



# Knight Group

## CONDITIONS OF SALE

Issue 6 Date: 14th June 2018

for all your metal needs...

STAINLESS STEELS

TITANIUM ALLOYS

NICKEL ALLOYS

ALUMINIUM ALLOYS

CLAD ALUMINIUM

COPPER, BRASS, BRONZE

CARBON STEELS

CLAD & PLATED METALS

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### **1. DEFINITION**

In these Conditions 'the Company' shall mean Knight Strip Metals Ltd and/or Precision Metals EU. 'The Customer' shall mean any person, firm, company or other organisation placing an order with the Company.

### **2. APPLICATION AND VARIATION OF CONDITIONS**

These Conditions shall be incorporated in all contracts for the sale of goods and/or processing of material by the Company and any provision of the Customer's order which is inconsistent with them shall be of no effect. Acceptance of delivery of goods shall be deemed conclusive evidence of the Customer's acceptance of these Conditions. These Conditions cannot be varied without the prior written agreement of the Company stating the variation and referring expressly to the condition which is to be varied.

### **3. DELIVERY DATES**

Dates or periods quoted for delivery are approximate, given for information only and time shall not be of the essence in relation to them. Failure by the Company to comply with any such dates or periods shall not constitute a breach of contract and shall not entitle the Customer to treat the Contract as terminated or to any other remedy against the Company.

### **4. FORCE MAJEURE**

Notwithstanding any variation of Condition 3 in accordance with Condition 2, the Company shall not be liable for delay in delivery or failure to make delivery of any goods due to force majeure, including but without prejudice to the generality of the foregoing war, rebellion, revolution, strikes, lockouts, breakdown of plant or governmental, EC or other regulations, rules, laws or decrees.

The Company shall take the measures it deems appropriate to guard against the consequences of such force majeure.

### **STANDARD CONDITIONS SPECIFIC TO SALE OF GOODS**

#### **5.1 PRICES**

Unless fixed prices have been expressly agreed by the Company the price payable by the Customer shall be the Company's price prevailing at the date of supply of each delivery. Prices may be subject to a delivery charge and to charges for test certificates where appropriate and are subject to the addition of VAT.

#### **5.2 SURCHARGES (ALLOY ADJUSTMENT FACTOR)**

Irrespective of prices being fixed or variable, the Company reserves the right to add surcharges such as for alloy or scrap content or any other factor as imposed by the producer or other supplier of the goods, and with immediate effect whenever a charge is made.

#### **5.3 PACKING**

Where the goods are packed or protected as specified in the contract or in the event of no such specification the goods are delivered without any or sufficient packing or protection the Company shall not be liable for any deterioration or damage suffered by the goods during carriage or delivery.

#### **5.4 DELIVERY, LICENCES AND OTHER FORMALITIES**

a) If the Customer refuses to accept delivery of any consignment of the goods during the time agreed for delivery without valid reason the Company has the right to make an additional charge to cover the extra cost caused by the refusal.

b) The Customer shall promptly obtain all necessary import licences, clearances and other consents necessary for the purchase of the goods. The Company shall promptly upon request supply all documents reasonably required by the Customer for this purpose.

#### **5.5 ACCEPTANCE**

The Customer shall be deemed to have accepted the goods and it shall be conclusively agreed that the goods are in accordance with the Contract unless:

a) within 7 days after receipt of the goods and prior to their use or resale the Customer serves on the Company a written notice specifying the alleged defect in the quality or state of the goods which would be apparent upon careful inspection or by such testing as it is reasonable in all the circumstances for the Customer to undertake and thereafter provides the Company with a reasonable opportunity of inspecting or testing the goods before they are used or resold; or:

b) if the alleged defect in the quality or state of the goods would not be apparent upon careful inspection or reasonable testing the Customer serves on the Company written notice of such defect forthwith upon its discovery and in any event not more than 3 months after receipt of the goods specifying the matters complained of and affording the Company a reasonable opportunity of inspecting the goods before any making good or replacement is undertaken.

