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## CONDITIONS OF BUSINESS

### **1. INTERPRETATION**

1.1. In these Conditions the following words shall have the meanings set out below:

“You” the person who accepts our quotation for the sale of the Goods and the provision of the Services (or either) or whose order for the Goods and /or Services we accept.

“Goods” the Goods (including any part delivery) which we are to supply in accordance with these Conditions.

“We” Strebel Limited of 1F Albany Park Industrial Estate, Frimley Road, Camberley, Surrey GU16 7PB

“Conditions” the Standard Terms & Conditions of Sale set out in this document and any Special Terms & Conditions which we may agree in writing with you.

“Contract” the Contract for the sale of the Goods and the provision of the Services as appropriate.

“Services” the installation of the Goods and/or their commissioning.

“Site” the location at which the Goods are to be installed.

“Ex Works” as defined by Incoterms 1990.

1.2. Any references in these Conditions to any provision of a statute should be constructed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

### **2. BASIS OF THE SALE**

2.1. We will sell and you will buy the Goods in accordance with any written quotation of ours (which is capable of acceptance) which you accept or any written order from you which accept subject in either case to these Conditions which will govern the Contract to the exclusion of any other terms and conditions subject which you accept or purport to accept any quotation or to which you make or purport to make an order.

2.2. We will not be bound by any variation to these Conditions unless our duly authorised representative has agreed in writing.

2.3. None of our employees or agents are authorised to make representations concerning the Goods unless we have confirmed them in writing signed by an authorised signatory (e.g. a director). In entering into the Contract you acknowledge that you do not rely on and waive any claim for breach of any such representations which are not so confirmed.

2.4. If you follow or act upon any advice or recommendation which we or our agents give you as to the application, installations or use of the Goods which we have not confirmed in writing you do so entirely at your own risk and accordingly we will not be liable for any such advice or recommendation which we have not so confirmed.

2.5. We shall be entitled to correct without any liability any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other documentation or information which we issue.

### **3. ORDERS AND SPECIFICATIONS**

3.1. We will not be deemed to have accepted any order that you submit unless and until our authorised representative confirms acceptance in writing. You will be responsible to us for ensuring the accuracy of the terms of any order (including any applicable specification) that you submit and for giving us any necessary information relating to the Goods within a sufficient time to enable us to perform the Contract in accordance with its terms.

3.2. The quantity, quality and description of and any specification for the Goods should be those set out in our quotation (if accepted by you) or your order (if accepted by us).

3.3. We reserve the right to make any changes in the specification for the Goods which are required to conform with any applicable statutory or EC requirements or which arise from product development but do not adversely affect their quality or performance.

3.4. You may not cancel any order which we have accepted except with our written agreement and on terms that you will indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses which we incur as a result of cancellation.

3.5. Primer finish of radiators serves to protect them mainly from atmospheric deterioration during transport. It is not intended to be a final finish. Radiator samples are a guide to the product but should not be considered an accurate sample of a production finish.

#### **4. PRICE OF THE GOODS**

4.1. The price of the Goods will be our quoted price or where appropriate to particular categories of Goods when no price has been quoted (or a quoted price is no longer valid) the price listed in our published price list current at the date of acceptance of the order.

4.2. We reserve the right by giving you not notice at any time before delivery to increase the price of the Goods to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the cost of labour, materials or our costs of manufacture), any change in delivery dates, quantities or specifications for the Goods, which you request or any delay caused by your instructions or your failure to give us adequate information or instructions.

4.3. Except as otherwise stated under the terms of any quotation or in any price list of ours, and unless we otherwise agree in writing, our prices are given on an Ex Works basis and where we agree to deliver the Goods otherwise than at our premises you will be liable to pay our charges of transport, packaging and which will be included in the price.

4.4. The price is exclusive of any applicable Value Added Tax which you will be additionally liable to pay to us.

#### **5. TERMS OF PAYMENT**

5.1. Subject to any special terms to which we agree in writing we will be entitled to invoice you for the price of Goods on or at any time after delivering them unless you are to collect the Goods or you wrongfully fail to take delivery of them in which event we will be entitled to invoice you for the price at any time after having notified you that the Goods are ready for collection or (as the case may be) we have tendered delivery of the Goods.

5.2. You will pay the price without deduction within 30 days of the date of our invoice and we will be entitled to recover the price notwithstanding that delivery may not have taken place and the property in the Goods has not passed to you. The time of payment of the price shall be of the essence of the Contract. Receipts for payments will be issued only upon request.

