



**Corrosion Resistant Alloys, L.P.**

## **GENERAL TERMS & CONDITIONS OF SALES** **CORROSION RESISTANT ALLOYS, L.P.**

The term "*Buyer*" as used in this document shall mean Company purchasing the goods, materials or equipment as described in the Sales Order Confirmation (collectively, the "*Goods*"). The term "*Seller*" as used in this document shall mean Corrosion Resistant Alloys, L.P. Collectively Buyer and Seller are referred to as the "*Parties*" and individually as "*Party*." Acceptance of any Sales Order Confirmation by Buyer is a prerequisite to the purchase of the Goods and shall operate as an acceptance of these terms and conditions which are expressly incorporated into any such Sales Order Confirmation.

**1. Entire Agreement:** The Sales Order Confirmation embodies the entire agreement between Buyer and Seller. The Parties shall not be bound by nor liable for any statement, representation, promise or understanding not set forth herein. Nothing contained in proposals, correspondence, discussions or negotiations prior to the date of the Sales Order Confirmation shall alter or amend the terms of the Sales Order Confirmation unless specifically incorporated herein. No changes, amendments, substitutions or modifications of any of the terms and conditions hereof shall be valid unless reduced to writing and signed by both Parties in accordance with Article 2. No terms contained in any purchase documents from Buyer shall have any force or effect unless specifically agreed to by Seller and incorporated herein.

**2. Changes:** Buyer and Seller, through their assigned respective representatives may at any time make mutually agreed changes, in writing, including but not limited to changes in any one or more of the following: (1) Drawings or specifications; (2) Additions to or deletions from quantities ordered; (3) Delivery schedule; (4) Method of shipment or packing; and/or (5) Place of delivery; provided, however, that no changes shall be allowed once materials have gone into production. The Sales Order Confirmation shall only be modified by written amendments or revisions executed by the representatives of Buyer and Seller.

**3. Price and Payment:** The purchase price shall be as set out on the face of the Sales Order Confirmation. Seller shall be paid, except as otherwise stated in the Sales Order Confirmation, upon submission of proper invoices, the prices stipulated herein for Goods delivered and accepted or services rendered and accepted. All payment terms shall be as set out in the Sales Order Confirmation... Seller reserves the right to require pre-payment in its sole discretion. Those provisions of the Sales Order Confirmation that by their very nature survive completion of the Sales Order Confirmation shall remain in full force and effect after completion. Customer agrees to pay interest on any unpaid balance from the date payable until paid at the highest lawful contract rate applicable, but never to exceed 18% per annum. Remittance shall be in U.S. Dollars.

**4. Delivery:** Subject to the provisions of Article 5, delivery of Goods shall be made as set out in the face of the Sales Order Confirmation ("*Delivery*"). Seller will not be liable for delays in performing its obligations to the extent such delays are caused by any unforeseeable condition which is beyond Seller's reasonable control and which could not be avoided by the exercise of ordinary diligence ("*Force Majeure*"). Acts of God, such as storms or floods, as well as government priorities, acts of civil or military authorities, fires, storms, epidemics, war or riot, work stoppages, accidents, casualties, inability to procure supplies and raw materials, delays in transportation, shortage of cars are examples of Force Majeure which will be excusable provided that within fourteen (14) calendar days of the discovery of the commencement of any excusable delay, Seller provides Buyer with notice of such delay and the anticipated duration in which case Seller shall be provided with an extension of the Delivery time equal to the Force Majeure event. In the event the Goods are not shipped within seven (7) calendar days



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of the stipulated Delivery date due to any action or inaction of Buyer, Seller retains the right, at its discretion, to charge storage fees to Buyer, in accordance with Seller's Yard/Warehouse Policy attached hereto. Buyer shall be responsible for any taxes assessed on such Goods during any storage period. If delivery of any special items is delayed by Buyer for more than thirty (30) calendar days after completion, Seller may invoice for such items and hold for Buyer's disposition for a reasonable period of time. Buyer shall make payment for such special items within thirty (30) days from date of invoice. Upon Delivery, Buyer shall notify the Seller in writing of any non-conformity of the Goods without undue delay. Each claim, if any, shall set forth all relevant available details. The Goods shall then be inspected jointly and the representatives of the Seller shall be permitted to take such samples and make such investigations as the Seller deems necessary

**5. Title and Risk of Loss:** Title to all Goods furnished by Seller hereunder shall transfer to Buyer upon payment of all amounts due by Buyer to Seller under the Sales Order Confirmation. Notwithstanding the foregoing, Seller shall be responsible for and shall bear any and all risk of loss or damage to the Goods until Delivery thereof in accordance with the delivery provisions of the Sales Order Confirmation. Upon such Delivery, risk of loss or damage shall pass to Buyer.

