



## NOVELIS METAL PROCUREMENT TERMS AND CONDITIONS

The terms and conditions set forth in this document (“Terms and Conditions”) will apply to all purchases of goods made by Novelis hereunder (“Buyer”) from you (“Seller”).

Additional terms, conditions, or instructions applicable to a particular purchase may be specified in the Supply Agreement separately executed by Buyer and Seller (“Commercial Terms and Conditions”), which together with these Terms and Conditions shall collectively be referred to as, and shall constitute, the “Contract.” In the event of a conflict between the Commercial Terms and Conditions and these Terms and Conditions, the Commercial Terms and Conditions will prevail.

**1. Acceptance.** Acceptance by Seller of the Contract is expressly limited to these Terms and Conditions and the Commercial Terms and Conditions and any other documents and materials incorporated in the Contract and shall constitute an agreement between Buyer and Seller for the purchase and supply of the goods covered by the Contract. **ANY TERMS AND CONDITIONS CONTAINED IN A PROPOSAL, QUOTATION, ACCEPTANCE, ACKNOWLEDGEMENT, INVOICE OR OTHER DOCUMENT OF SELLER WILL NOT CONSTITUTE A PART OF THE CONTRACT AND ARE HEREBY REJECTED UNLESS SUCH TERMS AND CONDITIONS ARE SPECIFICALLY AGREED TO IN A WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BUYER.** Any acceptance or acknowledgment from Seller containing additional or different terms or conditions will constitute an acceptance of the Contract and such additional or different terms or conditions are rejected and shall not apply. In any event, any of the following acts by Seller will constitute unconditional acceptance of the Contract and of all the Commercial Terms and Conditions and the Terms and Conditions set forth herein: signing and returning a copy of the Contract or any part thereof; delivery of any of the goods ordered; informing Buyer in any manner of, or commencement of, performance hereunder in response to the Contract; or returning Seller’s own form of acknowledgement (in which case any different or additional terms and conditions in such acknowledgement are rejected and shall not apply).

**2. Invoice.** Unless otherwise set forth in the Contract or communicated to Seller by Buyer in writing, no physical invoice needs to be submitted from Seller to Buyer. Buyer shall pay via Electronic Funds Transfer (EFT) for the material based on shipped or received weight, as agreed between Buyer and Seller, at the price referenced on the Purchase Order issued to Buyer by Seller, less applicable deductions. Buyer reserves the right to withhold payment on any material received that it disputes until resolution of the dispute is resolved to the satisfaction of Buyer. All of Seller’s obligations under the Contract shall continue unabated during any dispute.

**3. Deliveries.**

(a) Deliveries of goods are to be made both in the quantities and at the times specified in the Contract or other instructions from Buyer and shall be delivered to the location specified for each shipment by Buyer. Buyer’s plants’ received net weight for all shipments shall govern. Buyer may, from time to time, change delivery schedules or direct temporary suspension of scheduled shipments.

(b) The calendar month of delivery must be declared by Seller at the time of booking. If a delivery is not expected to meet the delivery dates, specifications or quantities set forth therein, Seller shall promptly notify Buyer in writing and take such steps as may be necessary to expedite delivery; provided, however, that, if Buyer receives notice or otherwise expects that Seller will not meet the delivery dates, specifications or quantities set forth in the Contract, Buyer reserves the right, without liability, in addition to its other rights and remedies, to cancel the applicable portion of the Contract by notice to Seller and arrange for the purchase of substitute goods elsewhere; provided, further, that if Buyer arranges for such substitute good elsewhere, Buyer may, at its option, without liability correspondingly reduce its purchase requirements under the Contract, if any. Shipments of goods in greater quantity than Buyer ordered may be

returned at Seller’s risk and expense. Seller will also pay any and all storage, drayage, demurrage, and other costs arising from the early or late delivery of goods, or otherwise arising from any cause other than the breach of the Contract by Buyer. Without limiting the foregoing, Seller shall insure the goods in transit until delivery to Buyer and shall be responsible for filing and pursuing claims with carriers for loss of, or damage to, goods in transit.

