

# TERMS AND CONDITIONS OF SALE



**ABC METALLURGICALS LIMITED**  
Garage Road, Off Dar es Salaam Road,  
Industrial Area, P.O Box 17856-00500,  
Nairobi-Kenya.

## 1. Definitions

- “ABC” means ABC Metallurgicals Limited, distributor of Allied Refractory Products India Pvt Ltd in Kenya and East Africa.
- “Customer” means the individual, corporation, or legal entity purchasing Goods or Services from ABC.
- “Order” means Customer’s request, oral or written, to procure Goods or Services.
- “Goods” means all products, materials, and tangible property supplied by ABC.
- “Services” means any services ABC agrees to perform for Customer.

## 2. Limited Warranty

ABC passes through Allied’s limited warranty: Goods are free from defects in material/workmanship for six (6) months from shipment.

ABC provides no additional warranties beyond those of Allied.

## 3. Limitation of Remedies

Customer’s sole remedy is repair, replacement, or refund of defective Goods/Services, subject to Allied’s approval. Claims must be made within six (6) months of shipment.

## 4. Limitation of Liability

ABC’s liability is limited to the amounts paid by Customer to ABC for the Goods/Services. ABC shall not be liable for incidental, consequential, or indirect damages.

## 5. Claims & Inspection

Customer must inspect Goods within ten (10) days of receipt and notify ABC in writing of defects, shortages, or errors within fifteen (15) days. ABC will coordinate inspection with Allied. Goods must not be altered before inspection.

## 6. Limitation of Actions

Any legal action against ABC must be commenced within one (1) year from shipment or service completion.

## 7. Installation

Unless separately agreed in writing, installation is Customer’s responsibility. Any assistance by ABC is advisory only.

## 8. Prices

Prices are quoted in USD or KES, based on the agreed Incoterm (e.g., Ex-Works Nairobi, CIF Dar es Salaam, DDP Kampala, etc.). Each quotation or invoice will specify the Incoterm and delivery point. Prices are subject to change due to currency fluctuations, freight charges, or raw material volatility.

## 9. Taxes

Prices exclude VAT, import duties, excise, or other taxes. Customer is responsible for payment or reimbursement of all applicable taxes in their jurisdiction.

## 10. Risk of Loss

Risk of loss passes to Customer at the point defined by the agreed Incoterm. Title passes upon full payment.

## **11. Payment**

Payment terms are as agreed in writing. Overdue accounts bear interest at 1.5% per month or the maximum allowed under Kenyan law. Payment must not exceed 45 days from invoice date.

## **12. Force Majeure**

ABC is not liable for delays caused by events beyond its control, including port congestion, customs delays, strikes, political unrest, acts of God, or supply chain disruptions.

## **13. Shipment**

Each shipment is a separate transaction. Partial shipments may be invoiced separately. ABC may suspend deliveries if Customer defaults on obligations.

## **14. Orders, Delays & Cancellation**

Orders must be confirmed in writing. Cancellation requires ABC's written consent and may incur termination charges. ABC reserves the right to cancel orders without liability if Customer defaults or supply conditions change.

## **15. Typographical Errors**

ABC may correct clerical errors in quotations, invoices, or specifications.

## **16. Credit for Returned Goods**

No returns are accepted without ABC's prior written authorization. Goods must be within shelf life, in resalable condition, and freight prepaid by Customer.

## **17. Hazards**

Certain Goods may be classified as hazardous. ABC will provide Safety Data Sheets (SDS) and product handling guidelines upon request. Customer acknowledges responsibility for ensuring safe handling, training of personnel, use of protective equipment, and compliance with applicable health, safety, and environmental regulations in their jurisdiction.

## **18. Assignment**

Customer may not assign rights or obligations without ABC's prior written consent.

## **19. Waiver & Modification**

No waiver or modification is valid unless in writing and signed by ABC.

## **20. Governing Law & Dispute Resolution**

This contract is governed by the laws of Kenya. Disputes shall be resolved by arbitration under the Arbitration Act of Kenya, with Nairobi as the seat and English as the language. The arbitration award shall be final and binding.

## **21. Confidentiality**

All non-public, confidential information disclosed by ABC is confidential and may not be shared without ABC's written consent.

## **22. Complete Agreement**

These Terms & Conditions constitute the entire agreement and supersede prior understandings.

## **23. Survival**

Clauses relating to limitation of liability, indemnity, and confidentiality survive termination.

## **24. Severability**

If any provision is invalid, the remainder remains enforceable.

## **25. Acceptance**

By placing an order with ABC, Customer acknowledges and accepts these Terms & Conditions.

**26. Retention of Title**

ABC retains ownership of the Goods until full payment has been received. Until title passes, Customer must store Goods separately and clearly identify them as ABC's property. If Customer defaults, ABC reserves the right to reclaim Goods without prejudice to other remedies.

**27. Insurance**

Unless otherwise agreed in writing, Customer is responsible for insuring Goods during transit and storage after risk has passed under the agreed Incoterm. Where ABC arranges insurance (e.g., under CIF terms), coverage will be limited to standard marine cargo insurance unless otherwise specified.

**28. Compliance with Import/Export Laws**

Customer shall comply with all applicable import, export, customs, and regulatory requirements in their jurisdiction. ABC shall not be liable for delays, seizures, or penalties arising from Customer's failure to comply with such laws.

**29. Indemnity**

Customer agrees to indemnify and hold harmless ABC against any claims, damages, or liabilities arising from:

- Misuse or improper handling of Goods,
- Failure to follow installation or safety guidelines,
- Resale or redistribution of Goods without ABC's written consent.

**30. Data Protection**

ABC will process Customer's personal and business data in accordance with the Kenyan Data Protection Act, 2019. Customer consents to ABC using such data for order processing, invoicing, and compliance purposes. ABC will not disclose Customer data to third parties except as required by law or to Allied for warranty/claims support.

**31. Language**

These Terms & Conditions are drafted in English. The English version shall prevail and be binding in all jurisdictions, regardless of translations provided for convenience.