

TM STEELS LIMITED (“the company”) – Standard Terms and Conditions of Business

1. COMPANY UNDERTAKING

The Company shall use all reasonable endeavours to supply the best possible service using its resources and facilities to the best effect within any agreed time or budget constraints.

2. ESTIMATES

- A) Estimates for the supply of goods and services by the Company are by way of invitation only. The Company reserves the right to withdraw or vary any estimates without prior notice. A contract will only come into being once the Company has accepted an order, and will be subject to these Conditions of Business. The Company shall be entitled but not bound to accept verbal or written instructions from the Customer or any person who appears to the Company to be acting on behalf of the Customer. Written confirmation of verbal instructions may be required.
- B) All Conditions or terms referred to in any order or stipulated by the Customer will have no effect, save those in writing by the Company.

3. PRICES

All prices quoted by the Company for sales are exclusive of VAT and similar taxes. The Company reserves the right to make additional charges in respect of extra costs, charges and expenses incurred by the Company and caused by or arising out of:

- i. The Customer supplying necessary materials that are a) of unsound material or below the agreed standard or in any way unsuited to their purpose, or b) delivered to the Company after the agreed date.
- ii. Charges and additions ordered by the Customer after the acceptance of the Company's estimates, proposals and schedule.
- iii. Increase in costs or materials, equipment or services necessary for completion of the supply of the Company's services or increases in costs as a result of other circumstances relevant to the completion of the supply of such services.

4. WARRANTY and INDEMNITY

- A) Unless otherwise agreed by the Company in writing, goods sold by the Company are sold without warranty or condition as to their quality or fitness for any purposes and no agent or representative of the Company has any authority to make any representation or warranty except a Director of the Company. Such representation or warranty must be in writing and signed by him.
- B) The Customer shall indemnify the Company and keep it indemnified against all costs, claims, damages, demands and expenses which may be incurred by or made against the Company by any third party in connection, directly or indirectly, with the supply of the Company's goods in accordance with the Customer's instructions, whether written or verbal.

5. DELIVERY and COMPLETION DATES

- A) Any dates given for the delivery of goods or the carrying out of services are only approximate, and unless otherwise previously stated in writing, time is of the essence for delivery or performance of the contract. The Company will not in any circumstance be liable for the consequences of any delay in the delivery or performance, or any failure to deliver or perform.
- B) No such delay as envisaged in paragraph 5a herein shall entitle the Customer to reject any delivery or part thereof, or to repudiate the contract or order.
- C) In the event of the Company being delayed or hindered in performing the contract by reason of the Customer's failure to promptly give any instructions reasonably required by the Company, the time for performance of the contract shall (without prejudice to any right of the Company to treat the contract as repudiated by reason of such failure) be extended for a period equal to that which elapsed between the Company requiring and receiving such instructions.

6. DELAYED ACCEPTANCE

If for any reason the Customer is not able to take delivery of the goods when the same are due and ready for delivery by the Company, then the Company may arrange for storage of the goods at the Customer's own risk. The Customer is then liable to the Company for any costs (including insurance) incurred in arranging the storage of the goods. This is without prejudice to the Company's other rights in respect of non acceptance and non payment of goods by a Customer.

7. TERMS OF PAYMENT

Subject to approval by the Company of credit, all accounts are due for payment no later than the last day of the month following the month of invoice, in all other cases, payment for goods or services must be received by the Company before delivery or performance.

Where deliveries are to be spread over a period, each consignment shall be invoiced on despatch, and each months invoice will be treated as a separate account for payment purposes.

The Company reserves the right to charge interest at 3% above NatWest Bank PLC lending rate on the amount of any invoice which is not paid by the Customer by the due date.

The Company shall also be entitled to suspend further deliveries and work on both the same order and any other order, without prejudice to any other right of cancellation or recovery the Company may have, until payment or satisfactory security for payment has been received.

8. RISK

Unless the contract otherwise expressly stipulates, risk in the goods passes from the Company to the Customer upon despatch from their premises; the Company accepts no liability for any loss in transit. Any Claims in this regard must be made against the carrier.

9. TITLE

Notwithstanding that risk in the goods passes in accordance with clause 8 herein, title to the property in the said goods will always remain vested in the Company until payment in full for the same has been received by the Company. Until title to the goods has passed to the Customer, the Customer shall keep the Company's goods separate and readily identifiable as the Company's property.

