

John Hood & Co (Copper Alloys) Limited

Conditions of Sale

1/3/2017

1. Definitions

- (a) "the Company" is John Hood & Co (Copper Alloys) Limited.
- (b) "the Customer" is any party entering into a contract with the Company for the supply of goods.
- (c) Delivery of goods shall be deemed to take place:
 - (i) where goods are delivered by the Company's own transport, at the moment when the goods or materials are lifted from the delivery vehicle; or
 - (ii) where goods are delivered by other means of transport, at the moment when the goods or materials are loaded onto the vehicle used for such transport.

2. General

- (a) These Terms and Conditions apply to every contract between the Company and any Customer and to all further contracts between the Company and a Customer until such time as the Company shall notify the Customer of revised Terms and Conditions, such revised Terms and Conditions applying to subsequent contracts.
- (b) The parties agree to exclude any of the Customer's Terms and Conditions that are inconsistent with the Company's Terms and Conditions.
- (c) No prior statements made by the Company or the Customer, nor any correspondence between them, are incorporated into any such contract unless separately agreed in writing by the Company.
- (d) No representation by or on behalf of the Company by an employee or agent (including but not limited to advice or recommendations as to the quality or suitability for specific purposes of the Company's goods) takes effect unless separately confirmed by the Company in writing and the Customer agrees that it does not enter into any contract in reliance on such representations unless so confirmed.
- (e) The Customer acknowledges and accepts that the Company may:
 - (i) make such changes to the specification of its goods as are required to comply with applicable safety or statutory requirements; or
 - (ii) supply alternative goods to those ordered by the Customer, such goods being of similar quality and not materially different in performance to the goods ordered.
- (f) No variation to any contract takes effect unless agreed in writing by a director of the Company.
- (g) No waiver by the Company of any of these Terms and Conditions or forbearance to enforce any remedy it is entitled to shall prejudice any of the Company's other rights and remedies or operate as a waiver of any other breach by the Customer under any contract with the Company.
- (h) Should any of these Term or Conditions be held to be invalid or unenforceable in whole or in part the validity and enforceability of the remaining part and of the other Terms and Conditions shall not be affected.

3. Prices

- (a) The Customer acknowledges and accepts that all prices quoted by the Company are subject to market fluctuations, imposition of levies or taxies, changes in rates of levies and taxes, and increases in the prices paid by the Company for raw materials.
- (b) Unless the Company has agreed fixed prices the price payable by the Customer shall be the Company's ruling price at the date of delivery of each consignment subject to variation arising the factors set out above, which may be varied by the Company at any time before dispatch without prior notice to the Customer and shall be subject to VAT at the rate applicable at date of despatch.
- (c) The Customer agrees that it shall not be entitled to withhold payment by reason of set-off or counterclaim in respect of any claim disputed by the Company.

4. Payment

- (a) All invoices are strictly net for payment within 30 days of date of invoice and time of payments shall be of the essence of the contract.
- (b) Where goods are sold by instalments each instalment shall be invoiced and paid for separately.
- (c) If for any reason whatsoever payment is not made when due the Company shall be entitled to:
 - (i) charge interest and fees in accordance with the Late Payment of Commercial Debts (Interest) Act 1998;
 - (ii) cancel or suspend any contract with the Customer;
 - (iii) require the Customer to pay any other sums due to the Company immediately;
 - (iv) enter into the premises of the Customer and repossess and remove all of its goods that remain its property under clause 7.

5. Termination or Suspension

- (a) Without prejudice to any of its other rights the Company may terminate the contract or suspend further deliveries to the Customer in the event of:
 - (v) the Customer failing to make due payment in accordance with Clause 4(a) for any goods or work done; or
 - (vi) the Customer having any distress execution or other legal process levied upon it; or
 - (vii) the Customer making, or offering to make, any arrangements or compromise with creditors, or committing any act of bankruptcy; or
 - (viii) the Customer having any petition or receiving order in bankruptcy presented or make against it; or
 - (ix) the Customer having a receiver of its property or assets or any part of them appointed; or
 - (x) the Company receiving any information concerning the financial status of the Customer indicating that the Customer is unable to pay its debts.
- (b) In the event the contract is terminated under clause 5(a) the Company shall be entitled to any or all of the remedies under clause 4(c).

- (c) The Company reserves the right to withhold performance of any of its obligations under the contract if in its sole opinion the Customer's credit status becomes unsatisfactory.