#### **5.6 DEFECTIVE GOODS**

a) Provided that the Customer has complied with Condition 5.5 and subject to the provisions of Condition 5.8, if the goods or any part thereof are defective in quality or state or (except for any discrepancy in weight or quantity) otherwise not in accordance with the Contract then if the Company and the Customer do not agree that the Customer shall accept the goods at an agreed value or that the goods should be made good at the Company's expense the Company will accept the return of the goods by the Customer and at the Customer's option either:

i) repay or allow the Customer the invoice price thereof and any reasonable costs incurred by the

Customer for the purpose of transporting the goods back to the Company; or:

ii) replace the goods by delivering replacement goods as soon as reasonably practicable and in all other respects in accordance with the Contract.

b) The obligations of the Company under Conditions 5.6(a) are in substitution for any other legal remedy of the Customer and the liability of the Company shall for all purposes be limited to the cost of making good, the giving of any appropriate credit or repayment or the replacement of the goods in accordance with that Section. Under no circumstances shall the Company be liable for any other loss, damage or expense (including loss of profit) whether directly or indirectly occasioned by any breach of contract, negligence or breach of any duty of the Company whatsoever and howsoever such loss or damage or expense may have been caused. The Company shall not be liable for any loss or damage the Customer may suffer by reason of its use or sale of the goods after the Customer has become aware of a defect therein or ought in all the circumstances to have become so aware.

c) Where processing of the goods has been carried out by a third party, the Company's liability is limited to the processor's warranty as to the process or the effect the process may have had on the goods themselves.

d) In no circumstances will the Company be responsible for loss or damage beyond that expressly referred to in these Conditions (other than non-excludable liability for death or personal injury resulting from negligence on the part of the Company) and in particular liability for any form of consequential loss is excluded. Under no circumstances shall the Company's liability exceed the price of the goods.

## **5.7 STANDARDS**

The goods will be supplied within the tolerances stated in the current British Standard/European Standard for the appropriate product, where such a standard exists, unless it has been expressly agreed otherwise, in writing by the Customer. Any condition, warranty or undertaking as to the merchantability or satisfactory quality of the goods or the fitness or suitability of the goods for any purpose known by the Company or which may be implied by custom of the trade or by statute or otherwise is hereby excluded and any statement in a British or European Standard as to suitability of the goods for any purpose shall give rise to no legal liability on the part of the Company.

## **5.8 NON-PRIMES**

Goods sold as 'non-prime' or goods accepted by the Customer under Condition 5.6(a) which the Company and the Customer agree to be 'non-prime' are sold in their actual state, as seen, without warranty and with all faults whether or not the goods have been inspected by the Customer prior to delivery. Any statement, specification, description or other information provided by the Company in respect of such goods is given in good faith but the Company can accept no responsibility for its accuracy. In no circumstances will the Company be under any obligation to replace or make good such goods or entertain any claim whatsoever in respect thereof and the Customer shall indemnify the Company against all claims made against it and all losses, liabilities, costs and expenses consequent thereon which arise out of loss or damage to property or injury to or death of any person caused or alleged to be caused by or consequent upon the supply of a product (as defined in section 1 of the Consumer Protection Act 1987) to the Customers as 'non-prime' or to any third party by the Customer which comprises 'non-prime' goods sold to the Customer by the Company or which has a component or components or includes or is otherwise manufactured from any 'non-prime' goods supplied by the Company whether or not such claim is made pursuant to the said Act. If the Customer shall re-sell such goods the Customer shall ensure that a provision in similar form to this condition is incorporated in the Contract for such resale unless prior to reselling such goods the Customer has caused the goods or such part thereof as the Customer resells to comply with a recognised specification or standard.

## **5.9 RISK**

The risk in the goods but not the ownership shall pass to the Customer upon delivery. Delivery shall be deemed to take place:

a) in the case of goods to be collected from the Company's premises by the Customer or by the Customer's agent (including any independent carrier engaged by the Customer) - at the time when the loading of the goods on to the vehicle collecting them is completed;

b) when goods are delivered by the Company's transport (including any independent carrier engaged by the Company) - at the moment the goods are lifted from the delivery vehicle.

## **5.10 RETENTION OF TITLE AND REPOSSESSION**

No title or property in the goods shall vest in the Customer unless and until:

a) the Customer makes full payment to the Company of the price of the goods,

or b) the goods are incorporated in or utilised in the manufacture of products whichever is the earlier.

