

# CONDITIONS OF SALE

In these Conditions "the Company" means Rowham Steel Products Ltd., and the "Buyer" means the person or other organisation placing an order with the Company. "Goods" means the goods (including any instalment of the Goods or any parts for them) which the Company is to supply in accordance with these Conditions. "Contract" means the contract for the purchase and sale of the Goods.

(a) The Company's employees or agents are authorised to make any representations concerning the Goods unless corrected by the Company in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so corrected.

(b) Any advice or recommendation given by the Company or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Company is followed only if acted upon by the Buyer. In entering into the Contract the Buyer shall not be liable for any such advice or recommendation which is not so confirmed.

(c) Any typographical, clerical or other error or omission in any sales literature, quotation, price list, order or other document issued by or on behalf of the Company shall be subject to correction without any liability on the part of the Company.

2. These Conditions shall be incorporated in all contracts for the sale of goods by the Company and any provision of the Buyer's order or otherwise which is inconsistent with them shall be of no effect. These Conditions cannot be varied without the prior written agreement of the Company stating the variation in express terms.

3. Dates or periods quoted for delivery are approximate, given for information only and time shall not be of the essence in relation to them. Failure by the Company to comply with any such dates or periods shall not constitute a breach of contract and shall not entitle the Buyer to treat the Contract as terminated or to any other remedy against the Company.

4. Notwithstanding any variation of Condition 3 in accordance with Condition 2, the Company shall not be liable for delay in delivery or failure to make delivery of any Goods due to force majeure, including but without prejudice to the generality of the foregoing war, rebellion, strikes, lockouts, breakdown of plant or governmental or other regulations, riots, law or decrees or other laws which take the measures of force majeure appropriate against the Company.

5. Unless fixed prices have been expressly agreed by the Company the price payable by the Buyer shall be the Company's price prevailing at the date of despatch of each delivery. Prices are subject to a delivery charge and to charges for test certificates where appropriate and are subject to the addition of VAT.

6. Respective prices being fixed or variable, the Company reserves the right to add surcharges such as for alloy or scrap content or any other factor as imposed by the producer of the Goods, and with interest, to any price where a surcharge is applicable.

7. Payment is to be by the end of the month following the month of despatch. The Company shall be entitled to charge interest on any sums not so paid. Such interest shall be calculated on a day-to-day basis on the amount outstanding from the due date of payment at a rate of 4% in excess of the highest rate at which Lloyds Bank has been lending its money at any time within the United Kingdom. The Buyer shall not be entitled to withhold payment of any sums due to the Company by reason of any disputed claim of the Buyer for defective Goods or alleged breach of the Contract by the Company.

8. Where the Goods are packed or protected as specified in the Contract or in the event of no such specification the Goods are delivered without any further packing or protection and the Buyer shall be liable for any deterioration or damage suffered by the Goods during carriage or delivery.

9. (a) If the Buyer refuses to accept delivery of any consignment of the Goods during the time agreed for delivery without valid reason the Company has the right to make an additional charge to cover the extra cost caused by the refusal.

(b) If the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as if it were breached.

(c) Claims for non delivery must be notified in writing within 7 days of the date of despatch.

10. The Buyer shall be deemed to have accepted the Goods and it shall be conclusively agreed that the Goods are in accordance with the Contract unless:

- within 3 days after receipt of the Goods and prior to their use or resale the Buyer serves on the Company a written notice specifying the alleged defect in the quality or state of or damage to the Goods which would be apparent upon careful inspection or by such testing as is reasonable in all the circumstances for the Buyer to undertake and thereafter provides the Company with a reasonable opportunity of inspecting or testing the Goods before they are used;
- if the alleged defect in the quality or state of the Goods would not be apparent upon careful inspection or reasonable testing the Buyer serves on the Company written notice of his complaint within 10 days and in any event not more than 3 months after the date of receipt of the Goods specifying the matters complained of and affording the Company a reasonable opportunity of inspecting the Goods before any making good or replacement is undertaken.

11. (a) Provided that the Buyer has complied with Condition 10 and subject to the provisions of Condition 12, if the Goods or any part thereof are defective, or a quality defect except for any discrepancy in weight or quantity) or otherwise not in accordance with the Contract then if the Company and the Buyer do not agree that the Buyer shall accept the Goods at an agreed value or that the Goods should be made good to the Company's expense the Company will accept the return of the Goods by the buyer and at the Buyer's option either:

