



Conditions of Sale

1. Interpretation

In these Conditions:-

“Buyer” means a person firm or company who accepts a quotation of the Company for the sale of the Goods or whose order for Goods is accepted by the Company

“Goods” means the goods which the Company is to supply in accordance with these conditions

“Company” means Fabweld Steels Products Limited

“Conditions” means the standard terms and conditions of sale set out in this document and includes any special terms and conditions agreed in Writing between the Buyer and the Company

“Contract” means the contract for the purchase and sale of the Goods; and “Writing” includes facsimile transmission and Email

2. Basis of Sale

- 2.1 The Company shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Company or any oral quotation of the Company which is subsequently confirmed in Writing or any written order of the Buyer which is accepted by the Company subject in each case to these Conditions which shall govern the contract to the exclusion of any other terms and conditions. Terms and conditions put forward by the Buyer on the Buyer’s order form or other document or otherwise shall not be binding on the Company. No Contract shall be made until the Company has accepted the Buyer’s order by issuing a written confirmation of order.
- 2.2 Any quotation by the Company shall remain open for acceptance for 90 days from the date on which the Company sends the written quotation to the Buyer unless the written quotation refers to an alternative period during which the quotation may be accepted.
- 2.3 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representative of the Buyer and the Company.
- 2.4 The Company’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.
- 2.5 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 use or performance of the Goods which is not confirmed in Writing by the Company is followed or acted upon entirely at the

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Buyer's own risk and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

- 2.6 In the event of the Company being liable under Clause 2.5.1 the Company shall be liable only to accept the return of the Goods concerned and the refund the Buyer the price or any part of the price of such Goods paid by the Buyer.

3. Order and Specifications

- 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Company unless and until acknowledged in Writing by the Company.
- 3.2 The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including specification) submitted by the Buyer and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract.
- 3.3 If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent copyright design trade mark or other industrial or intellectual property rights of any other person which results from the Company's use of the Buyer's specification.
- 3.4 The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any statutory or EC requirements or where the Goods are to be supplied to the Seller's specification which do not materially effect their quality or performance

4. Packaging

Packaging for the Goods shall be at the discretion of the Company which shall have the right to pack the Goods in such manner and with such materials and in such quantities as it in its absolute discretion thinks fit unless detailed packaging instructions are received in Writing from the Buyer prior to agreeing a price for the Goods

5. Price

- 5.1 The Price of the Goods shall be the Company's quoted price
- 5.2 The Company reserves the right by giving notice to the Buyer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as without limitation any significant increase in the costs of labour materials or other costs of manufacture) any change in delivery

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- dates quantities or specifications for the Goods requested by the Buyer to give the Company adequate information or instructions
- 5.3 All prices quotes are exclusive of VALUE ADDED TAX which the Buyer shall be additionally liable to pay to the Company
- 5.4 Except as otherwise stated under the terms of any quotation or in any price list of the Company and unless otherwise agreed in Writing between the Buyer and Company all prices given by the Company shall include delivery

6. Payment

- 6.1 Subject to any terms agreed in Writing between the Buyer and the Company the Company shall be entitled to invoice the Buyer for the price of the Goods on or at any time following delivery of the Goods unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods in which event the Company shall be entitled to invoice the Buyer for the price at any time after the Company has notified the Buyer that the Goods are ready for collection or the Company has tendered delivery
- 6.2 Unless otherwise agreed and confirmed in Writing by the Company, the Buyer shall pay the price of the Goods within 30 days from the end of the month in which the Company's invoice is raised and the Company shall be entitled to recover the price notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer by virtue of clause 10. The time of payment of the price shall be of the essence of the Contract.
- 6.3 If the Buyer fails to make payment on the due date then without prejudice to any other right or remedy available to the Company the Company shall be entitled to:-
- 6.3.1 cancel the Contract or suspend any further deliveries to the Buyer
- 6.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contact between the Buyer and the Company as the Company may think fit (notwithstanding any purposed appropriation by the Buyer) ;
- 6.3.3 instruct a debt collection agency to recover the sums outstanding from the Buyer and the Buyer shall be liable to pay the Company's costs in instructing the said agency; and
- 6.3.4 charge the Buyer interest on all sums unpaid after the due date until the day payment is received at the rate of 3% per annum the above the base rate from time to time of Bank of Scotland Plc accruing from day to day until payment is received

