

**General Conditions  
of Contract for  
the Purchase of  
Goods and Services**

## OS2

### **Outokumpu Stainless Ltd General Conditions of Contract for the Purchase of Goods and Services**

In these Conditions, "the Buyer" means Outokumpu Stainless Ltd and any subsidiary company of the Buyer by whom the goods are purchased or the services ordered, "the Seller" means the supplier of such goods and/or services, "the Order" means the Buyer's purchase order for such goods, "the Contract" means the contract, subject to these Conditions, arising from the Seller's acceptance of the Order and "the Works" means the Buyer's receiving works for such goods.

1. Unless expressly accepted in writing by the Buyer any variation of the Order or these Conditions must be deemed to be and will be treated as inapplicable.
2. The price stated in the Order for the goods may only be varied by prior agreement in writing between the Buyer and the Seller. If no delivery date is agreed in the Contract the Buyer is entitled to decide on the delivery date if made with reasonable notice.

#### 3.1 The Seller warrants that the Goods and the Services shall:

- (a) not be changed without the prior written consent of the Buyer;
- (b) be of the best available design, of the best quality and workmanship without fault or defect (including latent defect),
- (c) in the case of the Services, be performed with reasonable care and skill, in accordance with generally recognised commercial practices and standards for similar services;
- (d) conform to the Purchase Order (including, but not limited to, the Specification, which the Seller warrants to be accurate and complete in all material respects and not misleading);
- (e) in the case of the Goods, to the extent they comprise parts and components which according to the Specification or drawings must be identical, such parts and components shall actually be interchangeable and the fitting surfaces of all parts and components which come into consideration for replacement shall be finished in accordance with any tolerances stated in the Specification or on the drawings;
- (f) in the case of the Goods, be complete and fully operational and shall be delivered with all parts (and also those parts that are not specified in the Purchase Order but which are required for proper operation and also including the usual safety devices, special tools etc.);
- (g) be accompanied by all appropriate information, warnings, instructions and documentation in relation to the safe use, handling, storing, operation, consuming, transportation and disposal of any Goods or parts or materials, in particular in relation to hazardous materials which will be clearly identified to the Buyer;
- (h) be free of CFC's, asbestos, halons and radiation above natural background levels unless specifically agreed by the Buyer;
- (i) comply with any applicable national and international quality assurance standards from time to time published under which the Seller is approved; and/or as reasonably requested by the Buyer; and
- (j) in the case of the Goods, when delivered, be accompanied by a delivery note which shows, inter alia, the Purchase Order number, date of Purchase Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered, and if having a unit weight in excess of 1,000 kg, be clearly marked as such.

#### 3.2 The Seller warrants that the Goods and Services shall conform with all Laws applicable to:

- (a) such Services including in relation to health, safety and environmental standards; or
- (b) such Goods as regards the design, manufacture, quality, packaging, transportation, delivery, labelling, health, safety and environmental standards and use of such Goods which are in force at the time of supply.

#### 3.3 The Seller warrants that it (and each other Seller Party) shall at all times and at its and their own expense:

- (a) maintain all necessary licenses and consents and ensure that they do not do or cause to be done any act or omission that may cause the Buyer to breach any licenses, consents;

- (b) adopt good ethical behaviour and comply with all applicable Law (including but not limited to anti-corruption legislation) and ensure that they do not do or cause to be done any act or omission that may cause the Buyer to breach any applicable Law (including but not limited to anti-corruption legislation);
- (c) adopt safe working practices and at the proper time supply and install within the original contract price such guards and safety devices as may be necessary to comply with the provisions of all health and safety Laws and shall not in the performance of the Contract in any manner endanger the safety of or unlawfully interfere with the convenience of any other person, including employees and/or contractors of the Buyer;
- (d) ensure that, in performing its obligations under the Contract, it does not cause any disturbance or damage to the industrial operations and property at the relevant site;
- (e) comply with and ensure that they do not do or cause to be done any act or omission that may cause the Buyer or any of its employees to breach the Buyer's conditions in relation to any relevant site (including but not limited to health and safety conditions, safety management systems, safety cases, hygiene policies, security policies) and the Buyer's code of conduct, code of ethics, gifts and hospitality policy and guidance on travel and expenses made available to the Seller from time to time;
- (f) confirm the accuracy of the information provided as part of any Buyer contractor approval process or in accordance with any Buyer procurement principles, continue for the term of the Contract to comply with the requirements of any Buyer contractor approval process and/or procurement principles and promptly notify the Buyer of any changes to the details provided during or subsequent to any such Buyer contractor approval process or in accordance with any Buyer procurement principles;
- (g) assist the Buyer (and any person nominated by the Buyer) in the investigation of any accident or incident or the resolution of any dispute, which assistance shall include, but not be limited to, making personnel available for interview, providing access to documents and records, providing information reasonably requested by the Buyer and assisting in any notification required to be made to any regulatory authorities;
- (h) notify the Buyer as soon as it becomes aware of any breach of Laws or any health and safety hazard or issue which arises in relation to the Goods or Services (which notification shall not release the Seller from any liability and/or obligations in respect of such breach, hazard or issue);
- (i) co-operate with the Buyer in all matters relating to the Services;
- (j) subject to the prior written approval of the Buyer's Representative, appoint or, at the request of the Buyer, replace without delay the Seller's Representative, who shall have authority under the Contract contractually to bind the Seller on all matters relating to the Contract; and
- (k) notify the Buyer's Representative promptly after it becomes aware that the Buyer is not or may not be complying with any of the Buyer's obligations, provided that the Seller shall not be entitled to rely on such notice as relieving the Seller's performance under the Contract, save to the extent that it actually restricts or precludes performance of the Seller's obligations.

