

1. INTERPRETATION & BASIS OF CONTRACT

1.1 In these terms and conditions (the "Conditions"): (1) "Buyer" means Brookside Metal Trading Limited; (2) "Order" means the commercial terms document to which these Conditions are appended; (3) "Seller" means the person, firm or company named in the Order who sells, offers, or agrees to sell goods to the Buyer; (4) "Goods" means any goods agreed in the Contract to be purchased by the Buyer from the Seller; and (5) "Contract" means the contract between the Buyer and the Seller for the sale and purchase of the Goods in accordance with the Order and these Conditions.

1.2 These Conditions are the only terms and conditions upon which the Buyer is prepared to deal with the Seller in respect of the Goods and: (1) shall govern the Contract to the exclusion of any terms which are implied by law, trade custom, practice or course of dealing and all other terms or conditions proposed by the Seller (including any terms purporting to reserve title to the Goods) whether in any quotation, acknowledgement, or otherwise; and (2) cancel all previous agreements, representations and understandings in relation to the Goods.

1.3 In the event of any conflict between the Conditions and the Order, the Order shall prevail.

1.4 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Order shall be deemed to be accepted on the earlier of: (1) the Seller issuing a written acceptance of the Order (including by email); and (2) the Seller doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence. The Seller waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Seller that is inconsistent with these Conditions.

1.5 Trade terms (such as 'Cost Insurance and Freight' ("CIF")) used in these Conditions shall have the meanings given to them in the Incoterms® Rules 2010 (the "Incoterms"), provided that in the case of any conflict between these Conditions and the Incoterms, these Conditions shall prevail.

2. PRICE & PAYMENT

2.1 The price of the Goods shall be the price set out in the Order and may not be varied except with the Buyer's written consent and includes the costs of packaging, insurance and carriage of the Goods. Neither variation in the price nor extra charges will be applicable at any time without express written acceptance by a duly authorised representative of the Buyer. The price excludes amounts in respect of value added tax ("VAT"), which the Buyer shall additionally be liable to pay to the Seller at the prevailing rate, subject to the receipt of a valid VAT invoice.

2.2 The Seller may invoice the Buyer for the price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Seller shall ensure that the invoice includes the date of the Order, the invoice number, the Seller's VAT registration number and any supporting documents that the Buyer may reasonably require.

2.3 The Buyer shall pay correctly rendered invoices within 30 days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Seller.

2.4 The Buyer may, at any time, set off any liability of the Seller to the Buyer against any liability of the Buyer to the Seller, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Buyer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Buyer of its rights under this Condition 2.4 shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

3. DELIVERY

3.1 The Seller shall ensure that: (1) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; and (2) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods and, if the Goods are being delivered by instalments, the outstanding balance of the Goods remaining to be delivered.

3.2 The Seller shall deliver the Goods: (1) on the date specified for delivery in the Order (the "Delivery Date"); (2) at the location specified for delivery in the Order (the "Delivery Location"); and (3) during the Buyer's normal business hours, or as instructed by the Buyer. Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location. Time of delivery of the Goods shall be of the essence.

3.3 If: (1) no Delivery Date is specified in the Order, then delivery shall take place within twenty-one (21) days of the date of the Contract; and (2) no Delivery Location is specified in the Order, then the location for delivery shall be the Buyer's place of business.

3.4 The Goods shall be delivered carriage paid (unless otherwise agreed by the parties in writing) to the Delivery Location. The Seller shall (unless the Buyer specifies otherwise) at its own cost remove from the place of delivery any packaging material used in transporting the Goods. The Seller may not deliver the Goods by instalments except with the prior written consent of the Buyer. Unless otherwise agreed, in the event of delivery by instalments, the Seller shall not be entitled to any payment on account of the price until all instalments of the Goods are delivered in accordance with the Contract.

3.5 If the Seller: (1) delivers less than 95% of the quantity of Goods ordered, the Buyer may reject the Goods; or (2) delivers more than 105% of the quantity of Goods ordered, the Buyer may at its discretion reject the Goods or the excess Goods and any rejected Goods shall be returnable at the Seller's risk and expense. If the Seller delivers more or less than the quantity of Goods ordered, and the Buyer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods or, in the case of a VAT invoice, the relevant VAT invoice reissued. Weights at the Buyer's weighbridge or receiving works shall be determinative between the Seller and the Buyer in the event of any dispute as to the quantity of Goods delivered for the purposes of this Contract.

