

**THE LAWTON TUBE COMPANY LIMITED**

## STANDARD CONDITIONS OF SALE

## 1. FORMATION OF CONTRACT

No binding contract shall be deemed to have been effected until confirmed, in writing, as such by the Seller; quotations, price lists and other publications of the Seller do not constitute offers.

## 2. APPLICATION OF CONDITIONS

2.1 These Conditions shall apply to all contracts for the sale of goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order confirmation of order or similar document. All orders for goods shall be deemed to be an offer by the Buyer to purchase goods pursuant to these Conditions.

2.2 Acceptance of delivery of goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.

2.3 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller

## 3. DELIVERY

Any day for delivery named by the Seller is an estimate only and in no circumstances shall the failure of the Seller to deliver on or before the named date either entitle the Buyer to rescind or terminate the Contract or make the Seller liable in any way for the consequence of any delay. Material from stock is subject to being unsold upon receipt of order.

## 4. DEFERMENT OF DELIVERY

Where the Buyer has given firm instructions for the manufacture and delivery of goods and subsequently requests the Seller to defer delivery, any goods completed will be invoiced and any goods in the process of manufacture will be completed and invoiced on completion, holding and storage charges at the reasonable cost of storage including delivery will be invoiced subsequently when applicable.

## 5. AVAILABILITY OF RAW MATERIAL AND SPECIAL TOOLS.

Contracts and orders are accepted subject to the Seller being able to obtain at all necessary times the raw materials and any special tools required to execute the order.

## 6. OWNERSHIP OF SPECIAL TOOLS

Any dies or tools made or obtained specially for an order remain the Seller's property, even when the Buyer has been charged with part cost.

## 7. SPECIFICATIONS

7.1 If the goods are to be manufactured or any process is to be applied to the goods by the Seller in accordance with a specification submitted by the Buyer:-

7.1.1 The Buyer shall supply such specification within sufficient time to enable the Seller to complete delivery of the goods by the estimated delivery date.

7.1.2 The Buyer shall indemnify the Seller against all loss damages costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

7.1.3 The Seller reserves the right to make any changes in the specification of the goods which are required to conform with any applicable statutory or EC requirements.

7.1.4 The Seller shall be under no liability in respect of any defect in the goods arising from any drawing design or other specification supplied by the Buyer.

## 8. EXPORT ORDERS

8.1 Unless the context otherwise requires any term or expression which is defined in or given a particular meaning by the provisions of "Incoterms", the definition of meaning given by the Incoterms in force at the date when the contract is made, shall have the same meaning in these Conditions or any contract for the sale or supply of goods by the Seller to the Buyer, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

8.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties on them.

## 9. WARRANTY AND DEFECTIVE GOODS

9.1 The goods shall be manufactured and supplied in accordance with the description contained in the Seller's specification (if any) and shall

be of normal industrial quality.

9.2 The Seller may from time to time make changes in the specification of the goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality of fitness for the purpose of the goods.

9.3 The Buyer shall inspect the goods on delivery and shall within 3 days of delivery notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with description or sample. The Buyer shall afford the Seller an opportunity to inspect the goods within a reasonable time following delivery and before any use is made of them. If the Buyer shall fail to comply with these provisions the goods shall be conclusively presumed to be in accordance with the contract and free from any defect or damage which would be apparent on a reasonable examination of the goods and the Buyer shall be deemed to have accepted the goods.

9.4 If the goods are not in accordance with the contract for any reason, the Buyer's sole remedy shall be limited to the Seller making good any defect or shortage by repairing or replacing such goods or if the Seller shall elect by refunding a proportionate part of the price.

9.5 The Seller shall be under no liability whatever to the Buyer for any indirect loss and or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of the contract or any of these Conditions.

9.6 In the event of any breach of the contract or these Conditions by the Seller the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the price of the goods.

9.7 All warranties and conditions whether implied by statute or otherwise are excluded from the contract and these Conditions provided that this shall not restrict or exclude liability for death or personal injury caused by the negligence of the Seller.

## 10. CLAIMS FOR DAMAGE, SHORTAGE OR LOSS

No claim for damage in transit, shortage of delivery or loss of goods in transit can be accepted unless, in the case of damage in transit or shortage of delivery, a separate notice in writing is given to the carrier concerned and to the Seller within three days of the receipt of goods, followed by a complete claim in writing within five days of receipt of goods, and in the case of loss of goods, notice in writing is given to the carrier concerned and to the Seller, and a complete claim in writing made within twenty one days of the date of the consignment. Where goods are accepted from the carrier concerned without being checked, the delivery book of the carrier concerned must be signed "not examined".

## 11. FORCE MAJEURE

11.1 The Seller shall not be liable to the Buyer or be deemed to be in breach of the contract or these Conditions by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the goods if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control:-

11.1.1 Act of God, explosion, flood, tempest, fire or accident.

11.1.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition.