5.3. If you fail to make any payment on the due date then without prejudice to any other right or remedy available to us, we will be entitled to:

5.3.1. Cancel the Contract or suspend any further deliveries to you;

5.3.2. Appropriate any payment we receive from you to such of the Goods (or the goods supplied under any other contract between us) as we may think fit (notwithstanding any purported appropriation by you; and

5.3.3. Charge you interest (both before and after any judgement) on the amount unpaid at the rate of 4% per annum above Barclays Bank Base Rate from time, until payment in full is made ( a part of a month being treated as a full month for the purpose of calculating interest).

#### **6. DELIVERY**

6.1. Delivery of the Goods shall be made by you collecting them from our premises at any time after we have notified you that the Goods are ready for collection.

6.2. Where under the Contract we are to arrange delivery to Site or any other place, we make the arrangements as your agent and delivery takes place at the point of loading the Goods onto the carrier's vehicle at our premises and the price for the Goods includes the costs of carriage as well as insurance. Unloading the goods must be organised and paid for by the purchaser. Even though we may

arrange the insurance on your behalf you have no claim against us in the event of rejection of claim by insurers or uninsured loss.

- 6.3.** Any dates quoted for delivery of the Goods are approximate only and we will not be liable for any delay in delivery of the Goods howsoever caused. We may deliver the Goods in advance of a quoted delivery date upon giving you reasonable notice in which event you will be bound to accept delivery of them.
- 6.4.** Where the Goods are to be delivered in instalments then for the purposes of these Conditions, each delivery will constitute a separate contract and our failure to deliver any one or more of the instalments in accordance with these Conditions or any claim by you in respect of any one or more instalments will not entitle you to treat the Contract as a whole as repudiated.
- 6.5.** If you fail to take delivery of the Goods or fail to give us adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond your reasonable control or by reason of our fault) then, without prejudice to any other right or remedy available to us, we may:
  - 6.5.1.** Store the Goods until actual delivery and charge you for the reasonable costs (including insurance) of storage; or
  - 6.5.2.** Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to you for the excess over the price under the Contract or charge you for any shortfall below the price under the Contract.

## **7. RISK AND PROPERTY**

- 7.1.** Risk of damage to or loss of the Goods will pass to you:
  - 7.1.1.** In the case of Goods to be delivered at our premises at the time when we notify you that the Goods are available for collection; or
  - 7.1.2.** In the case of Goods to be delivered otherwise than at our premises at the time of delivery or, if you wrongfully fail to take delivery of the Goods, the time when we have tendered delivery of the Goods. Transportation and insurance cover is arranged by us, but any uncovered risks remain with the purchaser.
- 7.2.** Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions the property in the Goods will not pass to you until we have received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by us to you for which payment is then due.
- 7.3.** Until such time as the property in the Goods passes to you we will be entitled at any time to require you to deliver up Goods to us and, if you fail to do so immediately, to enter upon any of your premises or of any third party where the Goods are stored, held or installed and to repossess them.
- 7.4.** Notwithstanding the provisions of Clauses 7.2 and 7.3 above you acknowledge that we are expressly entitled to remove the burner unit from the Goods in pursuance of our rights under this Clause 7.
- 7.5.** You are not entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain our property but if you do so all monies you owe us will (without prejudice to any other right or remedy we may have) immediately become due and payable.

## **8. WARRANTIES & LIABILITY**

- 8.1.** Subject to the Conditions set out below we warrant that the Goods will correspond with their specification at the time of delivery and be free from defects in material and workmanship, in respect to those parts of the Goods which comprise boilers and radiators that we have manufactured for two years, and for those parts comprising electrical components that we have manufactured for one year, both such periods to run from the date of commissioning, but at the latest three months after delivery. For products sold without commissioning, the periods are to run from the time of delivery.
- 8.2.** We give the above warranty subject to following conditions:
  - 8.2.1.** We will not be liable for any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow our instructions (whether oral or in writing), misuse or alteration or repair of the goods without our approval, or petty damages which do not reduce the usability or the value of the product supplied

