

Bromford Iron Limited Terms and Conditions of Sale

1. Interpretation

The following Conditions shall apply so far as the same are not varied by any special terms or conditions agreed in writing between Bromford Iron Limited and the Buyer. No variation of the Contract or these Conditions will become binding unless confirmed in writing by Bromford Iron Limited.

1.1 In these Conditions:

'**BI**' means Bromford Iron Limited, a company registered in England and Wales with company number 12202432;

'**BUYER**' means the person or company who accepts a written quotation of BI for the sale of the Goods or whose order for the Goods is accepted by BI;

'**CONDITIONS**' means the standard terms and conditions of sale set out in this document subject to any special terms and conditions agreed in writing between the Buyer and BI;

'**CONTRACT**' means the contract for the purchase by the Buyer and sale by BI of the Goods which shall incorporate the Order and be subject to the Conditions;

'**DATA PROTECTION LEGISLATION**' means (i) the General Data Protection Regulation (EU) 2016/679 ("**GDPR**") unless and until the GDPR is no longer directly applicable in the UK, together with any national implementing laws, regulations and secondary legislation as amended or updated from time to time in the UK, including the Data Protection Act 2018 ("**DPA**"); (ii) any successor legislation to the GDPR and the DPA; and (iii) any other directly applicable EU regulation relating to data protection and privacy;

'**DELIVERY LOCATION**' has the meaning given to it in clause 3.2;

'**GOODS**' means the goods (including any instalment of the goods or any parts of them) which BI is to supply in accordance with the Contract;

'**INSOLVENCY EVENT**' means (a) the other party (being a company or limited liability partnership) (i) has entered liquidation; (ii) has a receiver, liquidator, administrator, trustee or an individual with a similar role appointed over any of its assets; (iii) proposes to make any arrangements with its creditors or goes into liquidation; or (iv) suffers an event which, under the law of a different country, is equivalent to any of the previously specified acts or events; and (b) the other party (being an individual) (i) is deemed either unable to pay its debts or has no reasonable prospect of doing so, within the meaning of section 268 of the Insolvency Act 1986; or (ii) suffers an event which, under the law of a different country, is equivalent to any of the previously specified acts or events;

'**ORDER**' means the Buyer's order for the Goods, as set out in the Buyer's purchase order form, the Buyer's written acceptance of BI's quotation, or overleaf, as the case may be;

'**PREMISES**' means Bromford Buildings Bromford Lane West Bromwich B70 7JJ; and '**WRITING**' includes e-mail transmission.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Basis of Contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms or conditions the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. These Conditions shall apply to any replacement Goods supplied by BI.

2.2 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions and shall only be deemed to be accepted by BI when BI issues a written acceptance of the Order ("**Order Confirmation**"), at which point the Contract shall come into existence.

2.3 The Buyer must ensure that the terms of the Order submitted by it are complete and accurate and that the Order is accompanied by all relevant information required for BI to supply the Goods. It is the Buyer's responsibility to ensure that the Goods ordered satisfy the Buyer's requirement in terms of specification and BI shall have no liability in this respect or for any Goods manufactured or supplied as a result of incorrect information provided by the Buyer.

2.4 Any samples, drawings, descriptive matter or advertising produced by BI and any descriptions contained in BI's catalogues or brochures are produced for the sole purpose of giving an approximate ideal of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

2.5 A quotation given by BI does not constitute an offer. A quotation is valid for a maximum period of 24 hours from its date of issue although may be withdrawn by BI at any time without notice.

2.6 The Buyer will only be entitled to cancel or change an Order (including in respect of materials, design, quantities or delivery terms) that has been accepted by BI if it receives written acceptance of such cancellation from BI. BI shall be entitled to recover in full from the Buyer any losses or expenses incurred by BI as a result of such cancellation or change, including without limitation any storage and/or transportation costs. BI may cancel an Order by providing reasonable written notice to the Buyer.

3. Delivery

3.1 Any dates quoted for delivery of the Goods are approximate only and time for delivery shall not be of the essence.

3.2 BI shall deliver the Goods to the location set out in the Order or such other location as the parties may agree at any time after BI notifies the Buyer that the Goods are ready ("**Delivery Location**").

3.3 Where the Contract provides (or the parties agree in writing) that the Goods are to be collected or called forward by the Buyer, the Buyer shall collect the Goods from the Premises or such other location as may be advised by BI (including where BI has arranged for the Goods to be stored at port free of charge) within 7 days of BI notifying the Buyer that the Goods are ready for collection.

3.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location or when the Goods are made available for collection.

