

STELSTOCKS LIMITED CONDITIONS OF SALE

In these conditions "The Company" means **STELSTOCKS** Limited

1. (a) The Company's quotations are not binding on the Company and a contract (hereinafter referred to as "the contract") will only come into being upon acceptance by the Company of the Buyer's order and the following conditions shall be deemed to be incorporated therein.
(b) The contract will be subject to these conditions. All terms and conditions appearing or referred to in the Buyer's order or otherwise stipulated by the Buyer shall have no effect. Any variation of the contract must be confirmed in writing by the Company.
(c) The Company's acceptance of the Buyer's order shall be conditional upon approval of the Buyer's credit. Where such approval has not been given cash must accompany the order.
(d) These conditions are stipulated on behalf of the Company and on behalf of all its employees and agents and apply for their benefit as for that of the Company and the Buyer shall not sue or make any claim against any employee or agent of the Company in respect of any alleged negligence and/or other default on the part of the Company and/or any such person in relation to the contract.
(e) Any order submitted by the Buyer shall be accompanied by sufficient data, information and (where relevant) samples to enable the Company (should the offer be accepted) to proceed with the order forthwith.
(f) Quotations shall only be available for acceptance for a maximum period of one week from the date thereof and may be withdrawn or altered by the Company within such period at any time without notice.
(g) Materials from stock are offered subject to the same being unsold upon receipt of the order.
(h) If any statement or representation has been made to the Buyer other than in any documents which may have been enclosed with the Company's quotation and upon which the Buyer relies, the Buyer must set out that statement or representation in a document to be attached to or enclosed on its order, in which event the Company may clarify the point and submit a new quotation.
(i) Illustrations, weights, measures, performance capabilities, application, suitability, information and other data set out in the sales literature of the Company are statements of opinion only and are provided, for information only, form no part of the contract and are not warranted.
2. (a) No binding contract is created until an order is accepted by the Company. Prices quoted are subject to revision for errors and omissions at any time. All previous correspondence, writings, telexes, telefaxes, telegrams or oral communications are to be regarded as superseded and not forming part of the contract. The Company cannot be held responsible for any inaccuracies arising in orders placed by telephone which are not confirmed in writing before a commitment of raw material has been placed.
(b) The price quoted represents the current price of the Company ruling at the date of quotation and the Buyer accepts the trade usage that the contract price shall be the current price of the Company exclusive of VAT ruling at the date of despatch.
(c) All prices are stated net ex works.
(d) The cost of packaging or bins if required by the Buyer shall unless otherwise stated be charged extra. The cost of packing cases, bins and boards will be credited in full to the Buyer on their return to the Company, in good condition carriage paid.
3. When certification is requested by the Buyer the Company reserves the right to charge for any certificates supplied
4. Dates or periods for delivery stated in the contract are only approximate not essential terms unless in the circumstances of any particular case the parties agree guaranteed delivery dates and the contract so provides. Except as provided in Clause 5 hereof delays in delivery shall give no right to cancel the contract.
5. Should delivery of any of the goods whether by the Company or an independent carrier be prevented or hindered directly or indirectly by fire, the elements, war, civil commotion, strikes or lock-outs, industrial dispute, shortage of raw materials of fuel notwithstanding that the Company has taken all reasonable steps to procure the same, shortage of labour, breakdown or partial failure of plant or machinery, late receipt of the Buyer's specification or other necessary information, acts, orders or regulations of Governments, or directives of the Commission of the European Communities, delay on the part of any independent sub-contractor or supplier or any cause whatsoever beyond the reasonable control of the Company concerned with the delivery of the goods then, notwithstanding any warranty modifying the provisions of Condition 4 herein, the time for delivery of the goods shall be extended for a reasonable period having regard to the effect of the delaying cause on the delivery of the goods.
