PARAMOUNT SHEETMETAL (1985) Ltd Trading as PARAMOUNT STAINLESS

TERMS AND CONDITIONS OF SALE

1. SELLER: PARAMOUNT STAINLESS **CUSTOMER**: _____

2. THESE TERMS PREVAIL: . These terms prevail over any terms or contract submitted by the Customer including any verbal communications unless expressly accepted by the Seller in writing.

3. PAYMENT: The purchase price shall be payable in New Zealand dollars. All payments must be made in full without any deduction or set-off. The Seller may elect not to sell or deliver goods or provide services to the Customer if payment is not received in accordance with these terms.
(a) Non-account Customers: Payment by all non-account customers is due prior to delivery of any goods and/or services.
(b) Account Holders: All accounts for approved account holders (Customers are granted account holder status at the sole discretion of the Seller) are payable by the 20th day of the month following the month of invoicing.
If at any time the ability of the Customer to pay is judged by the Seller in its sole discretion to be impaired or unsatisfactory, cash payment or satisfactory security arrangements may be required.

4. **DEFAULT**: If the Customer's account is overdue default interest will be payable at the Seller's discretion at the rate of 24% per annum (2% per month or part month) on all amounts due and unpaid.
If the Seller takes action to recover any amount due from the Customer, or to otherwise protect its interests in relation to money owed to it, the Customer agrees to pay the Seller's costs (including solicitor/client and debt collection costs). Such costs and expenses shall bear interest at the rate specified in this clause.

5. OWNERSHIP RISK: Prior to the Customer paying in full for all goods supplied by the Seller to the Customer, ownership in any such goods remains with the Seller. Notwithstanding that ownership of the goods has not passed to the Customer, risk in the goods shall pass upon dispatch of the goods from the Seller's premises. The Customer must keep the goods insured for full replacement value and will note the Seller's interest on the policy of insurance. If the Customer fails to pay on the due date, or otherwise breaches these terms, the Customer authorises the Seller to enter any premises to recover goods owned by the Seller, even if the relevant goods have been built into other goods/equipment or become permanently attached. The Customer indemnifies the Seller for any losses or costs it incurs in recovering such goods. If the premises and/or goods/equipment are those of a third party, the Seller may enter and recover the goods and shall do so as the Customer's agent. The Seller will be entitled to sell any goods held by it and apply the proceeds towards amounts owed by the Customer to the Seller. If the Customer on-sells any goods supplied by the Seller before ownership has passed, the proceeds of such sale shall be held by the Customer in trust for both the Customer and the Seller. The Seller's interest as beneficiary under that trust shall extend to the amount owed by the Customer to the Seller.

6. SECURITY INTEREST: The Customer agrees that, for the purposes of the Personal Property Securities Act 1999 ("**PPSA**"), the Seller has a purchase money security interest in the goods supplied (as detailed in each invoice supplied) as well as the proceeds of such goods until such goods have been paid for in full. The Seller may allocate any payment the Customer makes to the Seller in satisfaction of any debt owed by the Customer to the Seller from time to time as the Seller sees fit. The Customer agrees to sign any documents required for the Seller to perfect its security interest under the PPSA and authorises the Seller to sign any such documents as the Customer's attorney. The Customer must not change its name, address or contact details without providing the Seller with at least 30 days prior written notice.

7. CONTRACTING OUT OF THE PPSA: To the extent permitted under the PPSA, the Customer agrees to waive its rights as debtor. In particular, but without limitation, the Customer agrees to waive its right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to any security interest the Seller may have in goods supplied to the Customer from time to time.

8. DELIVERY: The Customer's requested delivery date or schedule shall be approximate only and subject to the Seller's approval and acceptance. The Seller shall not be liable for any delays in or failure of delivery due to any cause beyond the control of the Seller; and in no event shall the Seller be liable for consequential or special damage arising out of delay or failure of delivery.