Until the first of such events the Customer shall in all respects treat and deal with the goods as the property of the Company and shall store the goods so that they are readily identifiable as the property of the Company. During such period (and without prejudice to its other rights) the Company and its employees and agents (with such plant and vehicles as the Company considers necessary) shall be entitled to enter any premises where the goods are located to inspect the goods and if any of the events specified in paragraphs (a), (b) or (c) of Condition 9 has occurred without prior notice to the Customer to re-possess, take away and re-sell the goods. For the purposes of this Condition de-coiling, cutting, slitting, punching, cold bending or re-bundling of the goods shall not constitute the manufacture of a product or products. Until the Customer has made full payment for the goods the Customer shall not be entitled to dispose of the goods or any right, title or interest therein by sale or otherwise to the holding company of the Customer or to any subsidiary of the Customer or of such holding company. The Customer shall insure and keep insured the goods to the full price against 'all risks' to the reasonable satisfaction of the Company until the date that property in the goods passes from the Company, and shall whenever requested by the Company produce a copy of the policy of insurance. Without prejudice to the other rights of the Company, if the Customer fails to do so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

## **5.11 WEIGHT**

Claims for non delivery, discrepancy in weight or damage must be notified in the case of goods dispatched:

a) by road, within seven days of the date of despatch.

b) by sea/airfreight, within two months of the date of despatch.

All goods are sold on the basis of weighed weight or calculated weight or quantity according to the Company's practice for that product. Sizes are supplied within the rolling tolerances as laid down by the producers. Where weighed weight is chargeable, the count is not guaranteed and claims based solely upon count cannot be accepted.

The Company shall be deemed to have fulfilled the Contract and the Customer shall take delivery of the goods if the goods delivered are within a tolerance of:

Below < 25 kg +/- 20 %

From 25 kg to 45 kg +/- 15 %

More than 45 kg +/- 10 %

## **STANDARD CONDITIONS SPECIFIC TO CONTRACT PROCESSING OF MATERIALS**

### **6.1 ORDER ACCEPTANCE**

6.1.1 Quotations shall remain valid for thirty days only unless agreed in writing by the Company.

6.1.2 Orders will only be accepted in writing.

6.1.3 The Customer is responsible for specifying the exact processing required.

Such specification must include all necessary information for the accurate processing of the material, including where applicable but not limited to:

- a description of the material including count of coils or lengths
- the incoming weights and dimensions
- all processing requirements
- finished dimensions and tolerance requirements
- surface and edge requirements
- materials handling and packing requirements

6.1.4 In the absence of all or part of the specification the contract shall be fulfilled by the Company carrying out the work to such British Standard or

other standard as deemed by the Company.

6.1.5 If the customer requests that materials be produced from any preliminary instructions, the Company accepts no liability if the official order contains any different or additional information.

6.1.6 Any amendment to the Contract must be made in writing and shall not take effect until confirmed in writing by the Company.

6.1.7 The Company reserves the right to make any changes in the specification of the material processing etc required to conform with any safety or other statutory requirement.

## **6.2 DELIVERY**

6.2.1 Time for completion of work is given as accurately as possible. No liability is accepted for failure for any cause to meet any completion time stated. Where a delivery period is agreed and is not extended by the Company the Customer shall take delivery within that period.

6.2.2 Alteration to the processing order or quantity to be processed may result in delay in delivery.

6.2.3 Unless specifically agreed in writing, the Customer shall be responsible for delivery of the material to the Company for processing and collection of the completed material.

6.2.4 Unless otherwise expressly agreed any packaging supplied by the Company is intended to be sufficient to protect the material for all normal conditions of transit and for the normal period of transit only.

6.2.5 If the Customer fails to take delivery of the material or fails to give the Company adequate delivery instructions at the time stated for delivery then the Company may charge the Customer for storage and insurance and/or may sell the material at the best price readily available and charge the Customer for any shortfall below the price under the contract after deducting from the sale proceeds all reasonable storage and selling expenses.

## **6.3 RISK**

6.3.1 Risk shall pass to the Customer who is responsible for all loss, damage or deterioration of the material when the Customer is notified that the material is ready for collection. This shall apply to both collection by the Customer and to delivery by the Company.

6.3.2 No responsibility is accepted for any loss, damage or deterioration to material due to any delay in accepting delivery.

6.3.3 Subject to clause 6.3.4 below the liability of the Company for the loss or damage to the Customer's material is limited to the Customer's purchase price less scrap value recoverable.

6.3.4 Unless specifically notified in writing by the Customer and confirmed in writing by the Company in respect of each order the liability of the Company in respect of material value shall be limited to the lower of three times our processing charge or £3,000 per tonne in respect of each order. Orders for processing material valued in excess of £3,000 per tonne shall be clearly marked and the Customer order must state their true value. The right is reserved to charge a processing premium for such material.

## **6.4 THE MATERIAL**

6.4.1 The material shall remain the property of the Customer and shall be used by the Company solely for the purposes specified in the Customer's order.

