

Cutler and Woolf (Steel) Ltd

CONDITIONS OF SALE

1. GENERAL

- (1) All quotations are made and all orders accepted subject to the following conditions. Notwithstanding any previous course of dealings between the company and the customer. All other conditions whatsoever are excluded from the contract or any variation thereof unless expressly accepted by the Company in writing.
- (2) Quotations shall only be available for acceptance for a maximum period of one week from the date thereof and may be withdrawn or altered by the Company within such period at any time without notice.
- (3) Materials from stock are offered subject to the same being unsold upon receipt of the order.
- (4) If any statement or representation has been made to the Customer other than in any documents which may have been enclosed with the Company's quotation and upon which the Customer relies the Customer must set out that the statement or representation in a document to be attached to or endorsed on its order. In which event the Company may clarify the point and submit a new quotation.

2. PRICES

- (1) The price quoted represents the current price of the Company ruling at the date of quotation and the Customer accepts the trade usage that the contract price shall be the current price of the Company exclusive of V.A.T. ruling at the date of despatch.
- (2) All prices stated net ex Works.
- (3) The cost of packaging if required by the customer shall unless otherwise stated be charged extra. The cost of packing cases and boards will be credited in full to the Customer on their return to the Company in good condition carriage paid.

3. DELIVERY

- (1) Time for delivery is given as accurately as possible but it is not guaranteed. The Customer shall have no right to damage or to cancel the order for failure for any cause to meet any delivery time stated.
- (2) The Company will endeavour to comply with reasonable requests by the Customer for postponement of delivery but shall be under no obligation to do so. Where postponement is agreed by the Company in writing the Customer shall if required by the Company pay all costs and expenses including a reasonable charge for storage occasioned thereby.

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4. DEFECTIVE DELIVERY AND DAMAGE IN TRANSIT.

- (1) The Customer shall have no right to claim for
- (2) shortages or mis-delivery, or
- (3) defects unless apparent on inspection, unless
 - (I) the Customer inspects the goods forthwith on delivery.
 - (II) a written complaint is sent to the Company within seven days of delivery specifying the shortage or defects and a written complaint is sent to the carrier within three days of delivery or such longer period as the carriers conditions permit, and
 - (III) the Company is given an opportunity to inspect the goods before any resale or use is made thereof or any alteration or modification made thereto by the Customer.

If a complaint is not made to the Company or the carrier as provided by this condition then the goods shall be deemed to have been delivered in the correct quantity and free of defects apparent on inspection.

- (4) All allegations of total non-delivery or any consignment of the goods must be made by the Customer in writing to the carrier and to the Company within ten days of the date of the Company's advice note or invoice or other notification of despatch or such shorter time limit as may be specified in any conditions of the carrier. Failure by the Customer to comply with the provisions hereof shall render the Customer liable for the any temporary or permanent loss of the goods and all additional costs and expenses of the Company in relation thereto.

5. CANCELLATION

- (1) Cancellation will only be accepted by the Company in writing and on condition that all costs and expenses incurred by the Company up to the time of cancellation, and all loss of profits and other loss or damage resulting to the Company by reason of such cancellation will be reimbursed by the Customer to the Company forthwith.

6. RISK AND TITLE

- (1) Risk shall pass to the Customer when the goods or the relevant part thereof leave the premises of the Company for delivery to the Customer notwithstanding that the Customer may arrange for delivery.
- (2) Title
 - (I) Title in the goods shall pass to the Customer when payment in full has been made under the Contract and the Customer shall permit the servants or agents of the Company to enter on the Customer's premises and to repossess the goods at any time prior thereto
 - (II) The Customer shall only be at liberty to resell the goods purchased from the Company prior to the passing of title on the understanding that if it does resell the goods then it will hold on trust for the Company so much of the proceeds of sale received by it, under contracts which include any of the goods hereby sold either in their original or altered state as are necessary to discharge payment in full to the Company.
 - (III) The Customer shall only be at liberty to mix the goods with others or use them in the process of manufacture prior to the passing of title with the consent of the Company in writing which such consent shall not be unreasonably withheld providing that suitable guarantees are given by the Customer to discharge payment in full at the due date under this Contract for sale to the Customer.

7. RETENTION OF TITLE

The Company will retain all monies and reservation of title on all goods delivered until payments have been received in full.

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8. TERMS OF PAYMENT

- (1) All accounts shall be net monthly and due and payable by the Customer not later than the last day of the month following the date of despatch from the Company's premises unless an alternative agreement is in place.
- (2) No disputes arising under the contract or delays beyond the control of the Company shall interfere with prompt payment by the Customer.
- (3) In the event of default in payment by the Customer in accordance with the above terms the Company shall be entitled without prejudice to any other right or remedy:
- (4) To suspend all further deliveries without notice.
- (5) To exercise its statutory right to claim interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2002.
- (6) To withdraw all credit facilities without notice.
- (7) To claim immediate payment of all invoices rendered including those within the credit period.
- (8) To be paid its legal costs on an indemnity basis (Church Commission v Ibrahim).

