

CONDITIONS OF SLITTING AND/OR OTHER CONTRACT PROCESSING

1. THE AGREEMENT

(a) These Conditions shall be deemed to be incorporated in all agreements for the slitting or other processing by Wieland Nemco Ltd ("Nemco") of metal for the person, firm or company named in Nemco's Order Acknowledgement ("the Order Acknowledgement") as the buyer or customer (in either case herein referred to as "Customer") and are, together with any other agreements, warranties, conditions, representations and terms set out or referred to in the Order Acknowledgement, hereinafter called "the Services Agreement" which represents the complete agreement of Nemco and Customer regarding the slitting or other processing of goods listed or referred to in the Order Acknowledgement ("Goods").

(b) Customer and Nemco acknowledge that in entering into the Services Agreement they do not rely on any representations which are not set out or referred to in the Order Acknowledgement.

(c) All orders are subject to acceptance by Nemco by issue of an Order Acknowledgement. Accepted orders may not be amended or cancelled except with Nemco's approval in writing signed on its behalf by one of its Directors.

(d) Nemco's catalogues, price lists and quotations do not constitute offers made by Nemco.

(e) No variation of these Conditions shall be binding on Nemco unless in writing and signed on its behalf by one of its Directors.

(f) The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Services Agreement. No third party shall have any rights under that Act in relation to the Services Agreement.

(g) The headings of these Conditions do not form part of the Conditions and shall not affect the interpretation thereof.

2. PRICES

(a) The price for slitting or otherwise processing the Goods shall be as set out in the Order Acknowledgement.

(b) Unless otherwise stated in the Order Acknowledgement all Customs and Excise duties, import and/or export duties and all other taxes, tariffs and surcharges of whatsoever nature now or hereafter levied or imposed in any country or territory either directly or indirectly in respect of the slitting or other processing

of the Goods by Nemco or payment for such work or upon any packaging, insurance, carriage, freight or other charges shall be borne by Customer and are additional to the prices stated in the Order Acknowledgement.

(c) Nemco reserves the right to charge Customer for amendments to accepted orders.

3. PAYMENT TERMS

(a) Unless otherwise agreed payment for slitting or otherwise processing the Goods shall be made in pounds sterling on the date specified in the Order Acknowledgement.

(b) If any payment under the Services Agreement shall become overdue Nemco may (without prejudice to any of its other rights) charge interest on the overdue amount under the Late Payment of Commercial Debts (Interest) Act 1998 (as well after as before judgment).

4. DELIVERY AND RISK

(a) Whilst Nemco shall make every reasonable effort to adhere to delivery dates specified in the Services Agreement or by Nemco elsewhere, they are approximate only and cannot be guaranteed. Without prejudice to the foregoing provisions of this paragraph (a) in the event of non-delivery by a carrier other than Customer's transport by a delivery date so specified, Customer shall notify Nemco in writing or by fax or e-mail as soon as possible and in any event within twenty four hours of such date specifying the number of the contract relating to the Goods and the quantity and description of the slit or otherwise processed Goods not delivered.

(b) Each delivery or part delivery of part of an order shall be considered a separate contract and Nemco's failure to make any delivery or part delivery shall not affect or vitiate the Services Agreement as to other deliveries.

(c) Where the Services Agreement does not specify a delivery date, if Customer shall fail to give Nemco delivery instructions within thirty days of Nemco notifying Customer that the slit or otherwise processed Goods are ready for despatch or if Customer refuses to accept delivery on a delivery date specified in the Services Agreement Nemco may charge the Customer for the storage of such Goods from the date of the said notification or the specified delivery date (as the case may be).

5. CUSTOMER'S WARRANTIES

(a) Customer warrants that:-

- (i) the Goods are not hazardous and do not pose any risk to the health or safety of Nemco's employees, agents or subcontractors;

- (ii) the Goods are in good condition and will not cause any damage to Nemco's machinery in the course of slitting or other processing;

- (iii) it is entitled as principal to place the Order with Nemco for the slitting or other processing of the Goods.

