

Coopers Needle Works Limited

Terms & Conditions of Sale

“CNW” means Coopers Needle Works Limited;

“Goods” means goods sold under these Terms and Conditions of Sale;

“Liability” means actions, awards, costs, claims, damages, losses (including without limitation any direct or indirect consequential losses), demands, expenses, loss of profits, loss of reputation, judgments, penalties and proceedings and any other losses and/or liabilities; and

“Price” means the price of the Goods as set out in clause 3.

1. **Property in Goods**

1.1 Unless it is agreed otherwise in writing, until the Price is paid in full, together with the payment of any interest and other sums due from the Buyer in respect of the Goods, the Goods shall remain the property of CNW, regardless of any processing or incorporation by the Buyer, and unless the Buyer processes the Goods or incorporates them into other products in the ordinary course of business, the Buyer shall carefully store the Goods in such a way as to enable them to be identified as the property of CNW. The Buyer shall keep the Goods insured against all loss and damage howsoever caused at its own expense. If the Buyer shall sell or dispose of the Goods to any third party before the Price has been paid in full, he shall not give any warranties or incur any liability on behalf of CNW in connection with the sale or disposal of the Goods and any proceeds resulting therefrom (or claims to such proceeds) shall belong to CNW to the extent of such sums due from the Buyer to CNW in respect of the Goods. Failure on the part of the Buyer to pay the Price when due shall give CNW the right (without prejudice to any other remedies) to re-possess the Goods with or without prior notice and to enter upon any premises in which the Goods may be for the purpose of repossession.

2. **Packing**

2.1 CNW shall use its discretion in packing Goods and shall not be liable for any damages or consequential expenses caused by the unsuitability of packing or by defective packing except where CNW has negligently failed to pack the Goods in accordance with specific written instructions of the Buyer accepted by CNW. CNW reserves the right to charge for packing in addition to the Price where considered necessary by CNW.

3. **Prices**

3.1 Prices quoted are subject to change without prior notice and are based on delivery to one destination. All orders are accepted subject to CNW's price in effect at time of despatch of Goods. CNW shall also be entitled to revise the price of the Goods to reflect any increase in the cost which is due to any factor beyond CNW's control, or in the event of any clerical error in quotation or if there is any change in the quantity, size, analysis, finish or method and time of despatch differing from those in the original order.

4. **Payment**

- 4.1 Payment shall be made in pounds sterling net monthly.

Where no payment terms have been agreed between CNW and the Buyer, the Buyer will pay for the Goods before the delivery date and until the Buyer has paid in full, CNW shall have no obligation to deliver the Goods.

- 4.2 Time for payment shall be of the essence.

- 4.3 No payment shall be deemed to have been received until CNW has received payment in full and cleared funds and all payments payable to CNW under this Agreement shall become due immediately on its termination despite any other provision.

5. **Delivery**

- 5.1 Any date quoted for delivery of Goods is an approximation only and CNW shall not be liable for any delay in the delivery of the Goods howsoever caused. Risk in the Goods shall pass at the time of delivery.

6. **Quality and Permissible Variations**

- 6.1 Material can vary in quality or otherwise in line with general commercial practice and specifications practiced by producing mills. Such variations and variations in quality by plus or minus 10% shall not entitle the Buyer to any claim in respect thereof. Permissible dimension variations are +/- 15% of the wall thickness, and 0.005" on the outside diameter for seamless tube, and +/- 0.04mm for welded tube. CNW does not accept responsibility in respect of suitability of a particular size or dimension of the Goods. All of the above shall apply unless agreed to in writing with CNW.

7. **Shortage and Defective Goods**

- 7.1 CNW shall not be liable in respect of any claim for shortages or damaged Goods made more than seven days after invoice date. If Goods prove defective CNW must be notified within 7 days after delivery and CNW's representative permitted to re-inspect before any return is made as a precondition to any liability of CNW. CNW's obligation is limited to repairing or replacing defective Goods or, in the case of shortages, to replacement or crediting the Buyer with the price of the shortage. CNW shall not be liable for any charges for labour, damages or other consequential expenses occasioned by defective Goods. Those charges shall be the Buyers responsibility. CNW shall be under no liability in respect of any defect in the Goods: a) arising from or attributable to any drawing, design or specification supplied by the Buyer, b) arising from fair wear and tear, neglect, failure to follow CNW's instructions, misuse or improper alteration or repair of the Goods; c) if the total price for the Goods has not been paid by the due date for payment; d) if the Buyer fails to notify any claim in respect of any defect in the Goods within 7 days after delivery of the Goods.