3.5 If the Buyer fails to collect, or accept delivery of the Goods within 7 days of BI notifying the Buyer that the Goods are ready for collection, then, except where such failure or delay is caused by an event beyond BI's control, or BI's failure to comply with its obligations under the Contract:

3.5.1 delivery of the Goods shall be deemed to have been completed at 9:00am on the working day following the day on which BI made the Goods available for collection or delivery; and

3.5.2 BI shall store or organise storage for the Goods at the Buyer's risk until the Goods are collected by the Buyer and charge the Buyer for all related costs and expenses (including insurance).

3.6 If BI fails to deliver the Goods, its 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. BI shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide BI with adequate instructions that are relevant to the supply of the Goods.

3.7 Each part delivery or instalment of the Goods shall be deemed to be sold under a separate contract and no default by BI in respect of any such part delivery or instalment shall entitle the Buyer to treat the Contract as repudiated as regards any balance or instalment remaining to be delivered.

3.8 The Buyer shall examine the Goods on delivery or collection and notify BI (or the carrier (if applicable)) of any damage, or, subject to clause 6.4, any discrepancy in weight or quantity, on the same day as delivery or collection, after which BI shall not be liable for such damage or quantity discrepancy.

3.9 If the Buyer makes use of the Goods before or after giving notice to BI in accordance with clause 3.8, the Goods shall be deemed as received and accepted by the Buyer.

3.10 If the Contract provides (or the parties agree in writing) for testing or inspection of the Goods by or on behalf of the Buyer before delivery, such testing and inspection shall be the Buyer's final opportunity of examining whether they conform with the Contract. The Buyer shall be conclusively deemed to have accepted the Goods as being in conformity with the Contract if upon reasonable notice the Buyer does not inspect or test the Goods or if having inspected or tested the Goods the Buyer does not **within 7 days thereafter notify BI in writing of any claim** that the Goods are not in conformity with the Contract, and specifying the alleged non-compliance. The Buyer shall not thereafter be entitled to reject or require replacement of the Goods or to claim compensation in respect of any such non-compliance.

4. Price and Payment

4.1 The price of the Goods shall be the price set out in the Order Confirmation. The price of the Goods shall be in the currency set out in the Order Confirmation.

4.2 Unless otherwise stated in the Contract (or the parties agree in writing) the Buyer shall pay BI in the currency set out in the Order Confirmation in full and cleared funds within 30 days of the end of the month following the date of BI's invoice. Payment shall be made to the bank account nominated in writing by BI from time to time.

4.3 BI will generally invoice at the same time as delivery of the Goods, however if the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods or delivery of the Goods is delayed due to a cause beyond BI's reasonable control, BI shall be entitled to invoice the Buyer for the Goods (plus any additional costs as stated in the invoice) at any time after BI has notified the Buyer that the Goods are ready for collection or BI has attempted to deliver the Goods or that delivery has been delayed (as the case may be). Time for payment is of the essence.

4.4 BI may, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of Goods that is due to:

4.4.1 any factor beyond BI's control (including transportation charges, dock charges, foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

4.4.2 any request by the Buyer to change the delivery date(s), Delivery Location, quantities or types of Goods ordered, or the specification; or

4.4.3 any delay caused by any instructions of the Buyer or failure of the Buyer to give BI adequate or accurate information or instructions.

4.5 The Buyer shall not be entitled to withhold payment or set off against any amount payable to BI under the Contract.

4.6 Unless otherwise agreed between the parties, the price of Goods includes the cost of delivery. All prices shall be deemed exclusive of value added tax and any other sales taxes or import duties, which shall be payable by the Buyer in addition.

4.7 Without prejudice to clause 9.1, BI shall be entitled to withdraw credit from the Buyer without prior notice or divulgence of reasons.

5. Retention of Title

5.1 The risk in the Goods shall pass to the Buyer on completion of delivery as described in clause 3.4.

5.2 Title to the Goods shall not pass to the Buyer until the earlier of:

5.2.1 BI receives payment in full (in cash or cleared funds) for the Goods; or

5.2.2 the Buyer resells the Goods, in which case title to the Goods shall pass at the time specified in clause 5.4.

5.3 Until title to the Goods has passed to the Buyer, the Buyer shall:

5.3.1 store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as BI's property;

5.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

5.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on BI's behalf from the date of delivery;

5.3.4 notify BI immediately if it becomes subject to an Insolvency Event; and

5.3.5 give BI such information relating to the Goods as BI may require from time to time.