6.4.2 Unless agreed and confirmed by the Company in writing, no materials will be accepted for processing that are hazardous or injurious to health and the Customer shall be liable for any health risk incurred.

6.4.3 The Company shall only be liable for loss or damage to or destruction of the material where it is shown to have been negligent in the work or its custody of the material.

6.4.4 On delivery to the Company the material shall be in such a condition as to enable the Company to perform the work specified in accordance with the contract immediately and without prior treatment unless agreed by the Company.

6.4.5 The Company shall have the right to charge the Customer for any loss of time or other inconvenience caused by material being unfit for working or not in accordance with the contract or by Customer requests to inspect material or suspend processing.

## **6.5 PRICES**

6.5.1 Unless otherwise stated, all prices are quoted net ex works exclusive of packaging, collection, delivery and Value Added Tax.

6.5.2 The Company shall be entitled to adjust the contract price to reflect any alteration of specification or quantity processed.

6.5.3 Prices quoted are for total quantities shown and the Company may not offer the same rates or prices quoted for smaller quantities.

6.5.4 Unless otherwise expressly agreed any packaging supplied by the Company will be charged to the customer.

## **6.6 SHORTAGES, DEFECTIVE WORK OR DAMAGE**

6.6.1 The Customer shall have no claim for shortages, defective work or damage apparent on inspection unless:

- a) the Customer inspects the material within five working days of collection from the Company's premises: and
- b) a written complaint is made to the Company and the carrier within seven working days of collection or such shorter period as the carrier's conditions (if applicable) require specifying the shortage, defect or damage: and
- c) the Company is given the opportunity to inspect the material and investigate any complaint before any use is made of the material.

6.6.2 The Customer shall have no claim in respect of defective work or damage not apparent on visual inspection at the time of collection unless:

- a) A written complaint is sent to the Company as soon as is reasonably practicable after the defect is discovered and no use is made of the material thereafter and no alteration is made thereto before the company is given the opportunity to inspect material: and
- b) the complaint is sent within one month of notification that the material was ready for collection from the Company's premises.

6.6.3 The rectification or alteration undertaken by the Customer without the prior written consent of the Company nor in respect of any defect arising by reason of fair wear and tear or damage due to misuse or use different from that specified by the Customer.

6.6.4 The Company shall not be liable for any loss or damage suffered by reason of use of the material after the customer becomes aware of a defect or after circumstances which should reasonably have indicated to the Customer the existence of a defect.

6.6.5 The Company may within 15 days of receiving such a written complaint (or 28 days where the material is situated outside the United Kingdom) inspect the material and, if so required by the Company, the Customer shall take all reasonable steps necessary to enable the Company to do so.

6.6.6 If the condition of the material is such as might or would (subject to these Conditions) entitle the Customer to claim damages or to repudiate the contract, the Customer shall not then be entitled to do so but shall first ask the Company to rectify, reprocess or replace the material satisfactorily and the Company shall thereupon be entitled at its option to rectify, reprocess or replace free of cost and in reasonable time. If the Company does so rectify or reprocess satisfactorily the Customer shall be bound to accept such rectification and the Company shall be under no liability in respect of any loss or damage whatsoever arising from the initial delivery of the defective or damaged material or from the delay before the defective or damaged material is rectified or reprocessed.

## **6.7 LIABILITY**

6.7.1 Save where the Company is shown to have failed to exercise reasonable care in the work or its custody of the material and such failure results in death or personal injury, the Company shall not be liable in respect of claims arising by reason of death or personal injury.

6.7.2 Under no circumstances whatsoever shall the Company be liable for consequential loss (including removal or rectification work required in connection with installation of rectified or reprocessed material), loss of profits or damage to property.

6.7.3 The Customer will indemnify the Company against all damages, costs and expenses to which the Company become liable as a result of work done in accordance with the Customer's specifications which involves the infringement of any copyright, letters patent or letters or design.

6.7.4 The liability of the Company in respect of defective work or damage shall in all cases be limited to three times the contract price for the processing of the same.

Customer shall not be entitled to claim in respect of any repairs.

## **GENERAL CONDITIONS APPLICABLE TO BOTH SALE OF GOODS AND CONTRACT PROCESSING OF MATERIAL**

### **7. PAYMENT**

Payment is due by the end of the month following the month of despatch. Time for payment shall be of the essence. The Company shall be entitled to charge interest both before and after any judgement on any sums not so paid. Such interest shall be calculated on a day- to-day basis on the amount

outstanding from the due date of payment at a rate of 4% in excess of the highest rate at which HSBC plc base lending rate stood at any time within which the debt remained unpaid.