3.4 The warranties given under this condition 3 shall survive any performance, acceptance or payment pursuant to the Contract and shall be extended to any repaired or replacement Goods or substituted or remedial services provided by the Seller.

3.5 The Seller undertakes that it (and each other Seller Party) shall at all times allow the Buyer or any Buyer Representative to have access to the Seller or any Seller Party's (1) premises, (2) information and (3) personnel to allow the Buyer and/or the Buyer Representative to audit compliance with the warranties given under each of condition 3.3(b), (e), (f) and (g).

4. 4.1 Without prejudice to the Buyer's other rights under the Contract or otherwise and subject to condition 4.2 below, if:

- (a) the Seller breaches any of the warranties set out in condition 3.1; or
  - (b) the Seller breaches any other provision of the Contract not referred to in condition 4.1(a) above or any of the Goods or the Services otherwise fail to comply with the provisions of the Contract;
- the Buyer shall where practicable first seek to meet and discuss the situation with the Seller as soon as possible, but reserves the right to avail itself of any one or more of the remedies set out in condition 4.3 at its discretion, whether or not any part of the Goods or the Services have been accepted by the Buyer.

4.2 Where condition 4.1(a) applies, the remedies set out in condition 4.3 shall only be available where the Buyer notifies the Seller of the failure of the Goods or Services to comply with the Contract or the breach of warranty prior to the latest of:

- (a) 12 months after the date of acceptance of the relevant Goods or Services;

- (b) where the Seller has repaired or replaced Goods or provided substitute Services pursuant to condition 4.3, 12 months after the date of acceptance of such repaired or replacement Goods or substitute Services; or
- (c) where after the expiry of the relevant period referred to in condition (a) or (b) above of this condition

4.3 The remedies available to the Buyer following the occurrence of one of the events referred to in condition 4.1 are:

- (a) to reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that the Seller shall immediately pay to the Buyer a full refund for the Goods so returned;
- (b) to give the Seller the opportunity at the Seller's expense either to remedy any defect in the Goods or Services or to supply replacement Goods or substitute Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled within a reasonable period specified by the Buyer;
- (c) to refuse to accept any further deliveries of the Goods or subsequent performance of the Services which the Seller attempts to make, in each case without any liability to the Seller;
- (d) to carry out or procure that some other person carries out at the Seller's expense any work necessary to make the Goods and/or Services comply with the Contract (including but not limited to freight, disassembly and re-assembly);
- (e) if the Seller (or any other Seller Party) breaches a warranty set out in condition 3.2 or 3.3, to notify (in writing or otherwise) the Seller of such breach and instruct the Seller to suspend performance of its obligations under this Contract with immediate effect and to take such steps as the Buyer may direct in order to remedy such breach at the Seller's expense;
- (f) to claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract;
- (g) to obtain substitute goods or purchase substitute services elsewhere and recover from the Seller any expenditure reasonably incurred by the Buyer in obtaining the goods or services in substitution from another seller;
- (h) in the event that the Seller or any Seller Party is in breach of condition 3.3 (b), to terminate forthwith the Contract in whole or in part or to rescind the Purchase Order, in each case without any liability to the Seller; and
- (i) in the event of any failure by the Seller to fulfil its obligations under condition 4.3(a) to (h) or to the extent there is any other material or persistent default by the Seller of its obligations under the Contract, which being capable of remedy are not remedied within 14 days of notice of such default, to terminate the Contract in whole or in part or to rescind the Purchase Order, in each case without any liability to the Seller.

