

CONDITIONS OF SALE

1. Definitions

- a. "Buyer" means the person who buys or agrees to buy the goods from the Company.
- b. "Company" means Liberty Performance Steels Ltd. trading as J B & Lees and Firth Cleveland Steel Strip.
- c. "Products" means the articles which the Buyer agrees to buy from the company.

2. Conditions

- a. These conditions shall apply to all contracts from the sales of Products by the Company to the Buyer to the exclusion of all other terms and conditions including any terms and conditions which the Buyer may purport to apply under any purchase order, confirmation order or similar document.
- b. Any variation to these conditions (including any special terms or conditions agreed between the parties) shall be inapplicable unless agreed in writing by the company.
- c. All orders for Products shall be deemed to be an offer by the Buyer to purchase Products pursuant to these conditions.
- d. Acceptance of delivery of the products shall be deemed conclusive evidence of the Buyer's acceptance of these conditions.
- e. A quotation given by the Company is an invitation to the Buyer to make an offer only. No order of the Buyer shall be binding on the Company unless it is accepted in writing by the Company on the Company's order acknowledgement form.

3. Delivery and Risk

- a. While the Company will make every reasonable effort to deliver the Products on the date agreed, the date of delivery shall not be of the essence and the Company shall not be liable for any loss or damages whatever due to failure by the Company to deliver the Products (or any of them) promptly or at all, nor shall the Buyer have any right to rescind the Contract or treat it as rescinded for any delay in delivery.
- b. If the Buyer refuses to take delivery of the Products during normal business hours, it shall be liable to the Company for any expenses incurred by the Company as a result (including reasonable storage charges).
- c. Unless otherwise agreed, the Products shall be collected from the Company's premises, the Buyer shall do so without delay on being notified that the Products are available for collection. If the Products are not collected within three days of such notification the Company shall be entitled to store or arrange storage from them at the Buyer's expense or deliver them in the manner described above claim for the cost of insurance, freight and carriage.
- d. Risk in the Products shall pass to the Buyer on delivery, or alternatively three days after notification that the Products are available for collection or on collection if earlier.
- e. In the case of export sales, the Buyer shall be liable for all costs, fines or other expenses what so ever arising from any delay or deviation in transit as a result of any act or omission by the Buyer or its agent.

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- f. The Company shall have the right to make part deliveries of the Products. Each such delivery shall be deemed to be the subject matter of a separate Contract and shall be paid for accordingly.
- g. Where the Products are to be delivered by the Company, the Company shall only be liable for loss or damage to the Products during transit if:
 - i. The buyer notifies the Company thereof in writing three days after receipt of the Company's advice note notifying despatch of the Products. Or within three days after delivery whichever occurs first.
 - ii. The Company is allowed to inspect the damaged Products (if applicable).

Any marine insurance to be effected by the Company under the Contract shall unless otherwise agreed in writing be for 110% of the invoice price and shall cover the Products from the commencement of transit to the destination named in the contract as provided in the Institute of London Underwriters ("the Institute") Cargo Clauses ("FPA") the Institute's War Clauses and the Institute's Strikes, Riots and Civil Commotion Clauses current at the time of shipment. Except as expressly provided herein or otherwise agreed in writing the terms in the Products be noted on the insurance policy at its own cost.

The failure of the Buyer to pay for any one or more of the said instalments of the Products on the due date shall entitle the Company at the sole option of the Company without notice to suspend further deliveries of Products pending payment by the Buyer, and/or to treat this

Contract as repudiated by the Buyer.

In the event of any force majeure or unforeseen circumstances beyond the control of the Company affecting or interfering with the production, shipment, transport or delivery of any Goods, the Company shall be relieved from all liability in connection with such orders and/or Contracts, unless otherwise agreed in writing but in no case shall the Company be bound to obtain or deliver Goods from any other sources than those contemplated in the order.

4. Tolerances

- a. The Company reserves the right to supply and charge for up to 10% more or less than the quantity of goods ordered by the Buyer.
- b. The Products will be supplied within the dimensional tolerances specified within the Company's acknowledgment of order. Tolerances not specified therein will be to BS1449 Part 1 1991 unless otherwise expressly agreed in writing by the Company.
- c. The Company shall not be obliged to produce test certificates, certificates of conformity or safety critical certificates unless requested by the Buyer and accepted by the Company in writing.

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5. Inspections

Where it has been agreed that the Buyer shall inspect or test the Products before delivery or collection, if the Buyer fails to do so within seven days of being notified that the Products are available for the purpose or having inspected or tested the Products fail to notify the result to the Company within seven days thereafter, the Buyer shall be conclusively deemed to have accepted the Products as being in accordance with the Contract.