(c) Seller shall provide the following on all bills of lading accompanying the goods: (i) carrier name, (ii) date shipped, (iii) ship to destination, (iv) purchase order number, (v) trailer or railcar number, (vi) piece count, (vii) form of metal/scrap, (viii) gross weight, (ix) tare weight, (x) dunnage weight, (xi) net aluminum weight, (xii) seal numbers used, (xiii) scrap return authorization “SRA” (as applicable); and (xiv) driver’s signature. Each bill of lading for used beverage containers (“UBCs”) and other forms of scrap shall also contain the following certification: “This shipment is being transported for the purpose of recycling as defined in the applicable tariffs containing such provisions.” Shipments must have the trailer/railcar doors sealed with seal numbers noted on the bill-of-lading. Shipments arriving at the plants without seals are subject to rejection, at Buyer’s option. Any rejected loads and/or disqualified origins shall not relieve Seller of any volume obligations hereunder.

(d) In the event Seller fails to deliver any loads in the original agreed month of delivery, Buyer reserves the right to charge Seller any costs, expenses, losses or other charges incurred in connection with unwinding, offsetting or otherwise fixing the economic effect of any agreements or transactions entered into by Buyer or its affiliates with third parties for the purpose of hedging Buyer’s risks hereunder.

**4. Inspection/Rejection.** Payment for the goods ordered hereunder shall not constitute acceptance thereof. Buyer’s employees or agents may, prior to delivery and upon reasonable notice, at any reasonable time during Seller’s normal business hours, enter Seller’s premises (or any other location) to inspect and test the goods, for the purpose of confirming Seller’s compliance with the requirements of the Contract. Seller shall, at its expense, furnish or cause to be furnished facilities, equipment and assistance reasonably necessary to ensure the safety and convenience of any such inspections. Buyer has the unilateral right to reject goods (or tender thereof) that do not conform strictly to Buyer’s specifications (Novelis applicable Metal Specifications provided upon request) or other requirements set forth in the Contract, without waiving Buyer’s right subsequently to reject or revoke acceptance of such goods for any defects. With respect to any nonconforming goods, Buyer may, at any time and in its sole discretion, in addition to any other rights or remedies available to Buyer by law or under the Contract, (i) return any such goods to Seller for reimbursement, credit, replacement, or repair, at Buyer’s direction, or (ii) correct, rework, or repair any such goods with any and all costs and damages associated therewith to be charged to and paid by Seller. Any goods rejected by Buyer and returned to Seller will be returned at Seller’s risk and expense, with the cost of damages, repackaging, reshipping, handling, inspection, loading, unloading and any other costs incidental thereto to be paid by Seller. If goods are rejected by Buyer, Seller shall also be responsible for any third party damages resulting from the return of any such goods to Seller for reimbursement, credit, replacement, or repair, or (ii) the correction, reworking, reuse or repair of any such goods. In no event shall the inspection or testing of any goods, the failure to do so, or the failure to discover any defect or other nonconformance before or after delivery to Buyer, relieve Seller from exclusive responsibility for furnishing goods in strict conformance with Buyer’s specifications and other requirements or impair or waive any right or remedy of Buyer with respect to Seller’s performance hereunder.

**5. Cancellation; Setoff.** Buyer may cancel the Contract, in whole or in part, without liability by written notice to Seller and without prejudice to any other rights or remedies that Buyer may have, upon the occurrence of (a) Seller’s default of any provision or requirement of the Contract, and/or (b) Seller’s suspension of business, insolvency, reorganization or arrangement or



