

RAINHAM STEEL COMPANY LIMITED CONDITIONS OF SALE

1. General

1.1 In these conditions the following expression shall have the following meaning: - “The Company” shall mean Rainham Steel Company Limited.

1.2 All quotations are made and all orders are accepted subject to the following conditions. All other conditions whatsoever are excluded from the contract or any variation thereof unless expressly accepted by the Company in writing.

1.3 Quotations shall only be available for acceptance for a maximum period of one week from the date thereof and may be withdrawn by the Company within such period at any time without notice.

1.4 Materials from stock are offered subject to the same being unsold upon receipt of order.

1.5 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.6 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.

1.7 The headings in these conditions are for the convenience of reference only and shall not effect their interpretation.

2. Goods and Price

2.1 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.

2.2 The price shall include carriage unless otherwise specified in writing by the Company but does not include packing and insurance which shall be payable by the Customer.

3. Payment

3.1 Payment for the Goods is on demand but in any event not later than 30 days after the end of the month in which the invoice was rendered by the Company to the Customer.

3.2 In the event that any invoice is not paid on its due date the Customer shall pay the Company interest on the amount outstanding under all outstanding invoices at the rate of four (4) per cent above the base lending rate of National Westminster Bank Plc from time to time in force as well before as after any judgement.

3.3 In addition, failure to make payment within the stipulated period will render all other outstanding monies liable under this or any other agreement between the Company and the Customer due forthwith, and any previously agreed settlement terms will be terminated.

3.4 The Company shall be entitled without prejudice to its other rights and remedies to terminate wholly or in part any or every contract between itself and the Customer or to suspend any further deliveries under any or every contract in any of the following events:-

3.4.1 if any debt is due and payable by the Customer to the Company but is unpaid;

3.4.2 if the Customer has failed to provide any letter of credit, bill of exchange or any other security required by the contract provided that in such event the aforesaid rights of termination or suspension shall apply only in regard to the particular contract in respect of which the Customer shall have so failed;

3.4.3 if the Customer has failed to take delivery of the Goods under any contract between it and the Company otherwise than in accordance with the Customer's contractual rights;

3.4.4 if the Customer becomes insolvent or enters into any composition arrangement (including a voluntary arrangement) with its creditors or, being a body corporate, has passed a resolution for voluntary winding up, except where solely for the purpose of reconstruction or if a petition has been presented for an order for its winding up or for a Receiver (including an Administrative Receiver) or Administrator to be appointed or if any such order or appointment is made or if, being an individual or partnership, the Customer suspends payment of his or their debts in whole or in part or if an application has been made for an Interim Order or a petition has been presented for a Bankruptcy Order or if any such order is made or if the Customer, whether or not a body corporate, shall carry out or be subjected to any analogous act or proceedings under foreign law.

The Company shall be entitled to exercise its aforesaid rights of termination or suspension at any time during which the event or default giving rise thereto has not ceased or been remedied and in the event of any such suspension, the Company shall be entitled as a condition of resuming delivery under any contract between it and the

Customer, to require prepayment of or such security as it may require for the payment of the price of any further delivery.

4. Description of Goods

4.1 Goods are sold by weight only unless otherwise stated in writing by the Company.

4.2 Goods given any description indicating that they are not new or necessarily in good condition are sold without any warranty or guarantee

4.3.1 On request the Customer may inspect the Goods and full facilities to do so will be given to the Customer prior to despatch of the Goods.

4.3.2 No guarantee is given by the Company that any Goods described as “new” or “unused” will be supplied with a test certificate.

5. Scope of Contract

Under no circumstances shall the Company have any liability of whatever kind for:-

5.1 Any defect arising from wear and tear accident improper use by the Customer other than in accordance with the instructions or advice of the Company (whether oral or in writing) or neglect by the Customer.

5.2 Any goods which have been adjusted or modified or repaired otherwise than by the Company.

5.3 The suitability of any Goods for any particular purpose or use under specific conditions whether or not the purpose or conditions were known or communicated to the Company.

5.4 Any defect or error in any Goods where the Goods have been prepared in accordance with any specification or plan submitted by the Customer, whether such specification or plan contains any obvious error or not.

5.5 Any variations in the qualities or dimensions of any Goods or changes of their specifications or substitution of any materials or components if the variation or substitution does not materially affect the characteristics of the Goods, and the substituted material or components are of a quality equal to or superior to those originally specified.

5.6 Without prejudice to the generality of clause 5.5 above the Company shall have no liability to the Customer for:-

5.6.1 Any inaccuracy in the quality of any Goods sold where sold by item unless the weight of the Goods is agreed in writing in advance of delivery.

5.6.2 Any difference in the weight measurement or gauge of the Goods within the usual commercial tolerances provided always that any such differences are calculated by reference to all the Goods delivered and not any particular item.

6. Extent of Liability

6.1 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Customer, and the entire liability of the Company under or in connection with the contract shall not exceed the Price of the Goods.

6.2.1 In this clause "defect" means a defect in quality and not in quantity, dimensions or weight and "defective" shall be construed accordingly.

6.2.2 If the Customer states that any Goods are defective and returns such Goods to the Company within seven (7) days of delivery to the Customer then the Company will, if reasonably practicable replace such Goods if they are found to be defective.

6.2.3 In the event that the Goods are found not to be defective then the Customer shall pay for any fees or expenses incurred by the Company and for the time spent by the Company's employees in examining, checking or testing the Goods for defects.

6.2.4 Notwithstanding clauses 5.1 and 5.2 above the Company shall have no responsibility for damaged Goods or rust when the Goods are packed in bundles or are left unprotected for the elements.

