

**TERMS AND CONDITIONS FOR THE SALE OF GOODS OF
BELLINGHAM STEEL AND TINPLATE CO. LIMITED:**

1. Definitions and Interpretation

1.1. The following words and expressions shall have the following meanings unless the context otherwise requires:

Additional Charges: means the costs of any additional packaging, or any taxes, or any other costs in respect of or by reason of the sale of the Goods, and any other charges referred to in these Conditions;

Conditions: means these terms and conditions;

Contract: means an agreement for the sale of Goods, by the Seller to the Buyer in accordance with Condition 2.3 of these Conditions;

Buyer: means the person who has accepted these Conditions;

Goods: means the goods to be supplied by the Seller to the Buyer pursuant to the Contract and as detailed in the Specification;

Intellectual Property Rights: intellectual property rights whether registered or unregistered including all applications for and renewals or extensions of such rights;

Order: means a written order for the Goods, accepting a Quotation and submitted to the Seller by the Buyer;

Order Acknowledgement: means the Seller's written acceptance of the Order which shall contain the specific details of the Contract;

Price: "means the price due from the Buyer for the Goods, plus any Additional Charges;

Quotation: means any estimate or quotation submitted to the Buyer by the Seller prior to the Contract being made;

Seller: means Bellingham Steel and Tinplate Co. Limited (company number 02693154) whose principal office is situated 34 Caswell Road, Newton, Swansea, SA3 4SD;

Specification: means the specific details of the Goods which will be notified to the Buyer in the Quotation and which will be referred to in the Order Acknowledgment;

Working Day: means any day from Monday to Friday other than a statutory or public holiday in England and Wales.

1.2. In these Conditions:

1.2.1. a reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation;

1.2.2. words importing persons include firms, companies, associations, organisations, governments, states, foundations, trusts and corporations and vice versa;

1.2.3. any reference to 'writing' or any cognate expression includes communications by post, facsimile transmission and e-mail, but excludes text messages.

2. Basis of Contract

2.1. These Conditions shall apply to the sale by the Seller of all Goods, purchased by the Buyer and these Conditions shall govern the Contract to the exclusion of any other terms and conditions introduced or submitted by the Buyer.

2.2. Any Quotation submitted to the Buyer will not constitute an offer and shall remain

valid for the period stated therein, but if no period is specified such Quotation shall be valid for the date of issue.

- 2.3. The Contract shall be made when the Seller accepts the Order by issuing the Order Acknowledgement to the Buyer and not before.
- 2.4. The Seller may at any time without notifying the Buyer make any changes to the Goods to be provided to the Buyer which do not materially affect the nature or quality of the Goods or which are required in order to comply with any applicable law or reasonable safety requirement.
- 2.5. The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing.
- 2.6. In the event that the Buyer wishes to cancel an Order, it may only do so pursuant to clause 9 (termination) or with the written consent of the Seller and on the terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of any termination.
- 2.7. Any typographical, clerical or other omission in any sales literature, Quotation, price list, Order Acknowledgement, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 2.8. Unless otherwise agreed these Conditions shall apply to any future order given by the Buyer to the Seller.

3. Price

- 3.1. The Price shall be as set out in the Order Acknowledgement or as otherwise agreed

between the parties in writing from time to time.

- 3.2. All Prices are inclusive of delivery (unless otherwise stated in the Order Acknowledgement) and exclusive of VAT or any other sales tax which will be charged at the rate in force at the time of despatch.
- 3.3. The Seller reserves the right to charge the Buyer, for any additional work undertaken over and above that which would have been otherwise required, (including any expenses incurred by the Seller) as a result of any instructions supplied by the Buyer being incomplete, incorrect, inaccurate, illegible, or provided to the Seller too late to enable it to meet a deadline.