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7. Delivery

- 7.1 Delivery of the Goods shall be made by the Company, when goods are loaded on to the Buyer's collection vehicle or a carrier's vehicle at the Buyer's premises or other delivery location agreed between the Company and the Buyer and unless otherwise agreed in writing the price of the Goods shall include delivery
- 7.2 If the Buyer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery then without prejudice to any other right or remedy available to the Company the Company may:-
- 7.2.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 7.2.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract
- 7.3 It is the Buyer's responsibility to notify the Company if the Goods have not been received by the Buyer and such notification must be given to the Company within 7 days of the date of receipt of the Company's invoice therefore, or 21 days in respect of Goods supplied for export. If no notification is received the Buyer shall be deemed to have received the Goods
- 7.4 If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control, or the Buyer's fault and the Company is accordingly liable to the Buyer the Company's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods
- 7.5 Postcodes are essential to our hauliers and whilst every effort is made to find the correct postcode where they are omitted, any re-route charges that may be incurred will be passed onto the Buyer. Where postcodes are not available, a Site/Office Telephone Number & County are essential

8. Examination and Claims

The Buyer shall upon delivery examine the Goods and any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused and the Buyer does not notify the

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Company accordingly the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

9. Defective Goods

9.1 The Company will repair or at its option replace free of charge any Goods supplied and of its own manufacture which are returned to the Company's works carriage paid by the Buyer within 3 months of the date of their original delivery and which are shown to the Company's reasonable satisfaction to be defective by reason of faulty material or workmanship on the part of the Company subject to the following conditions:-

9.1.1 the Company shall be under no liability in respect of any defect in the Goods arising from any drawing design or specification supplied by the Buyer

9.1.2 the Company shall be under no liability in respect of any defect arising from fair wear and tear wilful damage negligence abnormal working conditions failure to follow the Company's instructions (whether oral or in Writing) misuse or alteration or repair of the Goods without the Company's written approval

9.1.3 the Company shall be under no liability under the above (or any other condition or guarantee) if the total price of the Goods has not been paid by the due date for payment

9.1.4 the above does not extend to parts materials or equipment not manufactured by the Company in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company (if any) and to the extent that it is possible to make available to the Buyer the said benefit;

9.1.5 the above does not extend to parts, materials or equipment supplied to the Company by the Buyer for use in the manufacture of the Goods;

9.1.6 the Company's obligation to refund or replace as aforesaid shall constitute the full extent of the Company's liability in respect of any loss or damage sustained by the Buyer whether caused by any breach of the Contract or by misrepresentation or by the negligence of the Company its employees or agents or arising from any other cause whatsoever and the Company shall not be liable for any consequential economic direct or indirect loss suffered by the Buyer arising there from;

9.1.7 subject as expressly provided in these conditions and except where Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions or other terms imposed by statute or common law are excluded to the fullest extent permitted by law

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10. Retention of Title and Risk

- 10.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery of if the Buyer wrongfully fails to take delivery of the Goods the time when the Company has rendered delivery
- 10.2 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 funds payments in full for the price of the Goods and all other Goods agreed to be sold by the Company to the Buyer for which payment is then due
- 10.3 Until Property in the Goods passes to the Buyer in accordance with clause 10.2 the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Company The Buyer shall store the Goods (at no cost to the Company) separately from all other goods in it possession and marked in such a way that they are clearly identified at the Company's property
- 10.4 Notwithstanding that the Goods (or any of them) remain the property of the Company the Buyer may sell or use the Goods in the ordinary course of its business at full market value for the account of the Company
- 10.5 Until such time as property in the Goods passes from the Company the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Company. If the Buyer fails to do so the Company may enter upon any premises owned, occupied or controlled by the Buyer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Buyer under clause 10.4 shall cease
- 10.6 The Buyer shall not pledge or in any way charge by way of securing of any indebtedness any of the Goods which are the property of the Company. Without prejudice to the other rights of the Company if the Buyer does so all sums whatever owing by the Buyer to the Company shall forthwith become due and payable
- 10.7 If the Buyer fails to make payment for the Goods in accordance with this Contacts or commits any other breach of this Contract or if any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind-up the Buyer (other than for the purposes of the amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver administrator administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if they Buyer shall suffer any analogous proceedings under foreign law, all sums outstanding in respect of the Goods shall become

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payable immediately. The Company may in its absolute discretion and without prejudice to any other rights which it may have:-

