

## STANDARD TERMS AND CONDITIONS FOR TRADING

of

### STAINLESS INTERNATIONAL LIMITED ("the Seller")

1. All contracts for the sale of goods by the Seller shall incorporate these conditions to the exclusion of any other terms and conditions and no variation of these conditions shall be binding unless agreed in writing between authorised representatives of the Buyer and the Seller
2. .
  - 2.1 Any dates quoted for delivery of the goods are approximate only and the Seller shall not be liable for any delay in delivery of the goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. A delay in delivery including delivery later than the date or dates provided in the contract documents shall not constitute a breach of contract and shall not entitle the Buyer to avoid the contract or to any other remedy unless the Seller has guaranteed the date of delivery in a written warranty which expressly modifies the provisions of this condition
  - 2.2 If the Buyer fails to take delivery of the goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then without prejudice to any other right or remedy available to the Seller the Seller may:-
    - 2.2.1 store the goods until actual delivery and charge the Buyer for reasonable costs (including insurance) of storage; or
    - 2.2.2 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
3. Should the manufacture, processing or delivery of any of the goods at any of the Seller's sites or the delivery thereof to the Buyer elsewhere whether by the Seller or a subsidiary or associated company or an independent carrier be prevented or hindered directly or indirectly by fire, the elements, war, civil commotion, strikes or lock-outs, industrial dispute, shortage of raw materials of fuel notwithstanding that the Seller has taken all reasonable steps to procure the same, shortage of labour, breakdown or partial failure of plant or machinery, late receipt of the Buyer's specification or other necessary information, acts, orders or regulations of Governments, decisions or directives of the Commission of the European Communities, delay on the part of any subcontractor or supplier or any cause whatsoever

beyond the reasonable control of the Seller or any of its subsidiary or associated companies concerned with the manufacture, processing or delivery of the goods then, notwithstanding any warranty modifying the provisions of Condition 2 herein, the time for delivery of the goods shall be extended for a reasonable period having regard to the effect of the delaying cause on the manufacture or delivery of the goods

4. If delivery of any goods is likely to be delayed by reason of the causes or events referred to in the last preceding condition, and

4.1 the Seller shall not have taken delivery or shall not have completed the manufacture or processing of the goods or if after completion of manufacture or processing the goods have been lost, destroyed or irreparably damaged, and

4.2 the delay is likely to continue so long that the Buyer will need to acquire substitute goods from a source other than the Seller, and

4.3 the Buyer shows to the reasonable satisfaction of the Seller that the conduct of its operations is likely to be seriously affected by the lack of the goods or that the Buyer is in peril of being in breach of a contractual obligation to a third party

then the Seller shall at the request of the Buyer and upon Seven days notice during which time the Seller still fails to deliver then the Seller will agree to cancel the delivery of the goods

5. .

5.1 The method of carriage of the goods shall be at the discretion of the Seller. If the Seller so agrees the goods may be collected from the site by the Buyer. In such event when the Buyer is notified that the goods are ready for collection at the site, the Buyer shall collect them without delay. If the goods are not collected by the Buyer within Three days of being so notified the Seller may despatch the goods itself at the Buyer's expense and risk or store them at the expense and risk of the Buyer

5.2 The Seller reserves the right to charge to the Buyer any costs, charges or expenses incurred by the Seller as a result of vehicle or wagon detention or demurrage of ships in consequence of any act or omission of the Buyer, its servants or agents, or as a result of special requirements or of stipulations of the Buyer not provided for in the contract

5.3 Where the contract provides for the delivery of the goods elsewhere than at the Seller's site, the Seller will entertain a claim by the Buyer in respect of loss or damage in transit only if the Buyer:-

5.3.1 gives written notice to the Seller within Twenty-one days after the Seller's advice note or other notification of the despatch of the goods in the case of non-delivery or within Seven days of the delivery of the goods in any other case, and

5.3.2 where the goods are transported by an independent freight carrier, complies in all respects with the freight carrier's conditions of carriage for notifying claims for loss or damage in transit

5.4 .