5.4 Subject to clause 5.5, the Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before BI receives payment for the Goods. However, if the Buyer resells the Goods before that time:

5.4.1 it does so as principal and not as the Buyer's agent; and

5.4.2 title to the Goods shall pass from BI to the Buyer immediately before the time at which resale by the Buyer occurs.

5.5 If before title passes to the Buyer, the Buyer becomes subject to an Insolvency Event then, without limiting any other right or remedy BI may have:

5.5.1 the Buyer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and

5.5.2 BI may at any time require the Buyer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product and if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

6. Weights or Lengths

6.1 BI shall be entitled to select the basis on which to charge the Goods to the Buyer, i.e. length, weight or pieces.

6.2 The lengths of the Goods shall be in accordance with industry standard practice taking into account any usual industry standard tolerances applicable to such Goods. The length of the Goods shall be confirmed in the Order Confirmation.

6.3 Where the Goods are sold in accordance with their weight, the weight of the Goods shall be in accordance with industry standard practice taking into account any usual

- industry standard tolerances applicable to such Goods. The weight or quantity of the Goods shall be confirmed in the Order Confirmation. Where the Goods are sold:
- 6.3.1 in accordance with their actual weight, these will be supported by a certified weighbridge weight ticket or scale weight tickets; or
 - 6.3.2 on a theoretical weight, these will be calculated using the bar counts, the ordered length and the applicable BS or EN Standard agreed at the time of the Order,
- and the ascertainment of the weight shall be final and binding on the parties unless the Buyer has given notice to BI of any discrepancy in weight in accordance with clause 3.8.
- 6.4 The quantity of Goods actually delivered may vary from the quantities specified in the Contract and a variation of not more than plus or minus 10% from such quantities shall not constitute a failure to perform the Contract and no claim alleging such failure shall be made against BI in respect of any variation within such limits.

7. Quality of Goods

- 7.1 BI warrants that on delivery, the Goods shall:
- 7.1.1 conform in all material respects with the description specified in the Order;
 - 7.1.2 be free from material defects in design, material and workmanship for a period of 30 days; and
 - 7.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 7.2 Subject to clause 7.2.3.1:
- 7.2.1 if the Buyer gives notice in writing within 3 working days of delivery or collection of the Goods that some or all of the Goods do not comply with the warranty set out in clause 7.1, or if the defect would not be apparent upon careful inspection or reasonable testing, the Buyer gives BI written notice of such defect forthwith upon its discovery (and in any event not later than three months after delivery or collection); and
 - 7.2.2 BI is given a reasonable opportunity of examining such Goods; and
 - 7.2.3 the Buyer (if asked to do so by BI) returns such Goods to BI's place of business at the Buyer's cost or sends any photographic evidence requested by BI, BI shall, at its option, either:
 - 7.2.3.1 replace the defective Goods;
 - 7.2.3.2 reduce by the quantity of the Goods which is defective and adjust the invoice on a pro rata basis;
 - 7.2.3.3 refund the Buyer with an amount equal to the cost of the Goods less the scrappage price; or
 - 7.2.3.4 discount the price of the Goods to reflect an amount equal to the length of the Goods which is defective.
- 7.3 BI shall not be liable for the Goods' failure to comply with the warranty set out in clause 7.1 in any of the following events:
- 7.3.1 the Buyer makes any further use of such Goods after giving notice in accordance with clause 7.2;
 - 7.3.2 the defect arises because the Buyer failed to follow BI's oral or written instruction as to the storage of the Goods or (if there are none) good trade practice regarding the same;
 - 7.3.3 the defect arises as a result of BI following any instruction or specification supplied by the Buyer, or any incorrect information supplied with the Order pursuant to clause 2.3;
 - 7.3.4 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
 - 7.3.5 the defect arises as a result of the Buyer's or the Buyer's carrier (as applicable) handling of the Goods; or
 - 7.3.6 the defect arises as a result of willful damage, negligence or abnormal storage or working conditions.
- 7.4 The Buyer shall not be excused from providing BI with the opportunity to examine the Goods in accordance with clause 7.2.2 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.
- 7.5 Except as provided in this clause 7, BI shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 7.1.
- 7.6 Goods sold as "non-prime" are sold in their actual state, as seen, without warranty, with all faults whether or not the Goods have been inspected by the Buyer prior to delivery. If the Buyer shall re-sell such Goods, the Buyer shall ensure that a provision in similar form to this clause 7.6 is incorporated in the re-sale agreement unless prior to reselling the Goods, the Buyer caused the Goods or such part of the Goods as the Buyer re-sells to comply with a recognised specification or standard.
- 7.7 Where the Goods are either packed or protected in the manner specified in the Contract, or if there is no such specification, delivered with packing or protection which is reasonable in the opinion of BI, BI shall not be liable for any damage to or deterioration of the Goods during carriage or delivery.
- 7.8 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 himself or herself that the Goods are suitable for any product or application for which they are to be used.
- 7.9 The Buyer shall indemnify BI against all third party claims, costs and expenses of any nature whatsoever which may arise pursuant to Part 1 of the Consumer Protection Act 1987.

