

## **TERMS AND CONDITIONS**

### 1. Definitions and Interpretation

#### 1.1 Agreement

means ArcelorMittal South Africa Vanderbijlpark Works's acceptance of the Customer's Tender, provided to ArcelorMittal South Africa Vanderbijlpark Works through the Facility as well as ArcelorMittal South Africa Vanderbijlpark Works's General Conditions of Sale. (General Conditions of Sale available from ArcelorMittal South Africa Vanderbijlpark Works Customer Website and ArcelorMittal South Africa Vanderbijlpark Works Sales and Marketing Department).

#### 1.2 Account

means an account held by the User for purposes of debiting any fees payable in terms of an Agreement, if any, as well as any other accounts in which the User holds a valid mandate for.

#### 1.3 ArcelorMittal South Africa Vanderbijlpark Works

means ArcelorMittal South Africa Vanderbijlpark Works a company duly registered in accordance with the company laws of the Republic of South Africa with registration number 1989/002164/06.

#### 1.4 Electronic Signature

means the unique and confidential combination of the Username and Password.

#### 1.5 Username

means the code provided to the User by ArcelorMittal South Africa Vanderbijlpark Works, in order to link the access of the Facility under such code to the User's Account.

#### 1.6 Password

means at least six characters chosen by the Customer as a security and authentication measure.

### 1.7 Customer

means the User and or the Main User.

### 1.8 Main User

means the person Authorised by the User to access the Facility on the User's Account.

### 1.9 Authorised

means the registration of a person as a Main User by ArcelorMittal South Africa Vanderbijlpark Works within 7 days after receipt of the User's written instruction to do so.

### 1.10 User

means the person whose application to register on the Facility was successful.

### 1.11 Product

means the product as displayed on the Facility by ArcelorMittal South Africa Vanderbijlpark Works from time to time.

### 1.12 FSP

means ArcelorMittal South Africa Vanderbijlpark Works Flat Steel Products.

### 1.13 Website

means a collection of related web pages, which are stored on a central web server at ArcelorMittal South Africa Vanderbijlpark Works Vanderbijlpark, with the common purpose of supporting the functionality of the web system.

### 1.14 Facility

means an Internet Website referred to as "ArcelorMittal South Africa Vanderbijlpark Works FSP Customer Website Direct" as well as the content thereof, which provides the Customer with the opportunity to purchase Products by tendering for such Products.

### 1.15 Internet

means the interconnected system of networks that connects computers around the world by using TCP / IP and includes future version thereof.

#### 1.16 Tender

means the Customer's offer to purchase the Product as specified in the offer together with the all inclusive price the Customer is willing to pay for such Product.

2. Access to the Facility is obtained through the Internet, by registering with an Internet Service Provider, which is done at the Customer's own responsibility and costs. By accessing the Facility the Customer agrees to be bound by the terms and conditions as set out herein as well as ArcelorMittal South Africa Vanderbijlpark Works's General Conditions of Sale.

3. It is the Customer's sole responsibility to keep its Password confidential at all times and to use such measures, as he deems necessary to maintain the confidentiality of the Password. If another person uses the Customer's Password to access the Facility, such person shall be regarded as the Customer's duly authorised agent with the Customer's full authority to use the Facility on the Customer's behalf, which will result in Customer taking full responsibility for any and all liabilities incurred by such person.

4. The Facility is provided on an "as is" and "as available" basis and has not in any means been compiled or provided to meet the Customer's individual requirements. The Customer expressly agrees that the use of the Facility as well as the content thereof is at the Customer's own risk. It is in no way guaranteed that the Facility and / or the availability will be without any fault or error.

5. The Customer may from time to time provide ArcelorMittal South Africa Vanderbijlpark Works with information, which is of a confidential nature. ArcelorMittal South Africa Vanderbijlpark Works will use its best

endeavours to keep and maintain such information confidential by encrypting such information and storing it on a secure server. The encryption complies with international security standards (see the Technical Information page for details). Information subject to encryption does not include correspondence between ArcelorMittal South Africa Vanderbijlpark Works and the Customer, unless specifically so required by the Customer. ArcelorMittal South Africa Vanderbijlpark Works shall not disclose the Customer's information to any third party without the prior written consent of the Customer, unless legally obliged to do so.

