

## **SWISS STEEL UK LTD**

### **General Terms and Conditions of Sale**

#### **1. General**

(a) In these general terms and conditions of sale unless the context otherwise requires or as otherwise stated herein, "we", "us", "our" shall mean Swiss Steel UK Ltd; "the Buyer" shall mean the person or firm purchasing goods or services from us; the "order" shall mean the Buyer's order for the supply of goods and/or services, made to us verbally, by telephone, or as set out in the Buyer's purchase order form, the Buyer's written or verbal acceptance of our quotation, or the buyer's order otherwise set out in writing, including by email or online. The order shall only be deemed to be accepted when we issue written acceptance of the order at which point and on which date the contract between us and the Buyer ("contract") shall come into existence.

(b) These general conditions of sale shall apply to all sales and the supply of all services effected by us and orders are accepted on the basis that the contract will be governed by these conditions. Acceptance of delivery of any goods is deemed to be acceptance of these general conditions of sale. No variation of these general conditions of sale shall be effective unless expressly agreed to by us and confirmed in writing. Any other conditions stipulated by the documentation of the Buyer or implied by trade, custom, practice or the course of business are not applicable unless specifically acknowledged by us in writing. We shall not be considered to have accepted other conditions nor to waive any of the following conditions by failing to object to provisions contained in any purchase order or other communication from the Buyer.

(c) Quotations issued by us are intended to indicate the terms upon which we are prepared to supply goods and no binding contract shall arise until we have despatched a written acceptance of the Buyer's order.

(d) The Buyer agrees that apart from the express terms contained herein or in any document expressly stated to form part of the contract and signed by us no statement or representation has been made by the Seller or if any such statement or representation has been made the Buyer acknowledges that it was a statement of opinion only and was not intended to be relied upon.

#### **2. Prices and Payment**

(a) Except where otherwise expressly stated our quotations are valid for a period of 7 days from

their date or until the date of contract to purchase the goods quoted for (if earlier).

(b) Except when otherwise expressly stated in writing prices quoted or contained in our acceptance of order represent our current prices at the date of quotation or acceptance of order and the Buyer accepts that we may vary the price to take account either of variation in the costs to us of the goods or any treatment carried out thereto, carriage, insurance, and administrative overheads or of fluctuations in exchange rates.

(c) Except when otherwise expressly stated goods are sold ex-works and prices are net and exclude value added tax, all carriage insurance and handling costs import/export and consular duties and expenses. Where the cost of any of the above are included in the price variations thereof after quotation or acceptance of order shall be for the account of the Buyer. Metal bins and stillages provided by us must be returned to us and will otherwise be chargeable. Failure to return such metal bins and stillages to us may delay delivery of further goods and in this case we will not accept responsibility for such delays.

(d) In regard to sales expressed in any currency other than Sterling the Buyer bears the risk of fluctuation in the rate of exchange from the date of our acceptance of order.

(e) (i) Payment shall be made strictly net without deduction and time of payment is of the essence of the contract. Except where other terms of credit are agreed in writing, (subject to paragraph 7) payments for goods or services shall be due on the 30th day of the month following the month in which the date of delivery or supply or (as the case may be) the date when the Buyer is notified that goods are available for collection falls. In the case of payment by cheque or other negotiable instruments or bill of exchange payment shall be deemed to take place only when the sums concerned have been credited to our bank account. Where the Company has not agreed to give credit payment shall be due at the time of placing Buyers orders with us and we shall not be obliged to deliver goods except against advanced payment of the quoted price which will be without prejudice to variation of that price under paragraph (b) above.

(ii) If any amount due by the Buyer to us is overdue for more than seven days the Buyer shall pay to us interest on all sums outstanding from the date of delivery, supply or notification referred to in paragraph (i) above to the date of

payment at a rate equal to three percent above the arithmetical average for each day of the published rate of the National Westminster Bank Plc such interest shall accrue from day to day and shall be payable before as well as after judgement.

(iii) The Buyer shall not be entitled to set off against any amount due to us under this contract any claim which the Buyer may have against us.

### **3. Reservation of Ownership**

(a) Notwithstanding delivery and the passing of risk in the goods to the Buyer or any provision of these conditions the property in the goods shall not pass to the Buyer until we have received in cash or cleared funds payment in full of the price of the goods and all other goods agreed to be sold by us to the Buyer for which payment is then due or the goods are incorporated in or utilised in the manufacture of products or the goods are sold and delivered by the Buyer whichever shall first occur.