4.4 If the Buyer exercises its right under condition 4.3(d), the Buyer shall have the free use of all tools, equipment, stores and other things (whether the same be owned, hired or licensed by the Seller or a Seller Party) that may be at any time used in connection with the Services, without being responsible to the Seller for fair wear and tear and to the exclusion of any right of the Seller over the same.

4.5 If the Purchase Order includes a provision requiring the Seller to pay an amount of liquidated damages if it fails to achieve a delivery date, performance level, output or standard, the Seller shall pay such amount as liquidated damages and not as a penalty.

4.6 If the Buyer exercises its rights under conditions 4.3(b), (d) and/or (e) above in respect of Goods which do not, in the Buyer's opinion, meet the requirements specified in the Contract, the Seller grants to the Buyer the right to utilise the relevant Goods until such time as they meet those requirements.

5. The Buyer's inspectors shall at all reasonable times have access to the premises of the Seller and those of its sub-contractors for the purpose of inspecting and testing the goods during or after manufacture, repairs or servicing and may reject or require the making good of anything that does not conform with the Contract.

6. The Buyer may suspend for such period as it thinks fit or at its option may cancel the delivery of any undelivered balance of goods and/or the performance of any work provided for in the Contract if its Works or any part thereof are permanently closed down or operations temporarily curtailed during the currency of the Contract. If the Buyer cancels the Seller shall be entitled to such reasonable compensation as may be agreed between the parties. If the Buyer suspends delivery, the Seller will be reimbursed reasonable storage costs necessarily incurred by him.

7. The Seller shall not without the consent in writing of the Buyer, which shall not be unreasonably withheld, sub-contract the Contract or any part thereof (except for materials or for minor details).

8. The Seller must agree the exact delivery day with the Buyer at least one weekday before dispatch of the goods if not a specific delivery day is fixed in the Contract. The Buyer is entitled to refuse take delivery if the goods arrive on a day not properly agreed.

9. All patterns, drawings, dies, moulds, specifications and other such items supplied by or at the expense of the Buyer shall remain the Buyer's property and must be returned in good order and condition on request or on completion of the Contract and shall not be copied or used for any purpose other than for carrying out of the Contract. For any standard software delivered as part of the goods the Buyer is granted a non exclusive licence to use the software. If the software is developed especially for the Buyer the copyright (including but not limited to the right to change and right to transfer) to the software is transferred to the Buyer and the source code shall be handed over to the Buyer.
10. Except to the extent that the goods embody designs prepared by the Buyer, the Seller shall indemnify the Buyer against all actions, claims, costs, charges and expenses arising from any infringement or alleged infringement of any patent, registered design, trademark, copyright or other protected rights arising out of the supply or use of the goods but excluding infringement arising only from the use of the goods in combination with other goods not supplied by the Seller.

