insurance appropriate for its business; and (e) it agrees to buy and pay for the Products when due in accordance with an invoice from BHD, if applicable.
7. **No warranty.** BHD provides no representation or warranty whatsoever about the Products and the Buyer agrees to look solely to the manufacturer for any remedy or liability in

relation to such goods or services. BHD does not represent or warrant the existence or scope of any manufacturer's or service provider's warranty. The Products may be subject to manufacturer warranties with varying terms and length of coverage. Upon request, BHD shall provide details of applicable manufacturer warranties and will provide assistance to the Buyer in contacting the manufacturer in the event of problems. **Other than any warranties provided by the manufacturer, any and all products and materials sold by BHD are provided by BHD "as is, where is", without representation or warranty of any kind; and BHD disclaims all other express and all implied warranties, including any implied warranty of fitness for a particular purpose, merchantability, safety or infringement, any warranty that may arise from usage of trade or course of dealing or performance, and any warranty regarding the use or results from using BHD's products,** notwithstanding the fact that BHD may have actual, implied or constructive knowledge of the details of any proposed use by the Buyer or any third party of the products and materials it has sold.

8. **Limitation of Liability.** Neither BHD nor its related persons will be liable for (a) special, indirect, incidental, consequential, punitive or exemplary damages; (b) compensation, reimbursement or damages to cover or to obtain substitute performance, for business interruption, or because of any loss of anticipated business, sales or profit or prospective profits, or crop or property loss or damage; or (c) expenditures, investments, leases, property improvements or other matters related to business or goodwill. **To the greatest extent permitted by law, BHD's and its related persons' aggregate liability arising out of the sale of the Products to the Buyer shall not exceed the purchase price the Buyer paid for the specific product giving rise to the claim. This section: (1) reflects an allocation of risk between the Buyer and BHD; and (2) applies even if the Buyer and/or BHD have been advised of the possibility of the damages described in clauses (a), (b) and (c) of this section, and regardless of whether the claim or damages are based in contract, warranty, strict liability, negligence, tort, or otherwise. If this limitation of liability is unenforceable, BHD's and its related persons' sole liability for such damages shall not exceed \$5,000.** BHD's "related persons" are its affiliates (which are entities controlled by BHD, under common control with BHD, or controlling BHD), and BHD's and its affiliates' shareholders, officers, directors, employees, agents and representatives; but in all events exclude the Buyer (regardless of the Buyer's relationship to BHD). The Buyer agrees that the limitations of this Section apply to any other person or entity that acquires, uses or is otherwise involved with Products purchased by the Buyer.
9. **No advice as to the use or type of products and materials purchased.** BHD is only a seller of products and materials and in completing the sale of any products and materials is only acting on the specific instructions of the Buyer to transfer ownership of the products and materials. BHD sells products and materials that may require professional engineering and other specialized advice to be used safely and without failure. The act of selling such products by BHD shall not be construed as providing any such specialized advice. Notwithstanding any correspondence between BHD and the Buyer regarding the type of products or materials purchased, BHD is not providing any advice as to the utility or suitability of any product or material for any end use, specified or implied, by the Buyer or a third party.
10. **No warranty as to recommendations made by BHD.** The Buyer acknowledges that it has superior knowledge of the ultimate use of the Products, and at no time prior to entering into any contract for the purchase of any products and materials has the Buyer engaged or

compensated BHD for consulting services regarding the type or use of any products or materials purchased from BHD. Any recommendations BHD may have made regarding the type of products or materials purchased have been based solely on specifications or information provided by the Buyer or its consultants with the full knowledge that BHD is not being compensated for making any recommendations and making purchasing decisions based on any such recommendations is the sole risk of the Buyer. In making such recommendations BHD is not, under any circumstances whatsoever, obligated to question the accuracy or reasonableness of any specifications or information provided by the Buyer or its consultants which gives rise to any recommendations made by BHD with respect to the purchase of products or materials. **The Buyer is responsible for deciding in its own discretion whether to accept and/or implement BHD's recommendations or advice, and the Buyer accepts all risk and liability from accepting, rejecting, and/or implementing any recommendation or advice BHD may provide.**

11. **Indemnity.** The Buyer agrees to defend, protect, indemnify and hold harmless BHD and its related persons from any loss, liability, damage, penalty, or expense (including court costs, legal fees and disbursements on a solicitor and own client full indemnity basis, administrative fees and other direct or indirect costs, whether incurred before, during or after litigation or other proceedings, and collection agency fees, settlement payments and costs to pursue insurance benefits) BHD or its related persons incur directly or indirectly relating to or resulting from any claim, allegation, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity or otherwise, that BHD, the Buyer or any third party assert in any way directly or indirectly related to, resulting from or caused by the Buyer's breach or failure to comply with these Terms and Conditions.
12. **Entire agreement.** These Terms and Conditions prevail over any other terms or conditions in any other documentation including, without limitation, the Buyer's purchase order, the Buyer's general terms and conditions or any other document the Buyer issues in connection with any purchase of Products, regardless whether or when submitted. BHD's fulfillment of the Buyer's order does not constitute BHD's acceptance of the Buyer's terms and conditions (all of which are hereby rejected).
13. **Dispute Resolution; Governing Law. The Buyer and BHD agree that all claims and disputes related to the use and/or performance of any Product or any Product's compliance with any warranty, contract or statute, must be resolved by binding arbitration.** The arbitration will be conducted in accordance with the *Arbitration Act* (Alberta) by a single arbitrator chosen by BHD and shall take place in Edmonton, Alberta. The Buyer and BHD may seek interim equitable and injunctive relief without waiving the right to compel arbitration. The dispute will not be consolidated with any other matters or joined with any other cases or parties. Any claims and disputes related to payment of amounts due to BHD, and any other claim or dispute that is not or cannot be arbitrated, will instead be litigated in any court with jurisdiction located in Edmonton, Alberta. **To the fullest extent not prohibited by law, the Buyer and BHD waive any and all right to trial by jury in any action or proceeding relating to this invoice and these terms & conditions, and the obligations and transactions arising under or connected to them. The Buyer and BHD each represent to the other that this waiver is knowingly, willingly and voluntarily given.** This Agreement has been made in the Province of

Alberta and shall be construed, interpreted and performed in accordance with the laws of the Province of Alberta and the applicable laws of Canada therein.

14. **Force majeure.** BHD is not responsible for any delay in its performance caused or affected by conditions or events beyond its reasonable control, including natural disasters or conditions, accidents, fires, strikes or slowdowns, industrial disturbances, actions by a government authority, war, terrorist threats or acts, civil unrest, shortage of products or labour, interference with transportation routes, carrier shortages, damage to carrier, damage to Product by carrier, any act of God, or failure of utilities or telecommunications.
15. **Miscellaneous.** It is not necessary for these Terms and Conditions to be signed to be enforceable against the Buyer. These Terms and Conditions are binding upon and will enure to the benefit of the Buyer and BHD and their respective successors and permitted assigns. A waiver by BHD of any provision of these Terms and Conditions shall not prejudice or constitute a waiver of BHD's right otherwise to demand strict compliance with that provision or any other provision of this Invoice. Time is of the essence. The parties disclaim any application of any United Nations Conventions applicable to contracts for the International Sale of Goods. If any term of provision of these Terms and Conditions is invalid, illegal or unenforceable, all other conditions and provisions of the Terms and Conditions shall remain in full force and effect.