(b) Customer agrees to indemnify Nemco against all actions, claims, costs, expenses and damages incurred by Nemco by reason of any third party claiming the Goods or control over them before, during or after the slitting or other processing thereof.

6. ACCEPTANCE OF LIABILITY

Nothing in the Services Agreement shall exclude or restrict any legal liability of Nemco for death or personal injury resulting from the negligence of Nemco, its employees, agents or subcontractors or for fraudulent misrepresentation.

7. NEMCO'S WARRANTY

(a) Nemco warrants the slit or otherwise processed Goods against defects in workmanship in slitting or processing which become apparent within one month after delivery of the slit or processed Goods to Customer or, if Customer shall have agreed to collect the slit or otherwise processed Goods, within one month after the date when the slit or otherwise processed Goods are available for collection from Nemco's works ("the Warranty Period").

(b) Nemco's obligation under the said Warranty ("the Warranty") is limited to repairing any slit or processed Goods or parts thereof as regard which such defects as aforesaid are detected upon delivery or collection (as the case may be) or during normal and proper use during the Warranty Period or at Customer's option slitting or processing free of charge a further quantity of Buyer's metal equal in quantity and identical (as nearly as may be) to the Goods.

(c) If Customer becomes aware of a slitting or processing defect in the slit or processed Goods during the Warranty Period, Customer shall promptly supply Nemco with written particulars of such defects and provide all necessary access and other reasonable facilities and all information required to enable Nemco to ascertain or verify the nature and cause of the defect claimed and carry out its warranty obligations.

(d) The Warranty shall neither apply to any defect which results in Nemco's opinion from normal wear and tear nor to any defect wholly or partially caused by any alteration or addition to the slit or processed Goods other than by Nemco or by use or storage of the slit or processed Goods in a manner reasonably considered by Nemco to be improper, or for purposes for which the slit or processed Goods are not designed, or by accident, neglect or events which are beyond Nemco's control occurring after physical delivery of the slit or processed Goods to Customer or its agent or carrier.

(e) When any defective slit or processed Goods are repaired this Condition shall apply to the repaired slit or processed Goods or any other goods slit or processed under paragraph (b) above.

(f) Customer shall be entitled to the benefit of the Warranty which is given in lieu of and replaces, excludes and extinguishes all and every condition or warranty whatsoever, whether express or implied, by statute, common law, trade usage, custom or otherwise.

8. CUSTOMER'S RIGHTS AND REMEDIES

(a) If Nemco's liability is established, notwithstanding Conditions 12, 13 and 14, Nemco shall be under no obligation to pay damages arising from loss or damage of any type referred to in those Conditions exceeding the price payable under the Services Agreement for the slitting or other processing of the Goods.

(b) For the purposes of the Services Agreement "legal liability" shall include the legal liability of Nemco its employees, agents or sub-contractors as found by any Court or competent authority and shall include, without limitation, (i) breach of any contractual obligation by virtue of the express or implied terms of the Services Agreement and any fundamental breach and/or breach of fundamental term (ii) negligence arising by virtue of any act or omission which amounts to a failure to take reasonable care or exercise reasonable skill (iii) any misrepresentation or misstatement made by or on behalf of Nemco and (iv) any other breach of duty.

(c) This Condition shall not confer any rights or remedies on Customer to which Customer would not otherwise be entitled.

9. LIMIT OF DAMAGES FOR BREACH OF WARRANTY

If, notwithstanding Nemco's attempts to comply with its obligations under Condition 7, it is unable so to do, it shall pay monetary damages to Customer not exceeding the price payable under the Services Agreement for the slitting or other processing of the Goods and the cost of any repairs thereto carried out by third parties with Nemco's express written permission.

10. DAMAGE TO TANGIBLE PROPERTY

Nemco shall not be liable in respect of any loss or damage of whatsoever kind or howsoever caused whether by reason of Nemco's negligence or otherwise to premises, plant or other tangible property other than loss or damage to the Goods caused by Nemco's negligence.