The Buyer shall promptly notify the Seller of the bringing of any such claim or proceedings and the Seller may at his own expense and on giving reasonable security to the Buyer deal with the same in the name of the Buyer provided the Seller takes over the conduct of all negotiations and proceedings within 14 days of the Buyer's notification.
11.
  - 11.1 The Seller shall indemnify and keep the Buyer fully indemnified against all actions claims proceedings liabilities costs expenses and losses (including but not limited to direct, indirect and consequential loss of profit or loss of production whether foreseeable or not) suffered or incurred by the Buyer in relation to death or injury to persons or loss of or damage to property or breach of contract by the Seller to the extent that the death injury loss damage or breach is attributable to the acts or omissions of the Seller its officers employees agents or sub-contractors. The remedies contained in this Clause are without prejudice to and in addition to any warranties indemnities remedies or other rights provided by law and/or statute and/or under any other provision of this Contract for the benefit of the Buyer.
  - 11.2 Except in respect of claims for personal injury or death or loss of or damage to third party property or wilful misconduct or intent by the Seller the liability of the Seller arising under Clause 11.1 for any one act or omission shall not exceed 200 % of the contract value of the goods or £10 Million whichever is the greater.
  - 11.3 The Seller shall during the period of the Contract hold adequate insurance policies to cover the full amount of the Sellers potential liability under to clause 11.1 and 11.2. Satisfactory evidence of such insurance and payment of the premium shall be shown to the Buyer upon request. If insurance is not effected or premiums not paid, the Buyer may effect or pay the same and may deduct the cost of so doing from payment under the Contract.
  - 11.4 The Seller shall during the period of the Contract hold employers' liability insurance in respect of his employees of at least a minimum of £10 million (ten million pounds sterling) in respect of any one event or series of connected events.
12.
  - 12.1 The Seller shall comply with and shall ensure that its sub-contractors comply with the Buyer's Site Regulations, Buyer's Instructions and Safety Rules so far as previously communicated to the Seller. The Seller shall comply with and shall ensure that its sub-contractors and any goods sold hereunder comply with all applicable legislative provisions, bye-laws and the like, including all relevant Health and Safety regulations.
  - 12.2 All goods supplied for this Contract shall comply with the applicable national and international quality standards applicable on the goods. All persons directly or indirectly working for the Seller under the Contract (including but not limited to repairs and servicing) shall have the necessary skills and experience to the best professional standards and have sufficient and well maintained plant, equipment, (including but not limited to safety clothing and safety equipment) to carry out the Contractors obligations under the Contract.
13. The Seller shall not without the previous written consent of the Buyer advertise or except for the performance of the Contract make known to third parties the fact that the Seller supplies goods to the Buyer.
14. Until delivered to the place or places and in the manner specified in the Contract the goods shall remain at the risk of the Seller who shall insure the same against all risks which can be reasonably contemplated as affecting the goods. Subject to the Buyer's right of rejection, the property in the goods shall pass to the Buyer upon delivery or upon the making of any progress payment, whichever shall come first.
15. The Buyer may by written notice cancel the Contract if the Seller becomes bankrupt or being a Company goes into liquidation (other than for purposes of amalgamation or reconstruction) or suffers a receiver to be appointed or has an administration order made against it.
16. All goods supplied for this Contract on a price for weight basis shall be delivered over the Buyer's weighbridge. The net weight so recorded shall be the Contract weight.
17. Payment will be made on the 30<sup>th</sup> day of the second calendar month following the month of delivery provided the invoice contains the Buyer's purchase order number and reaches the Buyer on or before the fifth day of the first calendar month following the month of delivery. Without prejudice to any other right or remedy, the Buyer reserves the right to set off any amount owing at any time from the Seller to the Buyer against any amount payable by the Buyer to the Seller. If any undisputed sum under the Contract is not paid when due then, without prejudice to the parties' other rights under the Contract, provided the Seller issues an invoice that sum shall bear interest from the due date until payment is made in full, both before and after any judgment, at 2% per annum over Bank of England base rate. The Seller is not entitled to suspend deliveries of the Goods or performance of the Services as a result of any sums being outstanding.

18. This Contract shall be governed by English law. If the Seller is a company registered in United Kingdom any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to the resolution of the High Court, in Sheffield, England. If the Seller is a company registered in a country outside United Kingdom any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules (London Court of International Arbitration), which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be three. The seat, or legal place, of arbitration shall be Sheffield, England. The language to be used in the arbitral proceedings shall be English.

### **Repairs and Servicing**

Where the Contract comprises or includes the repair or servicing of goods, the following additional conditions shall apply together with such of the foregoing conditions as are capable of applying to such Contract and the expression "Seller" shall as regards any such Contract mean the Company, firm or person employed by the Buyer to carry out work of repair or servicing.

19. If the servicing or repair by the Seller of any goods is defective, then (1) if the defect can be properly and economically remedied, the Buyer shall at its option be entitled either to require the Seller to remedy it as soon as possible or itself to remedy it or to procure it to be remedied by another contractor at the cost and risk of the Seller, and (2) if the defect cannot be properly and economically remedied and the defective goods are of no use to the Buyer, then the Buyer shall be entitled to invoice the same to the Seller at their value before servicing or repair. The provisions of this Condition shall be without prejudice to any other rights and remedies which the Buyer may have at law.
20. Goods supplied by the Buyer to the Seller for servicing or repair shall remain from the time of receipt until re-delivery as instructed by the Buyer at the absolute risk of the Seller in regard to any loss or damage, excepting only inherent vice and fair wear and tear.
21. Further and without prejudice to the Seller's aforesaid responsibility the Seller shall at his own cost insure all goods delivered to him by the Buyer from the time of receiving them until re-delivery as intimated by the Buyer for their replacement value against loss, damage or destruction resulting from any insurable risk (other than inherent vice or fair wear and tear) which can be reasonably contemplated as affecting the goods. The Seller shall, if requested by the Buyer, effect such insurance in their joint names and the Seller shall upon request produce for inspection by the Buyer the policy of insurance and current receipts for premiums.

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November 2014