

CONDITIONS OF SALE

- 1 All goods are supplied by Cooper & Jackson Ltd. hereinafter called "the Company" on the following terms and acceptance of goods from the Company shall be conclusive evidence before any Court or Arbitrator that these terms apply.
- 2 All sales by the Company are subject to these terms except so far as the same shall have been varied in writing signed by a responsible officer of the Company on its behalf. No provision in the buyer's order or acceptance shall form part of the Contract of sale.
- 3 Dates for delivery are approximate dates for delivery. The Company shall not be responsible for any delay. The buyer may however give the company 28 days notice that it wishes to make time of the essence and in that event if the delivery is not effected within that time limit the buyer may cancel the contract and the Company return to the buyer any monies paid in respect of the non-performed part of the contract. The parties shall not be further liable under the Contract to each other. The Company shall not be responsible under any contract if the goods contracted to be supplied or labour necessary for the performance of the Contract are not economically obtainable by the company at the relevant time.
- 4 UNTIL full payment has been received by the Company for all goods whatsoever supplied and all services rendered at any time by the Company to the Buyer:
 - (a) Property in the goods shall remain in the Company
 - (b) Should the goods (or any of them) be converted into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions, the conversion shall be deemed to have been effected on behalf of the Company and the Company shall have the full legal and beneficial ownership of the new products, but without accepting any liability whatsoever in respect of such converted goods in relation to any third party, and the Buyer hereby indemnifies the Company in relation thereto.
 - (c) Subject to (d) and (e) below the Buyer shall be at liberty to sell the goods and the new products referred to in (b) above, and in the ordinary course of business on the basis that the products of the sale shall belong to the Company to whom the Buyer shall account.
 - (d) The Company may at any time revoke the Buyers rights of sale by notice to the Buyer. If the Buyer is in default in the payment of any sum whatsoever due to the Company whether in respect of the goods or any other goods supplied or services rendered at any time by the Company to the Buyer or any person whatsoever or if the Company has bona fide doubts as to the solvency of the Buyer.
 - (e) The Buyer's power of sale shall automatically cease if a receiver is appointed over any of the assets or the undertaking of the Buyer or a winding up order is made against the Buyer or the Buyer goes into voluntary liquidation (otherwise than for the purpose of reconstruction or amalgamation or cause a meeting of or makes any arrangements or composition with creditors or commits any act of bankruptcy or allows execution to be levied against its or his goods.
 - (f) Upon determination of the Buyers power of sale under (d) or (e) above, the Buyer shall place the goods and the new products at the disposal of the Company who shall be entitled using such means as is reasonably necessary to enter upon any premises of the Buyer for the purpose of removing such goods and new products and to remove such goods and new products from the premises (including severance from the realty where necessary)
- 5 Unless a fixed price has expressly been agreed and stated by the Company specifically to be a fixed price the price payable by the buyer shall be the Company's ruling price at the date of despatch of any delivery and shall be subject to the addition of value added tax. Payment is due in net cash by the end of the month following that of delivery. The Company shall be entitled to receive interest at the rate of 4% above Yorkshire Bank Plc's current base rate for any sum overdue for payment and shall be relieved of any liability to deliver to the buyer further goods under this or any other contract until all such sums and interest have been paid in full.
- 6 Without prejudice to its other rights the Company may terminate the Contract or suspend further deliveries to the buyer in the event of the buyer's failing to make payment for any goods or being subject to any distress or other legal execution or becoming insolvent or (being a body corporate) having passed a resolution for voluntary winding up or being subject to a winding up order or the appointment of a receiver.
- 7 If the buyer agrees to collect the goods from the Company the Company shall be under no liability for the operation of the transport of the buyer or his Contractor: the loading of the said transport in compliance with Road Traffic Legislation is the responsibility of the buyer or his contractor.
- 8.1 The management of the Company wish to be aware of all variations from its standard conditions and terms of trade and to ensure that the Company can meet the commitments and promises made by it. Accordingly any variation of the terms of trade or any representation shall only be binding upon the Company if it is confirmed in writing by the Company signed by a responsible officer thereof.
- 8.2 The Company warrants that plus or minus 5% the steel supplied shall be in accordance with (but subject to other usual tolerances) the specification and quantity ordered evidence of which unless challenged immediately upon receipt of invoice shall be the invoice. Where steel of a particular description as evidenced by the description in the invoice can be of several types or qualities unless the buyer specifies the exact quality that he requires the Company shall only be responsible for supplying a steel that complies with the minimum quality ordered and not further.
- 8.3 The Company unless it confirms in writing that steel is suitable for a particular purpose shall not be responsible if the steel supplied is not suitable for the particular purpose nor unless the Company warrants that the steel is produced to a given specification or standard shall the Company be liable if the steel is not up to a given quality or standard.
