

**GT-9**  
**EFFECTIVE AS OF NOVEMBER 1, 2010, THESE GENERAL TERMS AND CONDITIONS OF SALE WILL APPLY TO**  
**ALL PRODUCTS SOLD BY M.A. STEWART & SONS LTD. ("MAS")**

1. **Application:** Except for the description of the Products (hereinafter defined) to be the subject of any particular purchase and the delivery dates agreed to in writing by MAS, these general terms and conditions, together with all amendments, deletions and additions (agreed to by MAS, as evidenced in a document signed by the President or a Vice President of MAS, or which are specified in a notice given by MAS of which not less than 30 days' notice was given) (collectively, the "**Terms and Conditions**"), shall constitute the entire and exclusive agreement between MAS and the Purchaser with respect to all purchases of Products from MAS notwithstanding the terms and conditions of any other contract or agreement, whether or not they conflict with these Terms and Conditions, including, without limitation, any purchase order used for the purchase of Products from MAS whether before or after the date hereof. The Purchaser agrees that its purchase of any Product has not been induced by, nor will the Purchaser claim that it relied upon or regarded as material, any representations or document not incorporated herein and made a part hereof. MAS reserves the right to amend, delete and add to these Terms and Conditions, which amendments, deletions and additions the Purchaser agrees will be effective 30 days after notice thereof is given by MAS by posting notice of those amendments, deletions and additions on MAS' website or otherwise communicating those amendments, deletions and additions to the Purchaser.

2. **Interpretation:** The following terms shall have the meaning prescribed below unless the context clearly requires otherwise:

- (a) "**Business Day**" means any day, other than a Saturday or Sunday, on which the chartered banks are open for business in Vancouver, British Columbia.
- (b) "**Force Majeure**" means any cause beyond the reasonable control of MAS, including, without limitation, mechanical failure of plant or machinery, failure or delay caused by or resulting from any act of God, fire, labour dispute, strike, flood, war (whether declared or undeclared), riot, the negligence of MAS or of any of its employees or agents, act of terrorism, destruction of the Product, delay of the carrier, peril of the seas, accident, labour or material shortage, or voluntary or mandatory restrictions imposed by any government authority or agency.
- (c) "**Products**" means any or all products (as the context requires) sold by MAS to the Purchaser.
- (d) "**Purchaser**" means the party purchasing Products from MAS.

In addition, the following interpretive rules shall apply to these Terms and Conditions:

- (i) Words like "herein", "hereunder" and other similar words will refer to these Terms and Conditions as a whole and not just to the particular section or paragraph in which those words appear.
- (ii) In these Terms and Conditions, the word "including" will be deemed to be followed by "without limitation" or "but not limited to", even if those words are not expressly set out.
- (iii) All headings contained in these Terms and Conditions are for convenience only and will not be considered when interpreting these Terms and Conditions.
- (iv) Time is of the essence for these Terms and Conditions.
- (v) Wherever, in these Terms and Conditions, there is a reference to MAS providing its approval or consent or requiring payment or where there is a term or condition that implies or expressly provides for an approval or consent from MAS or that gives a discretion to MAS, whether that approval or consent is given or withheld or whether or not MAS exercises its discretion in favour of the Purchaser, shall be solely at the discretion of MAS, whether the specific provision herein expressly states that or not.
- (vi) Wherever, in these Terms and Conditions, there is a reference to, or a requirement for, an agreement by MAS, MAS' agreement shall, in each case, be evidenced in writing and signed by the President or a Vice President of MAS, whether the specific provision herein expressly states that or not. Similarly, any reference to MAS specifying, waiving or evidencing anything in writing must be signed by the President or a Vice President of MAS, whether the specific provision herein expressly states that or not.

3. **Product Selection:** The Purchaser acknowledges that even though employees of MAS may have assisted the Purchaser in its purchase of Products, the Purchaser acknowledges that it is solely responsible for selecting the Product or Products it purchases.

4. **Prices:** All prices of Products are subject to change by MAS without notice. All orders for Products will be invoiced at the prices in effect at the agreed time of shipment, provided that if, through no fault on the part of MAS, there is a delay in shipment, then the order will be invoiced at the higher of the prices in effect at the stipulated time of shipment or the actual time of shipment.

5. **Taxes:** The Purchaser shall pay all taxes, levies, charges and duties imposed upon the Purchaser or any agent of the Purchaser (the "**Taxes**") by any government, governmental agency or other taxing authority in connection with the production, transportation, consumption, purchase or sale of the Products, and any taxes usually paid by a purchaser pursuant to usual trade practices or terms, including, but not limited to, Goods and Services Tax, Harmonized Sales Tax, Provincial Sales Taxes, Municipal Taxes, and Sales and Use Taxes. The purchase price for Products does not include the Taxes unless MAS specifies otherwise in writing. The Purchaser shall be liable for the payment of the Taxes, together with all penalties, fines, additions to tax, interest or other charges thereon, and shall protect, indemnify and save MAS harmless from and against all costs, damages or liabilities in respect of all Taxes. All obligations of the Purchaser with respect to Taxes shall survive the delivery of the Products and shall continue in force until discharged in full by the Purchaser.

