

## Amco of Doncaster Ltd - CONDITIONS OF SALE

**1. DEFINITIONS** - “the Company” – Amco of Doncaster Ltd, “the Order” - the order or request to purchase, “the Customer” – the purchaser named in the order and includes its servants and agents, “the Goods” – the goods listed in any order [including any instalment of the goods or any part or parts of them], “the Contract” – the contract for the sale of the goods of which these terms and condition form part.

**2. CONTRACT** - Unless the contrary is expressly agreed in writing by the Company, the terms and condition set out herein shall apply to all contracts for the supply of goods by the Company, and shall apply in place of and prevail over any terms or conditions contained, or referred to in the Order, or in correspondence or elsewhere or implied by trade, custom practice or course of dealing.

**3. ACCEPTANCE** - [a] A quotation by the Company does not constitute an offer and the Company reserves the right to withdraw or revise the same at any time prior to the Company’s acceptance of the Order.

[b] No valid contract shall exist unless the Company has communicated its acceptance of the Order in writing to the Customer, or has delivered Goods to the Customer or the Customer has collected the Goods. The Company shall use its best endeavours to fulfil all orders which it has accepted, but shall be under no obligation to the Customer for failure to fulfil any orders otherwise than through its own default.

[c] The quantity, quality and description of and any specification for the Goods shall be those set out in the Order. The Customer shall be responsible to the Company for the accuracy of the terms of the Order [including any applicable specification] and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

[d] If the Goods have to be specially ordered and are to be manufactured or any process is to be applied to the Goods by the Company in accordance with any specification or designs submitted by the Customer, the Customer shall indemnify the Company against all loss, damage. Costs and expenses awarded against or incurred by the Company, in connection with, or paid or agreed to be paid by the Company in settlement of any claim, which results directly or indirectly, from the Company’s use of any such specifications or designs, including, without limitation, any claim which relates to any of the following matters - [i] any infringement of any patent, copyright, registered design, trade or service mark, confidential information or other industrial or intellectual property rights; [ii] any claims for loss, damage or injury of or to property or person by reason of any defect, inherent or otherwise, in the Goods or in respect of any negligence of the Customer or its employees.

[e] The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are supplied to the Company’s specification, which do not materially affect their quality or performance.

[f] No Order, which has been accepted by the Company, may be cancelled by the Customer except with the agreement in writing of the Company and on the terms that the Customer shall indemnify the Company in full against all loss [including, without limitation. Loss of profit], costs [including, without limitation, the cost of all labour and materials used], damaged, charges and expenses incurred by the Company as a result of cancellation.

**4. DELIVER & RISK** - [a] Risk in the Goods shall pass to the Customer on delivery. Delivery shall be deemed to take place when the Company has transported the Goods to the Customer or to the Customer’s agent or the Customer or his agent has collected the Goods.

[b] The Company will make every reasonable effort to meet delivery dated requested by the Customer, but any date or time of delivery quoted by the Company shall be an estimate only and time shall not be of the essence of the contract. The Company shall not be liable for any loss sustained by the Customer through delay in delivery for whatever reason. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer.

[c] The Company reserves the right to make partial deliveries and to submit an invoice for each such partial delivery.

[d] Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract, and failure by the Company to deliver any one or more of the instalments in accordance with these terms and conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the customer to treat the contract as a whole is repudiated.

[e] If the Customer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery [otherwise than by reason of any cause beyond the Customer’s reasonable control or by reason of the Company’s fails] than, without prejudice to any other right or remedy available to the Company, the Company may:- [i] store the Goods until actual delivery and charge the Customer for the reasonable costs [including insurance] or storage; or [ii] sell the Goods at the best price readily obtainable and [after deducting all reasonable storage, insurance and selling expenses] charge the customer for any shortfall below the price under the Contract.

**5. PRICES** - [a] Prices quoted apply only to orders for not less than the quantity of the goods referred to in the quotation. If the Company incurs additional expenditure as a result of any suspension or delay resulting from the Customer’s instructions or otherwise as a consequence of the Customer’s fault or from any factor beyond the control of the Company the price shall be adjusted accordingly.

[b] Except as otherwise stated under the terms of any quotation or in any price list of the Company, and unless otherwise agreed in writing between the Company and the Customer, all prices are given by the Company on an ex works basis, and where the Company agrees to deliver the Goods, otherwise than at the Company’s premises, the Customer shall be liable to pay the Company’s charges for transport, insurance and installation and all other expenses incidental to delivery.

[c] Unless otherwise stated, all prices quoted are exclusive of any applicable value added or sales tax, which the Customer shall be liable to pay to the Company.

[d] The Customer shall reimburse the Company in full for any additional taxes, duties, levies or surcharges paid by the Company in respect of the sale of the Goods.