- 8.4 It is the buyer's responsibility to inform the Company as to the specification of steel and in the event of ambiguity the Company's liability shall only be to supply a steel that reasonably appears to the Company to comply with the order. the company shall not be bound by trade custom when considering quality, quantity or methods of delivery of steel.
- 8.5 The buyer warrants to the Company that he will inspect the steel upon delivery and notify the Company immediately and in any event within 7 days of delivery of any defects in the steel that are apparent on delivery. in the event that the Company is not notified of the defects within the time limit then insofar as the defects could have been ascertained upon delivery the Company will not be liable in respect thereof.
- 8.6 In respect of other defects the buyer will notify the Company within 7 days of those defects becoming apparent and make available to the Company full facilities for inspecting the same. In the event that the company is not informed within 7 days of the buyer being aware of a defect or in the event of the buyer not providing full information and cooperation to the company in respect of ascertaining the defects in the steel the Company shall not be responsible to the buyer for such defects.
- 8.7 In the event of payment being outstanding in respect of the delivery of steel which is subject to dispute the amount outstanding shall be paid to the company's solicitor to hold as stakeholder pending resolution of the dispute and on resolution the money outstanding together with any interest accruing whilst held as stakeholder shall be paid in accordance with any settlement or arbitration award.
- 8.8 In the event of any dispute as to the steel delivered or compliance with a Contract for delivery the matter shall be referred to an Arbitrator who shall be appointed under clause 15.
- 8.9 Shortages in either quantity or weight shall be notified in writing to the Company within 3 days of delivery.
- 8.10 Except as prohibited by law the Company hereby excludes all liability in respect of implied conditions and warranties as to the fitness for purpose whether express or implied.
- 9.1 The Company will accept liability if requested by the buyer in writing for consequential loss. As a potential liability for consequential loss is a matter that affects the price quoted it is essential that the Company is informed before it enters into a Contract that the buyer wishes the Company to assume this liability. Unless the Company has been requested prior to the Contract to accept liability for consequential loss the Company shall not be liable for consequential loss flowing from a breach of Contract by the Company.
- 9.2 The company may at its discretion where it is liable in respect of a breach of contract refund the purchase price or such part of it as is attributable to the breach and collect the faulty steel or within 28 days of being informed of the breach replace the faulty steel with steel of the correct quality and thereafter shall have no further liability in respect of the steel.
- 9.3 The Company shall not be responsible unless requested specifically in writing prior to Contract to assume responsibility for loss of profits or damage to the buyers plant premises or machinery.
- 9.4 The Company accepts liability insofar as it is obliged to do so by statute for damage for negligence for supply of faulty materials that results from the Company's breach of Contract or breach of duty in death or personal injury to any person.
- 10 Delivery whether in the Company's vehicles or otherwise shall be at the entire risk of the buyer from the time that the goods are loaded upon a despatch vehicle unless the buyer informs the Company prior to Contract in writing that it wishes the Company to accept further liability.
- 11 Where the Company does accept liability or is liable the Company shall not in any event be liable :
 - (a) for any loss or damage or detention or mis-delivery of the goods in the course of transit unless the buyer shall have given the Company and the carrier within three days of receipt of the goods written notice of the buyers complaint.
 - (b) for non-delivery or non-arrival of the whole or any consignment of the goods or of any separate package unless the buyer shall have given the Company and the carrier a written notice thereof within twenty-one days of the Company's advice note of the scheduled date of delivery.
- 12 If the Company shall have delivered goods in Breach of Contract but shall have rendered performance not substantially different from that expected then it may by way of complete satisfaction of the buyers claims:
 - (a) offer the buyer goods at a reduced price
 - (b) offer to take the goods back and repay the price of them or
 - (c) offer to take the goods back and replace them within a reasonable time.
- 13 The Company shall not be liable for failure or delay in delivery caused by fire elements Acts of God or the Queens enemies civil commotion industrial dispute strike lockout or shortage of raw materials or fuel breakdown of plant acts orders or regulations of the Government late receipt of the buyers specification or other necessary information failure of the postal system or other unavoidable cause whatsoever.
- 14 The Company shall not be liable for goods that have been processed.
- 15 The Contract shall be deemed to have been made in England and shall be governed in all respects by English law. It is agreed that any dispute shall be referred to Arbitration by a single Arbitrator appointed by the president for the time being of the law society in the event of any clause herein being considered unreasonable so as to make it void or unenforceable at law the parties agree that the Arbitrator appointed may draft such clause as is reasonable encompassing the spirit of the deleted clause (if possible) and that clause shall stand on its stead where the context so admits steel includes all goods supplied by the Company.