4. INSURANCE

4.1 Where the price for the Goods is a CIF price: (1) the Seller shall insure the Goods against the risks of carriage for 110% of their CIF price in the currency of the Contract and such insurance shall also include insurance in respect of war and strike risks; (2) in the event of loss or damage to the Goods after shipment but prior to unloading at the discharge port, the Buyer shall not have to pay the price for the Goods (and any payment made to the Seller on that account shall be held by the Seller on trust for the Buyer), until any insurance claim to be made has been settled and not withstanding that the documents representing the Goods may have been delivered to the Buyer; (3) in the event of loss of the carrying vessel, no payment for the Goods shall be made by the Buyer until loss of the carrying vessel is established and any insurance claim relating to the Buyer's interest settled; and (4) any insurance monies received by the Seller in relation to the Goods shall be held on trust for the Buyer and at the Buyer's discretion the Seller shall apply the same in respect of the price or so much of it as may be properly payable by the Buyer.

4.2 For the duration of the Contract and for a period of six (6) years thereafter, the Seller shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

5. RISK & TITLE

Risk and title in the Goods shall pass to the Buyer on completion of delivery.

6. WARRANTIES & UNDERTAKINGS

6.1 The Seller warrants that the Goods will, as at the date of delivery: (1) comply with all applicable statutory and regulatory requirements including those relating to the manufacture, labelling, packaging, storage, handling and delivery of the Good; (2) comply with the specifications, weight standards and descriptions stated in the Order and sample (if any); (3) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller by the Buyer expressly or by implication, and in this respect the Buyer relies on the Seller's skill and judgment; (4) be free from defects in design, material or workmanship; and (5) be of merchantable quality and free from any dangerous, hazardous, or toxic material or deleterious impurities.

6.2 The Seller warrants that it has full, clear and unencumbered title to the Goods and that, at the date of delivery of the Goods, it will have full and unrestricted rights to sell and transfer the Goods to the Buyer.

6.3 The Buyer may inspect and test the Goods at any time before delivery. The Seller shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Seller's obligations under the Contract. If following such inspection or testing the Buyer considers that the Goods do not conform or are unlikely to comply with the Seller's warranties under Condition 6.1 or 6.2, the Buyer shall inform the Seller and the Seller shall immediately take such remedial action as is necessary to ensure compliance. The Buyer may conduct further inspections and tests after the Seller has carried out its remedial actions.

6.4 The Seller shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

6.5 Without limitation to any other right or remedy of the Buyer, the Seller shall indemnify the Buyer from all loss or expense arising from any delay or failure by the Buyer in performance of its obligations under this Condition 6, however caused.

7. REMEDIES

7.1 If the Goods are not delivered on the Delivery Date, or do not comply with the warranties set out in Conditions 6.1 or 6.2, then, without limiting any of its other rights and remedies, and whether or not the Buyer has accepted the Goods, the Buyer may exercise any one or more of the following rights and remedies: (1) the right to terminate the Contract; (2) the right to reject the Goods (in whole or in part) and return them to the Seller at the Seller's own risk and expense; (3) the right to require the Seller to repair or replace the Goods, or to provide a full refund of the price of the rejected Goods; (4) the right to refuse to accept any subsequent delivery of the Goods which the Seller attempts to make; (5) the right to recover from the Seller any costs incurred by the Buyer in obtaining substitute goods from a third party; and (6) the right to claim damages for any other costs, losses or expenses incurred by the Buyer which are in any way attributable to the Seller's failure to carry out its obligations under the Contract.

7.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

7.3 The Buyer shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Seller written notice whereupon all work on the Contract shall be discontinued and, in the event of a termination pursuant to this Condition 7.3 only, the Buyer shall pay to the Seller fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.

7.4 The Buyer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

7.5 The Seller shall indemnify and keep indemnified the Buyer in full and hold it harmless on demand from and against any and all losses (including any direct, indirect or consequential losses, loss of profit and loss of reputation), claims, damages, liabilities, fines, interest, penalties, costs, charges, expenses, demands and legal and other professional costs suffered or incurred by the Buyer or for which the Buyer may become liable arising out of or in connection with (1) defective design, workmanship, quality, materials or any other defect in the Goods (including any claim made against the Buyer for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods) to the extent that the defect is attributable to the acts or omissions of the Seller, its employees, agents or sub-contractors, (2) any claim made against the Buyer for any infringement or alleged infringement of any intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods; and (3) any claim made against the Buyer arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Seller, its employees, agents or sub-contractors. This Condition 7.5 shall survive termination of the Contract, for whatever reason.