6. Given the current state of the Internet technology, there is no guarantee for secure transmission of information on the Internet. Notwithstanding the fact that ArcelorMittal South Africa Vanderbijlpark Works will use its best endeavours to safeguard the information from disclosure, ArcelorMittal South Africa Vanderbijlpark Works will not accept any responsibility for any damages incurred by the Customer or any third party as a result of the Customer using the Facility.

7. ArcelorMittal South Africa Vanderbijlpark Works reserves the right to from time to time change, modifies, add to or remove portions of or the whole of the terms and conditions as set out herein. Such changes will become effective as from the date it is posted onto the Facility.

8. The Customer may only use the Facility to Tender and may never act in any manner which may be detrimental to ArcelorMittal South Africa Vanderbijlpark Works, which includes but is not limited to-

- 8.1 redistribute, modify, adapt or vary any of the content of the Facility;
- 8.2 remove any copyright or trade mark notices from any copies of the content of the Facility;
- 8.3 frame the Facility or any pages thereof;
- 8.4 infect the Facility with any viruses that may damage, interfere with,

delay or intercept any data or information on the Facility;

8.5 use any technology to cause harm to the Facility and / or ArcelorMittal South Africa Vanderbijlpark Works;

8.6 link the Facility or any page thereof to any other website or page;

8.7 link other pages or websites to the Facility;

8.8 act in any manner which may be detrimental to the Facility and / or ArcelorMittal South Africa Vanderbijlpark Works and / or cause any harm to the Facility

and / or ArcelorMittal South Africa Vanderbijlpark Works.

9. ArcelorMittal South Africa Vanderbijlpark Works has not given any warranty or made any representation to the Customer other than any warranty or

representation that has been expressly set out herein.

10. The Customer chooses the address provided by the User in the online registration form as its *domicilium citandi et executandi*. ArcelorMittal South Africa Vanderbijlpark Works chooses ArcelorMittal South Africa Vanderbijlpark Works Limited Corporate Centre, Delfos Boulevard, Vanderbijlpark as its *domicilium citandi et executandi*.

11. All written notices given in terms hereof shall be deemed duly given, provided they were sent to the *domicilium citandi et executandi* and-

11.1 if by letter, 7 days after having been posted;

11.2 if delivered by hand, on date of delivery;

11.3 if by telefax, at the time of transmission.

12. The Customer indemnifies ArcelorMittal South Africa Vanderbijlpark Works against any and all liabilities, claims, losses and demands of whatsoever nature imposed or claimed to be imposed upon ArcelorMittal South Africa Vanderbijlpark Works by a third party in respect of any damages incurred as a result of the Customer's use and / or the inability to use the Facility or the contents thereof as well as the Customer's

non-compliance with the terms and conditions set out herein.

13. The Customer indemnifies ArcelorMittal South Africa Vanderbijlpark Works against any and all damages of whatsoever nature incurred by the Customer as a result of, including but not limited to

13.1 the use and / or the inability to use the Facility and / or the contents thereof;

13.2 any wrong, unauthorized and / or wrongful instruction given by the Customer herein;

13.3 any malfunction or defect in the hardware and / or software used by the Customer;

13.4 any defect in the software used by the Customer to gain access to the Facility;

13.5 any act or omission by the Customer's Internet Service Provider or any defect in the Internet network

or any other medium by which access is gained to the Facility;

13.6 the Facility being off-line or unavailable for whatever reason;  
the incorrect or late execution of any instruction given by the Customer;

13.7 due to the circumstances set out in this clause 12;

13.8 any modification or discontinuance of the Facility or any services set out therein;

13.9 any industrial action; or

13.10 any other circumstances.

the extent that such damage relates to the criminal conduct, wilful misconduct and gross negligence of ArcelorMittal South Africa Vanderbijlpark Works.