- 8.2.2.** We will not be liable under the above warranty or any other warranty, condition or guarantee if the total price of the Goods is not paid by the due date for payment.
- 8.2.3.** The above warranty does not extend to parts, materials or equipment that we have not manufactured in respect of which you will only be entitled to the benefit of any such warranty or guarantee as we receive from the manufacturer.
- 8.3.** Subject as expressly provided in these Conditions all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8.4.** You will notify us of any claim based on any defect in the quality or condition of the Goods or their failure to correspond with specification (whether or not you refuse delivery) within seven days of the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If you do not notify us accordingly you will not be entitled to reject the Goods and we will have no liability for such defect or failure. You will be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.5.** If you notify us of any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet the specification, in accordance with the Conditions, we will be entitled to repair or to replace the Goods (or the part in question) free of charge or, at our sole discretion, to refund to you the price of the Goods (or a proportionate part of the price) but we will have no further liability to you.
- 8.6.** Except in respect of death or personal injury caused by our negligence, we will not be liable to you by reason of any representation or any implied warranty, condition or other term or any duty at common law or under the express terms of the Contract for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of our employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or your use or resale of them except as expressly provided in these Conditions.
- 8.7.** We will not be liable to you or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of our obligations in relation to the Goods if the delay or failure was due to any cause beyond our reasonable control. Without prejudice to the generality of the foregoing the following should be regarded as causes beyond our reasonable control, namely, act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws prohibitions or measures of any kind on the part of any governmental parliamentary or local authority; import or export regulations or embargoes; strikes, lockouts or other industrial actions or trade disputes (whether involving any of our employees or of a third party); difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery.
- 8.8.** If it is impossible to contact us before, you have the right to repair or have repaired by third party specialists defective material, within economically reasonable limits, in urgent cases where safety reasons will not allow any delay. However, you must inform us as quickly as possible.

## **9. INSOLVENCY OF BUYER**

### **9.1.** This Condition applies if:

- 9.1.1.** you make any voluntary arrangement with you creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or (being a partnership) is dissolved; or
- 9.1.2.** an encumbrances takes possession or a receiver is appointed of any of your property or assets; or
- 9.1.3.** you cause or threaten to cease to carry on business; or
- 9.1.4.** we reasonably apprehend that any of the events mentioned above is about occur to you and notify you accordingly.

### **9.2.** If this Condition applies then, without prejudice to any other right or remedy available to us, we will be entitled to cancel the Contract or suspend any further deliveries under the Contract without any

liability to you and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous arrangement to the contrary.

#### **10. INSTALLATION AND COMMISSIONING**

- 10.1.** Where we carry out any of the Services you will ensure that there are available adequate electrical, water and other services necessary for the carrying out of the Services on the Site whether the Site belongs to you or a third party.
- 10.2.** Once we have entered the Site, we together with our employees and agents will be entitled to uninterrupted access during the provision of the Services until we have completed them.
- 10.3.** You will ensure there is adequate access to the Site as well as parking and will pay any additional costs caused by any inadequacy.
- 10.4.** You will comply with all statutory provisions under Health & Safety at Work legislation to provide a safe working environment for us, our employees, sub-contractors or agents and will do all the things necessary to enable us to comply with the relevant statutory provisions and will indemnify us against any loss, damage, claims or costs arising out of any breach of this Condition.
- 10.5.** You will provide proper and secure facilities for storage of all materials, tools and any other equipment during the provision of the Services and will ensure that all materials and equipment are properly and safely stored.
- 10.6.** If through no fault of ours there is delay or if we have to work overtime or unusual hours or if there are mistakes or if we have to do work for which we are not responsible or extra work due to the inadequacy of your preparation or of a third party all such extra costs incurred as well as the cost of keeping any of our employees, agents or sub-contractors on Site after completion of the installation will be charged to you in addition to the contract price.
- 10.7.** We will be entitled to employ sub-contractors to carry out any of obligations under this Condition.

#### **11. GENERAL**

- 11.1.** These Conditions apply only to Contracts for the sale of the Goods and provision of the Services in mainland Britain and the Warranties given by these Conditions do not extend to any Goods installed or commissioned outside mainland Britain.
- 11.2.** We are member of the GEBE/Strebelwerk GmbH group of companies. Accordingly we may perform any of our obligations or exercise any of our rights by yourself or through any other member of the group provided that any act or omission of any such other member shall be deemed to be our act or omission.
- 11.3.** Any notice required or permitted to be given by either you or us to the other under these Conditions shall be in writing addressed to the recipient at its registered office or principal place of business or such other address as may at the relevant time be notified to the party giving the notice and may be delivered personally or sent by first class mail prepaid or by facsimile transmission. If hand delivered it will be deemed given on that day; if sent by post as above it will be deemed delivered two working days after posting; if sent by facsimile transmission it will be deemed given that working day if sent during normal office hours provided the original is sent by post on the day of transmission.
- 11.4.** No waiver by us of any breach of the Contract by you will be considered as a waiver of any subsequent breach of the same or any other provision.
- 11.5.** If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question will not be affected thereby.
- 11.6.** The Contract shall be governed by the laws of England and shall be deemed to have been made at Reading, Berkshire and the parties submit to the jurisdiction of the English courts.

D. R. Thorneycroft, Managing Director  
A. Parker, Managing Director  
J. Leitner, Director

Company registered No. 1197182, England