

CONDITIONS OF SALE

Revised, as and from 1st January, 1997

General

1. The terms and conditions set out below shall apply without variation to every contract entered into by C. Brown & Sons (Steel) Ltd. And Blackbrook (CB) Limited, (the appropriate company being hereinafter referred to as "Browns") for the sale of goods or materials unless the variation thereto is expressly agreed to in writing by Browns. These terms and conditions shall apply notwithstanding any inconsistency between them and the terms and conditions of any form of contract sent by the customer to Browns. The contract for the goods or materials shall compromise the customer's order and Browns' confirmation of order.

Prices

2. Unless fixed prices have been expressly agreed by Browns the price payable by the customer shall be Browns' ruling price at the date of despatch of each delivery. Prices include delivery unless otherwise stated and are subject to the addition of VAT which will be charged at the rate applicable at the date of despatch.

Payment

3. (a) The customer shall pay Browns for goods and materials supplied in net cash on the last day of the month following delivery.
(b) Time of payment shall be of the essence of the contract.
(c) In the case of goods or materials sold by instalments each instalment shall be paid for separately and accordingly the provisions of this clause shall apply to each instalment.
(d) If for any reason whatsoever payment is not made by the due date then the customer shall be liable to pay interest on the amount unpaid at a rate of 3% per annum over Midland Bank PLC base rate for the time being in force from the due date until actual payment.
(e) Failure by the customer to make any payment hereunder by the due date shall entitle Browns at its option to cancel or suspend any contract and without prejudice to any other rights Browns may have against the customer.
(f) In the event of the issue of legal proceedings for recovery of any outstanding amount, a collection charge of £100.00 is payable by the customer and will be added to the debt outstanding in any such proceedings.

Delivery

4. (a) Any time or date quoted for delivery or performance is given as an estimate only and Browns shall not be liable for any loss or damage howsoever arising by reason of any failure on its part to deliver on such stated date.
(b) If the customer causes the delivery of the goods or materials or any part thereof to be delayed beyond the time when they should otherwise have been delivered they shall then be stored at the sole risk and expense of the customer.
(c) Browns reserves the right to withhold performance of any or all of its obligations under the contract if it considers the customer's credit status to be unsatisfactory.

Claims

5. (a) No claim for materials damaged in transit will be considered by Browns unless Browns is advised in writing within three days of receipt of the material and no allowance for claims for short weight will be made unless Browns is given an opportunity for verifying the same within three days.
(b) Any other claim made by the customer in respect of weight, quality or otherwise must be lodged with Browns within fourteen days of delivery' failing which the customer shall be deemed to have accepted the goods in accordance with the terms of the contract.
(c) Browns reserves the right to charge the customer for the cost of making good or replacing any plant, machinery and goods belonging to or in Browns care which are damaged as a result of the customer incorrectly or insufficiently describing the materials or process to be carried out by Browns.

Warranties

6. (a) With the exception of 'non-prime' goods or materials (as to which paragraph (b) below shall apply) Browns warrant that the goods or materials are within usual mill tolerances as to quality and finish and will replace or refund the price of any goods which do not comply with this warranty and which are accepted by Browns for replacement or refund.
(b) Goods or materials sold as 'non-prime' are sold in their actual state, as seen, without warranty and with all faults whether or not the goods or materials have been inspected by the customer prior to delivery. Any statement, specification, description or other information provided by Browns in respect of such goods or materials is given in good faith but Browns can accept no responsibility for its accuracy. Under no circumstances will Browns be under an obligation to replace or make good such goods or materials or entertain any claim whatsoever in respect thereof. If the customer shall re-sell such goods or materials the customer shall ensure that a provision in similar form to this condition is incorporated in the re-sale agreement unless prior to reselling the goods or materials, the customer has caused the goods or materials or such part of them as the customer resells to comply with a recognised specification or standard.

- (c) Subject to paragraph (a) above no warranty condition or representation express or implied as to description, condition, quality or suitability of any goods hereby sold is given by Browns or deemed to be or 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 and extinguished.
- (d) To the extent aforesaid Browns accepts no liability whatsoever for any loss or damage whether consequential or direct and whether suffered by or occasioned to the customer or a third party which may arise after delivery of the goods or materials.
- (e) In the light of the great disparity between Browns' charges for processing materials and the possible value of the items processed, their liability for any loss or damage to materials whether or not caused by negligence, is limited to three times the contract price or £500 whichever is the lesser.
- (f) If the customer should require increased cover against the risk of damage or loss in excess of the above limitation, then, provided this is indicated prior to receipt of their materials for processing, Browns will be pleased to submit a revised quotation.

Test Certificates

7. Browns shall not be required to supply Test Certificates unless the same are requested a reasonable time before delivery and Browns may charge a reasonable fee for certificates supplied.

Termination or Suspension

8. Without prejudice to any of its other rights Browns may terminate the contract or suspend further deliveries to the customer in the event of a customer failing to make due payment for any goods or materials or if any distress execution or other legal process shall be levied upon the customer or if the customer becomes insolvent or being a body corporate has passed a resolution for voluntary winding up or is subject to a winding up order of the Court or has had a Receiver appointed.

Property

9. Property in or title to goods and materials supplied by Browns shall not pass to the customer until all monies due and owing from the customer to Browns on any account have been paid in full. The customer hereby authorises Browns to enter upon any of the premises of the customer for the purpose of repossessing any goods or materials supplied by Browns under any contract and in respect whereof the property therein has not passed to the customer.

Risk

10. Risk in respect of goods shall pass upon delivery. Where goods are delivered by Browns' own transport delivery shall be deemed to take place at the moment the goods are lifted from the delivery vehicle. Where goods are delivered by other means of transport delivery shall be deemed to have taken place when the goods are loaded onto the road or rail vehicle used.

Proper Law

11. The contract between Browns and the customer shall be deemed to have been made in England and shall be governed in all respects by English Law and the customer shall submit to the jurisdiction of the English Courts.

Hazards of Processing

12. (a) The customer is reminded of the associated hazards of processing their materials for example, cracking, distortion, failure to respond to heat treatment, and the effects of hardenability, sharp corners, segregation, manufacturing history, section, size, etc. The customer hereby acknowledges that the contract is entered into in full knowledge, awareness and acceptance of such hazards and effects.
(b) Advice on any processing is given by Browns in good faith within the degree of information given by the customer. Browns accepts no liability for work so processed and subsequently found to be outside specification or in any way unsuitable for further manufacturing operations.

Unsuitability of Goods

13. It shall be the customer's responsibility to ensure that their materials supplied are suitable for the process to be undertaken by Browns. Browns reserves the right, however, to exercise its sole discretion to discontinue any processing immediately if they consider that the materials are unsuitable for such processing in accordance with their quotation. Browns shall thereupon notify the customer of the outstanding charges in respect of work carried out and services performed up to the date of such discontinuance and the customer shall pay the same in accordance with 3(a) above

Browns as Bailee

14. Where the customer's materials are delivered to Browns but without sufficiently precise instructions for processing or where such materials are not suitable for such processing Browns reserves the right to make a reasonable charge for the storage thereof either at the premises of Browns or of a third party. If the customer fails to collect materials, after being requested to do so, being either processed by Browns or unprocessed for lack of such instructions or unsuitability, Browns reserves the right to sell such materials whereupon they shall account to the customer for the proceeds of sale after deducting their charges for processing the materials (if applicable), the storage thereof and the costs of such sale.