6. **Freight Terms:** All Products are shipped F.O.B. (Free on Board) the warehouse designated by MAS. MAS will ship FFA (full freight allowed) the amount of which will be based on the lowest rates of the carrier selected by MAS, in its sole discretion, to the Purchaser's warehouse in Canada (the "**Destination**"), as determined by MAS in its sole discretion, on any order of or exceeding 1000 pounds for a one-time shipment to the Destination. The Purchaser shall be solely responsible for the difference, if any, between the freight set by MAS and the actual freight charged or paid where the Purchaser specifies a carrier more expensive than that determined by MAS. Orders and back orders weighing less than 1000 pounds will be shipped "freight collect," unless the Purchaser agrees to hold orders or back orders weighing less than 1000 pounds so that they may be included with other Products to qualify for the freight allowance provided by MAS.

7. **Transfer of Title/Risk of Loss:** Title to Products and all risk of loss or damage to the Products shall pass to the Purchaser upon acceptance for loading of the Products by the carrier at MAS' warehouse notwithstanding that MAS may be paying, in whole or in part, the cost of freight and/or other costs and fees.

8. **Terms of Payment:** The Purchaser shall fully pay the purchase price within 30 calendar days from the date of invoice (the "**Due Date**") to the account designated by MAS. If the Purchaser fails to fully pay the purchase price to MAS by the Due Date, interest shall accrue on the unpaid balance of the purchase price outstanding from time to time at the rate of 18% per annum compounded monthly until the purchase price is paid in full.

9. **Quotations:** Possession of a price list or quotation shall not obligate MAS to sell or offer goods listed therein to anyone. MAS reserves the right to withdraw any quotation without notice prior to its acceptance in writing. Price and projected delivery times may be adjusted for design specifications and/or service conditions unknown to MAS at the time of the quotation.