9. MEASUREMENTS AND QUALITIES

- (1) All weights and dimensions quoted are subject to recognised tolerances + or - 10%.
- (2) Steel bars, sections and tubes may be purchased by the Customer in random lengths or cut to size. Where the Customer requires cut lengths the recognised margin for cutting shall apply.
- (3) The Company shall not be liable for any discrepancy with regard to weights, measurements or quantities of materials supplied unless the Customer has notified the Company in writing of such discrepancy within seven days of receipt of the goods by the Customer or on his behalf. Reasonable opportunity of inspection and of witnessing re-weighing must be afforded to the Company before the goods have been used, processed or re-sold by the Customer. Where any discrepancy (subject to recognised tolerances as herein contained) is revealed and accepted by the Company, the Company shall rectify, replace or credit (at its option) the Customer accordingly no further right of action, set off or counter claim shall subsist against the Company in respect of such discrepancy.

10. DATA

- (1) Illustrations, weights, measurements, performance capabilities, application suitability information and other data set out in the sales literature of the Company are statements of opinion and are provided for information only and form no part of the Contract.

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11. GUARANTEE

- (1) Save as provided by sub-clause of this condition, the Company agrees to replace goods or at its option repay the Customer all sums paid in respect of goods supplied by it which are proven to the Company's satisfaction to be faulty (fair wear and tear or damage due to misuse excepted) provided that such fault be notified in writing within one month from the date of delivery to the Customer. Any such replacements shall include free delivery to the Customer's works. This Guarantee is given in lieu of the implied conditions and warranties contained in Sections 13, 14 and 15 of the Sale of Goods Act, 1893, as amended and any other conditions or warranties implied by trade, custom, usage or statute which are hereby expressly excluded. The Customer hereby acknowledges:-
 - (I) that it fully appreciates, that the Company act as stockists and merchants only and are in no way concerned with the manufacture of the goods.
 - (II) that the goods were purchased by it relying totally on its own assessment as to fitness for the purpose required and having regard Commission Decision No. 31/53/ECSC (as amended from time to time) to the facility for inspection and testing by it whether or not it took advantage of the facility for such inspection and testing offered to it by the Company.
 - (III) that it purchased the goods in a competitive market and that the bargaining strength of the Company was in no way a relevant factor in the purchase of the goods from the Company.
 - (IV) that it purchased the goods in the course of business and not for private use.
 - (V) that it knows the extent of the meaning of this clause and the limitations thereby imposed by it upon Sections 13, 14 and 15 of the Sale of Goods Act 1893 as amended.
 - (VI) The company's liability for all goods or materials or services supplied by it not manufactured or performed by it as the case may be shall be limited to the liability of the manufacturers or suppliers of such goods and/or services to the Company and the Company's liability on delivery shall be limited to the liability of the carrier to the Company in respect of such delivery whether or not the extent of the manufacturer's, supplier's or carrier's liability is made known to the Customer.

12. LIABILITY

- (1) The Company's liability whether in respect of one claim or in the aggregate arising out of any contracts shall not exceed the purchase price payable under the contract for such part or parts in respect of which the Company's liability shall arise.
- (2) Except as specifically provided in these conditions no liability is accepted for any direct or indirect costs, damages or expenses relating to damage to property or injury or loss to any person, Firm or Company or for any loss of profits or production arising out of or occasioned by any defect in or failure of goods or materials or parts thereof supplied by us.
- (3) The Company does not accept any liability for penalties incurred by the Customer due to late delivery, unless expressly specified in writing in the contract.

13. TESTING AND INSPECTION

- (1) Testing and inspection if specified by the Customer or his Agent shall be at the Company's Works and such testing and inspection shall be final and conclusive as to the results thereof.
- (2) The Company shall not be obliged to produce test and performance certificates or safety certificates unless requested by the Customer and accepted by the Company in writing.

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14. LIFTING

Bundling of materials is carried out only as a means of identification and/or separation and for safety reasons the bundling wires or strapping must not be used for lifting purposes.

15. REGULATIONS

All quotations and contracts are subject to appropriate Ministry or other Statutory Orders and Regulations and to any other Statutory Regulation from time to time applicable and shall be subject to variation, modification or addition in accordance with such Orders and Regulations and all materials subject thereto shall be charged as the control price ruling at the time of despatch.

16.

(1) FORCE MAJEURE

The Company shall be under no liability for any delays loss or damage caused wholly or in part by war, civil commotion, act of God, or by any act done or not done pursuant to a trade dispute whether such dispute involves the Company's servants or not.

(2) FIRE AND BREAKDOWN OF MACHINERY

The Company shall be granted all necessary time and other indulgences necessary in the event of fire and breakdown of machinery or other circumstances beyond its reasonable control and shall not be liable for any delays loss or damage caused thereby.

17.

If the Customer shall make default in or commit a breach of the contract or of any other of his obligations to the Company or if any distress or execution shall be levied upon the Customer's property or assets or if the Customer shall make or offer to make any arrangement or composition with creditors, or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the Customer is a limited company and any resolution or petition to wind up such company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of such company's undertaking, property or assets of any part thereof shall be appointed, the Company shall have the right forthwith to determine any contracts then subsisting and upon written notice of such determination being posted to the Customer's last known address any subsisting contracts shall be deemed to have been determined without prejudice to any claim or right the Company may otherwise make or exercise.

18.

These conditions apply to any contract between the Company and Customer.