4. Payment Terms

- 4.1. The payment terms in this Condition 4 apply save to the extent that they are inconsistent with any specific payment terms set out in the Order Acknowledgement.
- 4.2. The Seller reserves the right to request a deposit. If required, the Buyer shall pay a non-refundable deposit in the sum detailed in the Quotation upon placing the Order.
- 4.3. The Seller shall be entitled to invoice the Buyer for the Price and/or balance of the Price at any time after the Contract has been made in accordance with Condition 3.3 and any Additional Charges as and when they arise.
- 4.4. The Buyer shall pay any invoice issued by the Seller without set off or other deduction prior to delivery of the Goods.
- 4.5. Payment will not be deemed payment for the Goods unless and until it is received in full and in cleared funds.

- 4.6. The time of payment of the Seller's invoices shall be of the essence of the Contract.
- 4.7. If the Buyer fails to pay in full any invoice from the Seller by the due date for payment without prejudice to any other right or remedy the Seller may have:
- 4.7.1. all invoices issued by the Seller under the Contract shall immediately fall due for payment; and
- 4.7.2. the Seller shall be entitled (without prejudice to any other right or remedy it may have) to:
- 4.7.2.1. cancel or suspend any deliveries to the Buyer under any Order;
- 4.7.2.2. charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 8% above the base rate of the Seller's bank accruing daily, whether before or after any judgment.

5. Packaging

The packaging of Goods shall be entirely at the discretion of the Seller and the Seller shall have the right to pack all Goods in such manner and in such quantities as the Seller thinks fit.

6. Risk and Title

- 6.1. Risk of damage to or loss of the Goods shall pass to the Buyer:
- 6.1.1. at the time of delivery in accordance with Condition 7; or
- 6.1.2. if the Buyer wrongfully fails to take delivery of the Goods, in accordance with Condition 7, risk shall pass to the Buyer at the time when the Seller has tendered delivery of the Goods.
- 6.2. Title in the Goods shall not pass to the Buyer until the Seller has received in cash

or cleared funds payment in full of the Price and any Additional Charges.

- 6.3. Until such time as title in the Goods passes to the Buyer:
- 6.3.1. the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property;
- 6.3.2. if Goods are destroyed by an insured risk prior to the same being paid for by the Buyer, the Buyer shall receive the proceeds of any such insurance as trustee for the Seller; and
- 6.3.3. the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and if the Buyer fails to do so forthwith, to enter upon any premises where the Goods are stored and mark identify and repossess the Goods and the Buyer grants to the Seller, its agents, contractors and employees an irrevocable right to enter onto premises for such purposes.
- 6.4. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

7. Delivery

- 7.1. The Goods shall be delivered:
- 7.1.1. when they are delivered to the address set out in the Order Acknowledgement or as otherwise agreed between the parties in writing from time to time ("Delivery Address"); or

- 7.1.2. where the Seller is not responsible for delivery when they are collected by the Buyer or its representative from the Seller's premises.
- 7.2. The Seller shall reasonably endeavour to deliver the Goods on the date(s) agreed between the parties in writing from time to time ("Anticipated Delivery Date"), but such Anticipated Delivery Date shall be approximate only and the time of delivery shall not be of the essence.
- 7.3. The Seller shall have the right to deliver Goods ordered in instalments.
- 7.4. If the Seller is unable for any reason to fulfil any delivery of the Goods on any Anticipated Delivery Date the Seller shall not be deemed to be in breach of contract or have any liability to the Buyer.
- 7.5. If the Buyer fails to take delivery of any Goods (otherwise than by reason of the Seller's fault) or fails to give the Seller adequate instructions for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may:
- 7.5.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage and redelivery; or
- 7.5.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for any shortfall below the Price and any Additional Charges under the Contract.
- 7.6. If the Buyer fails to take delivery of any Goods, the Buyer shall indemnify the Seller against all costs and losses reasonably incurred by the Seller as a result of the Buyer's failure to take delivery of any Goods for any reason.
- 7.7. The Buyer shall inspect the Goods during unloading and where on such visual inspection the Buyer finds any defect or damage to the Goods it shall:
- 7.7.1. notify the Seller's carrier of the damage or defect;
- 7.7.2. refuse to accept delivery of the Goods; and
- 7.7.3. ensure that the damage or defect is noted on the delivery note provided by the Seller's carrier and the Goods shall be returned to the manufacturer. For the avoidance of doubt, the Seller shall not be responsible for any damage or defect apparent on visual inspection after the Goods have been unloaded unless it can be shown to the Seller's reasonable satisfaction that the damage or defect was not caused by Buyer and that the damage or defect is attributable to an inherent defect in the Goods.
- 7.7.4. The Buyer acknowledges that the Seller is under no obligation to inspect the Goods prior to or during Delivery.
- 7.8. The Buyer shall notify the Seller in writing of any shortfall of Goods delivered, or any non-delivery of the Goods, within 3 Working Days of delivery or, in the event of non-delivery, of the Anticipated Delivery Date. The Seller shall be entitled to make good any shortage or non-delivery of the Goods.
- 7.9. Upon delivery to the Delivery Address all persons present at such address shall have authority to sign the delivery note tendered by the Seller or the Seller's carrier.