11. ECONOMIC AND OTHER CONSEQUENTIAL LOSS AND CLAIMS BY THIRD PARTIES

Nemco shall not be liable for:-

- (i) economic loss, which, for the purposes of the Services Agreement, shall include, without limitation, loss of profits, reputation, goodwill, business, use of interest, services of employee or agent, anticipated savings, expenses rendered futile by the breach and expenses caused by the breach; or
- (ii) any consequential or indirect loss or damage (whether or not described in Condition 11 (i) above); or
- (iii) any claim made against Customer by any other party, howsoever any such loss or damage or claim was caused and howsoever arising, whether by reason of Nemco's negligence or otherwise, even if such loss or damage or claim was or ought reasonably to have been, in the parties' contemplation at the date of the Services Agreement as being likely to occur.

12. EVENTS BEYOND NEMCO'S CONTROL

Nemco shall not be liable under the Services Agreement wherever and to the extent to which the fulfilment of its obligations is prevented, frustrated, impeded and/or delayed as a consequence of any "force majeure" and/or any circumstances whatever and howsoever arising beyond its reasonable control. Nemco undertakes to use its reasonable endeavours to overcome any such difficulties, but reserves the right to cancel, suspend or vary its obligations under the Services Agreement.

13. INSURANCE

Customer agrees that it is best able to estimate the extent and nature of the insurance cover suitable for its business and property from time to time and can effect at more economic rates than Nemco the appropriate insurance cover for its business and property including cover against loss, damage, costs, claims and expenses referred to in Conditions 10, 11 and 12 and against loss or damage to the Goods whilst in Nemco's custody. Customer therefore acknowledges that it is reasonable for Nemco to slit or otherwise process the Goods and fix the price therefore on the basis of the Warranty, the exclusion and limitations of liability set out in these Conditions and the said three Conditions and Customer agrees that it will be responsible for effecting such insurance cover as may be appropriate to its business and property including (but not limited to) such insurance cover as mentioned above.

14. PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

Customer shall indemnify Nemco against all damages, claims, costs and expenses arising out of any infringements or alleged infringement of any patent, copyright design, trademark or other intellectual property right which Nemco incurs arising out of its compliance with Customer's requirements. Nemco shall not be bound to defend any proceedings brought against it by any third party in respect of any such actual or alleged infringement.

15. FINANCIAL RISK

If Customer makes any composition or arrangement with creditors or goes into liquidation, whether voluntary or compulsory, or goes into administration, or if he or any partner commits any act of bankruptcy or if a receiver or administrative receiver is appointed in respect of any of Customer's assets or if Customer fails duly to pay for the slitting or other processing of any Goods or comply with any other requirement of the Services Agreement or if any time Nemco considers in its absolute discretion that the financial circumstances of Customer do not justify the payment terms previously agreed, then, and in any such event, Nemco may, at its option, either require payment in cash before slitting, processing or despatch of Goods remaining to be slit, processed or delivered or may cancel further slitting, processing and/or deliveries without prejudice to any other rights or remedies of Nemco.

16. HEALTH AND SAFETY

Customer agrees to pay due regard to any information or advice relating to the use of the Goods as slit or processed which Nemco may at any time furnish to it and agrees that before the Goods as slit or processed are used it will, if required by Nemco, furnish Nemco with a written undertaking to take any steps which Nemco may specify with a view to ensuring that the Goods as slit or processed will be safe and without risk to health when used.

17. ASSIGNMENT

Customer shall not assign or otherwise transfer all or any of its rights, interests or obligations in or under the Services Agreement without Nemco's prior written consent.

18. SEVERABILITY

If any provision of the Services Agreement is found by any Court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable, it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Services Agreement and the remainder of such provision shall continue in full force and effect.

19. ENGLISH LAW

The Services Agreement shall be governed by English Law. Customer and Nemco hereby agree to submit to the non-exclusive jurisdiction of the English Courts.