11.1.3 Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority.

11.1.4 Import or export regulations or embargoes.

11.1.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party).

11.1.6 Difficulties in obtaining raw materials, labour, fuel, parts or machinery.

11.1.7 Power failure or breakdown in machinery.

## 12. NOTICE OF TERMINATION OR PARTIAL DELIVERY

In the event of an outbreak of hostilities (whether war is declared or not) in which Great Britain is involved, or in the event of national emergency, or if the Seller's works should become wither directly or indirectly so engaged on the Government orders or orders under priority directions as to prevent or delay work on other orders, the Seller shall be entitled at any time, on notice to the Buyer, to make partial deliveries only or to determine the contract, without prejudice in any case to rights accrued in respect of deliveries already made.

## 13. DETERMINATION OF CONTRACT

Without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Buyer and if the goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary if:-

13.1 The Buyer fails to make any payment of the purchase price on the due date or commits any other breach of the terms of the contract or

13.2 The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an Administration Order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or

13.3 An encumbrance takes possession or a Receiver is appointed of any of the property or assets of the Buyer or

13.4 The Buyer ceases or threatens to cease to carry on business or the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

## 14. INDEMNITY

The Buyer will indemnify the Seller against all damages, penalties, costs and expenses to which the Seller may become liable as a result of work done in accordance with the Buyer's specification which involves the infringement of any letters patent or registered design or copyright.

## 15. PRICE VARIATION

Prices at which orders are accepted by the Seller will remain firm except only as follows:-

### 15.1 Raw Materials

Where a quantity (whether all or part of an order) specified for delivery at one time has a nominal weight totalling over 150kg and is accepted for delivery longer than six months from the date of acceptance of the order, the price will be based on raw material prices ruling six months before delivery is due and raw material prices will be held firm for this period. In the event that the Buyer subsequently defers delivery beyond the prescribed six months' period, the Seller reserves the right to charge interest at a rate up to 1.5 times the official U.K. clearing banks base lending rate on the value of the raw material outstanding.

## 15.2 Costs Other Than Raw Materials

If orders are accepted for delivery longer than three months from the date of acceptance thereof the price will be subject to variation for costs (other than raw material prices) in accordance with such variations.

## 16. RISK AND TITLE

16.1 Risk shall pass to the Buyer so that the Buyer is responsible for all loss, damage or deterioration to the goods:-

16.1.1 If the Seller delivers the goods by its own transport at the time when the goods or a relevant part thereof arrive at the place of delivery or,

16.1.2 In all other circumstances at the time when the goods or a relevant part thereof leave the premises of the Seller whether or not the Seller arranges transport and where the goods are delivered by carrier any claims for loss or damage in transit must be made by the Buyer against the carrier in accordance with the carriers conditions.

16.2 In spite of delivery having been made, property in the goods shall not pass from the Seller until:-

16.2.1 The Buyer shall have paid the purchase price for the goods plus VAT in full and

16.2.2 No other sums whatever shall be due from the Buyer to the Seller.

16.3 Until property in the goods passes to the Buyer in accordance with Clause 16.2, the Buyer shall hold the goods and each of them on a fiduciary basis as bailee for the Seller. The Buyer shall store the goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Sellers property.

16.4 The Seller shall be entitled to recover the price (plus VAT) notwithstanding that property in any of the goods has not passed from the Seller.

16.5 Until such time as property in the goods passes from the Seller, the Buyer shall upon request deliver up such of the goods as have not ceased to be in existence or resold, to the Seller. If the Buyer fails to do so, the Seller may enter upon any premises owned occupied or controlled by the Buyer where the goods are situated and repossess the goods.

16.5 Until such time as the property in the goods passes to the Buyer, the Buyer shall keep the goods separate from those of the Buyer and third parties and properly stored protected and insured and identified as the Seller's property, but the Buyer shall be entitled to resell or use the goods in the ordinary course of its business.

## 17. CANCELLATION

No order or contract may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit) costs, including the costs of all labour and materials used, damages charges and expenses incurred by the Seller as a result of cancellation.

## 18. PAYMENT OF ACCOUNTS

The Seller reserves the right to charge interest at a rate (both before and after any judgment) of up to 4% above Barclays Bank plc Base Lending Rate ruling at the time payment is due if payment is not made in accordance with the terms agreed at the time the order is accepted.

## 19. ERRORS OR OMISSIONS

Errors or omissions in any sales literature quotation price list acceptance of offer invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

## 20. V.A.T

The prices quoted are exclusive of VAT which will be added to the invoice at the rate then current and appropriate to the transaction.

## 21. LAW APPLICABLE

All contracts shall be deemed as subject to the Law of England, and the parties hereto hereby submit to the jurisdiction of the English Courts.

## 22. NOTICES

Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.