**6. TERMS OF PAYMENT** - [a] The company will invoice the Customer for the Goods on or after the date of delivery of the Goods, unless the Goods are to be collected by the Customer or the Customer fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Customer for the price at any time after the Company has notified the Customer that the Goods are ready for collection or [as the case may be] the Company has tendered delivery of the Goods. Payment in full for the amount shown on the invoice must be made within 30 days of the end of the month of invoice. The Customer’s account may be placed ‘on stop’ if not paid by the 10<sup>th</sup> thereafter. [b] Any sums overdue shall carry interest at the rate of 4% above Royal Bank of Scotland’s base rate per annum; which interest shall accrue daily both before and after judgement and be recoverable from the Customer as a separate contract debt; and the Company’s acceptance of any principal sum exclusive of interest shall not be a waiver of the Company’s right to recover the interest thereon. [c] The Company reserves the right to suspend, without further liabilities to the Customer, further supplies to the Customer if the terms of payment are not met.

**7. TITLE** - [a] The acceptance by the Company of any order for Goods shall constitute an agreement to sell the Goods and not be a sale of then and no title to the Goods shall pass to the Customer by reason of delivery or acceptance of the same. [b] The Company shall remain the sole and absolute owner of the Goods until such time as the price of the Goods any other sums owed by the Customer to the Company shall have been paid in full by the Customer to the Company. Until such time, the Customer shall hold the Goods as the Company’s fiduciary agent and bailee and shall not resell the Goods and shall keep them on its premises, separately from its goods or those of any other person, properly stored. Protected and insured and in a manner which makes them readily identifiable as the Goods of the Company. [c] The Customer’s right to possession of the Goods shall cease if and as soon as any of the events specified in Clause 8 occurs. [d] If payment of the price of the Goods or any other sum owed by the Customer to the Company is overdue in whole or in part, the Company may [without prejudice to any of its other rights] recover the Goods or any of them and the Customer shall be deemed to have granted to the Company an irrevocable license to enter upon the Customer’s premises for that purpose.

**8. INSOLVENCY OF CUSTOMER** - [a] The customer shall make default in or commit a breach of any of its obligations to the Company [whether under the Contract or otherwise]; or [b] any distress, execution or other legal process is levied upon any of the Customer’s assets; or [c] the Customer shall make any arrangement of composition with his or its creditors or call a meeting of his or its creditors or is unable to pay his or its debts or [being a corporation] shall enter into liquidation or have a winding-up petition or a petition for the appointment of an administrator presented against it or suffer the appointment of a receiver or an administrative receiver in respect of any part of its undertaking or assets; or [d] the Customer stops payment of its debts or ceases or threatens to cease carrying on its business or a substantial part thereof the Company may elect, without prejudice to its other rights or remedies, either to proceed with its performance of contracts then subsisting with the Customer, to cancel such contracts, or to suspend deliveries without liability to the Customer. In the latter two cases the Customer shall remain liable to indemnify the Company against all costs incurred by the Company in connection with such contracts up until their cancellation or the suspension of deliveries. All sums then outstanding to the Company shall become immediately due and payable in full, notwithstanding any prior agreement to the contrary. [e] We reserve the right to invoice the customer for costs involved in legal proceedings prior to any action being taken.

**9. LOSS OR DAMAGE IN TRANSIT** - [a] Where the price quoted includes delivery other than at the Company’s premises, liability [if any] of the Company shall be limited, as follows:- [i] in the case of a claim for lost or damaged Goods, to the replacement of the Goods in respect of which such claim is made; [ii] in the case of a claim for delivery of the wrong number of Goods, to making good any shortfall; [iii] in the case of a claim for delivery of incorrect Goods, to the delivery of the correct Goods; or in any of the above cases, at the Company’s discretion, refunding the price paid.

**10. FORCE MAJEURS** - The Company shall not incur any liability whatsoever under this contract for any delay in or failure to carry out its obligations to the extent that such failure is caused by force majeure [which expression shall include without prejudice to its generality, act of God, war, riot, Acts of sabotage or subversive activity, insurrection, governmental regulations, legal restrictions, import or export regulations embargoes, strikes, labour disputes, shortages, or any other cause beyond its control]. If performance of their Contract is prevented for three months by force majeure either the Company or the Customer may, upon 30 days notice to the other terminate this contract with respect to any portion unperformed.

**11. GENERAL** - [a] Any failure by the Company to exercise or enforce any of its rights under these conditions shall not be deemed to be a waiver of any such rights nor operate to bar the exercise or enforcement thereof at any time thereafter.

[b] The unenforceability or invalidity of any one or more of the conditions shall not affect the enforceability or validity of the remaining conditions.

[c] The words “in writing” wherever they appear shall be deemed to include both typewriting and transmission by telex or fax. [d] Proper Law - The Contract shall be governed by and construed in accordance with English law, and all disputes arising hereunder shall be submitted to the non-exclusive jurisdiction of the English Courts.