liquidation proceedings, assignment for the benefit of creditors, appointment of a receiver for Seller or Seller's property, or Seller having been adjudged bankrupt. In the event of such cancellation, Buyer may complete Seller's performance of the Contract by such means as Buyer selects, including the use of any third party, and Seller shall be responsible for any additional costs incurred by Buyer in so doing. If applicable, Seller shall promptly deliver or assign to Buyer any work in progress as Buyer may request. Any amounts due to Seller for delivered goods in full compliance with the Contract prior to such cancellation shall be subject to setoff of Buyer's additional costs incurred in completing the Contract and other damages incurred by Buyer as a result of Seller's default. Buyer may cancel the Contract, in whole or in part, for convenience upon notice to Seller. In the event the Contract is cancelled for convenience by Buyer, if Seller has fully and completely performed all of its obligations under the Contract up to the date of such cancellation, Seller will recover from Buyer as complete and full settlement for such cancellation for work performed or to be performed under the Contract, the actual costs of all conforming goods that have been shipped, plus an allowance for reasonable profit on such costs (but not to exceed a pro rata portion of the Contract price based on the percentage of goods properly completed up to the date of cancellation) less such sums as Seller has already received on account of such goods. In no event shall total payment to Seller hereunder exceed the purchase price of such goods set forth in the Contract. Other than to this extent, Buyer shall not be liable to Seller for any damages on account of its failure to accept all or any portion of the goods ordered under the Contract. In addition to any other remedies available to Buyer, Buyer may deduct, recoup and set off any amounts that Buyer at any time owes to Seller from and against any damages or other amounts that Seller then owes to Buyer, whether under the Contract or otherwise and whether or not Seller shall have assigned to another its rights to receive amounts that Buyer is required to pay under the Contract or other agreement.

**6. Changes.** Buyer shall have the right, at any time, by written notice to Seller ("Change Notice") and without notice to any guarantor, to make changes to the specifications, statement of work, drawings, designs, quantities and/or delivery schedules as to any goods covered by the Contract. Seller will make the changes contained in the Change Notice. If Seller believes that such change affects the price or delivery date for such goods, Seller shall so notify Buyer in writing (with adequate supporting documentation) within fifteen (15) business days after receipt of the Change Notice, and Buyer and Seller shall negotiate in good faith to mutually agree in writing upon an equitable adjustment of the price and/or delivery date. Seller's right to request any adjustments hereunder shall be waived unless submitted to Buyer in writing within such fifteen (15) business days following receipt of the Change Notice. Seller shall not suspend performance of any portion of the Contract while Buyer and Seller are in the process of making such changes and any related adjustments, or at any time thereafter, unless so instructed in writing by Buyer. No substitutions shall be made in the Contract without the prior written consent of Buyer. Seller shall not comply with oral changes received with respect to the Contract.

**7. Price/Payment Terms.** Seller warrants that the prices set forth in this Contract are complete and that no additional charge of any kind will be added. All loads of goods must be priced prior to shipment, unless otherwise agreed between the parties in writing. Any un-priced volume will be priced on the last workday of the applicable delivery month. Buyer may price shipments for the current and next month. Unless otherwise expressly set forth in this Contract, the payment terms are sixty (60) days after receipt by Buyer of the goods and Seller's valid invoice (if applicable) therefor.

**8. Title and Risk of Loss.** Unless otherwise specified in writing by Buyer or in the Contract, title and risk of loss, or damage, to goods delivered hereunder will pass to Buyer upon receipt by Buyer at Buyer's location or any other location as may be designated in the Contract.

**9. Force Majeure.** Neither Buyer nor Seller will be liable for any delay in or failure to perform its obligations hereunder for causes beyond its control that were not caused by the affected party's fault or negligence, provided that the affected party notifies the other party in writing of such events as soon practicable after they occur and gives the other party an estimate of

when it will be able to resume full performance. If Buyer delays delivery or acceptance of goods for causes beyond its control, Seller shall hold such goods at the direction of Buyer and shall deliver them when the cause of the delay has been resolved. The affected party shall use commercially reasonable efforts to anticipate and mitigate the effect of any such events and to resume full performance as soon as possible. If Seller is unable to perform its obligations hereunder for any reason, Buyer may purchase the goods from other sources and reduce its purchases from Seller accordingly without liability to Seller. If any delay exceeds thirty (30) days from the original delivery date, Buyer may cancel any affected order without any liability. If Seller's production is only partially restricted or delayed, Seller shall use its best efforts to accommodate the requirements of Buyer, including giving any affected order priority over those of other customers whenever possible.