**6. Quality Standards:** The Seller warrants that the Goods shall conform to the specifications as reference in the Sales Order Confirmation. The Buyer is solely responsible for the selection of the Goods and the specifications to be included in the Sales Order Confirmation. . Deviations from measurements, weight, quantity and quality are permissible within the framework of applicable industry standards or customary practice. Buyer is obligated to inspect to Goods at Seller's facility prior to Delivery. Seller shall provide Buyer with reasonable notice of the date and time for such inspection. Should Buyer fail to attend such inspection, the Goods shall be deemed to conform in all respects to the specifications and requirements of the Sales Order Confirmation and Buyer shall waive any claims for non-conformity.

**7. Warranties and Guarantees:** Seller warrants that the Goods are shall be free from liens and defects in title, and shall conform in all respects to the terms of the Sales Order Confirmation. Unless the warranty period is otherwise extended in writing by the Parties, the following warranty shall apply: if, at any time prior to earlier of twelve (12) months from installation or eighteen (18) months the date of Delivery ("*Warranty Period*") the Goods, or any part thereof, do not conform to these warranties or to the specifications applicable thereto, and Seller is so notified in writing within the Warranty Period, Seller shall promptly replace the defective Goods or, at Seller's option, all return of the Goods and refund to Buyer the full purchase price of the Goods. If it is necessary to ship the Goods back to Seller, Seller will be responsible for normal shipping costs, but Buyer will be responsible for any expedited shipment costs. Notwithstanding the foregoing, Seller's warranty obligations shall not apply in the following situation: (i) Buyer's neglect, lack of reasonable care, modification or the attachment of improper devices to the goods; (ii) to any defects which were visually observable by Buyer but which are not promptly brought to Seller's attention; (iii) where the Goods have been incorporated into another product or use of the Goods for future product development; (iv) to goods manufactured by others and resold by Seller; (v) where Buyer fails to comply with generally accepted material handling, transportation or storage procedures; or (vi) in the event that Buyer has failed to attend required inspections as set out in Article 6.

Notwithstanding anything to the contrary contained elsewhere herein, Seller's limitation of liability for any claim of defective Goods or services arising during the above warranty period shall be limited to repair or replacement of the claimed defective Goods and Buyer shall return such claimed defective Goods to Seller's manufacturing facility.

Seller's warranty obligations as set out herein shall be Buyer's sole and exclusive remedy with respect to defective Goods. Seller makes no other warranties or guarantees to Buyer, either express or implied and the warranties provided in this Article



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shall be exclusive of any other warranties including **ANY IMPLIED OR STATUTORY WARRANTIES OF FITNESS FOR PURPOSE, MERCHANTABILITY AND OTHER STATUTORY REMEDIES WHICH ARE WAIVED.**

**8. Intellectual Property Rights:** The term “*Intellectual Property Rights*” shall mean (a) all patents, rights in designs, copyrights, computer software, programs and topography rights, in each case whether registered or not; (b) all proprietary information, including, without limitation, trade secrets, know-how, manufacturing and production processes and techniques, and research and development information, discoveries, formulas, processes, plans, specifications, software, drawings, illustrations, copyrightable works or ideas or materials (and all documentation related thereto); (c) all registrations and applications for registration for any of the foregoing; and/or (d) all rights under licenses and consents in relation to any of the foregoing.

Buyer and Seller and each of their affiliates shall retain any right, title and interest in their respective Intellectual Property Rights developed, invented, created, improved, acquired or obtained (i) prior to the effective date of the Sales Order Confirmation; (ii) during the term of the Sales Order Confirmation; (iii) pursuant to the Sales Order Confirmation; and (iv) at all times associated with the Goods.

**9. Compliance:** Seller warrants that all Goods sold hereunder shall have been produced, sold, delivered and furnished in compliance with all applicable laws and regulations to which the Goods are subject.

**10. Assignment:** Neither Party to the Sales Order Confirmation shall assign, transfer or sublet the Sales Order Confirmation, any portion thereof or any of the obligations, benefits, or interests contained therein or created thereby in any manner whatsoever without the prior written consent of the other Party.