6. The parties may by agreement in writing cancel the contract of any deliveries thereunder if delivery of any goods is likely to be delayed by reason of the causes or events referred to in the last preceding condition and:
(a) The goods have been lost, destroyed or irreparably damaged, and
(b) The delay is likely to continue so long that the Buyer will need to acquire substitute goods from a source other than the Company, and the Buyer has promptly notified the Company of the consequences of such delay, and
(c) The Buyer shows to the reasonable satisfaction of the Company that the conduct of its operations is likely to be seriously affected by the lack of goods or that the Buyer is in peril of being in breach of a contractual obligation to a third party, then the Company may at the request of the Buyer agree to the cancellation of the delivery of those goods provided that all costs and expenses incurred by the Company up to the time of cancellation are reimbursed by the Buyer forthwith. The Company shall have no liability to the Buyer in the event of such cancellation.
7. (a) Delivery of the goods shall take place at the delivery points specified in the contract.
(b) Without prejudice to other conditions receipt or delivery note signed by or on behalf of a Buyer or by its purported agent, employee or carrier or a statement that goods have been duly delivered signed by an agent, employee or carrier of the Company shall be conclusive proof that goods have been duly delivered and as to the date and time of delivery.
(c) If the contract provides for the Buyer to collect the goods, delivery shall take place at the works from which the goods are to be collected and the Buyer shall collect them without delay. If the goods are not collected by the Buyer within 3 days of being so notified, the Company may despatch the goods itself by such means of transport as the Company may choose at the Buyer's expense and risk or store them at the expense and risk of the Buyer.
(d) Where the contract provides for delivery of the goods elsewhere than at the Company's site, the Company will entertain a claim by the Buyer in respect of loss or damage in transit only if the Buyer
(i) gives written notice to the Company within 21 days of the despatch of the goods in the case of non-delivery or within 7 days of the despatch of the goods in the case of any damage in transit
(ii) where the goods are transported by an independent freight carrier, complies in all respects with the freight carrier's conditions of carriage for notifying claims for loss or damage in transit.
(e) The Company reserves the right to charge to the Buyer any costs, charges or expenses incurred by the Company as a result of vehicle or wagon detention and demurrage of ships in consequence of any act or omission of the Buyer, its servants or agents or as a result of special requirements or stipulations of the Buyer not provided for in the contract.
(f) (i) Any marine insurance required to be effected by the Company under the contract shall unless otherwise agreed in writing be 10% over the invoice price and shall cover the interest from the commencement of transit to the destination named in the contract as provided and contained in the Institute's Strikes Clauses, current at the time of shipment.
(ii) Except as varied by these conditions or otherwise agreed in writing the commercial terms in the contract such as CIF and C & F shall have the meaning assigned to them by Incoterms 1980 Edition, including any additions or amendments thereof.

8. (a) All weights and dimensions quoted are subject to recognised tolerance.
- (b) Steel bars, sections and tubes may be purchased by the Buyer in random lengths or cut to size. Where the Buyer requires cut lengths the recognised margin for cutting shall apply.
- (c) The Company shall not be liable for any discrepancy with regard to weights, measures or quantities of materials supplied unless the Buyer has notified the Company in writing of such discrepancy within seven days of receipt of the goods by the Buyer or on its behalf. Reasonable opportunity of inspection and of witnessing re-weighing must be afforded to the Company before the goods have been used, processed or re-sold by the Buyer. Where any discrepancy (subject to recognised tolerances) is revealed and accepted by the Company, the Company shall rectify, replace or credit (at its option) the Buyer accordingly and no further right of action, set off or counter claim shall subsist against the Company in respect of such discrepancy
9. (a) Any offer submitted by the Buyer shall be accompanied by sufficient data, information and (where relevant) samples to enable the Company (should the offer be accepted) to proceed with the order forthwith
- (b) In the event that after the date of any quotation submitted by the Company it shall be found that any data, information and/or samples supplied by the Buyer differ in any material respect from conditions as they may in fact be or it transpires that there is an error or omission in the Buyer's instructions or the Buyer requests any special testing and/or the provision of Test Certificates or issues additional instructions, the Company shall be entitled to discharge the Contract as concluded and/or to take account of such matters.