8. **Risk**

- 8.1 The Buyer shall be solely responsible for complying with:

any legislation or regulation governing the exportation of the Goods from the United Kingdom, and for payment of any duties thereon and shall indemnify

and keep indemnified CNW against all actions, costs, claims, losses (including consequential losses) damages, expenses and liabilities arising out of or in connection with the failure by the Buyer to so comply.

9. **Limitation of Liability**

9.1 CNW's Liability to the Buyer for acts and/or omissions under this Agreement shall not exceed the price received by CNW from the Buyer in respect of the Goods.

9.2 Nothing in this Agreement shall exclude or limit CNW's Liability for death or personal injury due to its negligence or any Liability which is due to its fraud or any other liability which it is not permitted to exclude or limit as a matter of law.

10. **Termination**

10.1 CNW may immediately terminate this Agreement by written notice if the Buyer:

10.1.1 fails to make any payment when due;

10.1.2 breaches the terms of this Agreement (and if remediable the breach has not been remedied within 14 days of receiving notice requiring it to be remedied);

10.1.3 persistently breaches any one or more terms of this Agreement;

10.1.4 ceases or threatens to cease to carry on business; and/or

10.1.5 is declared or becomes insolvent or bankrupt, has a moratorium declared in respect of any of its indebtedness, enters into administration, receivership, administrative receivership or liquidation or threatens to do any of these things, takes or suffers any similar action in any jurisdiction or any step is taken (including, without limitation, the making of an application or the giving of any notice) by it or by any other person in respect of any of these circumstances.

11. **Consequences of Termination**

11.1 If CNW has the right to terminate this Agreement:

11.1.1 It may enter, without prior notice, any of the Buyer's premises (or premises of third parties with their consent) where Goods owned by CNW may be and repossess and use or sell any Goods found which are owned by CNW so as to discharge any sums due to CNW under this Agreement or any other agreement between the parties;

11.1.2 the Buyer is automatically no longer permitted to re-sell, use and/or part with the possession of any Goods owned by CNW until it has paid in full all sums due to CNW under this Agreement or any other agreement between the parties (unless the Buyer has obtained CNW prior written consent);

- 11.1.3 CNW may withhold delivery of any undelivered Goods and stop any Goods in transit and cancel, terminate and/or suspend without Liability to the Buyer any agreement between the parties; and/or
- 11.1.4 all monies owed by the Buyer to CNW shall immediately become due and payable.

12. **General Conditions**

- 12.1 This Agreement [together with any Order] contains the whole agreement between the parties and it supersedes any prior written or oral agreement between them and is not affected by any other promise, representation, warranty, usage, custom or course of dealing. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Agreement shall exclude liability for any fraudulent statement or act made prior to the date of this Agreement.
- 12.2 No waiver by CNW of any breach of this Agreement shall be considered as a waiver of any subsequent breach of the same provision or any other provision.
- 12.3 The invalidity, illegality or unenforceability of any of the provisions of this Agreement shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement.
- 12.4 CNW shall not be liable for any delay or failure in performing its obligations under this Agreement as a result of reasons beyond its reasonable control, including but not limited to acts of God, war, flood, fire, labour disputes, subcontractor delays, strikes, lock-outs, riots, civil commotion, malicious damage, explosion, governmental actions and any other similar events.
- 12.5 The Buyer shall not assign its interest in this Agreement (or any part) without the written consent of CNW. CNW may assign its interest in this Agreement (or any part) without the written consent of the Buyer.
- 12.6 None of the terms and conditions of this Agreement shall be enforceable by any person who is not a party to it.
- 12.7 This Agreement is governed by and interpreted in accordance with English law and the parties agree to submit to the non-exclusive jurisdiction of the English courts.