9. WARRANTY:
(a) **Equipment or Components Manufactured by Others:** The Seller does not warrant equipment manufactured by others and resold by the Seller to the Customer. Such equipment or components will carry only the manufacturer's warranty.
(b) **Products and Machinery Manufactured by the Seller:** The Seller warrants that Products and Machinery manufactured by it will be free from defects in material and/or workmanship for a period of twelve months. Any part found to be defective in accordance with this clause and within the twelve month period shall be replaced by the Seller free of charge. Labour incurred in removing and/or installing the defective part(s) is not covered by this warranty.
In the event that the Customer claims the Products or Machinery to be defective, the Seller will either examine the goods at the Customer's site, or issue shipping instructions for return of the goods to the Seller (transportation costs are to be pre paid by the Customer) for examination. Any equipment which the Seller determines not defective as a result of faulty workmanship or material shall be held subject to the Customer's disposition instructions upon payment by the Customer of the transportation and other charges, if any.
(c) Limitations. The above warranty does not extend to equipment damaged after the date of shipment from the Seller's plant where the damage is not directly due to a defect in material or workmanship, nor does it apply to equipment altered or repaired by anyone other than the Seller's authorised employees.
The above warranty does not extend to failure or damage due to negligence (other than that of the Seller), accident, abuse, improper installation (other than installation made by the Seller), improper operation; use under abnormal conditions of temperature, moisture, dirt or corrosion, or use with abrasive or corrosive materials.
The above warranty is limited to its precise terms and provides exclusive remedies, expressly in lieu of all other remedies including claims of special or consequential damages. The Seller makes or assumes no other warranties or guarantees whatsoever, whether expressed or implied including warranties of merchantability or fitness for a particular purpose, and neither the Customer nor any other person is authorised to assume for the Seller any obligation or liability not strictly in accordance with the warranties set out above or to represent that the Seller makes any other warrantees or guarantees.

10. INTELLECTUAL PROPERTY: All intellectual property in any goods designed by the Seller (including copyright in any plans/diagrams) vests in the Seller.

11. INDEMNITY: The Customer will indemnify and hold the Seller harmless from any liability, claims, or demands, including any legal fees, arising from personal injury or property damage claimed to be caused by the Seller's goods which is due to alterations to the goods performed by the Customer.

12. CANCELLATIONS: The contract is binding upon the Customer and the Seller and cannot be cancelled after the goods are completed and ready for shipment. The contract cannot be cancelled or modified after the goods are in process but not yet ready for shipment except on terms to be agreed upon which shall include protection of the Seller against any loss. The Seller may, at its option, cancel the contract if the Customer fails to make payment in accordance with the terms and provisions of this contract or any similar contract with the Seller and the Customer hereby waives any cause of action and the right to any offset or counterclaim against the Seller by reason of such cancellation.

13. ACCEPTANCE OF MACHINERY AND EQUIPMENT: Where machinery and equipment are manufactured by the Seller, the Customer may request an inspection at the Seller's premises in 66 Koromiko Street, Judea, Tauranga prior to acceptance of the goods.. Acceptable performance of the goods shall be determined on the basis of up to a one hour run with parts conforming to the Customer's original specifications and samples. Any additional testing will be at the expense of the Customer at the Seller's published service rates. An authorisation from the Customer to ship the goods without a final inspection as referred to in this clause will constitute acceptance of the goods.
Any goods examined and accepted in accordance with the above clause are not capable of return to the Seller unless defective in terms of clause 9 of this agreement.

14. TESTING: Where goods are not examined and accepted by the Customer in accordance with clause 13 of this agreement, the machinery or equipment will be thoroughly tested by the Seller before shipment to assure that it operates satisfactorily. The Seller's Service Technician, if requested by the Customer, will be made available to conduct the testing at the Seller's current service rates. The function of the Service Technician is advisory and it is expected that qualified technicians will be provided to work under his direction. If the Customer then operates the machinery or equipment with product different or of a different grade or from a different Vendor from that supplied with the order, the machinery or equipment supplied by the Seller may require adjustments or modifications, which will be at the expense of the Customer.

15. RETURNS: Machinery and Equipment which is non standard or made to the Customer's specifications is not capable of being returned to the Seller unless defective in terms of clause 9 of this agreement. Other goods or machinery manufactured by the Seller and not otherwise accepted by the Customer in terms of clause 15 of this agreement may be returned for credit with the Seller's written consent and within sixty (60) days of delivery to Customer, subject to a restocking charge of 25 percent of the sale price of the items returned. All transportation costs must be pre-paid by the Customer on any goods returned. The goods must be new and in unused condition.

16. DISPUTES: If a dispute arises between the parties, the party that considers a dispute has arisen shall notify the other party. The parties shall then hold negotiations in good faith with a view to resolving the dispute. If the dispute has not been resolved within 7 days then either party may request that the dispute be mediated using a neutral mediator. If the parties are unable to resolve their dispute within 7 days, either party may require the dispute to be submitted to the arbitration of a single arbitrator (agreed between the parties or nominated by the President of the Waikato/Bay of Plenty Law Society in the absence of agreement). The arbitration shall take place in Tauranga, New Zealand in accordance with the Arbitration Act 1996.

17. NO WAIVER: No delay or failure by the Seller to act or insist on any right shall be regarded as a waiver and every right remains enforceable and may be exercised by the Seller at any time.

18. NEW ZEALAND LAW: These terms of trade are, and will at all times, be governed by the laws of New Zealand and be subject to the non-exclusive jurisdiction of the New Zealand courts.

Sign……

Print Name……

Position……..

Date……..