- (c) Where the Buyer stipulates the source of Goods the Company reserves the right when it considers necessary to supply goods of the standard and quality specified by the Buyer but from an alternative source to that stipulated and the Company shall not thereby incur any liability and the Buyer will not be entitled to reject the Goods.
- (d) Where samples are or are to be supplied by the Company, no work will be undertaken by the Company with the regard to the bulk of the Buyer's order unless and until the Buyer shall have notified the Company in writing that the samples supplied are in all respects satisfactory to the Buyer.
10. (a) Unless the parties have expressly agreed in writing to modify this condition then any condition or warranty, statement or undertaking as to the quality of the goods or their fitness or suitability for any purpose however and whenever expressed or which may be implied by statute, custom of the trade or otherwise is hereby excluded.
- (b) 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 Customer shall satisfy itself that the goods are suitable for any product or application for which they are to be used before the goods are incorporated into such product or application.
- (c) In no event will the Company be liable:-
- (i) in respect of goods which are given unfair or improper usage or which are used for any purpose other than that for which supplied or in abnormal working conditions;
- (ii) in respect of goods which have been damaged or altered or repaired in any manner after delivery;
- (iii) for fair wear and tear;
- (iv) in respect of goods which have been used after discovery of defect.
11. Where the contract provides for testing or inspection of the goods by or on behalf of the Buyer before delivery, then upon the Company giving notice of the availability of the goods for inspection/testing the Buyer shall inspect and/or test the goods within 7 days of such notice. If the Buyer does not inspect, or test the goods within the time specified or if within 14 days of such testing or inspection the Buyer does not notify the Company in writing that the goods are not in accordance with the contract, specifying the matters complained of then the Buyer shall conclusively be deemed to have accepted the goods as being in accordance with the contract and shall not thereafter be entitled to reject the goods on the grounds of anything which such testing or inspection has or would have revealed.
12. The Buyer shall be deemed to have accepted the goods and it shall be conclusively agreed that the goods are in accordance with the contract unless:
- (a) The Buyer gives notice in accordance with the provisions of Condition 11
- (b) within 21 days after receipt of the goods and prior to their use or re-sale the Buyer serves upon the Company a written notice specifying any defect in the quality or state of the goods which would be apparent upon careful inspection or by such testing as it is reasonable in all the circumstances for the Buyer to undertake or stating why the goods are not otherwise in accordance with the contract and thereafter provides to the Company a reasonable opportunity of inspecting or testing the goods before they have been used or processed; or
- (c) if a defect in the quality or state of the goods would not be apparent upon careful inspection or reasonable testing the Buyer serves upon the Company written notice of such defect forthwith upon its discovery and in any event not more than 6 months after the receipt of the goods specifying the matters complained of and affording to the Company a reasonable opportunity of inspecting the goods before any making good or replacement is undertaken. The Buyer shall not be excused from providing such opportunity 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. Any dispute between the parties as to whether any goods are defective in quality or state or otherwise not in accordance with the contract shall be referred in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force to a single arbitrator to be agreed between the Company and the Buyer or in default of agreement to be nominated by the President for the time being of the Law Society.
13. Provided that the Buyer has complied with the requirements as to notice in Conditions 11 or 12 whichever may be applicable and subject to the provisions of Condition 15 herein, if the goods or any part thereof are defective in quality or state (taking into account usual mill tolerances) or (save for discrepancy in weight or quantity) otherwise not in accordance with the contract then, if the Company and the Buyer do not agree that the Buyer should accept the goods at an agreed value or that the goods should be made good at the Company's expense the Company undertakes to accept a return of the relevant goods and at the Company's option either to
- (a) repay or allow the Buyer the invoice price thereof (including freight) and any reasonable transport costs incurred by the Buyer in carrying the relevant goods from the place of original delivery of such goods to the Company's site or to such other place as the Company may nominate, or
- (b) replace the goods by delivering replacement goods to the original place of delivery as soon as may be reasonably practicable.