- 10.7.1 suspend all future deliveries of Goods to the Buyer and/or terminate the Contract without liability upon its part; and/or
- 10.7.2 exercise any of its rights pursuant to clause 10.5

11. Breach by or Insolvency by the Buyer

If the Buyer shall not comply with any of its obligations to the Company or upon occurrence of the one of the events referred to in clause 10.7 the Company shall have the right forthwith to terminate the Contract but without affecting any other claim right or remedy of the Company against the Buyer

12. Export Terms

- 12.1 "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires any terms or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these conditions but if there is any conflict between the provisions of Incoterms and these conditions the latter shall prevail.
- 12.2 Where the Goods are supplied for export from the United Kingdom the provisions of the clause 12 shall (subject to any special terms agreed in Writing between the Buyer and the Company) apply notwithstanding any other provisions of these conditions
- 12.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them
- 12.4 Unless otherwise agreed in Writing between the Buyer and the Company the Goods shall be delivered CFR to the air or sea port of shipment and the Company shall be under no responsibility to give notice under Section 32(3) of the Sale of Goods Act 1979
- 12.5 Unless otherwise agreed and confirmed by the Company in Writing payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Buyer in favour of the Company and confirmed by a bank acceptable to the Company or if the Company has agreed in Writing on or before acceptance of the Buyer's order to waive this requirement by acceptance by the Buyer and delivery to the Company of a bill of exchange drawn on the Buyer payable 60 days after sight to the order of the Company at such branch of Bank of Scotland Plc in England as may be specified in the bill of exchange

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13. Cancellation Suspension and Termination

- 13.1 Cancellation of the whole or any part of the Contract shall only become effective upon written confirmation by the Company. The cost of any work carried out or special material procured up until that time shall be payable in full by the Buyer unless otherwise agreed in Writing by the Company
- 13.2 If for any cause whatsoever beyond its control the Company is unable to make any delivery on the applicable delivery date or perform any of its other obligations under the Contract the Company may by notice in Writing to the Buyer terminate the Contract or suspend the Contract without liability for any loss or damage thereby incurred by the Buyer.

14. Force Majeure

- 14.1 The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Company's obligations in relation to the Goods if the delay or failure was due to any course beyond the Company's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Company's reasonable control:-
- 14.1.1 Act of God, explosion, flood, tempest, fire or accident;
 - 14.1.2 war or threat of war, sabotage, insurrection or civil disturbance;
 - 14.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measure of any kind on the part of the governmental, parliamentary or local authority;
 - 14.1.4 import or export regulations or embargoes;
 - 14.1.5 strikes, lock-outs or other industrial actions (whether involving employees of the Company or of a third party);
 - 14.1.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 14.1.7 power failure or breakdown in machinery
- 14.2 If the Company's performance of the Contract is affected as outlined in clause 14.2.1 then the Company may elect at its absolute discretion either:-
- 14.2.2 to terminate the Contract; or
 - 14.2.3 to proceed to perform or continue performance under the Contract
- 14.3 In the event that the Company makes an election under clause 14.2 the Buyer shall accept the Goods or such part of them as are delivered to it notwithstanding the delay

15. Replaced or Repaired Goods

These Conditions shall apply mutatis mutandis to any goods supplied or any work done by the Company by way of replacement rectification or improvement under any of these Conditions

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16. Sub-contractors

Subject to any prior agreement made between the Company and the Buyer and confirmed in writing the Company shall be entitled without prior consent of the Buyer to sub-contract the whole or any part of the Contract or to employ a sub-contractor to perform its obligations under any such Contract. This shall not in anyway vary or limit the obligations of the Company under the Contract

17. Dispute Resolution

- 17.1 Without prejudice to the Company's specific rights in respect of payment as outlined in clause 6 above the parties shall attempt in good faith to resolve any dispute or claim arising out of or relation to the Contract promptly through negotiations between the representatives or the parties who have authority to settle the same
- 17.2 If the matter is not resolved through negotiations the parties will attempt in goods faith to resolve the dispute or claim through as Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the ADR Group Limited
- 17.3 If the matter has not been resolved by an ADR procedure within 45 days of the initiation of such procedure or if either party will not participate in the ADR procedure, the dispute may proceed to litigation

18. General

- 18.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified to the party giving the notice
- 18.2 No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision
- 18.3 The Contract shall be governed by the laws of England and the Buyer agrees to submit to the non-exclusive jurisdiction of the English Courts

Signed

Print Name

Date

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