6. Price and Payment

- a. Unless otherwise agreed in writing the price payable for the products shall be the relevant price shown in the Company's price list current at the date of despatch of the Products, to which shall be added Value Added Tax and any applicable costs of insurance and carriage by land and/or sea (as appropriate) and any other tax or duty relating to the sale or delivery.
- b. Unless otherwise agreed in writing the price for the Products shall be paid in full in the currency specified in the Order (as accepted) by the end of the month following that in which the Products were available for collection. Interest shall accrue daily on any amounts not so paid at 4% per annum over Lloyds Bank base rate compounded monthly.
- c. The Buyer shall not be entitled to withhold payment for the Products or part thereof as a result of any dispute concerning the Products or other products supplied by the Company and shall not be entitled to exercise any right of setoff against the price payable for the Products.
- d. Where the Buyer fails to pay in full on due date then the Company may postpone further deliveries of Goods or fulfilment of its own obligation or may cancel the Contract or any other Contract but without prejudice to any other rights or remedy which the company may have against the Buyer.
- e. If the Buyer fails to make any payment on the due date then without prejudice to any of the Company's other rights the Company may:
 - i. Suspend or cancel deliveries of any Products due to the Buyer;
 - ii. and/or appropriate any payment made by the Buyer to such of the Products (all Products supplied under any other contract with the Buyer) as the Company may in its sole discretion think fit.
- f. In the event of any failure of the Buyer to pay for any Goods on the due date or receipt by the Company of a reference it considers unsatisfactory or the Buyer becomes insolvent or fails to take delivery of or collect the Products, the Company may be notice inform the Buyer that all payments owing to the Company immediately become due and payable, that the credit provisions in sub-clause (b) above are suspended and/or require payment against pro forma invoice.

7. Title

- a. The Products shall remain the sole and absolute property of the Company as legal and equitable owner until such time as the Company shall have received from the Buyer

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- b. the agreed Contract price together with the full price of any other Products the subject of any contracts between the Company and the Buyer unless the Company serves written notice upon the Buyer specifying that title in Products has passed.
- c. Until such time as the Buyer becomes the owner of the Goods he will hold them as bailee for the Company and will store them on his premises separately from his own Goods or those of any other person and in a manner which makes them readily identifiable as the Company's Goods. The Buyer will insure the Goods with a reputable insurance company so long as they remain the Company's property.
- d. Until payment due under all contracts between the Buyer and the Company has been made in full then:
 - i. In the event of sale of the Goods by the Buyer the Company shall be entitled to trace the proceeds of such sale and the Buyer shall if requested by the Company in writing so to do assign its rights to recover the selling price of the Goods from the third parties concerned.
 - ii. The Company may for the purpose of recovery of its Goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

8. Claims

- a. The Company shall not be liable for any defect in the Products unless this is notified to be the Company in writing within three months of delivery or collection of the Products. The Company shall be entitled to inspect the Products alleged to be defective.
- b. In the case of any alleged shortage or deficiency in weight or volume, the Company shall not be liable unless this is notified to it in writing within three days of delivery or collection of the Products. The company shall be entitled to weigh or measure the Products at the Buyer's premises.
- c. The Company shall not be liable for any deterioration or change in the state of the Products occurring while the Products are in transit or awaiting collection, unless the Contract provides that the Products shall be packaged and the Company has failed to do so.
- d. The Company's liability in respect of any defect in the Products shall in any event be limited to refunding the purchase price for the Products or at the Company's option to replacing the products. Any products worked upon by the Buyer will not be accepted for return under any circumstances.
- e. Except as stated in this clause 8 and save in respect of death or personal injury resulting from negligence of the Company, the Company shall not be liable for any claim or claims for direct or indirect consequential or incidental injury loss or damage made by the Buyer against the Company whether in contract or in tort arising out of or in connection with any defect in the Goods or any act or omission of the Company in the performance of the Contract.
- f. The Buyer is solely responsible for ensuring that the Goods are fit for any particular purpose or of satisfactory quality and no warranty or condition of fitness for any

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purpose is to be implied into the Contract whether by virtue of a British or European standard or technical specification or otherwise.

- g. Subject as above the Products will comply with the specification and standard if any set out in the order acknowledgement which forms part of the Contract.

9. Packing – except in the case of exports

Packing cases, containers, pallets and similar items shall be returned to the Company by the Buyer. If an additional charge for such materials has been made, the Company will give a credit for materials returned in good conditions carriage paid.

10. Waivers

The rights of the Company or the Buyer shall not be prejudiced or restricted by any 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.

11. Sub-Contracts

The Company shall be entitled to sub-contract all or part of this Order.

12. Indemnity

The buyer shall indemnify the Company in respect of any claim against the Company for breach of any industrial property right which arises out of manufacture of the Products in accordance with the Buyer's instructions and their sale to the Buyer.

13. Processing

- a. Where materials supplied by the Buyer are processed by the Company the Company shall not be liable for damage or loss to such materials unless caused by gross negligence of its servants, employees or agents and the Buyer shall indemnify the Company against all damages, penalties, costs and expenses to which the Company may become liable as a result of the use of such material.
- b. Without prejudice to any other remedies which the Company may have the Company shall in respect of all debts due and payable by the Buyer to the Company have a general lien on all property of the Buyer as it thinks fit and to apply any process thereof towards the payments of such debts.

14. Resale

- a. The Buyer shall not resell the Products where to the knowledge of the Buyer the Products are intended for ultimate delivery in an unprocessed state aside the member state of the European Coal and Steel Community.

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- b. If the Buyer resells the Products in an unprocessed state it shall comply with all laws and regulations covering such resale contained in or made pursuant to the Treaty constituting the European Coal and Steel Community.

15. Law

The Contract shall be governed and construed in accordance with English law. The Buyer hereby submits to the non-exclusive jurisdiction of the English Courts in respect of any dispute arising out of the terms of the Contract.