

General terms and conditions: Bossard Canada, Inc.

1. General

- 1.1 The following terms and conditions are binding upon any sales of any products (herein Products or 'fasteners') sold by BOSSARD CANADA, INC. (herein Seller) to any Customer (herein Purchaser) and shall be the exclusive basis of Seller's sales unless Purchaser requests other purchasing terms that are agreed to in writing by Seller; otherwise the full content of the following general terms of sales shall bind Seller and Purchaser.
- 1.2 This contract and any payments to be made hereunder shall not be assigned or transferred by Purchaser without prior written approval by Seller.
- 1.3 Purchaser's agreement with the terms hereof to the exclusion of all others hereto or hereafter issued by Seller or Purchaser shall be sufficiently evidenced by Seller's acknowledgement of Purchaser's order or by Purchaser's acceptance of any Products sold with these terms and conditions.
- 1.4 This writing is the complete and final expression by the parties of their agreement, and of the terms thereof. No agent, employee or representative of Seller had, has or will have apparent authority to bind Seller contrary to the terms herein stated unless duly authorized in writing by Seller.
- 1.5 Nothing herein can be modified or changed except by a writing signed by both Seller and Purchaser.
- 1.6 Any notice provided for herein shall be given in writing. Written notice under this contract shall be deemed to have been duly served when delivered in person to an officer of Seller, or if sent by registered mail or telegram to Seller at the address shown on the face hereof, or to Purchaser at the address shown on the face hereof to the attention of Purchaser.

2. Pricing

- 2.1 Prices are subject to change with 30 days notice due to currency exchange rate fluctuations or any other changes in the market place. All shipments shall be invoiced at prices prevailing on date of shipment.
- 2.2 In addition to the charges specified on the invoice, Purchaser shall pay all Federal, state, local and foreign taxes and other charges now or hereafter imposed on or in connection with the sale or use of Products.

3. Shipping

- 3.1 Unless otherwise agreed, quantities shipped are industry standard packaging units.
- 3.2 In the absence of specific shipping instructions, Seller shall use its discretion regarding means and routing of shipments.

- 3.3 Seller shall not be responsible for in-transit damage (including but not limited to rust and corrosion) or damage due to mishandling.

4. Delivery Commitment

- 4.1 The delivery time given is approximate. A delivery time shall be reckoned from the date Seller's written acknowledgement of Purchaser's order is dispatched. Delivery shall be considered to have taken place on time if, within the time of delivery specified on the face hereof, the Products are either dispatched from Seller's warehouse or Seller notifies Purchaser that the Products are ready for dispatch or inspection. Delayed delivery shall entitle Purchaser to compensation only when the parties so agree in writing. Seller shall use its best efforts to notify Purchaser promptly of any delay in delivery time not caused by Purchaser, and shall assign a new delivery time. **In no event shall Seller be liable to Purchaser for any losses or damages due to late delivery or failure of delivery.**
- 4.2 Seller shall not be bound to ship product to Purchaser if agreed payment terms are not fulfilled by Purchaser to Seller's satisfaction.
- 4.3 Failure of delivery of any or all Products shall be excused due to: compliance with any law, order or regulation of any government of any country or any agency, instrumentality or subdivision thereof; any strike or other labor problem; fire, damage to or destruction in whole or in part of any merchandise or of a manufacturing plant; lack of or inability to obtain, for any reason whatsoever, raw materials, labor, fuel, supplies or equipment; war, riot, insurrection, civil commotion, flood, accident, storm, damage to or destruction of any carrier; any Act of God or force majeure; or any other cause, contingency, event or circumstance beyond Seller's control, whether within or outside the United States.

5. Payment Terms

- 5.1 If no other terms are confirmed in writing: 30 days net / without discount.
- 5.2 If timely payment is not made, Seller, in addition to its other legal rights, shall be entitled to charge interest on all overdue payments at the rate of 2% over the «published prime rate» of Seller's bank as in effect from time to time, but in no event less than 12% per annum. The interest charge, however, shall not exceed any applicable ceiling on interest which may be legally charged.
- 5.3 Seller shall have the right to withhold shipment of any Product if Purchaser fails to make payment when due for prior shipments: such action on the part of Seller shall not release Purchaser from its obligations to accept and pay for Products if and when shipped by Seller.

6. Special Manufactured Goods

- 6.1 Manufacturing quantity overruns of up to 10% are allowed with respect to any products made to Purchaser's specifications unless Purchaser contracts with Seller for an exact quantity. Purchaser agrees to buy the total quantity

of any Products made to Purchaser's specifications due to lead-time and minimum manufacturing quantity.

- 6.2 If Purchaser provides Seller with any special design or blueprint for Product, the Purchaser shall indemnify the Seller for any and all cost, damage, or expenses or other liability caused to Seller for manufacturing or providing Purchaser's specially designed Product to Purchaser or any third party.