8. Seller's Liability

- 8.1. The goods shall be manufactured in accordance with the Specification and the Seller shall provide the Buyer with a certificate of conformity in the delivery note provided by the Seller's carrier.
- 8.2. The Seller is not liable if the Goods are in any way unsuitable for the proposed use by the Buyer.
- 8.3. Subject as expressly provided in these Conditions, and without prejudice to any rights prescribed by the Consumer Rights Act 2015, all and any warranties, conditions or other terms implied by statute or common law or contained within any British Standard, Euronorm/European Standard (as far as this applies within the United Kingdom) or any ISO Recommendation are excluded to the fullest extent permitted by law.
- 8.4. The Seller shall not be liable for any breach of this clause 8 Conditions unless:
 - 8.4.1. the Buyer gives written notice of the defect to the Seller and if the defect is as a result of damage in transit to the Seller's carrier within 4 Working Days of receipt specifying the order number, details of the defect and delivery date. In the event of a defect which is not apparent on delivery the Buyer shall inform the Seller of such defect as soon as possible and in any event no later than 3 Working Days following discovery; and
 - 8.4.2. the Seller is given a reasonable opportunity after receiving the notice of examining the Goods and the Buyer complies with any request from the Seller to return Goods to the Seller's place of business for examination to take place there.
- 8.5. The Seller shall not be liable for any breach under Conditions 8.1 or 8.5 if:
 - 8.5.1. the defect is expressly excluded in the Seller's warranty;
 - 8.5.2. the defect arises because the Buyer has failed to follow the Seller and/or the manufacturer's instructions (whether oral or in writing) as to the storage, installation, commissioning, proper use and maintenance of the Goods; or
 - 8.5.3. the Buyer alters or repairs the Goods without the written consent of the Seller.
- 8.6. Where any valid claim in respect of the Goods is made by the Buyer the Seller shall be entitled at its option to:
 - 8.6.1. replace, or repair or correct the Goods (or the part in question) found not to conform to the Specification. For the avoidance of doubt, unless agreed in writing, the Seller shall not be responsible for the costs of removing or installing any Goods repaired or replaced under this Condition 8.6.1; or
 - 8.6.2. at the Seller's sole discretion, refund to the Buyer the Price (or a proportionate part of the Price) of the relevant part of the Goods found not to conform to the Specification and subject to Conditions 8.8 and 8.9 the Seller shall have no further liability to the Buyer.
- 8.7. Subject to Conditions 8.9 and 8.10 the Seller's liability in connection with the sale of Goods shall be as follows:
 - 8.7.1. in respect of any loss of profits, loss of business, loss of goodwill, loss of anticipated savings, loss of use or for any type of consequential, special or indirect loss or damage, the Seller's liability shall be nil; and

- 8.7.2. in respect of all other direct loss (whether in contract, tort or otherwise) the Seller's liability shall be limited in aggregate to the Price.
- 8.8. Nothing in these Conditions seeks to limit the Seller's liability for death or personal injury in respect of which the Seller's liability shall be unlimited.
- 8.9. Subject to Condition 8.10 the Seller shall have no liability under the provisions of these Conditions or otherwise if the Goods have not been paid for by the due date for payment in accordance with Condition 4.4.
- 8.10. Any claim by the Buyer under this Condition 8 shall not entitle the Buyer to withhold or delay payment in respect of any other Goods (or goods supplied under any other contract) in respect of which no such claim has been made whether or not those Goods form part of the same consignment.