14. ArcelorMittal South Africa Vanderbijlpark Works in no way guarantees the availability of the Facility and / or the accuracy thereof and / or the content thereof.

15. Should the Customer breach any of the terms and conditions set out herein, ArcelorMittal South Africa Vanderbijlpark Works will have the right to-

15.1 at any time institute legal action against the Customer for any damages incurred by ArcelorMittal South Africa Vanderbijlpark Works; and 15.2 to terminate the Customer's use of the Facility without prior written notice to the Customer.

Neither the Customer nor ArcelorMittal South Africa Vanderbijlpark Works shall, notwithstanding any else agreed to herein, be able to claim consequential damages. The right to claim consequential damages is therefore expressly waived hereby by both the Customer and ArcelorMittal South Africa Vanderbijlpark Works.

16. ArcelorMittal South Africa Vanderbijlpark Works reserves the right to at any time and for whatever reason suspend or withdraw the whole or only part of the Facility. In the event of the Facility not being utilized by the Customer for a period of six months or longer, ArcelorMittal South Africa Vanderbijlpark Works reserves the right to terminate the Customer's use of the Facility without prior written notice.

17. The terms and conditions set out herein are severable, in that if any provision is determined to be illegal or unenforceable by any court of competent jurisdiction, then such provision shall be deemed to have been deleted without affecting the remaining provisions of the terms and conditions.

18. The Customer may not cede or assign or otherwise make over or dispose of any of the Customer's rights or obligations in terms of the terms and conditions set out herein without the prior written consent of ArcelorMittal South Africa Vanderbijlpark Works.

19. Any disputes arising from or in connection with these terms and conditions shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation except where the Customer is in breach of these terms and conditions, in which case, ArcelorMittal South Africa Vanderbijlpark Works is entitled to litigate against the Customer immediately.

20. The Customer hereby consents to the jurisdiction of the South African Magistrate's Court having jurisdiction in respect of all proceedings arising from the terms and conditions set out herein and shall be liable for all attorney-and-client costs (including collection commission), which may be incurred by ArcelorMittal South Africa Vanderbijlpark Works. ArcelorMittal South Africa Vanderbijlpark Works shall have the right, however, in its sole discretion, to institute any action in the appropriate division of the High Court of South Africa having jurisdiction.

21. Should the Customer be in arrears with any payment due by the Customer in terms of an Agreement concluded on the Facility, a certificate given by any general manager, assistant general manager, senior manager or manager for the time being of ArcelorMittal South Africa Vanderbijlpark Works (whose appointment and authority it is not necessary to prove) setting out such amount owing by the Customer in terms of such Agreement or any other fact, shall be *prima facie* proof of that amount or fact and shall be valid as a liquid document or for the purpose of obtaining any or judgement thereon against the Customer in any competent court.

22. ArcelorMittal South Africa Vanderbijlpark Works cannot be held responsible for the confidentiality of information contained in documents that are sent to the Customer's selected e-mail address, or for documents that do not reach the selected e-mail address.

23. If the Customer lives outside the borders of the Republic of South Africa, but has an Account with ArcelorMittal South Africa Vanderbijlpark Works, the Customer warrants that the Customer is aware of the South African Reserve Bank Regulations and has complied with them.

24. An Agreement will commence between the Customer and ArcelorMittal South Africa Vanderbijlpark Works for the sale of Products upon the date



that Mittal

Steel South Africa informs the Customer in writing of ArcelorMittal South Africa Vanderbijlpark Works's acceptance of the Customer's Tender. Such agreement will be

subject to ArcelorMittal South Africa Vanderbijlpark Works's General Conditions of Sale as well as any other conditions agreed to between the parties and

may at any time be terminated by ArcelorMittal South Africa Vanderbijlpark Works for whatever reason by receipt of a written notice from ArcelorMittal South Africa Vanderbijlpark Works, informing the Customer of such termination.

25. In the event that the terms and conditions conflict with any other Agreement signed by the Customer, the Customer understands that the conflicting clauses will be interpreted so as to give effect to the intentions of the parties.