14. (a) The Buyer's remedies in respect of any claim under Condition 13 hereof and of any condition or warranty implied by law and of any other claim in respect of the goods or the quality or workmanship thereof shall in all cases (whether or not involving negligence or breach of contract on the part of the Company) be limited to the matters specified under Condition 13 hereof and the Company shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses, or other liabilities whether direct or consequential and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law. A claim in respect of any defect or failure to comply with the specification or contract or in respect of any delivery or installment of a contract or any part thereof shall not entitle the Buyer to cancel or refuse delivery of or payment for any other order, delivery or installment of any part of the same order, delivery or installment. The Company require a reasonable period of time to carry out any replacement.

- (b) The Buyer shall be solely responsible for and shall indemnify the Seller against, all liabilities, losses, damages, costs, expenses, actions, claims, demands and proceedings whatsoever incurred by the Seller (without limitation, whether under the Health and Safety at Work etc Act 1974, the Consumer Protection Act 1987 or otherwise) in relation to any handling, storage, use, consumption or supply of the good other than in strict accordance with the Seller's instructions, warnings, data sheets and other written material supplied by the Seller in connection with the goods
- 15 (a) Where the contract states that the goods are sold as "other than prime", "no warranty" or by any such similar description or where goods are accepted by the Buyer pursuant to Condition 13 hereof and the Company and the Buyer agree that such goods are sold as "other than prime", "non-prime", "no warranty" or by any such similar description then in all cases such goods are sold in their actual state as seen without warranty and with all faults whether or not the goods have been inspected by the Buyer prior to delivery. Any statement, specification, description or other information provided by the Company in respect of such goods is given in good faith but the Company can accept no responsibility for its accuracy. Under no circumstances will the Company be under an obligation to replace or make good such goods or entertain any claim whatsoever in respect thereof.
- (b) If the Buyer shall re-sell such goods the Buyer shall ensure that provisions in similar form to those set out in this clause 15 are incorporated in the resale agreement unless prior to reselling the goods the Buyer has caused the goods or such part of the goods as the Buyer resells to comply with a recognised specification or standard.
16. (a) Each part delivery or installment of the goods shall be deemed to be sold under a separate contract. Delivery to the Buyer of a quantity of goods less than that which the Company has agreed to sell shall under no circumstances entitle the Buyer to reject the goods delivered.
- (b) Where the contract provides for a quantity of goods to be called off from time to time the Buyer shall not be entitled to bring forward and/ or postpone the time or dates for call off or delivery of the goods without the prior written consent of the Company. The Buyer shall be liable to the Company for all costs and losses occasioned by any such variations which are not specifically agreed with the Company.
17. (a) Notwithstanding that risk in the goods shall pass to the Buyer upon delivery, full legal and equitable title and interest in all and any goods shall remain in the Company and shall not pass to the Buyer until the Company shall have received payment in full of all amounts due and owing from the Buyer to the Company for the time being (including any interest accruing and owing to the Company) and from time to time in respect of all such goods and all other goods supplied by the Company to the Buyer at any time.
- (b) During such time as title in the goods remains in the Company, the Buyer shall store or otherwise keep the goods in such a way as clearly to indicate at all times that the goods are owned by the Company and shall not remove, obscure or delete any mark placed on the goods by the Company which may enable the goods to be identified.
- (c) If during such time as title in the goods remains in the Company any of the goods are incorporated in or attached to or used as material for or in the manufacture of other goods the property in the whole of such goods shall vest in and remain with the Company and the Buyer shall hold such goods as bailee of and to the order of the Company until the Company has received payment in full in respect of the goods and all the Company's rights in relation to the goods (including its rights under this agreement) shall extend to such goods.
- (d) During such time as title in the goods remains in the Company, the Buyer shall have power to deal with or use the goods (and other goods in which the products are incorporated) as fiduciary bailee of the Company in the normal course of its business and to dispose of the goods or such goods by way of bona fide sale at full market value.