5.4.1 Any marine insurance required to be effected by the Seller under the contract shall, unless otherwise agreed in writing, be 10 percent over the invoice price and shall cover the interest from the commencement of transit to the destination named in the contract as provided and contained in the Institute of London Underwriters ("the Institute") Cargo Clauses, the Institute's War Clauses and the Institute's Strikes Clauses, current at the time of shipment

5.4.2 Except as varied by these conditions or otherwise agreed in writing the commercial terms in the contract such as CIF and C & F shall have the meanings assigned to them by Incoterms 1980 Edition, including any additions or amendments thereof

6. .

6.1 The quantity, quality and description of any specification for the goods shall be those set out in the Seller's quotation (if accepted by the Buyer) and/or the Buyer's order (if accepted by the Seller)

6.2 Subject to the provisions of these conditions goods supplied by the Seller will comply with the specification and standard, if any, agreed in writing between the Seller and the Buyer for the purpose of the Contract which the goods are expressly described as complying with

7. .

7.1 Unless the parties have expressly agreed in writing to modify this condition then, notwithstanding the provisions of Condition 6 above, any condition or warranty, statement or undertaking as to the quality of the goods or their fitness or suitability for any purpose however or whenever expressed or which may be implied by statute, custom of the trade or otherwise is hereby excluded

- 7.2 Without prejudice to the foregoing, no statement or undertaking contained in any British Standard, Euronorm, ISO Recommendation, or other standard or technical specification as to the suitability of the goods for any purpose shall give rise to any legal liability. The Buyer shall satisfy itself that the goods are suitable for any product or application for which they are to be used before the goods are incorporated into such product or application
8. Where the contract provides for testing or inspection of the goods by or on behalf of the Buyer before delivery whether at the Seller's site or elsewhere then upon the Seller giving notice of the availability of the goods for inspection/testing the Buyer shall inspect and/or test the goods within Five working days of such notice. If the Buyer does not inspect or test the goods within the time specified or within Ten working days of such testing or inspection the Buyer does not notify the Seller in writing that the goods are not in accordance with the contract specifying the matters complained of, then the Buyer shall conclusively be deemed to have accepted the goods as being in accordance with the contract and shall not thereafter be entitled to reject the goods on the grounds of anything which such testing or inspection has or would have revealed
9. 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:-
- 9.1 the Buyer gives notice in accordance with Condition 8 herein, or
- 9.2 within Ten working days after the receipt of the goods, and prior to their use or re-sale, the Buyer serves upon the Seller a written notice specifying any defect in the quality or state of the goods or other respect in which the goods are not in accordance with the contract which would be apparent upon careful inspection or by such testing as is reasonable in all the circumstances for the Buyer to undertake or stating why the goods are not otherwise in accordance with the contract and thereafter provides to the Seller a reasonable opportunity of inspecting or testing the goods before they have been used or resold, or
- 9.3 if a defect in the quality or state of the goods or other respect in which the goods are not in accordance with the contract would not be apparent upon careful inspection or reasonable testing the Buyer serves upon the Seller written notice of such defect or respect forthwith upon discovery specifying the matters complained of and affording to the Seller a reasonable opportunity of inspecting the goods before any making good or replacement is undertaken. The Buyer shall not be excused from providing such opportunity by reason only of the incorporation of the goods in the property of a third party or the location of the goods in, upon or under the premises or land of a third party;

Any dispute between the parties as to whether any goods are defective in quality or state or otherwise not in accordance with the contract shall be referred, in accordance with the provisions of the Arbitration Acts 1950 and 1979 or any statutory modification or re-

enactment thereof for the time being in force, to a single arbitrator to be agreed between the Seller and the Buyer or in default of agreement to be nominated by the President for the time being of The Law Society of England and Wales