6.3 Where the Company is liable in accordance with this condition in respect of some or part of the Goods this contract shall remain in full force and effect in respect of the other parts of the Goods and no set off or other claim shall be made by the Customer against or in respect of such other parts of the Goods.

6.4 The Company shall not be liable where Goods are lost or damaged in transit if delivery was effected by a third party carrier and all claims by the Customer shall be made against the carrier direct.

6.5 Where delivery is effected by the Company and not a third party carrier any Goods which are lost or damaged should be reported to the Company within 24 hours.

7. “Non Prime” Goods

7.1 Goods sold as “non prime” or Goods accepted by the Customer under clause 6.2.2 above which the Company and the Customer agree to be “non prime” Goods are sold in their actual state, as seen, without warranty and with all faults whether or not the Goods have been inspected by the Customer prior to delivery. Any statement, specification, description or other information provided by the Company in respect of such Goods is given in good faith but the Company can accept no responsibility for its accuracy. Under no circumstances will the Company be obligated to replace or make good such Goods or entertain any claim whatsoever in respect thereof and the Customer shall indemnify the Company against all claims made against it and all losses, liabilities, costs and expenses suffered by the Company which arise out of loss or damage to property or injury to or death of any person caused or alleged to be caused by or consequent upon the supply of a product (as defined in Section 1 of the Consumer Protection Act 1987) to the Customer as “non prime” or to any third party by the Customer which comprises “non prime” goods sold to the Customer by the Company or which has a component or components or includes or is otherwise manufactured from any “non prime” goods supplied by the Company whether or not such claim is made pursuant to the said Act. If the Customer shall resell such goods the Customer shall ensure that a provision in similar form to this Condition is incorporated in the contract for such resale unless prior to reselling such goods the Customer has caused the goods or such part thereof as the Customer resells to comply with a recognised specification or standard.

8. Title

8.1 For the purpose of Section 12 of the Sale of Goods Act 1979 the Company shall transfer only such title or rights in respect of the Goods as the Company has and if the Goods or any part thereof are purchased from a third party shall transfer only such title of rights as that party has transferred to the Company.

8.2 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Company and shall not pass to the Customer until the amount due under the invoice for the Goods has been paid in full including any interest accrued.

8.3 Until title passes the Customer shall hold the Goods as bailee for the Company and shall store or mark the Goods so that they can at all times be identified as the property of the Company. During such period the Customer shall insure and keep insured the Goods for their full replacement value and ensure that its insurers note the interest of the Company in any insurance policy applicable.

8.4 The Company shall be entitled at any time before title passes to repossess all or any of the Goods and so terminate (without any liability to the Customer), the Customer’s right to use, sell or otherwise deal in them and for that purpose may and is hereby given licence to enter any premises of the Customer.

8.5 Until title passes the entire proceeds of sale of the Goods to any third party by the Customer shall be held in trust for the Company and shall not be mingled with other monies or paid into any overdrawn bank account and shall be at all times the Company's money.

8.6 The Company shall be entitled to maintain an action for the price of any Goods together with any interest accrued notwithstanding that title in them has not passed to the Customer.

9. Risk Delivery and Performance

9.1 Goods are delivered to the Customer when the Company makes them available to the Customer or any agent of the Customer (including any carrier) either at the Company's premises or any other delivery point agreed by the Company.

9.2 Risk in the Goods passes to the Customer when they are delivered or as directed.

9.3 Where the Goods are delivered by instalments each instalment shall be deemed to be the subject of a separate contract and no default or failure by the Company in respect of any one or more instalments shall vitiate the contract in respect of the Goods previously delivered or undelivered Goods.

9.4 Any dates quoted by the Company for the delivery of the Goods are approximate only and shall not form part of the contract and the Customer acknowledges that in the performance expected of the Company no regard had been paid to any quoted delivery dates.

9.5 If the Customer fails to take delivery of the Goods or any part of them once the Company has notified the Customer they are ready for delivery or fails to provide any instructions, documents, licences, consents, or authorisations required to enable the Goods to be delivered, the Company shall be entitled upon giving written notice to the Customer to store or arrange for the storage of the Goods. Risk in the Goods shall then pass to the Customer, delivery shall be deemed to have taken place and the customer shall pay to the Company all costs and expenses including storage and insurance charges arising from its failure.

9.6 The Company shall not be liable for any penalty loss injury damages or expenses arising from any delay or failure in delivery or performance from any cause at all nor shall any such delay or failure entitle the customer to refuse to accept any delivery or performance of or repudiate the contract.

9.7 The weight or quantity of the goods printed upon the Company's advice/delivery note shall be final unless the Customer shall have given notice to the Company of any discrepancy in weight or quantity within three (3) days after the receipt of the Goods and has hereafter given to the Company a reasonable opportunity of witnessing a verification of the Goods before they have been used, processed or sold.

10. Other

10.1 These conditions shall be incorporated into any contract between the Company and the Customer to the exclusion of any terms or conditions stipulated or referred to by the Customer.

10.2 No variations or amendments of these conditions of sale shall be binding upon the Company unless confirmed by it in writing and referring to this condition. Such amendment or variation shall only be binding if agreed by a director or other person authorised by the Company to agree such amendment.

10.3 The Company shall not be liable for any failure in the performance of any of its obligations under the contract caused by factors outside of its control.

10.4 No waiver by the Company of any breach of the contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.5 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected.

10.6 The contract shall be governed by the laws of England and the Customer consents to the exclusive jurisdiction of the English Courts in all matters regarding the contract except to the extent that the Company invokes the jurisdiction of the Courts of any other country.

10.7 Any notice to be given under this contract shall be in writing, sent by facsimile transmission or by first class prepaid letter post to the receiving party at its business address at last notified in writing to the other party and shall be deemed to have been given on the date of the facsimile transmission or on the day following that on which the notice was posted.