8. Intellectual Property

- 8.1 All intellectual property rights belonging to a party prior to entering into the Contract will remain vested in that party.
- 8.2 The Buyer shall indemnify BI against all claims, demands, damages penalties, costs and expenses and other liabilities for which BI may become liable by reason of the infringement or alleged infringement of any patent, design, trademark or other industrial or other intellectual property rights arising as a result of compliance by BI with the Buyer's specifications.

9. Termination

- 9.1 Without limiting its other rights or remedies, BI may either terminate the Contract with immediate effect by giving written notice to the Buyer, or suspend provision of the Goods under the Contract if:
- 9.1.1 the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of the Buyer being notified in writing to do so;
 - 9.1.2 the Buyer has failed to provide within the time specified in the Contract (or agreed in writing between the parties) any letter of credit, bills of exchange or any other security required by the Contract;
 - 9.1.3 the prompt transfer of funds from the country of the Buyer's residence to the country of BI's residence is impeded either by Government acts, orders or regulations or by reason of strikes or breakdowns in the banking system in the country of the Buyer's residence;
 - 9.1.4 the Buyer stops trading or is in a position whereby it cannot pay its debts and/or an Insolvency Event arises;
 - 9.1.5 the Buyer fails to pay any amount due under this Contract on the due date for payment; or
 - 9.1.6 BI reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

- 9.2 On termination of the Contract for any reason the Buyer shall immediately pay to BI all of BI's outstanding unpaid invoices and interest.
- 9.3 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 9.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. Data Protection

- 10.1 This clause 10 is in addition to and does not replace a party's obligations under the Data Protection Legislation. The terms "Controller", "Processor", "Personal Data", "Process" and "Processing" have the meanings prescribed in the Data Protection Legislation.
- 10.2 BI and the Buyer will each act as a Controller in its collection and Processing of Personal Data for contract management and customer relationship management purposes. Neither party will provide Personal Data to the other to Process in the capacity of Processor.
- 10.3 BI and the Buyer will each comply with all applicable requirements of the Data Protection Legislation.

11. Limitation of Liability

- 11.1 Nothing in these Conditions shall limit or exclude BI's liability for: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; or (c) any other matter which cannot be limited or excluded by law.
- 11.2 Subject to clause 11.1, BI shall under no circumstances be liable to the Buyer whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of contract, or any indirect or consequential loss arising under or in connection with the Contract.
- 11.3 Subject to clause 11.1, BI's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed a sum equal to the price paid or payable for the Goods which give rise to the liability.

12. General

- 12.1 **Force Majeure.** BI shall not be liable to the Buyer for any delay or non-performance of its obligations under this Contract arising from an event beyond its reasonable control, provided that it notifies the Buyer of the circumstances and the extent of any resulting delay or prevention and resumes performance of its obligations as soon as reasonably possible following its end.
- 12.2 **Waiver.** Failure to exercise (or to fully exercise), or any delay in exercising, any right or remedy provided under this Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy under this Contract or by law.
- 12.3 **Notices.** Notices required to be given under this Contract must be in writing. A notice or other communication is deemed to have been received: (a) if sent by email, at the time of transmission; (b) if delivered personally, on signature of a delivery receipt; or (c) if sent by pre-paid first class post or other next working day delivery service, at 9:00am on the second day after posting.
- 12.4 **Severability.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 12.5 **Assignment and Transfer.** The Buyer may not assign, delegate, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under this Contract without the prior written consent of BI.
- 12.6 **Entire agreement.** This Contract contains all the terms which the parties have agreed with respect to its subject matter and supersedes all previous agreements and understandings between the parties (whether oral or in writing) relating to such subject matter. Each party acknowledges and agrees that it has not been induced to enter into this Contract by a statement or promise which it does not contain. All warranties, conditions and other terms (whether express or implied) that are not set out in this Contract are (to the fullest extent permitted by law) excluded from this Contract.
- 12.7 **Third party rights.** A person who is not a party to this Contract shall not have any rights to enforce its terms.
- 12.8 **Governing law and Jurisdiction.** The Contract shall be construed in accordance with English law. The parties agree to submit to the exclusive jurisdiction of the English Courts.