The Customer shall not be entitled to withhold payment of any sums due to the Company by reason of any disputed claim of the Customer for defective goods or alleged breach of the Contract or any other Contract by the Company.

#### **8. CANCELLATION**

Orders cannot be cancelled except with the Company's consent and on terms which will indemnify the Company against loss and expenses incurred. Any goods returned without the Company's consent will not be accepted for credit.

#### **9. TERMINATION**

The Company shall be entitled, without prejudice to its other rights and remedies, either to terminate wholly or in part any or every contract between itself and the Customer or to suspend any further deliveries under any or every such contract in any of the following events:

- a) if any debt is due and payable by the Customer to the Company but is unpaid;
- b) if the Customer has failed to take delivery of any goods under any contract between it and the Company otherwise than in accordance with the Customer's contractual rights;
- c) if the Customer becomes insolvent or enters into any composition or arrangement (including a voluntary arrangement) with his creditors or being a body corporate has passed a resolution for voluntary winding-up (except where solely for the purpose of amalgamation or reconstruction without insolvency) or if a petition has been presented for any order for its winding-up or for a receiver (including an administrative receiver) or administrator to be appointed or if any such order or appointment is made or if being an individual or partnership the Customer suspends payment of his or their debts in whole or in part if an application has been made for an interim order or a petition has been presented for a bankruptcy order or if any such order is made or if the Customer whether or not a body corporate shall carry out or be subject to any analogous act or proceedings under foreign law.

#### **10. WAIVER**

The rights of the Company and the Customer shall not be prejudiced or restricted by any indulgency or forbearance extended by either party to the other and no waiver by either party in respect of any breach shall operate as a waiver in respect of any subsequent breach.

#### **11. ASSIGNMENT**

The Contract shall not be assigned by the Customer to any third party without the prior written consent of the Company. The Company may licence or sub-contract all or any part of its rights and obligations under the Contract without the Customer's consent.

#### **12. SPECIFICATION**

- a) The Customer shall be solely responsible for the accuracy of any drawings, specifications or other information supplied to the Company by the Customer, its employees or agents and in conformity with which the Company is to supply the goods or is to apply any process or service in relation to goods of the Customer notwithstanding that the Company may have examined, inspected, studied or commented to the Customer upon any such drawings, specifications or other information.
- b) The Customer shall indemnify the Company against all actions, proceedings, claims, costs and expenses which may be brought against or incurred by the Company by reason of its supplying the goods or applying any process or service in relation to goods of the Customer in accordance with any such drawings, specifications or other information whether or not it is alleged in such actions, proceedings and claims that any patent, trade mark, design copyright or other intellectual property or other exclusive right of any third party has been infringed.

#### **13. CONFIDENTIALITY**

The Customer shall keep confidential and shall not without the prior consent in writing of the Company disclose to any third party any technical or commercial information which it has acquired from the Company as a result of discussions, negotiations and other communications between the Company and the Customer relating to the goods and the Contract.

#### **14. LAW AND JURISDICTION**

The Contract shall be governed by and construed in all respects in accordance with English law. The Customer on entering into the Contract submits to the jurisdiction of the English courts.

#### **15. NOTICES**

All notices, documents or other communications (a 'Notice') to be given under these Conditions shall be in writing and shall be transmitted by first class registered or recorded delivery mail (notices addressed to another country being sent by airmail), or by facsimile or other electronic means in a form generating a record copy to the party being served in the case of the Company at the address shown below and in the case of the Customer to the address of the Customer last known to the Company. Any Notice sent by mail shall be deemed to have been duly served three working days after the date of posting. Any Notice sent by facsimile or other electronic means shall be deemed to have been duly served at the time of transmission.

#### **16. IMPORT DUTIES**

On the 26th March 2018 the European Commission started surveillance measures on metallic imports into the European Union. European Parliament and the council have instigated investigation detailed through document 2018/C111/10 which is currently evaluating imports which may result in safe-guarding measures. Investigation is in direct relation to the pursuant to Article 5 of Regulation (EU) 2015/478 of the European Parliament and of the Council ( 2 ) and Article 3 of Regulation (EU) 2015/755 of the European Parliament and of the Council. As a result of these negotiations imposed under the European Commission and the United Kingdom exit from the European Union, Import duties imposed by geo-political influences outside of Knight Strip Metals Ltd and/or Precision Metals EU control may result in prices being immediately increased following the implementation of these duties.