**11. Non-Waiver:** Failure by either Party to insist upon strict performance of any of the terms and conditions hereof, or failure to delay to exercise any rights or remedies provided herein or by law shall not release the other Party from any of the obligations of the Sales Order Confirmation and shall not be deemed a waiver of any right of the Parties to insist upon strict performance hereof or any of its rights or remedies set forth in the Sales Order Confirmation.

**12. Indemnities:** Notwithstanding anything to the contrary contained elsewhere herein but subject always to the transfer of risk of loss as set out in Article 5, Seller shall release, protect, defend, indemnify and hold harmless Buyer, its parent, subsidiary and affiliated companies, any assignees of Buyer and its and all of their officers, directors, employees and representatives from and against any loss, cost, claim, obligation to indemnify another, suit, judgment, award or damage on account of any illness, injury, death, loss or damage to Seller’s employees and in any case of loss or damage to Seller’s property arising out of or relating to this agreement or the provision of any Goods under the Sales Order Confirmation and **REGARDLESS OF WHETHER CAUSED OR BROUGHT ABOUT BY BUYER’S NEGLIGENCE (INCLUDING ACTIVE, PASSIVE, SOLE, JOINT OR CONCURRENT NEGLIGENCE) OR ANY OTHER THEORY OF LEGAL LIABILITY, INCLUDING STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY AND INCLUDING PRE-EXISTING CONDITIONS.**

Notwithstanding anything to the contrary contained elsewhere herein, Buyer shall defend, protect, indemnify and hold harmless Seller, its parent, subsidiary and affiliated companies, any assignees of Buyer and its and all of their officers, directors, employees and representatives from and against any loss, cost, claim, obligation to indemnify another, suit, judgment, award or damage on account of any illness, injury, death, loss or damage to Buyer’s employees and in any case of loss or damage to Buyer’s property arising out of or relating to this agreement or the provision of the Goods under the Sales Order Confirmation and **REGARDLESS OF WHETHER CAUSED OR BROUGHT ABOUT BY SELLER’S NEGLIGENCE (INCLUDING**



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**ACTIVE, PASSIVE, SOLE, JOINT OR CONCURRENT NEGLIGENCE) OR ANY OTHER THEORY OF LEGAL LIABILITY, INCLUDING STRICT LIABILITY BREACH OF CONTRACT, BREACH OF WARRANTY AND INCLUDING PRE-EXISTING CONDITIONS.**

The indemnity obligations voluntarily assumed by Seller and Buyer under this Article shall be supported by liability insurance and shall have coverage of not less than \$2,000,000 per occurrence, and which shall be primary to any other insurances provided by the indemnity. Each party, for and on behalf of itself and its insurance underwriters, agrees to waive subrogation against the other and shall cause its respective insurance policies to be endorsed to give full effect to such waiver. The limits and coverages of the said insurances shall in no way limit the liabilities or obligations assumed by the parties under this Article 12. If it is judicially determined that the monetary limits of insurance required hereunder or the indemnities assumed under this Article 12 exceed the maximum monetary limits or scope permitted under applicable law, it is agreed that said insurance requirements or indemnities shall automatically be amended to conform to the maximum monetary limits or scope permitted under such law.

**13. Choice of Law:** The laws of the State of Texas shall control the validity, construction and interpretation of the Sales Order Confirmation excluding any conflicts of laws principles which would direct the substantive law of another jurisdiction to apply.

**14. Arbitration:** All claims, disputes or controversies arising out of, in connection with or in relation to the performance, interpretation, application or enforcement of the Sales Order Confirmation, including any claims of arbitrability, shall be decided by resort of either Seller or Buyer to arbitration utilizing a single arbitrator in accordance with the Commercial Rules of the American Arbitration Association. The arbitration shall be held in Houston, Texas. The arbitrator shall apply the choice of law as set forth in Article 13 exclusive of its principles of conflicts of laws for determination of the rights and remedies under the Agreement and for all aspects of the award hereunder. Except for the exchange of material and relevant documents, there shall be no interrogatories, depositions or other discovery in any arbitration hereunder and all testimony shall be given live during the hearing. The arbitrator shall have the right to award attorney fees and costs to the prevailing party. The decision of the arbitrator shall be final, binding and enforceable in any court of competent jurisdiction and Seller and Buyer agree that there shall be no appeal from the arbitrator's decision. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding. The right to arbitrate shall survive the termination of the Sales Order Confirmation.