**10. Export and Import Compliance.** Seller shall at its expense be responsible for strict compliance with all legal, regulatory and administrative requirements associated with any importation or exportation of goods, materials or equipment hereunder, including compliance with any applicable customs requirements and obtaining any required licenses or approvals, along with the payment of all associated tariffs, duties, taxes, and fees, including as a result of any change in law, regulation, tariffs, duties, taxes or other government charges. Upon request, Seller shall promptly furnish Buyer with all information and records relating to the goods necessary for Buyer to fulfill any origin marking or labeling requirements and certification and local content reporting requirements, including copies of customs information and documentation. Seller is solely responsible for complying with all technical compliance and country of origin requirements of each country into which the goods are to be delivered.

**11. Warranty.** In addition to all other warranties imposed by law, Seller expressly represents and warrants that all goods furnished to Buyer under the Contract will: (a) comply strictly with the provisions of the Contract, (b) as applicable, comply strictly with Buyer's UBC Specification, primary aluminum specification, scrap specification, and any other applicable specifications, and all drawings, standards, samples and other descriptions furnished or specified by Buyer, (c) be free from defects in design, material and workmanship, (d) be merchantable, (e) be suitable and fit for the particular purposes for which such goods are required by Buyer, (f) be processed and supplied in compliance with all applicable laws and regulations and agency or association standards and other standards applicable to the goods, and (g) be provided with full and unrestricted title to Buyer, free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances. Buyer's approval of Seller's designs, materials, processes, drawings, specifications, or the like will not be construed to relieve Seller of its obligations under the warranties set forth herein. All warranties and provisions of this Section will run to Buyer, its affiliates, customers, successors, and assigns, and to users of the goods and products sold by Buyer that contain Seller's goods. At Buyer's option, Seller shall, without cost to Buyer, promptly replace or refund the purchase price with respect to any defective or non-conforming goods; upon failure to do so within a reasonable time, Buyer may do so at Seller's expense. Seller's obligations under this Section will apply whether or not Seller is a merchant of the goods and will be in addition to any other rights or remedies available to Buyer by law or under the Contract.

**12. Insurance.** Seller shall maintain in effect, at Seller's expense, at least the following insurance coverage and other insurance sufficient to protect both Seller and Buyer from any and all claims and liabilities for property damage, personal injury, death, and economic damage that arises from the goods: (a) Workers' Compensation insurance or qualification as a self-insurer to satisfy the laws of the states which have jurisdiction over Seller's employees; (b) Employers' Liability Insurance for Bodily Injury per accident with limits of not less than \$2,000,000 and Bodily Injury by Disease with limits of not less than \$2,000,000 per policy; and (c) Commercial General Liability Insurance for bodily injury, personal injury and property damage, including coverage for products/completed operations and contractual liability, with combined limits of not less than \$5,000,000 per occurrence. Seller shall ensure that (i) the required insurance coverages are in effect and will not be canceled or materially changed until thirty (30) days after Buyer receives written notice of the



proposed cancellation or change, (ii) Buyer is designated as an additional insured on Seller's commercial general liability insurance policy and (iii) all of Seller's insurance as required herein shall be primary and not contributory or excess of any other insurance carried by or on behalf of Buyer. Upon Buyer's request, Seller shall provide Buyer with written certification, acceptable to Buyer certifying compliance with the requirements of the previous sentences. To the extent permitted by law, Seller agrees to cause its insurers to agree to waive (and to the extent permissibly self-insured hereunder, Seller agrees to waive) any rights of subrogation against Buyer or its employees or representatives. All insurance required hereunder will be of the types and in amounts, will contain endorsements, and will be issued by financially sound insurers reasonably satisfactory to Buyer. Seller may satisfy the insurance required herein with any combination of primary and umbrella/excess insurance policies, provided that all insurers will have an A.M. Best rating of A, Class VIII or higher and be authorized to issue policies in the city, state or province of Buyer's location as noted on the Contract.

