

C Brown & Sons Steel Ltd

Conditions of Sale

Revised January 2018

1. Definitions

- (a) "the Company" is C Brown & Sons Steel Ltd.
- (b) "the Customer" is any party entering into a contract with the Company for the supply of goods/services or the processing of materials.
- (c) Delivery of goods or material shall be deemed to take place:
 - (i) where goods are delivered by the Company's own transport, at the moment when the goods or materials are lifted from the delivery vehicle; or
 - (ii) where goods are delivered by other means of transport, at the moment when the goods or materials are loaded onto the vehicle used for such transport.

2. General

- (a) These Terms and Conditions apply to every contract between the Company and any Customer.
- (b) No prior statements made by the Company or the Customer, nor any correspondence between them, are incorporated into any such contract or effective as a representation to the Customer unless separately agreed in writing by the Company.
- (c) No variation to such a contract takes effect unless agreed in writing by the Company.

3. Prices

Unless the Company has agreed fixed prices the price payable by the Customer shall be the Company's ruling price at the date of delivery of each consignment and shall be subject to VAT at the rate applicable at date of despatch.

4. Payment

- (a) All invoices are strictly net for payment within 30 days of date of invoice and time of payments shall be of the essence of the contract.
- (b) Where goods are sold by instalments each instalment shall be invoiced and paid for separately.
- (c) If for any reason whatsoever payment is not made when due the Company shall be entitled to:
 - (i) charge interest and fees in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
 - (ii) cancel or suspend any contract with the Customer.
 - (iii) require the Customer to pay any other sums due to the Company immediately.

5. Termination or Suspension

- (a) Without prejudice to any of its other rights the Company may terminate the contract or suspend further deliveries to the Customer in the event of the Customer:
 - (iv) failing to make due payment in accordance with Clause 4 for any goods or work done; or
 - (v) having any distress execution or other legal process levied upon it; or
 - (vi) makes, or offer to makes any arrangements or compromise with creditors or commits any act of bankruptcy; or
 - (vii) having any petition or receiving order in bankruptcy presented or make against it; or
 - (viii) having a receiver of its property or assets or any part of them appointed.
- (b) In the event the contract is terminated under clause (a) the Company shall be entitled to any or all of the remedies under clause 4(c).

- (c) The Company reserves the right to withhold performance of any of its obligations under the contract if in its sole opinion the Customer's credit status becomes unsatisfactory.

6. Delivery and Storage

- (a) Any date or time quoted for delivery or performance is given as an estimate only and the Company shall not be liable for any loss or damage howsoever arising by reason of any failure on its part to deliver on such stated date or at such stated time.
- (b) If the Customer causes the delivery of goods or any part thereof to be delayed beyond the time when they would otherwise have been delivered they shall be stored by the Company at the sole risk and expense of the Customer.
- (c) If the Customer delivers materials to the Company for processing without in the opinion of the Company adequate instructions for such processing or where such materials are not in the opinion of the Company suitable for such processing the Company may store said materials at its premises or with a third party until adequate instructions are provided or the materials are collected at the sole expense of the Customer and the Customer agrees to pay a reasonable sum for such storage.
- (d) If the Customer fails to collect materials after being requested to do so by the Company, whether processed or party-processed or rejected for processing by the Company, the Customer agrees that the Company may sell such materials whereupon it shall account to the Customer for the proceeds of sale after deducting its charges for processing, storage and costs of sale.

7. Passing of Risk

- (a) Risk in goods supplied passes to the Customer upon delivery by the Company.
- (b) Risk in materials supplied for processing passes to the Company on delivery by the Customer and to the Customer upon delivery by the Company.

8. Retention of Title

- (a) Notwithstanding the provisions of Clause 7 as to the passing of risk, goods supplied by the Company shall remain its sole property until the Customer has paid in full the agreed price and all other sums due from the Customer to the Company whether under this Contract or otherwise (including any interest due). Notwithstanding such retention of title, the Company shall be entitled to maintain an action for the price of the goods as soon as payment falls due.
- (b) The Customer acknowledges that it is in possession of such goods as bailee for the Company until the sums due in clause (a) have been paid in full or the goods have been incorporated or resold in the ordinary course of the Customer's business.
- (c) Where the Customer incorporates or resells such goods before payment in full of the sums due in clause (a) it shall keep the proceeds of any sale in a non-overdrawn account and hold such proceeds on trust for the Company as fiduciary.