**15. Consequential Damages:** Notwithstanding anything to the contrary contained elsewhere herein, each Party for and on behalf of itself and its parent, subsidiary and affiliated companies releases the other Party and their parent, subsidiary and affiliated companies from any claims for consequential, incidental, indirect or punitive damages of any kind or character, including, but not limited to, loss of use, loss of profit, loss of revenue, loss of product or production, delayed production, loss of business opportunity or business relations (collectively "*Consequential Damages*") whenever arising out of, in connection with or related to the Sales Order Confirmation or as a result of, relating to or in connection with the Goods or the activities under the Sales Order Confirmation, and no claim shall be made by either Party, its parent, subsidiary and affiliated companies against the other Party, its parent, subsidiary and affiliated companies **REGARDLESS OF WHETHER SUCH CLAIM IS BASED OR CLAIMED TO BE BASED ON NEGLIGENCE (INCLUDING SOLE, JOINT, ACTIVE, PASSIVE, GROSS OR CONCURRENT NEGLIGENCE), UNSEAWORTHINESS, UNAIROWORTHINESS, FAULT, BREACH OF WARRANTY, BREACH OF CONTRACT, STATUTE, STRICT LIABILITY OR OTHERWISE AND INCLUDING PRE-EXISTING CONDITIONS.**



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**16. Termination:** In the absence of a breach of any of the conditions of any Sales Order Confirmation, the Sales Order Confirmation may not be canceled, terminated or modified by either Party, whether in whole or in part, except with the written consent of both Parties.

**17. Severability:** If, in any legal proceeding, it is determined that any provision herein is unenforceable under applicable law, the unenforceable provision shall automatically be amended to conform to that which is enforceable under the law. In any event, the validity or enforceability of any provision shall not affect any other provision of the Sales Order Confirmation, and the Sales Order Confirmation shall be construed and enforced as if such provision had not been included.

**18. Third Parties:** Except as specifically provided for elsewhere herein, these terms and conditions shall not be construed to confer any benefit on any third party not a Party to the Sales Order Confirmation nor shall it provide any rights to such third party to enforce its provisions.

**19. Confidentiality:** The Parties shall maintain in confidence, not disclose to any third party, and not use, except for the specific purpose of performing under the Sales Order Confirmation, all information furnished one Party to the other Party in connection with the Sales Order Confirmation.

**20. CISG Waiver:** The Parties acknowledge and agree that the United Nations Convention on Contracts for the International Sale of Goods ("CISG") shall not apply to any of the obligations of either Party, the services provided or to the sale of any goods under the Sales Order Confirmation.

**21. Export Compliance:** If the Buyer intends to export the Goods, the Buyer shall be responsible for determining all export licensing requirements and obtaining all necessary export licenses and authorizations as required by the laws of the United States of America, including, but not limited to, the United States Department of Defense, the United States Department of Commerce, the United States Department of the Treasury, and any other department or agency thereof that imposes and obligations relating to the export of goods, materials or intellectual property, including those of foreign government (i.e., non-United States) governments, except that Seller shall provide the assistance required to properly categorize the Goods for purposes of determining the export licensing requirements. Buyer represents that no Goods shall be provided to, either directly or indirectly, any end-user prohibited by any applicable U.S. law. Buyer shall assume all liability and shall indemnify Seller from and claims or damages on account of failing to file for and properly obtain all such export licenses and authorizations relating to the sale of the Goods by Seller to Buyer.

**22. Prohibition of Corrupt Practices:** As a condition to Seller issuing this Sales Order Confirmation to Buyer, Buyer hereby represents, warrants and agrees that Buyer shall be bound and abide by and strictly comply with both the letter and the spirit of the applicable anti-bribery, anti-corruption, and anti-money laundering laws, rules, regulations, decrees and/or official governmental orders of the United States, including, without limitation, the US Foreign Corrupt Practices Act (the "FCPA"), and successor legislation, the UK Bribery Act 2011, as well as any other applicable legislation implementing either the United Nations Convention Against Corruption or the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and any other anti-bribery law that is applicable to SELLER. In the event that Buyer violates this provision, the Seller shall have the right to terminate this Sales Order Confirmation with immediate effect. Buyer shall be liable for and indemnify Seller from all claims resulting from Buyer's breach of this Article.

Corrosion Resistant Alloys  
1310 W Sam Houston Pkwy N  
Houston, TX 77043  
713.827.8600  
[www.cralloys.com](http://www.cralloys.com)