**13. Taxes.** Seller will be responsible for all taxes assessed upon Seller in connection with the transactions contemplated by the Contract. If a sales, use, excise, gross receipts, value-added or services tax or other similar form of tax is assessed on the transactions contemplated by the Contract, Buyer shall be financially responsible for and shall remit to Seller, for remittance to the applicable taxing authority, the amount of any such tax. Seller shall separately identify any sales, use, gross receipts, excise, value-added or services tax or other similar form of tax in Seller's invoices to Buyer. If Buyer or Seller is assessed interest and/or penalties due to the failure of Seller to accurately or separately identify, or remit to the applicable taxing authority in a timely manner, such sales, use, gross receipts, excise, value-added or services tax or other similar form of tax, Seller shall be responsible for any such assessment and shall promptly remit the amount of any such assessment to the Buyer or the applicable taxing authority, as applicable. Any payments to Seller under the Contract will be net of withholding tax, and Buyer will not be required to provide a "gross up" or other similar additional payments to Seller. The parties agree to reasonably cooperate with each other with respect to applicable governmental reporting requirements relating to the transactions contemplated by the Contract, including reasonable cooperation necessary to comply with tax exemption certificate requests and similar data requests.

**14. Government Compliance; Buyer Policies and Procedures.** Seller represents and warrants that all goods furnished under the Contract are made, produced, purchased, approved, sold, labeled, transported, licensed, marked, and/or certified in accordance with, and that Seller is in compliance with, all applicable federal, state, provincial and local laws, regulations and orders, including without limitation, laws regulating hazardous or toxic substances, chemicals, materials, or waste. In addition, Seller shall also comply with the applicable code of conduct of Buyer and all of the applicable environmental, health, safety and security policies and procedures of Buyer.

**15. Indemnification.** Seller agrees to indemnify and hold harmless Buyer and its affiliates, and its and their officers, directors, shareholders, employees, agents, representatives, customers, insurers, successors and assigns (collectively "Indemnitees") from and against any and all liabilities, losses, costs, claims, demands, penalties, damages, forfeitures, causes of action, suits, judgments and settlements, and the costs and expenses incident thereto, including attorneys' fees, and any other cost of litigation, that Indemnitees may suffer, incur, become responsible for or pay out, arising out of, in any manner connected with or resulting from (a) performance of or failure to perform the Contract by Seller, or its subcontractors under the Contract, or the representatives, agents, employees, or invitees of any of them; (b) the production and delivery of (if applicable) or any defect in the goods supplied hereunder; (c) any act or omission of Seller; and/or (d) breach of any representation, warranty or covenant. This indemnification provision is in addition and cumulative to any other right of indemnification or contribution that any of the Indemnitees may have at law, in equity, or otherwise, and will survive completion of the Contract. In addition, Buyer shall be entitled to all costs, expenses and fees (including attorneys' fees) reasonably incurred in connection with the enforcement of this right of indemnification.

**16. Nondisclosure and Ownership of Information.**

(a) At any time, if there is a confidentiality agreement in place with respect to the transactions contemplated by the Contract, the provisions of such agreement shall apply. At any time, if there is no such agreement in place, the following provisions of this Section 16(a) will apply. In the event Buyer discloses or grants Seller access to any information of a confidential nature, including but not limited to information of a technical, scientific or commercial nature whether reduced to writing or not, and whether or not identified as confidential at the time of disclosure, Seller agrees to hold all such information in strict confidence, to allow access to and disclose such information only to those of its employees who have a need to know and who specifically require such information for the purpose for which it was provided under the Contract, and to ensure that such employees are made aware of and comply with Seller's obligations hereunder. Seller further agrees to not use such information for any purpose other than that for which it was provided under the Contract, without the prior written consent of Buyer. In the event Buyer authorizes in writing any disclosure of such information to any third party hereunder, Seller shall also obtain a like agreement regarding such information from such third party prior to release of any such information and shall thereafter disclose only that information required by the third party to perform its function. All rights in any such information that Buyer discloses to Seller or to which Buyer grants Seller access will remain the sole and exclusive property of Buyer.

(b) Seller agrees that Buyer may disclose personal and commercial data with respect to Seller and the Contract, including a copy of the Contract, to any of its affiliates globally.

(c) Seller may not use Buyer's name and/or logo in any manner other than as may be identified in this Contract without first obtaining written permission from Buyer.