- (e) If the Buyer shall sell any of the goods it shall hold all the proceeds of sale as trustee for the Company and shall (until payment of amounts due to the Company) place such proceeds in a separate bank account and hold the same to the order of the Company and if the Buyer shall sell any goods incorporating the goods it shall hold so much of the proceeds of sale as relate to the goods as trustee for the Company and shall (until payment of amounts due to the Company) place such proceeds in a separate bank account and hold the same to the order of the Company
- (f) Upon any such sale by the Buyer of the goods or goods incorporating the goods all rights which the Buyer may have against the purchaser of them shall automatically vest in the Company. The Buyer shall indemnify and keep indemnified the Company in respect of any proceedings, action or claim of any nature whatever made or brought by the said purchaser against the Company in respect of the goods or any of them.
- (g) Without prejudice to any other rights or remedies arising out of any breach of contract by the Buyer, the Company shall be entitled to repossess all or any of the goods incorporating such goods and to take possession of all or any of the goods incorporating such goods upon the happening of any of the events specified in clause h
- (h) For the purpose of any repossession pursuant to sub-clause g The Company or its agent shall be entitled to enter upon any relevant land or buildings with such transport as may be necessary. All costs incurred by the Company or its agent in such repossession shall be borne by the Buyer.
- (i) The risk in all goods supplied under this agreement shall remain with the Company during transportation to the Buyer's place of business or as the case may be. Notwithstanding that the title in the goods may not have passed in accordance with the provisions of this clause, the risk in all goods shall pass to the Buyer upon delivery of the item concerned to the Buyer's place of business. The Buyer shall at its own expense take out and secure the continuance of an all-risk insurance policy in respect of all goods supplied in accordance with this agreement to their total value at replacement cost. Such policy shall cover the goods from and including the date on which they are delivered to the Buyer's place or business. The Buyer shall procure that the Company's interest in the goods shall be recorded by an endorsement on the policy specifying the Company as loss payee (and shall provide the Company with a copy of it) and (to the extent that the Company has not received full payment in respect of any goods) any sums which are received under any such policy may be credited against any sums owing from the Buyer to the Company.
- (j) The Buyer warrants that it is not at the time of entering into this agreement insolvent and knows of no circumstance which would entitle any creditor to appoint a receiver or to petition for winding up or to exercise any other rights over or against its assets.
18. The Company shall be entitled without prejudice to its other rights and remedies either to terminate wholly or in part any or every contract between itself and the Buyer or to suspend any further delivery under any or every contract in any of the following events :
- (a) if any debt is due and payable by the Buyer to the Company but is unpaid
- (b) if the Buyer has failed to provide any letter of credit, bill of exchange or any other security required by the contract provided that in such event the aforesaid rights of termination or suspension shall apply only in regard to the particular contract in respect of which the Buyer shall have so failed
- (c) if the Buyer has failed to take delivery of the goods under any contract between it and the Company otherwise than in accordance with the Buyer's contractual rights
- (d) if the Buyer becomes insolvent or enters into any composition or arrangement (including a voluntary arrangement) with its creditors or being a body corporate has passed a resolution for voluntary winding up except where solely for the purpose of reconstruction or if a petition has been presented for an order for its winding up or for a Receiver (including an Administrative Receiver) or Administrator to be appointed or if any such order or appointment is made or if, being an individual or partnership, the Buyer suspends payment of his or their debts in whole or in part or if an application has been made for an Interim Order or a petition has been presented for a Bankruptcy Order or if any such order is made or if the Buyer whether or not a body corporate shall carry out or be subject to any analogous act or proceedings under foreign law. The Company shall be entitled to exercise its aforesaid rights of termination or suspension at any time during which the event or default giving rise thereto has not ceased or been remedied, and in the event of any such suspension the Company shall be entitled as a condition of resuming delivery under any contract between it and the Buyer to require prepayment of or such security as it may require for the payment of the price of any further delivery.