7.6 Without prejudice to the Buyer's right to claim damages the Buyer may terminate the Contract by notice to the Seller if the Seller is in breach (including anticipatory breach) of, or otherwise fails to perform, any other contract or commitment with the Buyer (which shall be deemed a breach of the Contract by the Seller) or if any sum due from the Seller to the Buyer on any account is overdue, or if the Seller is, or in the reasonable opinion of the Buyer is likely to be, bankrupt or insolvent or otherwise unable to perform its obligations to the Buyer, or has had or is likely to have a liquidator, trustee, manager, receiver, or administrator appointed (or suffer the process in any jurisdiction) or otherwise ceases or threatens to cease to carry on business.

8. FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 30 days, the party not affected may terminate the Contract by giving 7 days' written notice to the affected party.

9. COMPLIANCE WITH LAWS

9.1 The Seller agrees with the Buyer that it shall, and that it shall procure that its employees and officers, agents, sub-contractors and any other person who performs services for the Seller in relation to the Contract shall: (1) comply with all applicable laws, statutes, regulations and codes from time to time in force, including those relating to bribery and other corruption ("Anti-Corruption Requirements") including the Bribery Act 2010; (2) not take or knowingly permit any action to be taken that would or might cause or lead the Buyer to be in violation of any Anti-Corruption Requirements; (3) not bribe or attempt to bribe (which shall include any offer or form of payment, gift or other inducement, reward or advantage, whether of money or anything of value) the Buyer or any of the Buyer's employees, officers, agents, representatives, affiliates or persons acting on the Buyer's behalf; and (4) at the Buyer's request and cost, provide the Buyer with any reasonable assistance to enable it to perform any activity required by any relevant government or agency for the purpose of complying with Anti-Corruption Requirements.

9.2 The Seller represents and warrants to the Buyer that neither it nor any person described in Condition 9.1 has bribed or attempted to bribe any person in order to obtain and/or retain any business, or advantage in the conduct of business, for the Buyer and nor has it bribed or attempted to bribe any person described in Condition 9.1(3).

9.3 The Seller agrees that in addition to the Buyer's termination rights set out elsewhere in these Conditions, the Buyer may (without prejudice to any other right available to it) immediately terminate the Contract in the event of any breach of this Condition 9 by the Seller in which case the Seller shall not be entitled to any compensation or to any further payments or remuneration.

9.4 The Buyer shall not be required to make any payment to the Seller that might otherwise be due from the Buyer in respect of the Contract if the Seller has breached this Condition 9.

9.5 The Seller shall indemnify and keep indemnified the Buyer in full and hold it harmless on demand from and against any and all losses (including any direct, indirect or consequential losses, loss of profit and loss of reputation), claims, damages, liabilities, fines, interest, penalties, costs, charges, expenses, demands and legal and other professional costs suffered or incurred by the Buyer or for which the Buyer may become liable arising out of or in connection with any breach of this Condition 9, whether or not the Contract has been terminated.

10. GENERAL

10.1 The Buyer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract, whereas the Seller may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Buyer.

10.2 The Seller shall keep in strict confidence, and use only for the purpose of performing the Contract, all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Seller by the Buyer or its agents or sub-contractors and any other confidential information concerning the Buyer's business or its products which the Seller may obtain and the Seller shall restrict disclosure of such confidential information to such of its employees, agents or sub-contractors as need to know the same for the purpose of performing the Contract and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality and restrictions of use as bind the Seller.

10.3 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

10.4 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

10.5 No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

10.6 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this Condition 10.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

10.7 Any notice given by the Seller shall be in writing and made to the relevant contact details specified by the Buyer (either in the Order or otherwise). All notices given by the Seller shall be deemed delivered when actually received by the Buyer. Any notices received by the Buyer outside of business hours (being 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday) will be deemed delivered when business hours resume. The giving of notice by email is permitted. This Condition 10.7 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

11. GOVERNING LAW & JURISDICTION

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the laws of England and Wales. Each of the parties irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