- reply to and buy the Goods the invoice price thereof and any reasonable costs incurred by the Buyer for the purpose of transporting the Goods back to the Company;
- replace the Goods by delivering replacement Goods as soon as reasonably practicable and in all other respects in accordance with the Contract;
- mitigation of the Company under Section (a) of this Condition are in substitution for any other legal remedy of the Buyer and the liability of the Company shall for all purposes be limited to the cost of making good, the giving of any appropriate credit or repayment or the replacement of the Goods in accordance with that condition. Under no circumstances shall the Company be liable for any other loss, damage or expense occasioned by any breach of contract negligence or breach of any duty of the Company whatsoever and however such breach or damage or expense may have caused the Company's liability for any loss or damage or expense occasioned by any breach of contract negligence or breach of any duty of the Company after the Buyer has become aware of a defect thereon or ought in all the circumstances to have become so aware and in any event not more than 3 months after the date of receipt of the Goods.
- Where processing of the Goods has been carried out by a third party, the Company shall be deemed to have accepted its responsibility as to the Goods in respect of which the Buyer has submitted the claim.
- Except in respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the buyer or by reason of any representation or any implied warranty condition or other term or any duty at common law or under the express terms of any contract for any consequential loss or damage (whether for loss of profit or otherwise) or any loss or damage caused by the Buyer or any other person in compensation whatsoever (and whether caused by the negligence of the Company's 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 Buyer except as expressly provided in these Conditions.

12. The Goods will be supplied within the tolerances stated in the current British Standard/European Standard for the appropriate product, which tolerances exist in the trade or by statute or otherwise, otherwise, in writing by both the Buyer and the Company.

Any condition, warranty or undertaking as to the fitness or suitability of the Goods for any purpose other than that for which the Goods are intended or for which they have been expressly certified is hereby excluded to the fullest extent permitted by law and any statement in a British or European Standard as to suitability of the Goods for any purpose shall give rise to no liability on the part of the Company.

13. Goods sold as "non prime" or Goods accepted by the Buyer under Condition 11(a) which the Company's Buyer agree to be "non prime" shall be sold in their actual state, as seen, without warranty and with all faults whether or not the Goods have been inspected by the Buyer prior to delivery. Any statement, specification, description or other information provided by the Company in respect of such Goods is for the good faith of the Buyer and the Company can accept no responsibility for its accuracy. No circumstances will the Company be under any obligation to replace or make good such Goods or entertain any claim whatsoever in respect thereof and the Buyer shall be deemed to have accepted the Goods in their actual state (including any consequential loss or damage) and to have agreed to indemnify the Company against any claim for personal injury or 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 the "Product Liability Protection Act 1987") or any claim for consequential loss or damage by any third party by the Buyer which comprises "non prime" goods sold to the Buyer by the Company on which has as a component or components 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 Buyer shall resell such Goods the Buyer 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 Buyer has caused the Goods or such part thereof as the Buyer resells to comply with a recognised specification or standard.

- The risk in the Goods but not the ownership shall pass to the Buyer upon delivery. Delivery shall be deemed to take place when the Goods are loaded on to the transport provided for by the Buyer.
- (a) in the case of Goods collected from the Company's premises by the Buyer or by the Buyer's agent (including any independent carrier engaged by the Buyer) at the time when the loading of the Goods on to the vehicle collected by the Buyer is completed;
- (b) when Goods are delivered by the Company's transport (including any independent carrier engaged by the Company) - at the moment the Goods are lifted from the delivery vehicle.

15. (a) Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions the property in the Goods shall not pass to the Buyer until the Company has received in cash or cleared by the Buyer in full the price of the Goods and all other debts agreed to be sold by the Company to the Buyer for which payment is then due and all other debts owed by the Buyer to the Company.

(b) At such time as the property in the Goods passes to the Buyer the Buyer shall hold the Goods as the Company's fiduciary agent and shall keep the Goods separate from those of the Buyer and third parties and properly stored protected and insured and identified as the Company's property. Until the Goods are sold to the Buyer or otherwise disposed of, the Goods shall remain the property of the Company and shall account to the Company for the proceeds of sale or otherwise of the Goods whether tangible or intangible including insurance proceeds and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and in the case of tangible proceeds properly stored protected and insured and provided that the Buyer shall not be entitled to dispose of the Goods or any right title or interest therein by sale or otherwise to the holding Company and shall not be entitled to dispose of the Goods or any right title or interest therein by sale or otherwise to any subsidiary of the Buyer of such holding company.

(c) Until the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold) the Company shall be entitled at any time to inspect the Goods or to require the Buyer to deliver the Goods to the Company and if the Buyer fails to do so forthwith the Company and agents shall be entitled to re-visit or use the Goods or to make or enter upon any premises of the Buyer or any third party where the Goods are stored (with such plant and vehicles as the Company considers necessary) and repossess the Goods without prejudice to any other right or remedy available to the Company.

(d) The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company but if the Buyer does so all monies owing by the Buyer to the Company shall be deemed without prejudice to any other right or remedy of the Company) forthwith become due and payable.

16. Without prejudice to its common law and statutory rights the Company shall have a general lien over all goods, materials and other items belonging to the Buyer in the Company's possession or control so that the Buyer shall not be entitled to possession of the same unless and until all sums owing to the Company under contract are paid.