9. Termination

- 9.1. Without prejudice to any statutory right or any other right or remedy available to it, whether under the Contract or otherwise, either party shall be entitled to terminate the Contract with immediate effect if: -
- 9.1.1. the other party makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 9.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the other party.
- 9.2. Without prejudice to any other right or remedy available to it, whether under the Contract or otherwise, the Seller may terminate the Contract at any time by

written notice to the Buyer if the Buyer has not paid the Price (or part thereof) or any Additional Charges and such amount remains outstanding for 7 days.

9.3. On termination for any reason:

- 9.3.1.1. the Buyer shall immediately pay to the Seller all outstanding invoices and interest and, in respect of any part of the Price or Additional Charges payable by the Buyer but for which no invoice has been submitted, the Seller may submit an invoice which shall be payable immediately on receipt; and
- 9.3.2. the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

10. Intellectual Property Rights

The Buyer acknowledges that the Seller is the owner or licensee of the Intellectual Property Rights in the Goods and the Buyer agrees that it will not assert or procure ownership of the Intellectual Property Rights against the Seller.

11. Force Majeure

- 11.1. **Force Majeure Event** means any circumstance not within a Seller's reasonable control including, without limitation:
- 11.1.1. acts of God, flood, drought, earthquake or other natural disaster;
- 11.1.2. epidemic or pandemic;
- 11.1.3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

- 11.1.4. nuclear, chemical or biological contamination or sonic boom;
- 11.1.5. any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- 11.1.6. collapse of buildings, fire, explosion or accident;
- 11.1.7. any labour or trade dispute, strikes, industrial action or lockouts);
- 11.1.8. non-performance by suppliers or subcontractors; and
- 11.1.9. interruption or failure of utility service.
- 11.2. Provided the Seller has complied with clause 11.3, if the Seller is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event, the Seller shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 11.3. The Seller shall:
- 11.3.1. as soon as reasonably practicable after the start of the Force Majeure Event, notify the Buyer of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
- 11.3.2. use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 11.4. If the Force Majeure Event prevents, hinders or delays the Seller's performance of its obligations for a continuous period of more than 6 weeks, the Buyer may terminate this agreement by giving 2 weeks written notice to the Seller.
- 12. Third Party Rights**
- A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Conditions.
- 13. Notice**
- 13.1. Notice given under the Contract shall be in writing to the other party to the address, e-mail address or fax number provided in the Order Acknowledgement, or such other address, e-mail address or fax number as the relevant party may notify to the other party.
- 13.2. Notices sent by first class post shall be deemed served on the next Working Day following posting where the notice is sent and received within the United Kingdom, or 7 Working Days following posting where the notice is sent and/or received outside of the United Kingdom.
- 13.3. Any notice delivered personally shall be deemed served at the time of personal delivery, provided that the same occurs on a Working Day.
- 13.4. Any notice sent by fax or e-mail shall be deemed served at the time of transmission provided that the same occurs on a

Working Day and between the hours of 9:00a.m. to 5:00p.m. (GMT), and if it does not shall be deemed served on the next Working Day. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party, by e-mail to the address of the party or in the case of post, that the envelope containing the notice was properly addressed and posted.

14. Variation

These Conditions may not be varied or amended unless agreed in writing by the parties and signed by a director of the Seller.

15. Entire Agreement

Each Contract constitutes the entire agreement between the parties in relation to its subject matter and supersedes any previous agreement or understanding between the parties. All other terms and conditions express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

16. Assignment, Transfer and Sub-Contracting

16.1. The Buyer shall not be entitled to assign or transfer the Contract or any part of it without the prior written consent of the Seller.

16.2. The Seller may assign, novate, sub-contract or otherwise dispose of any part of this Contract without obtaining the prior written consent of the Buyer.

17. Severance

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 shall remain in full force and effect.

18. Waiver

No waiver or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

19. Law and Jurisdiction

The Contract shall be governed by the laws of England and Wales, and the parties agree to submit to the exclusive jurisdiction of the Courts of England and Wales.