- i. If payment is overdue in whole or in part, the Company may without affecting its other rights or remedies recover or resell the said goods or any part of them and may enter the premises of the Customer by its servants or agents for that purpose.
- ii. Such payment shall become overdue immediately upon commencement of any act or proceedings in which the Customer's solvency is involved.
- iii. Nothing herein shall prevent the Customer reselling or transferring the goods to a third party in the ordinary course of business, but in such event the Customer will:
 - a) Incorporate clause 9 herein into such contract with a third party
 - b) Be deemed to sell or transfer the goods as agents for the Company
 - c) Be deemed to receive and hold any monies received for the account of the Company, and forthwith deliver the same to the Company
 - d) Undertake to enter the premises of a third party to reclaim the said goods immediately upon payment from the third party becoming overdue.

10. LIABILITY

Goods sold by the Company shall be deemed to be in conformity with the contract unless a claim is made in writing by the Customer to the Company within 14 days after the delivery of the goods, and the Company's liability will be limited to the replacement of the goods or replacement of the price paid for them (including any transport, freight and insurance charges) and in neither sale nor purchase contracts shall the Company be liable for any consequential loss of profit alleged to have been suffered by the Customer.

11. TOLERANCE and TESTS

Test Certificates

- a) The Company will supply test certificates in respect of goods required by the purchaser to be supplied to a particular specification but shall not be obliged to carry out any tests to the goods other than those specified in such specifications.
- b) The test certificates supplied by the Company shall be conclusive as to the results of the testing sample of the goods but the Company gives no warranty that:
 - i. The sample which has been tested is typical or representative of the whole of the goods
 - ii. If the test were repeated in respect of the whole of the goods the results would be the same in respect of either the whole or any particular part or parts of the goods.
- c) If the Purchaser considers that the goods supplied do not correspond with the details and specifications shown in the test certificates, or are not in accordance with the order placed, the purchaser shall only be entitled to credit in respect thereof if:
 - i. The Purchaser shall within 48 hours of delivery of the goods have notified the Company of the matter, specifying the precise nature of the problem;
 - ii. The goods are in their original state at the time of leaving the Company's premises and are undamaged, free from corrosion and have not been worked or machined in any way.If the reason why the goods supplied are unsuitable is as a result of an error on the part of the Purchaser, the Company shall not be obliged to give credit for the goods or accept their return, unless it is in its own absolute discretion decides to do so, and in such circumstances the Company shall impose such terms (including the making of a handling charge) as it thinks fit for the return of such material.
If the Purchaser specifies that the goods to be supplied shall be to a British Standard Specification of a particular year or to a similar standard specification (whether British Standard or otherwise) notwithstanding that such specification may be different to a minor extent from that ordered.

12. COPYRIGHT

Unless otherwise agreed, the Company alone owns and retains all rights, title and interest in the nature of copyright, design right, all other matters in the nature of intellectual property rights, and all rights to apply for statutory and any other protection throughout the world for the full term of any jurisdiction in all material (including without limitation designs, documents and source code) produced by the Company when tendering for or in connection with or pursuant to a Customer's commission or request. All material in which the Company reserves rights shall be available for use by the Customer only in respect of the particular service or purpose specifically contracted for and shall not be used by the Customer for any other purpose at any time except with the prior written agreement or on such terms as may be prescribed by the Company. The Customer shall not reproduce, sell, give away, let, hire, assign, licence or otherwise deal in respect of material in which the Company has rights pursuant to this clause.

13. CONFIDENTIALITY

The content of any design, document, source code or other service produced by the Company, whether tendering for or pursuant to the Customer's commission and whether or not used in the final such service, shall be treated as having been disclosed to it in confidence and accordingly the Client shall not disclose, duplicate, reproduce, sell, give away, let, hire, assign, licence or otherwise use the same except with the prior written agreement of and on such terms as may be prescribed by the Company. The Customer shall ensure that each employee and officer of the Customer to whom any such disclosure is made bound by a similar confidentiality obligation in the same terms.

14. CLIENT MATERIAL

Any design, document, source code or other material made available to the Company by the Customer shall be held by the Company at the Customer's risk and the Company shall not be liable for any loss of damage to such materials however caused.

15. INSURANCE

The Customer shall be responsible for the effecting of all necessary insurance in respect of any loss, damage or expense that it may suffer directly or indirectly in relation to the provision or non-provision of the Company's services.

16. WAIVER

The waiver or non-enforcement by the Company of any breach or non-observance of these conditions shall not prevent the subsequent enforcement of these conditions in full, and shall not be deemed a waiver of any subsequent breach.

17. VARIATION

These conditions shall not be varied, waived or modified except in writing under the hand of TM Steels Limited, or an appointed representative of the Company. The Company reserves the right to vary these standard Conditions of Business from time to time, subject to giving prior written notice to the Customer.

18. NOTICES

Any notice required by these conditions to be given in writing shall be sufficiently given if sent by pre-paid post addressed to the last known business address of the person to whom the notice is to be given.

19. LAW and JURISDICTION

The proper law of these conditions and any subsequent contracts into which the Company may enter shall be the Law of England and Wales.