10. The weight or quantity of the goods printed upon the Seller's advice/despatch note shall be final unless the Buyer shall have given notice of any discrepancy in weight or quantity within Three working days after the receipt of the goods and has thereafter given to the Seller a reasonable opportunity of witnessing a verification of the goods before they have been used, processed or sold
11. Provided that the Buyer has complied with the requirements as to notice in Conditions 8 or 9, whichever may be applicable, and subject to the provisions of Condition 13 herein, if the goods or any part thereof are defective in quality or state or (save for discrepancy in weight or quantity) otherwise not in accordance with the contract then, if the Seller and the Buyer do not agree that the Buyer should accept the goods at an agreed value or that the goods should be made good at the Seller's expense, the Seller undertakes to accept a return of the relevant goods and at the Buyer's option either to:-
  - 11.1 Repay or allow the Buyer the invoice price thereof (including freight where appropriate) and any reasonable transport costs incurred by the Buyer in carrying the relevant goods from the place of original delivery of such goods to the Seller's site from which they were despatched or to such other place as the Seller may nominate, or
  - 11.2 Replace the goods by delivering replacement goods to the original place of delivery as soon as may be reasonably practicable
12. The undertakings in Condition 11 herein are given in lieu of any other legal remedy and the liability of the Seller shall be for all purposes limited to the cost of making good or the invoice cost whichever is the lesser. Under no circumstances shall the Seller be liable for any other loss, damage or expense whatsoever occasioned by any breach contract negligence or breach of any duty of the Seller whatsoever and howsoever such loss, damage or expense may have been caused
13. Goods sold as "*non prime*" or goods accepted by the Buyer pursuant to Condition 11 herein which the Seller and the Buyer agree to be "*non prime*" are 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 Seller in respect of such goods is given in good faith but the Seller can accept no responsibility for its accuracy. Under no circumstances will the Seller be under any obligation to replace or make good such goods or entertain any claim whatsoever in respect thereof. If the Buyer shall re-sell such goods the Buyer shall ensure that a provision in similar form to this condition is incorporated in the re-sale agreement unless prior to reselling the goods, the Buyer has caused the goods or such part of the goods as the Buyer resells to comply with a recognised specification or standard

14. Each part delivery or instalment of the goods shall be deemed to be sold under a separate contract. Delivery to the Buyer of a quantity of goods less than or greater than that which the Seller has agreed to sell shall under no circumstances entitle the Buyer to reject the goods delivered

15. No property in the goods shall vest in the Buyer unless and until:-

15.1 the Buyer makes full payment to the Seller for the full price of goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due, or

15.2 the goods are incorporated in or utilised in the manufacture of products, or

15.3 the goods are sold and delivered by the Buyer, whichever shall be the earlier

Until the first of such events the Buyer shall in all respects treat and deal with the goods as the Seller's fiduciary agent and bailee and shall store and keep the goods so that they are readily identifiable as the property of the Seller and shall further ensure that the goods are protected and insured. During such period (and without prejudice to its other rights) the Seller shall be entitled to enter any premises to inspect the goods and if the Buyer shall fail to make due payment for them, to re-take and re-claim the goods. For the purposes of this condition, decoiling, cutting, slitting, cold bending or re-bundling of goods shall not constitute the manufacture of a product or products. Until full payment has been made, the Buyer shall not be entitled to dispose of any property in the goods (by sale or otherwise) to the holding company of the Buyer or to any subsidiary of the Buyer or of such holding company, but the Buyer shall be entitled to resell or use the goods in the ordinary course of its business, provided that, the Buyer shall account to the Seller 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 moneys or property of the Buyer and third parties and, in the case of tangible proceeds properly stored protected and insured.

Upon delivery, the goods shall be at the risk of the Buyer

16. The Seller shall be entitled without prejudice to its other rights and remedies either to terminate wholly or in part any or every contract between itself and the Buyer or to suspend any further deliveries under any or every contract in any of the following events:-

16.1 if any debt is due and payable by the Buyer to the Seller but is unpaid

16.2 if the Buyer has failed to provide any letter of credit, bill of exchange or any other security required by the contract provided that in such event the aforesaid rights of termination or suspension shall apply only in regard to the particular contract in respect of which the Buyer shall have so failed

16.3 if the Buyer has failed to take delivery of the goods under any contract between it and the Seller otherwise than in accordance with the Buyer's contractual rights

16.4 if the Buyer becomes insolvent or enters into any composition or arrangement (including a voluntary 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 (including an 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