(b) Until such time as the property in the goods passes to the Buyer the Buyer shall keep the goods separate from other goods in the possession of the Buyer and third parties and keep them in good repair and condition and properly stored protected and easily identifiable as our property. Until such time we shall be entitled to enter any premises upon which the goods are held to inspect the goods and (after the date on which payment for the goods is due or before that date if the Buyer becomes insolvent) repossess the goods. Responsibility for insuring the goods passes to the buyer at the moment of collection by the Buyer or of delivery to the Buyer's works.

### **4. Delivery**

(a) Whilst we will always endeavour to meet delivery dates and periods these are approximate only and we accept no liability arising from delay in any delivery. We shall not be responsible for delays in the supply of goods to us by our suppliers and in the case of such delays we shall not be obliged to seek comparable goods from other sources. Periods of delivery quoted by us shall be taken from the later of our acceptance of order and the receipt by us of final instructions or approvals enabling us to perform the contract and delivery shall not be considered to be of the essence of the contract.

(b) If delivery shall not have been effected on any date quoted or agreed or during any delivery period quoted or agreed and such delay was not caused in whole or in part by the Buyer the

Buyer may serve written notice on us requiring delivery to be effected within a period from the date of such notice as in the circumstances of the case is reasonable (such period being nevertheless not less than 21 days) and thereupon time shall become the essence of the contract. If we fail to deliver the goods, our liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the goods. We shall have no liability for any failure to deliver the goods to the extent that such failure is caused by an event outside of our control, the Buyer's failure to provide adequate delivery instructions for the goods or any relevant instruction related to the supply of the goods

(c) (i) Delivery shall take place at the premises specified on our order acknowledgement or otherwise as agreed in writing hereafter. Risk shall pass to the Buyer on delivery or deemed delivery hereunder (if earlier).

(ii) Where goods are to be delivered by us or our carrier, the Buyer shall provide suitable hard road access and standing for articulated lorries at the premises where delivery is to be made and unloading shall be the Buyer's responsibility, delivery being deemed to have been made immediately prior to the start of unloading. The Buyer shall ensure that (unless prevented by causes beyond its control) vehicles delivering goods are unloaded within 2 hours of arrival.

(iii) Delivery of goods to be loaded onto the Buyer's or its carrier's vehicles shall be deemed to have taken place when they are placed on the vehicle and we shall not be responsible for securing or protecting the same.

(d) The Buyer shall accept deliveries by instalments and failure to make any delivery shall not give rise to a right for the Buyer to repudiate the contract.

(e) Where either:

(i) we have attempted to deliver the goods to the place specified for delivery and have failed for reasons beyond our reasonable control or the Buyer has indicated that he will not accept delivery on a day quoted by us; or

(ii) goods are to be collected by the Buyer its agent or carrier and the same are not collected within 4 days of the Buyer being notified that they are available for collection; then for all purposes of the contract for the sale of the goods the goods shall be deemed to have been delivered and additionally the Buyer shall

indemnify us against all costs and losses so suffered by us (including but without prejudice to the generality of the foregoing storage insurance carriage and handling costs), we shall be entitled to make a reasonable charge for storage of the goods and (in the case of goods to be collected by the Buyer) we may at the Buyer's cost despatch the goods to the Buyer's works provided that although we shall use all reasonable endeavours to protect the goods we shall not be responsible for any damage sustained by the goods whilst they are stored by us.

(iii) where delivery to the Buyer has not been accepted by the latter or agreed collection by the Buyer has not taken place within 14 days of the date notified for delivery or collection of the goods, we reserve the right to sell the goods to another party.

(f) (i) Although we shall provide protection for the goods in accordance with our normal practice, unless specifically requested by the Buyer we shall not be obliged to provide any packaging or anti-rust treatment of the goods. We shall not be liable for any loss sustained by the Buyer through there being inadequate packaging or anti-rust treatment unless we have not provided protection for the goods as requested by the Buyer. Disposable packaging materials (which excludes metal bins and stillages and is without prejudice to clause 2(c)) are not returnable to us.

#### **5. Specification and Defects**

(a) (i) Illustrations and specifications set out in our sales literature and on the websites of Swiss Steel and member companies of the Group are statements of opinion and are provided for information only and form no part of the contract.

(ii) Our goods are sold by reference to the description set out in our quotation or acceptance of order and when samples are submitted they indicate only the general class of goods offered. Normal tolerances within the steel industry shall be allowed for unless our quotation or acceptance of order specifies particular tolerances applicable to the goods.

(b) (i) Qualities and dimensions of material are determined by the generally accepted European Standards such as EN 10088 unless other standards are expressly stipulated in our sales literature quotation or acceptance of order.