7. Title to Good and Risk of Loss

- 7.1 Title, all ownership rights and right of possession shall remain with Seller, and Products shall remain Seller's personal movable property, until all payments hereunder shall have been made in full in cash. Purchaser shall (and failing Purchaser for any reason, Seller shall and at the cost and expense of Purchaser) do all things necessary including making all filings under applicable local legislation of a Province of Canada, to perfect and maintain title, ownership and right of possession as aforesaid.
- 7.2 Risk of loss shall pass to Purchaser upon due delivery of Product to a common or contract carrier (Seller's or Purchaser's) or upon tender of delivery to Purchaser, whichever first occurs.
- 7.3 Identification of Products pursuant to the contract shall not occur until delivery thereof shall be tendered to Purchaser at the agreed point of delivery.

8. Acceptance Standards, Special Applications, Warranty

- 8.1 If not otherwise agreed, all Products listed in this contract are supplied per Purchaser's specifications, are general purpose fasteners and are manufactured according to international standards, subject to all warnings and disclaimers contained in these terms and conditions. For acceptance inspection, all delivered general purpose fasteners are subject to the acceptance plan as stated in the individual product standards. Where no specific acceptance plan is specified or has been agreed upon in writing, the acceptance plan per ISO 3269 is applicable. Unless otherwise specified or agreed upon in writing, the applicable gauging standard is ISO 1502. Where no dimensional tolerances are specified or agreed upon in writing, the ISO standard for fastener tolerance ISO 4759 is pertinent. For surface discontinuities not specified or agreed upon in writing, the ISO standard ISO 6157 shall apply. If not specified or agreed upon in writing, the mechanical properties and testing procedures shall be in accordance with the appropriate standard from the ISO 898 series (For stainless steel ISO 3506). More stringent acceptance inspection standards for special quality assurance plans shall be agreed upon at time of order and in writing, particularly if fasteners are destined for special applications such as:

- Fasteners for high volume machine assembly
- Fasteners for special purpose applications requiring in-process controls
- Fasteners for highly specialized engineered applications produced consecutively from a single mill heat with an in process control and lot traceability; and

- Fasteners for applications in circumstances known to Purchaser to pose a threat of bodily injury or property damage if special quality assurance is not required of the fasteners.

The Purchaser is obliged and agrees to warn the Seller in writing of any destined special applications of purchased fasteners at time of order. If failure of Purchaser to warn Seller of destined special application causes any direct or indirect injury or damages to any person, property, business, right, franchise or the like and if any claim, demand, action or proceeding is made against Seller because of the failure of such a fastener or fastener application due to lack of special quality assurance or other special application requirements, Purchaser shall indemnify Seller for any loss, cost, damage or expense which Seller may suffer or incur by reason of such claim, demand action or proceedings including, but not limited to, all Seller's attorney's fees and other costs of defense and the amount of any judgment entered in any such action or proceeding.

- 8.2 No sale by description shall arise by reason of Seller's use of any drawing, advertising or descriptive matter, specification, illustrations, catalog, pamphlet or price list, and no sale by sample shall arise by reason of any use by Seller or any simulation of any Product, irrespective of any inspection thereof by Purchaser.

Unless otherwise agreed in writing, electroplated fastener parts provided shall comply with ISO 4042 standards.

- 8.3 There is inherent risk of delayed catastrophic failure involved in using fasteners hardened to 320 HV and above, especially electroplating class 12.9. Evidence of this risk is documented in ISO 4042. In particular and as a result, no warranty by Purchaser, express or implied, shall apply if Customer decides to purchase and use Products whose properties, characteristics, and manufacturing processes result in a high susceptibility to hydrogen assisted cracking and all Products so used shall be excluded from any and all Product warranties whatsoever.

9. Cancellation

- 9.1 Except as otherwise expressly provided herein, without Seller's prior written permission no Product shall be returned or rejected, or acceptance thereof revoked and no contract for sale may be modified unless by written agreement signed by a duly authorized representative of Seller.
- 9.2 If not otherwise agreed in writing, Purchaser shall inspect each Product as soon as it is received by Purchaser and, if Purchaser believes that a Product so inspected is defective, Purchaser shall give Seller prompt notice (no later than 90 days after inspection) of the details of any such claimed defect and Purchaser shall at its own expense return the Product to the Seller's plant from which it was shipped or, at Seller's option, allow Seller to inspect the Product at the place where it is located. This notice should include a Defect Report that clearly states the non-conformance and the specification under

which the Product was ordered and checked and Purchaser shall include a representative sample of the defective Product with the Defect Report, if it is possible to do so. If a defect is demonstrated to Seller's satisfaction, Seller will within a reasonable time replace or rework the non-conforming Product or, at Seller's election, accept the return thereof and issue a credit to Purchaser in the amount of the price paid therefor by Purchaser, plus Purchaser's cost of return, if any. These alternative remedies shall be the exclusive remedies of Purchaser against Seller for any defect in a Product and Seller shall not have or incur any other further liability or obligation whatsoever, including, but not limited to, incidental or consequential damages for lost profits, lost sale, injury to person or property, or any other incidental or consequential loss.