The Seller shall be entitled to exercise its aforesaid rights of termination or suspension at any time during which the event or default giving rise thereto has not ceased or been remedied and, in the event of any such suspension, the Seller shall be entitled as a condition of resuming delivery under any contract between it and the Buyer to require prepayment or such security as it may require for the payment of, the price of any further delivery

17. The Buyer shall not be entitled to withhold payment of any amount payable under the contract to the Seller because of any disputed claim of the Buyer in respect of defective goods or any other alleged breach of contract nor shall the Buyer be entitled to set off against any amount payable under the contract to the Seller any monies which are not then presently payable by the Seller or for which the Seller disputes liability

18. .

18.1 Unless the contract documents otherwise expressly provide, the price payable by the Buyer for each delivery shall be the Seller's ruling price as published in its price list current at the date of despatch to which shall be added any Value Added Tax and any other tax or duty relating to the sale or delivery of goods chargeable to the Seller and (where appropriate) the applicable freight and other charges as specified in the relevant carriage tariff current at the date of despatch. Unless otherwise expressly stated in the contract, the price of such delivery (including such freight and other charges) shall be paid in full and received by the Seller by the last day of the month following the month in which the goods were despatched. The Seller 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 at the rate of Ten per cent or Three per cent above the arithmetic average for each day of the published base rate of Midland Bank plc whichever shall be the greater

- 18.2 Payment shall be made in the currency specified in the contract documents. The amount of the price to be paid is that specified in the contract documents or calculated in accordance with the formula there specified. That amount shall not be subject to any discount or deduction except as agreed in writing by the Seller
- 18.3 Quotations in a currency other than sterling are based on the rate of exchange at the time of quoting and unless otherwise stated the quotation will be subject to revision up or down if any different rate of exchange is ruling at the date the order acknowledgment is despatched
- 18.4 The Contract price for the goods is for the supply of the goods in accordance with the express terms of the contract
19. The goods are sold on condition that they will not be resold by the Buyer or its purchasers or sub-purchasers for delivery in an unprocessed state outside the Territory of the European Coal and Steel Community ("the Community") or Austria, Finland, Norway, Sweden, Iceland and Switzerland ("the EFTA Countries"). The Buyer shall be responsible for any breach of this condition and the Buyer shall also be responsible for ensuring that no goods sold to it by the Seller for delivery outside the Community or the EFTA Countries shall be reimported in an unprocessed state into the Community or the EFTA Countries either by the Buyer or any of its purchasers or sub-purchasers. On receipt of a written demand from the Seller, the Buyer shall produce evidence of the ultimate destination of the goods
20. If any goods bought from the Seller are resold by the Buyer in an unprocessed state, within the Territory of the Community, or to Austria, Finland, Norway or Sweden, then, unless such resale is made from stock, the Buyer shall comply in respect of such resale with the requirements of Commission Decision No. 30/53/ECSC (as amended from time to time) and shall also comply, as appropriate, with the requirements of Commission Decision No. 31/53/ECSC (as amended from time to time) or Commission Decision 37/54/ECSC (as amended from time to time) and any other applicable Commission Decision. The references in this clause to "*goods*" are to goods of the types listed in Annex 1 to the Treaty of Paris of 18th April 1951 and references to "*Commission*" are to the Commission of the European Communities
21. The rights of the Seller or the Buyer shall not be prejudiced or restricted by an 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. Any variation in the terms of this contract must be agreed in writing between the parties
22. In the event that, for any reason, any provision or provisions in these conditions or any part thereof is or is held to be void, unenforceable or otherwise invalid, any contract made which incorporates these conditions shall continue to be fully binding and all other conditions herein, including the remainder of any condition where the effect of some part thereof is avoided, shall remain fully effective

23. The contract shall be governed by and construed in accordance with the laws of England. The Buyer on entering into this contract submits to the jurisdiction of the English Courts
24. For the purpose of these conditions the expressions "*holding company*" and "*subsidiary*" shall have the meaning attributed to them by Section 736 of the Companies Act 1985

**"Stainless International Limited May 1994"**