- All Goods are sold on the basis of weighed weight or calculated weight or quantity according to the Company's practice for that product. Where weight (which includes pallets and packing) is chargeable, the count is not guaranteed and claims based solely upon count cannot be accepted.
- The weight or quantity of the Goods printed on the invoice or on the Goods or on the order or upon any premises held by the Buyer shall have written notice of any discrepancy of weight or quantity within 7 days after the receipt of the Goods and has thereafter given to the Company a reasonable opportunity of witnessing the Goods before they are used.
- The Company shall be deemed to have fulfilled the Contract if the Goods delivered are within a tolerance of 5 per cent above or below the quantity ordered.

18. The Company reserves the right to deliver a quality charge for Goods within the normal mill tolerances as to weight, dimension, quality, quantity and finish.

19. (Except where inconsistent with the express terms of the Contract in which case the Contract terms shall prevail) all arrangements between the Company and the Buyer for the storage and processing of the Goods in the 1983 Edition of the Rules and Regulations of the National Association of Warehouse Keepers, a copy of which will be sent to the Buyer on request.

20. Warehouse cannot be cancelled except with the Company's written consent and on terms which will indemnify the Company against loss and expense incurred. Any Goods returned without the Company's consent will not be accepted for credit.

21. The Company shall be entitled, without prejudice to its other rights and remedies, either to terminate wholly or in part or any or every contract between itself and the Buyer or to suspend any further deliveries under any such contract or any part of any of the latter.

- if any debt is due and payable by the Buyer to the Company but is unpaid;
- if the Buyer has failed to take delivery of any Goods under any contract between it and the Company other than a contract for the purchase of the Goods;
- if the Buyer becomes insolvent or enters into any composition or arrangement (including a voluntary arrangement) with his creditors or being a body corporate has passed a resolution for voluntary winding up or if any appointment is made for the purpose of amalgamation or reconstruction or if a petition has been presented for an order for its winding up or for a receiver (including an administrative receiver) or if any appointment is made for the purpose of the management of the affairs of the company or if partnership the Buyer 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 Buyer whether or not a body corporate should carry out or be subject to any such order or proceedings under foreign law.

22. The rights of the Company and the Buyer shall not be prejudiced or restricted by any indulgence or forbearance extended by either party to the other and no waiver by either party in respect of any breach shall operate as a waiver in respect of any subsequent breach.

23. The Contract shall not be assigned by the Buyer to any third party without the prior written consent of the Company.

24. The Buyer shall be solely responsible for the accuracy of any drawings specifications or other information supplied to the Company by the Buyer its employees or agents and in conformity with which the Company is to supply the Goods or it is to apply any process or service in relation to Goods or to any part thereof and the Company may accept such information and make a binding commitment to the Buyer upon any such drawing specification or other information.

(b) The Buyer shall indemnify the Company against all actions proceedings claims costs and expenses which may be brought that the Company may incur by the Buyer by reason of its supplying the Goods or applying any process or service in relation to the Goods of the Buyer in accordance with any such drawings specifications or other information whether or not the Goods are damaged, processed or sold.

(c) The Buyer shall be deemed to have accepted the goods and to have irrevocably and exclusively right of any third party that may be made.

25. Where the Goods are sold under a consumer transaction (as defined by the Sale of Goods Act 1979) the statutory rights of the Buyer are not affected by these conditions.

26. If any term or provision in these Conditions shall in whole or in part be held to be void to the extent to be illegal or unenforceable under any enactment or rule of law that term or provision or part shall to that extent be deemed not to form part of these Conditions and the enforceability of the remainder of these Conditions shall not be affected.

27. The Contract shall be governed by and construed in all respects in accordance with English Law. The Buyer on entering into the Contract submits to the jurisdiction of the English courts.

28. Any notice authorised or required to be given pursuant to these Conditions shall in the case of a notice to the Company be sent to its registered office and shall in the case of a notice to the Buyer be sent to the Buyer at its registered office if the Buyer is a company and in any other case to the address of the Buyer as stated in the Company's order. Any such notice may be given by hand or post or by telex. To prove service in the case of a notice given by post it shall be sufficient to show that the notice was despatched by first class recorded delivery service in a correctly addressed envelope. To prove service by telex transmission was made to the correct telex number. Service shall be deemed to have been effected 24 hours after despatch by post or telex transmission.

I CERTIFY THAT I, THE UNDERSIGNED, AM AUTHORIZED ON BEHALF OF THE APPLICANT TO SIGN AND ACCEPT THE CONDITIONS OF SALE ON BEHALF OF ROWHAM STEEL PRODUCTS LTD AS DETAILED ABOVE.

AUTHORISED SIGNATORY (NAME) ..... SIGNATURE: ..... DATE: .....