10. Exclusion of Warranty and Liability Disclaimer and Indemnity

- 10.1 **Exclusion of Warranties:** the warranty described in Paragraph 8.1 shall be in lieu of any other warranty, express or implied, including but not limited to any implied warranty of merchantability or fitness for a particular purpose, which warranties are excluded from this transaction and do not apply to the Products sold. No other warranty, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, as to any product shall arise at any time through any person by promise, affirmation of fact or by description or as a result of showing or delivery to Purchaser any sample or model. The selection and adaptation of any Product to or for a specific use or application is not the Seller's responsibility.
- 10.2 If Seller manufactures any Product pursuant to any design, drawing, specification or bill of material furnished to Seller by or on behalf of Purchaser, and if any claim, demand action or proceeding is made or commenced against Seller for any purpose arising out of that design or which alleges that such manufacturer (or the use, sale or other disposition for any purpose of anything so manufactured) constitutes infringement or contributory infringement of any patent or other intellectual property right, Purchaser shall indemnify Seller with respect to any and all loss, cost, damage or expense which Seller may suffer or incur by reason of such claim demand, action or proceeding including but not limited to, all Seller's attorney's fees and other costs of defense and the amount of any judgment entered in any such action or proceed.
- 10.3 If the misuse of any Product (whether or not defective) by or on behalf of Purchaser or any other person causes any direct or indirect injury or damage (consequential or otherwise) to any person property, business, right, franchise or the like, and if any claim, demand action or proceeding is made or commenced against Seller because of such misuse, Purchaser shall indemnify Seller with respect to any and all loss, cost damage or expense which Seller may suffer or incur by reason of such claim, demand, action or proceeding, including but not limited to, all Seller's attorneys' fees and other costs of defense and the amount of any judgment entered in any such action or proceeding.

- 10.4 Nothing herein or in any transaction provided for herein shall convey to Purchaser or any other person any express or implied license or immunity under any domestic or foreign patent or other intellectual property right owned or controlled at any time by Seller or any other person, and Seller does not warrant or guarantee that any Product (or its use, sale or other disposition for any purpose) will not infringe or contribute to the infringement of any domestic or foreign patent or other intellectual property right at any time owned or controlled by any other person.
- 10.5 Bossard's liability for products sold to Purchaser under these terms and conditions shall be limited solely to the price paid for the product. Bossard shall not be liable to purchaser for any other claims, liability, losses, or damages the purchaser may incur related to the product, including any repair or replacement costs.

11. Disputes

If the parties have any dispute or disagreement about any term of this agreement or the interpretation of any term of this agreement, they shall negotiate in good faith with each other for no less than three months to attempt to resolve such dispute or disagreement. If they are not able to resolve same after such negotiation, the dispute or disagreement shall be resolved by arbitration at Toronto in accordance with the Ontario Arbitration Act, 1991 or (if applicable) the Ontario International Commercial Arbitration Act. There is no appeal from any arbitral decision.

12. Governing Law

This agreement shall be governed by, and interpreted in accordance with, the laws of the Province of Ontario, Canada (and, to the extent applicable, the federal laws of Canada) without reference to any choice of law rules or the International Sale of Goods Act (which enacts the United Nations Convention on Contracts for the International Sale of Goods).

13. Warning

- 13.1 All indications of **Limited Use** of the Products expressed herein and in any standards, Seller documentation or any other written or electronic communication constitute **Warnings** and Purchaser is advised that these are to be carefully studied and tested in industrial or other field application before use of Products in the applicable circumstances. Failure by Purchaser to avoid these and other uses of or operations with respect to the Products shall invalidate any warranty provided herein or by law
- 13.2 **Operations that may impair the safe function of fasteners: Purchaser acknowledges that it shall never alter** a Product and assume the Product then has the capability indicated in the original order confirmation. Common DANGEROUS ALTERATIONS are:

I. Machining of the radius underneath the head

Inappropriate machining operations on the radius underneath the head may weaken the junction shank to the head and may thus cause head fractures and may cause failure of the fastener.

II. Altering thread pitches bigger than standard pitches

Producing thread pitches bigger than standard thread pitch reduces the stress area (load bearing cross section) and thus the load capacity of the bolt and may cause failure of the fastener.

III. Altering threads on cold headed austenitic stainless steel bolts and screws

Fasteners made from austenitic stainless steel, in particular the threads of fasteners, received their mechanical properties through work hardening. Cutting of the existing thread and adding a cut thread will reduce the fastener's load capacity and may cause failure of the fastener.

IV. Fasteners and machine components with hardnesses > 31 HRC (32HRC)

These types of fasteners and components are susceptible to hydrogen embrittlement. Hydrogen embrittlement is a phenomenon that occurs when Products are pickled and l or plated. It may cause Products to fail even at relatively low loads. Even with stress relief annealing (baking), the Product cannot always be guaranteed to be free of hydrogen embrittlement and the Product may fail at low loads.

14. Language. The parties confirm that it is their wish that these terms and conditions be drawn up in the English language. Les parties aux présentes confirment leur volonté que ces termes et conditions soient rédigés en anglais.