9. Suitability of Materials

- (a) By placing an order for the processing of materials the Customer warrants that its materials supplied are suitable for the process to be undertaken by the Company.
- (b) The Company may discontinue such processing immediately if it determines in its sole opinion that the materials supplied by

the Customer are unsuitable for the process to be undertaken by the Company and in such circumstances:

- (i) the Company shall notify the Customer of the outstanding charges in respect of work carried out and services performed up to the date of discontinuance; and
- (ii) the Customer agrees to be liable for and to pay such charges in accordance with Clause 4.

10. Hazards of Processing

- (a) The Customer agrees that it enters into any contract with the Company for the processing of the Customer's materials in full knowledge and acceptance of the inherent risks of such processing, including but not limited to cracking, distortion, failure to respond to heat treatment, and the effects of hardenability, manufacturing history and shape and profile.
- (b) The Company is not liable for any damage or loss, direct or indirect, arising from such inherent risks of processing.
- (c) Any and all advice on processing is given by the Company on the basis of information provided by the Customer. The Company accepts no liability for materials processed in accordance with the Customer's instructions and subsequently found to be outside specification or in any way unsuitable for further manufacturing operations.
- (d) The Customer agrees that the Company may recover from the Customer the costs of repairing or replacing any plant, machinery or goods belonging to the Company or in the Company's care which are damaged as a result of the Customer inaccurately or insufficiently describing the materials supplied or the process to be carried out.

11. Claims

- (a) No claim for goods damaged in transit will be considered by the Company unless it is advised in writing within 3 days of delivery of the goods and no allowance for short delivery will be made unless the Company is permitted to verify the same within 3 days of delivery of the goods.
- (b) Any other claim made by the Customer in respect of weight, quality or any other matter must be advised to the Company in writing within 14 days of delivery, failing which the Customer shall be deemed to have accepted the goods.

12. Warranties and Liability

- (a) With the exception of 'non-prime' goods or materials the Company warrants that the goods or materials are within usual mill tolerances as to quality and finish and will replace or refund the price of any goods which do not comply with this warranty and which are accepted by the Company for replacement or refund.
- (b) Goods or materials sold as 'non-prime' are sold in their actual state as seen, without warranty and with all faults, whether or not the Customer has inspected them prior to delivery, and subject to the following conditions expressly agreed and accepted by the Customer:
 - (i) Any statement, specification or other information provided by the Company in respect of such goods or materials is given in good faith by the Company and the Company accepts no responsibility for its accuracy.
 - (ii) Under no circumstances will the Company be under an obligation to replace or make good such goods or

materials or entertain any claim whatsoever in respect of them.

- (iii) If the Customer shall re-sell such goods or materials it shall ensure that a provision corresponding to this clause is incorporated into the contract for sale unless prior to reselling the goods or materials the Customer has caused them to comply with a recognised specification or standard, and shall indemnify the Company in respect of any claim arising from such re-sale.
- (c) Other than as set out in clause 12(a) above:
 - (i) no warranty condition or representation express or implied as to description, quality or suitability of any goods hereby sold is given by the Company or deemed to have been given or implied and (to the extent permitted by statute) any statutory or other warranty condition or representation whether express or implied is hereby excluded;
 - (ii) the Company accepts no liability whatsoever for any loss or damage whether consequential or direct and whether suffered by or occasioned to the Customer the employees or agents of the Customer or a third party which may arise after the delivery of the goods.
- (d) Unless specifically agreed otherwise at the time the contract is made the Company's liability for any damage to the Customer's materials in the course of processing such materials, whether or not caused by negligence, is limited to three times the contract price or £500 whichever is the lesser.

13. Force Majeure

In the event of war, invasion, act of foreign enemy, hostilities (whether war has been declared or not), civil war, rebellion, revolution, military or usurped power, act of God, force majeure, epidemic or any other matter or occurrence beyond the control of the Company or the failure on the Part of the Customer to make due and timely supply of all materials and/or data and specifications as may be required and agreed as terms of the acceptance of any order by the Company, the Company shall be relieved of all liabilities incurred under the contract wherever and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a consequence of any such event or by the Statute Rules regulations Orders or Requisitions issued by any Government Department Council or other duty constituted authority or from strikes, lock-outs or other withdrawal of labour force, breakdown of plant or any other causes (whether or not of a like nature) beyond the Company's control.

14. Test Certificates

- (a) The Company shall not be required to supply Test Certificates unless the same are requested a reasonable time before delivery and the Company may charge a reasonable fee for any certificates supplied.

15. Law and Jurisdiction

- (a) The contract is deemed to be made under and in accordance with English law.
- (b) Any dispute under the contract shall be subject to the exclusive jurisdiction of the Courts of England and Wales.