

**Processing Addendum** to Terms and Conditions of Trading (**Conditions**) of ASD Limited trading as 'Kloeckner Metals UK' incorporated and registered in England and Wales with company number 1370600 and ASD Westok Limited trading as 'Kloeckner Metals UK | Westok' incorporated and registered in England and Wales with company number 04486009 both of whose registered offices are at Valley Farm Road, Stourton, Leeds, West Yorkshire LS10 1SD (together "Kloeckner Metals UK").

1. **Application and Interpretation**

- 1.1 In this Processing Addendum the definitions and rules of interpretation set out in the Conditions and this Processing Addendum apply.
- 1.2 This Processing Addendum applies when Kloeckner Metals UK has agreed to perform certain services to your goods (**Services**) and has issued written acceptance to you confirming its agreement to perform the Services to your goods (**Acceptance**).
- 1.3 This Processing Addendum is a Special Condition to the Conditions. Other than as set out in this Processing Addendum the Conditions are not affected.
- 1.4 In this Processing Addendum **YOUR ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 4.**

2. **The Goods**

- 2.1 Clause 4 of the Conditions does not apply.
- 2.2 You warrant to Kloeckner Metals UK that you own the goods or you have the right to have the Services performed on the goods.
- 2.3 The specific delivery and/or collection arrangements for the goods subject to the Services shall be as detailed in the Acceptance.

3. **Title and Risk**

- 3.1 Clause 8 of the Conditions does not apply and this clause applies instead.
- 3.2 The goods are at your risk notwithstanding that they are in Kloeckner Metals UK's possession. You shall insure the goods to their full replacement value while in Kloeckner Metals UK's possession.
- 3.3 Title to the goods shall remain with you at all times during the Contract.
- 3.4 Kloeckner Metals UK may exercise a lien over your goods in its possession until such time as Kloeckner Metals UK has received in full:
  - (a) all amounts due to Kloeckner Metals UK under the Contract in respect of the Services; and
  - (b) all other sums due to Kloeckner Metals UK from you which are outstanding.

4. **Warranties, Indemnities and Liability**

4.1 Clause 9 of the Conditions does not apply and this clause applies instead.

4.2 Subject to clauses 4.3, 4.4, 4.5, 4.10, 4.11 and 4.12, Kloeckner Metals UK warrants that the Services will be performed:

- (a) in accordance with the Acceptance; and
- (b) with reasonable care and skill.

4.3 Save as set out in clause 4.2 Kloeckner Metals UK gives no other warranties and now excludes, to the fullest extent permitted by law, all warranties, terms and conditions that would otherwise be implied into the Contract, including all warranties implied by law, custom and practice and course of dealing as to the quality of the finished goods and/or the Services or their fitness for purpose.

4.4 You are responsible for ensuring that, and you warrant to Kloeckner Metals UK that:

- (a) the Services are suitable for your purposes;
- (b) the goods are suitable to have the Services performed on them; and
- (c) the goods conform to any minimum specification specified in the Acceptance.

4.5 Subject to clause 4.12, Kloeckner Metals UK shall not be liable, whether in contract (including fundamental breach), tort (including negligence), breach of statutory duty or otherwise for any defect in the goods or the Service which:

- (a) is caused by a breach of any of the warranties given at clause 4.4;
- (b) is caused by a defect in the goods which existed prior to the performance of the Service.

4.6 You shall inspect the goods when they are delivered or made available for collection (**Delivery**). If, on Delivery, you discover that the Service has not been performed in accordance with clause 4.2 on such inspection you must mark the advice note accordingly and you:

- (a) shall inform Kloeckner Metals UK (in writing), with full details, before the goods' use or resale and in any event within 7 days of Delivery;
- (b) shall allow Kloeckner Metals UK and any carrier to investigate the alleged defect; and
- (c) hereby grant Kloeckner Metals UK access to your premises and any premises you control and the goods for the purpose of investigating the alleged defect

and Kloeckner Metals UK shall not be liable, whether in contract (including fundamental breach), tort (including negligence), breach of statutory duty or otherwise for any defect which would have been obvious had a reasonable inspection been carried out by you on Delivery.

- 4.7 If there is a complete failure of delivery, you shall notify Kloeckner Metals UK in writing within 7 days of receipt of Kloeckner Metals UK's despatch documents or Kloeckner Metals UK's invoice, whichever is earlier. You shall be deemed to have taken delivery of the goods and accepted the Service if you do not do so.
- 4.8 If you believe that the Service has not been performed in accordance with clause 4.2 but this was not discoverable at the time of Delivery by a reasonable inspection you:
- (a) shall inform Kloeckner Metals UK (in writing), with full details, within 7 days of discovering the alleged defect and in any event within 1 month of Delivery;
  - (b) shall allow Kloeckner Metals UK to investigate the alleged defect; and
  - (c) hereby grant Kloeckner Metals UK access to your premises and the goods for the purpose of investigating the alleged defect.
- 4.9 If, following Kloeckner Metals UK's investigations, the Services are found not to have been performed in accordance with clause 4.2, and you have complied in full with clauses 4.6, 4.7 and/or clause 4.8 (as applicable), Kloeckner Metals UK shall at its cost repair or replace the goods, or pay to you an agreed cost to cover out the repair carried out by yourselves.
- 4.10 Subject to clause 4.12, Kloeckner Metals UK shall not be liable to you or to any person claiming through you, whether in contract (including fundamental breach), tort (including negligence), breach of statutory duty or otherwise for any indirect or consequential loss, financial loss, loss of profits, loss of business revenue, loss of contracts, loss of goodwill, or loss of use arising from the Contract, any collateral contract or the provision of services.
- 4.11 Subject to clauses 4.10 and 4.12, Kloeckner Metals UK's liability to you for all other losses arising under or in connection with the Contract or any collateral contract (including fundamental breach), whether in contract, tort (including negligence), breach of statutory duty or otherwise shall be limited to the price of replacement goods or services (as applicable).
- 4.12 Nothing in the Contract restricts or limits Kloeckner Metals UK's or your liability for death or personal injury resulting from negligence, for fraud or for any other liability which may not be excluded or restricted by law.
- 4.13 You shall indemnify Kloeckner Metals UK in full and demand from all costs, proceedings, actions, claims or demands, liabilities, losses (including lost processing time), damages and obligations which Kloeckner Metals UK may incur or for which Kloeckner Metals UK may be liable (including legal costs and expenses) arising out of or in connection with breach of the warranties set out in clause 4.4.

**Issue no. 3 / January 2016**