6. Delivery and Storage

- (a) Any date or time quoted for delivery is given as an estimate only and the Company shall:
 - (i) not be liable for any loss or damage howsoever arising by any matter beyond its reasonable control from failure to deliver on such stated date or at such stated time;
 - (ii) if found liable for loss or damage arising from failure to deliver on such stated date or at such stated time shall be liable only for loss limited to the excess (if any) over the price of the goods of the cost to the Customer of similar goods in the cheapest available market.
- (b) If the Customer causes the delivery of goods or any part thereof to be delayed beyond the time when they would otherwise have been delivered or does not make available a person authorised to sign for a delivery such goods shall be removed to the Company's premises or other storage facility and stored by the Company at the sole risk and expense of the Customer.
- (c) The Customer agrees that any failure of the Company to make any delivery shall not entitle the Customer to cancel or suspend any subsequent or other delivery or contract.
- (d) Any shortages from an order must be endorsed by the Customer on the delivery note and the absence of such endorsement upon a delivery note signed by the Customer or its representative shall be conclusive as to the delivery being complete.
- (e) If goods are packaged such that they cannot be readily quantified upon delivery then clause 6(d) takes effect subject to any shortage being notified to the Company within 24 hours of delivery.

7. Passing of Risk and Retention of Title

- (a) Risk in goods supplied passes to the Customer upon delivery by the Company as defined at clause 1(c).
- (b) Notwithstanding the provisions of Clause 7(a) as to the passing of risk, goods supplied by the Company shall remain its sole property until the Customer has paid in full the agreed price and all other sums due from the Customer to the Company whether under this Contract or otherwise (including any interest due). Notwithstanding such retention of title, the Company shall be entitled to maintain an action for the price of the goods as soon as payment falls due.
- (c) The Customer acknowledges that it is in possession of such goods as bailee for the Company until the sums due in clause 7(b) have been paid in full or the goods have been incorporated or resold in the ordinary course of the Customer's business and shall:
 - (i) insure such goods to their full market value;
 - (ii) store or otherwise identify such goods as to show that they retain the property of the company;
 - (iii) not mortgage, charge or otherwise encumber or dispose of the goods (other than by selling them or incorporating them in the usual course of business) without the written permission of the Company.
- (d) Where the Customer incorporates or resells such goods before payment in full of the sums due in clause (a) it shall keep the proceeds of any sale in a non-overdrawn account and hold such proceeds on trust for the Company as fiduciary.
- (e) The Customer agrees that if the Company invokes its right to repossession of its goods under clause 4(c)(iv) the Company shall not be liable for any damage or injury reasonably done in the course of so doing to any other property owned by or in possession of the Customer to which the Company's goods have been attached or in which they have been incorporated.

8. Claims

- (a) No claim for goods damaged in transit will be considered by the Company unless it is advised in writing within 3 days of delivery of the goods and no allowance for short delivery will be made unless:
 - (i) such short delivery is notified in accordance with clause 6(d) or (e); and
 - (ii) the Company is permitted to verify the same within 3 days of notification of the claim.
- (b) Any other claim made by the Customer in respect of weight, quality or any other matter must be advised to the Company in writing within 7 days of delivery, failing which the Customer shall be deemed to have accepted the goods.
- (c) The Customer agrees that if it uses or consumes any part of a delivery it is deemed to have accepted that delivery and to have waived any claim or right to claim against the Company in respect of it.

9. Warranties and Liability

- (a) The Company warrants that goods will correspond to their specifications as at the time of confirmation of order and as set out by the Company in such confirmation and that when supplied the goods will be within usual tolerances as to quality and finish.
- (b) The Company will replace or give credit to the Customer for any goods which do not comply with the warranty at clause 9(a) and which are accepted by the Company for replacement or credit.
- (c) Other than as set out in clause 9(a) or as expressly confirmed in writing by the Company:
 - (i) no warranty condition or representation express or implied as to description, quality or suitability of any goods hereby sold is given by the Company or deemed to have been given or implied and (to the extent permitted by statute) any statutory or other warranty condition or representation whether express or implied is hereby excluded;
 - (ii) the Company accepts no liability whatsoever for any loss or damage whether consequential or direct and whether suffered by or occasioned to the Customer the employees or agents of the Customer or a third party which may arise after the delivery of the goods.

10. Force Majeure

In the event of war, invasion, act of foreign enemy, hostilities (whether war has been declared or not), civil war, rebellion, revolution, military or usurped power, act of God, force majeure, epidemic or any other matter or occurrence beyond the control of the Company or the failure on the Part of the Customer to make due and timely supply of all materials and/or data and specifications as may be required and agreed as terms of the acceptance of any order by the Company, the Company shall be relieved of all liabilities incurred under the contract wherever and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a

consequence of any such event or by the Statute Rules regulations Orders or Requisitions issued by any Government Department Council or other duly constituted authority or from strikes, lock-outs or other withdrawal of labour force, breakdown of plant or any other causes (whether or not of a like nature) beyond the Company's control.

11. Law and Jurisdiction

- (a) The contract is deemed to be made under and in accordance with English law.
- (b) Any dispute under the contract shall be subject to the exclusive jurisdiction of the Courts of England and Wales.