

**Outokumpu Stainless**  
**Outokumpu Conditions of Sale**  
Edition: 2009.02.01



**1. Introduction**

These conditions of sale ("Conditions") shall form an integral part of all offers and agreements for the sale of goods by Outokumpu. Any condition put forward by the Buyer in its order or otherwise will only have effect if accepted by Outokumpu in writing. Outokumpu will confirm the Buyer's orders by an order acknowledgment, and an agreement will be concluded only upon the issue of such an order acknowledgment ("Acknowledgment").

**2. Offers**

An offer from Outokumpu is valid for a period of 14 days from the date of issue, unless otherwise expressly stated in the offer. Outokumpu may revoke an offer at any time prior to receiving the Buyer's acceptance.

**3. Material selection**

In the event Outokumpu gives any advice on material selection or other similar assistance, it is given free of charge without any undertaking, representation or warranty and Outokumpu shall have no liability – neither compensatory nor consequential – for any such advice or assistance.

**4. Specifications**

The goods shall meet the agreed specifications. If no specifications are agreed, the goods shall meet the general specifications of Outokumpu at the time of delivery. Statements presented in product information, handbooks, web sites, price lists or other information regarding the goods will only be binding on Outokumpu if expressly referred to in an offer or Acknowledgment.

**5. Delivery**

The agreed delivery time means the date on which the goods shall be ready for dispatch from Outokumpu. Outokumpu is entitled to divide and deliver the goods in lots. If no delivery time is agreed, delivery shall be made according to Outokumpu's capacity planning. If no delivery term is agreed, Ex Works (Incoterms 2000) the mill of Outokumpu choice shall apply.

Should the delivery be delayed by more than eight weeks, the Buyer shall as its sole remedy be entitled to terminate and cancel the purchase of the goods delayed by giving written notice thereof to Outokumpu.

In the event that the quantity of the goods is agreed on the basis of weight, the quantity to be supplied can be adjusted by Outokumpu to deviate up to 10% (+/-) from the agreed weight of the total delivery for each type of product/steel grade, and the price shall be adjusted accordingly. For tubes the agreed length, and for tube fittings the agreed numbers of items, can be adjusted in the same way by Outokumpu. The weight or quantity printed or otherwise stated on the goods supplied by Outokumpu shall be deemed to be correct, unless proven otherwise.

Outokumpu shall not be liable for any direct or indirect damage or consequences attributable to a

delayed delivery, except in the event of Outokumpu's gross negligence.

**6. Defective goods and shortages**

The goods delivered shall be free from defects (faults). The goods shall only be regarded as defective if the goods do not meet the specifications set out in clause 4 above. Outokumpu is not liable for any function, quality or property of the goods other than as expressly stated above, and any terms implied whether by statute or otherwise relating to quality or fitness for purpose are hereby excluded. Goods sold as non-prime or under similar description are sold "as is", which means that all rights to remedies and compensation for defects are waived unless such goods deviate from expressly agreed specifications.

In the event of any defects or shortages in the goods, the Buyer shall give notice to Outokumpu in writing within one week of the goods arriving at their named place of destination. For defects that could not reasonably have been detected upon arrival of the goods at the named place of destination, the Buyer shall notify Outokumpu in writing within two weeks of the date on which the Buyer noticed the defect. However, notification made more than one year after the date on which the risk for the goods was transferred onto the Buyer will not have any legal effect. If notification is made too late, Outokumpu is not obliged to perform any remedy or pay any reduction in price.

In the event of any defects or shortages in the goods, and if the Buyer has notified Outokumpu in due time, in accordance with the terms stated above, Outokumpu shall at its own expense and taking into consideration the reasonable time to produce new goods (if needed), at its sole discretion either rectify the defect or deliver new and faultless goods or in the event of a shortage, deliver the missing quantities – at the named place of destination. Defective goods shall be handed over to Outokumpu at the same time as any replacement products are delivered.

Instead of correcting a defect or shortage, Outokumpu shall always have the right to credit the Buyer for the decrease in the value of goods commensurate to the defect or shortage.

Apart from the remedies and compensation expressly set out in these Conditions or the Agreement (as defined in clause 10 below), the Buyer is not entitled to any other compensation or remedies with respect to any defect or shortage in the goods, except in the event of Outokumpu's gross negligence.