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10. **Credit Approval:** The acceptance of orders is subject to the satisfactory credit approval of the Purchaser by MAS, in its sole discretion, and MAS may, at its sole discretion, require payment in advance.
11. **Deliveries:** Products quoted as being available from MAS' inventory are subject to prior sale and may not be available for immediate shipment. Whether or not MAS will agree to defer a delivery or carry out a redirected delivery is at the sole discretion of MAS, in each case, and the decision to defer or redirect a delivery shall not, in any case, be binding on MAS unless MAS agrees in writing. MAS shall not be liable for any direct, indirect or consequential damages or loss caused by delay in delivery or failure to deliver, regardless of the cause of the delay or failure and whether it results from Force Majeure or any other cause.
12. **Returned Goods:** The Purchaser shall not have the right to return any Product unless: (a) MAS, in its sole discretion, the reasonableness of which is not subject to any inquiry or questioning by the Purchaser or any third party, agrees and evidences its agreement in writing and issues to the Purchaser a Returned Goods Number; (b) the Product is in good and saleable condition; and (c) the Product is promptly returned and, in any event, within the manufacturer's warranty period. MAS may, in its sole discretion, as a condition to agreeing that the Purchaser may return any Products, require the Purchaser to place a replacement order of equal or greater value of the same product grouping as the Products it wishes to return, or to pay to MAS a restocking charge equal to a minimum of 25% of the purchase price of the Products it wishes to return. If MAS agrees, in its sole discretion, to take back any Products, the Purchaser shall package those Products in a manner that will completely protect them from damage. Despite its prior consent to the return, MAS has the right to either reject the returned Products or to charge fees if, in the opinion of MAS, the Products sought to be returned are damaged from any cause whatsoever including, without limitation, improper packaging. The Purchaser shall pay all expenses and costs arising out of the return of any Products including, but not limited to, all transportation charges and the cost of refurbishing the returned Products, if MAS, in its sole discretion, determines refurbishing is required. Notwithstanding the foregoing, the following Products will not be accepted for return under any circumstances: (i) special order items; (ii) non-stock Products; and (iii) obsolete or used Products.
13. **Claims For Shortages:** The Purchaser shall make all claims for shortages in writing (which includes particulars of the shortage) within 5 calendar days after receipt of the Products at the Purchaser's warehouse or other place of delivery requested by the Purchaser in writing and agreed to by MAS. If notice specifying the particulars of the alleged shortage is not received by MAS within 5 calendar days after receipt of the Products by the Purchaser at the Purchaser's warehouse or other place of delivery requested by the Purchaser in writing and agreed to by MAS, the Purchaser shall be deemed to have received, in good condition, all Products that were invoiced by MAS as being part of that shipment, and the Purchaser shall forever be barred from making any claims of shortage with respect to that shipment. Claims for shortage do not entitle the Purchaser to any rights, actions or causes of action against MAS except if the claims are made within the required time and substantiated to the satisfaction of MAS, in which case MAS shall, provided that the Purchaser has paid the purchase price in full, provide any Products or part thereof that were the subject of a claim for shortage.
14. **Warranty:** Products found by the manufacturer to be defective due to faulty workmanship or material will be replaced without charge, provided that, in each case, the manufacturer acting reasonably, is satisfied that the Product had been properly installed, that the Product was used in the service for which the manufacturer of the Product recommended and that written notice specifying the alleged defects was presented to MAS within the period of time (the "**Warranty Period**") commencing on the date the Product was purchased and expiring on the first to occur of the following: (i) the expiration of the manufacturer's warranty, (ii) one year from the date of installation, or (iii) 18 months from the date of purchase. The liability of MAS under the warranty provided herein is limited to replacing the defective Products or, at MAS' sole discretion, refunding the purchase price paid. The Purchaser hereby agrees that the warranty provided herein is in the nature of liquidated damages to which the Purchaser might otherwise be entitled at law or in equity, and, in particular, the Purchaser hereby agrees that, in lieu of any action for fundamental breach of contract, breach of a fundamental term of a contract, breach of contract or any other right, action or cause of action the Purchaser may have, the Purchaser will rely solely upon this warranty. This warranty shall not apply to any Product modified or changed in design or function after leaving MAS' warehouse or to valve operators and components which are subject to the warranty conditions of the manufacturer. MAS shall not, under any circumstances, be liable, in any respect, for any defective Products not reported to MAS in writing during the Warranty Period. MAS shall not, under any circumstances, including, without limitation, any default, negligence or breach of whatsoever nature by MAS, be liable, whether during the Warranty Period or after the Warranty Period, for any claims for labour, installation costs, damages or other special or consequential damages including, but not limited to, loss of revenue or profits, or other expenses incurred by reason of any Products found to be defective. **OTHER THAN THE WARRANTIES PROVIDED IN THIS SECTION, THERE ARE NO FURTHER WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
15. **Cancellation Restriction:** Orders of Products accepted by MAS for special alloy valves, valves and fittings not ordinarily stocked by MAS may not be cancelled or changed by the Purchaser without the prior written consent of MAS (which MAS may give or withhold in its sole discretion) and upon terms which will protect, indemnify and hold MAS harmless from and against all consequential expenses, losses and damages.
16. **Force Majeure:** In the event that MAS is unable, due to a Force Majeure, to observe or perform any of the obligations imposed upon it under these Terms and Conditions, MAS shall be deemed not to be in breach of these Terms and Conditions, and the performance or observance of its obligations will be suspended to the extent to which those obligations are affected by the Force Majeure event. Notwithstanding any other provision of these Terms and Conditions, a claim of Force Majeure by MAS shall not, under any circumstances, suspend or reduce the obligation of the Purchaser to make payment to MAS as and when required hereunder for all Products delivered to the Purchaser hereunder.
17. **Business Day:** Notwithstanding anything herein to the contrary, wherever in these Terms and Conditions MAS or the Purchaser is required to perform a covenant or make payment on a day which is not a Business Day, that performance shall be done or that payment shall be made on the day which is the first Business Day following the day set out herein.
18. **Governing Law:** These Terms and Conditions shall be governed by, and be construed in accordance with, the laws of British Columbia and the laws of Canada applicable in British Columbia, which for all purposes shall be deemed to be the proper law hereof. The Purchaser hereby irrevocably attorns to the jurisdiction of the courts of British Columbia. This provision shall not be construed to affect the rights of MAS to enforce a judgment or an award outside of British Columbia, including, without limitation, the right to record and enforce a judgment or an award in any other jurisdiction.
19. **Modification:** No amendment or modification of these Terms and Conditions shall be binding upon MAS unless evidenced in a written document signed by the President or a Vice President of MAS.
20. **Waiver:** MAS shall be deemed not to have waived any breach of any term or provision by the Purchaser, unless MAS' waiver is in writing and signed by the President or a Vice President of MAS. No condoning, excusing or waiver by MAS of any default, breach or non-performance by the Purchaser, at any time or times in respect of any term, covenant, proviso or condition contained herein shall operate as a waiver of MAS' rights hereunder in respect of any continuing or subsequent default, breach or non-performance, and no waiver shall be inferred from, or implied by, anything done or omitted to be done by MAS.
21. **Further Assurances:** The Purchaser shall execute all other documents and do all other acts as may be necessary to implement and carry out these Terms and Conditions.
22. **Effect of Assignment:** No assignment by the Purchaser of any of its rights in and to any of the Products shall relieve the Purchaser from its obligations to fully pay for the Products purchased by it in accordance with the terms hereof.