19. The Buyer shall not be entitled to withhold payment of any amount payable under the contract to the Company because of any disputed claim of the Buyer in respect of defective goods or any other alleged breach of the contract nor shall the Buyer be entitled to set off against any amount payable under the contract to the Company any monies which are then not presently payable by the Company or for which the Company disputes liability.
20. (a) Unless the contract otherwise expressly provides, the price payable by the Buyer for each delivery shall be the Company's ruling price as published in its price list current at the date of despatch to which shall be added any Value Added Tax and any other tax or duty relating to the sale or delivery of goods chargeable to the Company and (where appropriate) the applicable freight and other charges as specified in the relevant carriage tariff current at the date of despatch. Unless otherwise expressly stated in the contract the price of such delivery (including such freight and other charges) shall be paid in full and received by the Company by the last day of the month following the month in which the goods were dispatched. The Company shall be entitled to charge interest on any sums not so paid. Such interest shall be calculated on a day to day basis on the amount outstanding at the rate of 3% above the arithmetic average for each day of the published base rate of Barclays Bank pic.
(b) Payment shall be made in the currency specified in the contract. The amount of the price to be paid is that specified on the face of the contract or calculated in accordance with the formula there specified. That amount shall not be subject to any discount or deduction except as agreed in writing by the Company.
(c) The contract price for the goods is for the supply of the goods in accordance with the express terms of this contract.
21. Bundling of goods is carried out only as a means of identification and/or separation and for safety reasons the bundling wires or strapping must not be used for lifting purposes.
22. In the case of hire work and work involving the use of the Buyer's materials the Company accepts no responsibility for any distortion, fault, or defects in any such materials (howsoever arising) which appear or develop or are caused by the work and the Company gives no guarantee or warranty of any kind in relation to hire work.
23. 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. Any variation in the terms of this contract must be agreed in writing between the parties.
24. (i) This Order and the subject matter thereof shall be treated as confidential between the parties and shall not be disclosed or publicised to any third party for any reason without our prior written consent.
(ii) You will not use our name or other identity for advertising or publicity purposes without our prior written consent.
(iii) You will not copy, publicise or make available to any third party any drawings, patterns, tolling of any kind, written instructions, specifications and other technical papers, supplied by us or produced by you at our cost for the purposes of this Order, and the same shall remain our property, and must be returned to us on demand at your expense.
25. The Buyer shall indemnify the Company against all actions, costs (including the cost of defending any legal proceedings), claims, proceedings, account and damages in respect of any infringement or alleged infringement of any patent registered design, copyright, trade mark or other industrial or intellectual property rights resulting from compliance by the Company with the Buyer's instruction, whether expressed or implied.
26. The Buyer agrees upon demand to indemnify the Company against all loss, damage, injury, costs and expenses of whatever nature suffered by the Company to the extent that the same are caused by or related to:
(a) Specifications or designs given or stipulated by the Buyer to the Company in respect of goods produced by the Company for the Buyer, or
(b) Defective materials or products supplied by the Buyer to the Company and incorporated by the Company in goods produced by the Company for the Buyer; or
(c) The improper incorporation, use, processing, storage or handling of goods by the Buyer.
27. The Seller shall have a lien on any goods in Buyer's possession for all sums due at any time from the Buyer on any account and shall be entitled to keep possession of or at its option sell or dispose of the same as agent for and at the expense of the Buyer and apply any proceeds in and towards the payment of such sums on twenty-eight (28) days written notice to the Buyer.
28. In the event that, for any reason, any provision or provisions in these Conditions or any part thereof is or is held to be void, unenforceable or otherwise invalid, any contract made which incorporates these Conditions shall continue to be fully binding and all other Conditions herein, including the remainder of any Condition where the effect of some part thereof is avoided shall remain fully effective.
29. The contract shall be governed by and construed in accordance with the laws of England. The Buyer on entering into this contract submits to the jurisdiction of the English Courts.