**7. Force majeure**

Neither party shall be liable for delay in performing or failure to perform its obligations if the delay or failure results from an impediment outside its reasonable control such as war, terrorism, fire, explosion, flooding or other extreme weather, major machine break down, strikes, lockouts and other labour

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disputes, trade disputes, refusals to grant licences. Delay or failure due to such impediment shall not constitute a breach of contract, with the effect that the affected party is relieved from liability and all contractual claims against it in respect thereof. The time for performance shall be extended by a period equivalent to that during which performance is so prevented. If such a delay or failure persists for more than three months, either party shall be entitled to terminate the Agreement in respect of goods not yet delivered to the Buyer. In the event of such a termination, neither party will be entitled to any compensation, but any prepayment for goods not delivered shall be refunded and goods in transit not delivered shall be reverted.

**8. Retention of title**

(i) Outokumpu holds the title to the goods delivered until the Buyer has made full payment for the goods. (ii) Outokumpu also holds title to the goods delivered until the Buyer has made full payment of all other monies due from the Buyer to Outokumpu. (iii) Until the title passes Outokumpu has the right to recover any goods in the Buyer's possession or control to which it holds the title and Outokumpu is hereby given the right to enter any land or building where the goods are stored to collect such goods. (iv) If the Buyer processes the unpaid goods into/or to form part of a new object, Outokumpu is granted title to the new object proportionate to the value of the unpaid goods in the new object until such time as it has received full payment for the original goods. (v) If the Buyer sells any unpaid goods or new object, the Buyer hereby assigns to Outokumpu a proportion of its claim on any third party equivalent to the debt for the unpaid goods/new object sold. (vi) Each sub clause (i)-(v) above shall have effect as a separate clause and accordingly in the event of any of them being unenforceable for any reason the others shall remain in full force and effect.

**9. Payments, VAT and overdue interests**

Agreed prices are exclusive of Alloy Surcharges, Value Added Tax (VAT) and any other taxes or duties unless otherwise expressly agreed. Alloy Surcharge will be added in accordance with Outokumpu's surcharge ruling (set out at [www.outokumpu.com](http://www.outokumpu.com)) at the date of dispatch for each lot of goods unless otherwise expressly agreed. If Outokumpu is for any reason required to pay Buyers VAT and VAT related penalties (for example, where the Buyer is not exporting the goods or not providing correct VAT code) the Buyer shall reimburse Outokumpu for these costs plus overdue interest as stated below in respect of Outokumpu's payment thereof.

If no payment terms are agreed, the Buyer's payment under the Agreement shall be made within 30 days from the date of invoice. If the Buyer has not paid on time, the Buyer shall pay overdue interest on the amount outstanding at a rate of 7 percent per annum above the three month Euribor (Euro Inter-bank Offered Rate) from

the due date to the payment date. The overdue interest shall be determined according to the Euribor quoted on the banking day following the due date and shall be adjusted at three month intervals.

**10. Entire agreement**

These Conditions, the Acknowledgment with its enclosures and any amendments agreed in writing constitutes the entire agreement between the parties (the "Agreement"). The Agreement will supersede all previous and contemporaneous negotiations, commitments and understandings between the parties, whether written or oral, with respect to the goods covered by the Agreement.

**11. Governing law**

The Agreement shall be governed by Finnish law with exclusion of its conflicts of law rules and the United Nations Convention on the International Sale of Goods (CISG) (and except as otherwise provided in clause 12, third paragraph, below).

**12. Disputes**

Any dispute, controversy or claim arising out of or in connection with the Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration pursuant to the rules of the Arbitration Institute of the Stockholm Chamber of Commerce (the "SCC Institute").

The Rules for Expedited Arbitrations shall apply, unless the SCC Institute, taking into account the complexity of the case, the amount in dispute and other circumstances, determines that the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply. In the latter case, the SCC Institute shall also decide whether the arbitral tribunal shall be composed of one or three arbitrators. The legal place of arbitration shall be Helsinki, Finland, and the language of the arbitration shall be English.

Notwithstanding the arbitration clause set out above, Outokumpu shall in its sole discretion be entitled to choose to have recourse to competent courts and execution authorities in and under the laws of the Buyer's country, or elsewhere, for purposes of collecting debts of the Buyer.

**13. General limitation of liability**

Except as expressly provided for in these Conditions or as otherwise agreed, Outokumpu shall in no circumstances, including product liability, be held liable for any incidental, indirect or consequential loss or damage including, but not limited to, loss of profit, loss of production, discarded production or claims from the Buyer's customer. This limitation, however, does not apply in the event of gross negligence.

Outokumpu shall have no liability for any claim whatsoever when notification is made more than one year after the date on which the risk for the goods was transferred onto the Buyer.