(ii) All goods sold by weight will be weighed by us or our sub-contractor before despatch and except in the case of manifest error weight advice notes resulting from such weighings shall be deemed to be correct.

(c) All goods should be inspected by the Buyer upon delivery or acceptance and before use. We shall not be liable in respect of shortages non-compliance or defects apparent on test or inspection unless:

(i) the Buyer inspects the goods immediately on delivery or acceptance; and

(ii) written complaint is made to us within 14 days of delivery or the date when goods are delivered or available for collection; and

(iii) we are given reasonable opportunity to inspect and test the goods, the goods are not used altered or modified and are not damaged by any act or omission of the Buyer.

If no such complaint is received by us the goods will be deemed to be in all respects in accordance with the contract except for defects not apparent on inspection which must be notified to us immediately upon discovery.

(d) Defects in quantity quality or dimension in any delivery are not to be a ground for withholding any payment due to us nor are they to be a ground for cancellation of the remainder of the contract.

(e) Goods which are sold as "non-prime" "seconds" or by any description indicating that they are not in perfect condition or of best quality are sold in the state and condition received by the Buyer and the Buyer acknowledges that their quality and/or dimensions are limited by this description and that he must take account of such description when re-selling the goods.

(f) Any claim for defects not apparent on inspection or test shall be made in writing and received by us within a reasonable period after delivery or the date upon which the Buyer is notified that the goods are ready for collection; we shall have no liability for defects unless we are given reasonable opportunity to inspect and test the goods, the goods have not been used altered or modified and the goods have not been damaged by any act or omission of the Buyer. In the absence of such a claim received within such period the goods shall be deemed to comply in all respects with the contract.

(g) (i) We undertake to ensure that the goods comply with the specification applicable thereto under the contract in accordance with paragraph 5(a) hereof and (subject to such undertaking) any warranty as to the physical description or quality of the goods implied by statute or law is hereby expressly excluded

(ii) In view of the varied and unpredictable nature of the conditions of use of steel and of undertaking given in paragraph (i) above any

warranty as to the fitness of the goods for any particular purpose implied by law or statute is hereby expressly excluded.

(iii) In view of the inherent nature and the unpredictable conditions of use of steel it is hereby expressly agreed:

(1) that we shall not be liable for any loss of profit consequential loss indirect loss or any loss or damage to any object building or other asset; and

(2) our maximum liability for any breach of the terms of the contract shall be limited to the purchase price payable by the Buyer in respect of the defective goods

(iv) Notwithstanding the general exclusions contained in paragraphs (i) (ii) and (iii) above we will consider quoting terms varying those paragraphs if the Buyer makes written application to us in that behalf prior to contract such application to contain full information of all the circumstances of the proposed use. None of the said paragraphs (i) (ii) and (iii) shall be so varied unless and to the extent stated by us in writing prior to contract.

(h) Where we accept that goods are defective we shall at our option:

(i) replace the goods with further goods of the description in the contract against receipt of the defective goods; or

(ii) pay to the Buyer an amount not exceeding the purchase price of the goods.

#### **6. Force Majeure**

No liability shall attach to either party for any delay or failure to perform any part of the contract due to any cause outside its reasonable control. For this purpose delay in the delivery of goods to us by our supplier shall be deemed to have been to a cause outside our reasonable control. Dates and periods of delivery shall be extended by a period equal to any delay due to any such cause. Should the conditions causing this delay extend for a period of more than 3 months, we will discuss with all parties whether the contract should be cancelled.

#### **7. Termination**

We may without prejudice to any other rights and remedies we may have, rescind this and any or every other contract between us and the Buyer wholly or in part or (as we may elect), suspend or cancel delivery of any goods thereunder, and all outstanding payments for goods supplied thereunder shall become immediately due if the Buyer fails to make any payment due from the Buyer to us, or if the Buyer becomes insolvent or enters into any

composition of 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 or Administrative Receiver or Administrator to be appointed or if any such order or appointment is made or if (being an individual or 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 shall carry out or be subject to any analogous act or proceedings under foreign law, or if the Buyer shall be in material breach of any of these terms and conditions.

#### **8. Proper Law and Interpretation**

(a) These conditions and any contract between us and the Buyer shall be governed and interpreted exclusively by the Laws of England and the Courts in England shall have non-exclusive jurisdiction in relation to a dispute.

(b) Each of the paragraphs and parts of paragraphs of the conditions shall be treated as separate provisions and the invalidity of any part of the conditions shall not affect the remainder thereof.

#### **9. Cancellation Charge**

Cancellation of orders for forward production will not normally be accepted after confirmation and acceptance. Any cancellation will be at our discretion and may involve cancellation charges in respect of costs incurred.