**17. Anti-Corruption.** Seller, its employees, subcontractors, agents and representatives shall at all times fully comply with all applicable anti-corruption or bribery laws including but not limited to those that prohibit the offer or promise of, authorization to pay or payment of money or giving of anything of value (money, goods, services, property, and favors but excluding mementos of nominal value) directly or indirectly to any agent, representative, official, officer, director or employee of any government (including any employee of a state owned or controlled enterprise or union), any political party, political candidate or any private sector employee or their family or friends, or any other person or entity acting for or on behalf of such persons or entities, in order to obtain or retain business, to induce them to use their influence or to gain any other improper business advantage.

**18. Relationship of Parties.** The relationship between Seller and Buyer is and will be that of Seller and Buyer and not a joint venture, partnership, principal-agent, broker, sales representative or franchise relationship.

**19. Severability.** If any provision of the Contract is found by a court of competent jurisdiction to be prohibited or unenforceable, such provision will be ineffective only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability will not invalidate the balance of such provision to the extent it is not prohibited or unenforceable, nor invalidate the other provisions hereof.

**20. Waiver.** Either party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach, will not thereafter waive any such term, condition, instruction, right or privilege.

**21. Remedies.** The remedies stated herein will be cumulative and additional to any other or further remedies provided at law or in equity.

**22. Survival.** The rights and obligations of the parties hereto will survive the termination, cancellation, completion or expiration of the Contract to the extent that any performance is required under the Contract after such termination, cancellation, completion or expiration.

**23. Disclaimer of Damages. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL BUYER BE LIABLE FOR ANY TYPE OF INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS**



**OF PROFITS OR REVENUES, WHETHER SUCH DAMAGES ARISE OUT OF OR RESULT FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, WHETHER OR NOT BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**24. Assignment.** Seller shall not assign the Contract or any of its rights or obligations thereunder, in whole or in part, without Buyer's prior written consent and any attempted assignment or delegation by Seller without such written consent shall be void. No assignment permitted hereunder shall relieve Seller of any of its obligations under the Contract. Buyer reserves the right to assign the Contract, or any of its rights or obligations thereunder, to Buyer's successors or affiliates.

**25. Notices.** All notices required or permitted hereunder will be in writing and (i) sent postage prepaid, registered or certified mail, return receipt requested, (ii) personal delivery, or (iii) by email or facsimile transmission (which must be immediately confirmed by one of the other permitted methods specified in clause (i) or (ii) above) to the addresses identified in the Contract. Any such notice will be effective upon receipt.

**26. Documentation Language.** At the express request of the parties, the Contract and all documents related thereto are drafted in the English language. If a translation of the Commercial Terms and Conditions or these Terms and Conditions is provided or included, such translation is for the parties' reference only, and if there is any inconsistency between the English version and such translation, the English version shall govern the interpretation of such terms and conditions. All communications are also to be in English.

**27. Governing Law and Dispute Resolution.** Buyer and Seller expressly agree that, for purposes of personal jurisdiction and venue, all lawsuits related to or arising out of the Contract will be brought only in a court located within the city, state, province or territory of the Buyer's location as noted on the Contract. The parties further agree that the Contract will be governed by and construed in accordance with the laws applicable within the city, state, province or territory of the Buyer's location as noted on the Contract, without giving effect to any conflicts or choice of law provisions. Buyer and Seller hereby waive any venue or jurisdictional challenges or defenses related to such jurisdiction and venue, unless both parties agree in writing that a lawsuit may be brought in another location or court. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Contract.

**28. Time is of the Essence.** Time and quantity are of the essence hereunder.

**29. Electronic Commerce.** At Buyer's request and subject to applicable law, Buyer and Seller will facilitate business transactions by electronically transmitting data. Any data digitally signed and electronically transmitted will be as legally sufficient as a written, signed, paper document exchanged between the parties, notwithstanding any legal requirement that the data be in writing or signed.

**30. Entire Agreement.** The Contract, together with these Terms and Conditions, and any other documents expressly incorporated herein or therein by reference, constitutes the entire agreement between Buyer and Seller related to the subject matter of the Contract, and all prior negotiations, proposals, understandings, representations, agreements and writings with respect to the subject matter of the Contract are superseded hereby. No modification of the conditions or terms of the Contract or these Terms and Conditions will be binding upon Buyer nor will extra compensation be paid by Buyer unless such modification or understanding is in a confirming writing signed by an authorized representative of Buyer.