



**General Conditions
of Contract for the Purchase
of Services with Transport
Operators**

1. Definitions

- 1.1 **"The Purchaser"** shall mean Outokumpu Stainless Limited and its subsidiary companies and their respective successors and assigns.
- 'CMR'** shall mean the convention on the contract for the international carriage of goods by road as set out in the schedule to the Carriage of Goods by Road Act 1965 and as from time to time amended.
- "The Transport Operator"** shall mean the firm or company who contracts with the Purchaser for the carriage of goods by road, rail, intermodal methods or otherwise, and shall include any sub-contractors or agents employed by the Transport Operator.
- "Dangerous Goods"** shall mean goods included in the list of dangerous goods published by the Purchaser from time to time or restricted by national laws of a country in which they are carried.
- "Vehicles"** shall mean motor vehicles and articulated vehicles and shall include flats, trailers and semi-trailers adapted or intended to be drawn by motor vehicles, rail wagons, swap bodies and lift on - lift off units.
- "The Contract"** means all things in writing (including but not by way of limitation, these conditions) whenever made which properly should be referred to in determining the rights and obligations of the Purchaser and the Transport Operator.
- 1.2 These conditions (insofar as they are not varied by agreement in writing between the parties) apply whenever the Purchaser entrusts goods to the Transport Operator for carriage.
- Any terms and conditions in any document of the Transport Operator, which are inconsistent with these conditions, shall have no effect.
- In cases where the Purchaser is acting as agent its principals will be bound by and are entitled to the benefit of these conditions as if they were named herein.

2. Transport Operator's Obligations

- 2.1 The Transport Operator shall ensure that Vehicles used for the carriage of goods entrusted to it are licensed, taxed, constructed, maintained, loaded, properly secured for loads, insured, operated and used in conformity with the law of the country of loading, and the law of the country through which the goods are transported and the law of the country of delivery, and the Transport Operator shall and shall ensure its drivers, servants and agents comply with:
- 2.1.1 the Site Regulations operative at the Purchaser's premises from time to time.
- 2.1.2 all instructions given by an authorised representative of the Purchaser in the course of his duties whilst on the Purchaser's premises and
- 2.1.3 any guidelines for the safety of loads, which may be issued by the Purchaser or the Department for Transport from time to time.
- 2.2 It shall be the Transport Operator's responsibility to provide a suitable and well maintained Vehicle and sufficient load and securing equipment (including the provision of all necessary tackle and facilities for securing the load to the Vehicle) and to ensure that the drivers and loading staff (if applicable) are competent and have received sufficient instructions in the safe use of the Vehicle and securing equipment in relation to the specific loads involved.
- 2.3 It shall be the obligation, duty and responsibility of the Transport Operator through its drivers, servants and agents to check and ensure that the load is properly loaded, positioned and secured at all times. The Transport Operator shall also be responsible for ensuring that the driver shall check the load for security by testing the lashings for adequate tension immediately after the Vehicle has left the site of loading and thereafter at regular intervals during the journey.
- 2.4 The Transport Operator shall only employ or sub-contract or use drivers who hold a current recognised national qualification in the country of loading and the country through which the loads are transported and the country of delivery entitling the driver to operate the Vehicle being used for the carriage of goods. The Transport Operator shall keep adequate records of all such drivers and shall, if required, allow such records (including tachograph recordings) to be inspected by the Purchaser.
- 2.5 The Transport Operator shall produce to the Purchaser satisfactory evidence of compliance with this Clause 2 whenever the Purchaser reasonably requests and shall inform the Purchaser of any significant movement in the loads in relation to the Vehicle in transit.
- 2.6 It is a fundamental condition of the Contract and the placing by the Purchaser of the business incorporated in the Contract with the Transport Operator that the Transport Operator shall have complied and shall at all times and in every respect comply with the Code of Conduct of the Purchaser as issued from time to time.

3. Interference with other operations and rights

The Transport Operator in providing the haulage service shall ensure that there is no interference with the operation of the Purchaser or of other contractors or with the use and enjoyment of any public rights or with any easement or property whether of the Purchaser or not unless performance of the Contract unavoidably so requires and then the Transport Operator shall ensure that any such unavoidable interference is as limited as possible.

4. Loading

- 4.1 Without prejudice to the generality of Clause 2 it is the absolute responsibility of the Transport Operator and its drivers, servants and agents specifically to ensure that any Vehicle and all necessary tackle and facilities for securing loads to the Vehicle presented for loading is suitable for the carriage of the load, is not overloaded and is not subsequently overloaded and that the load is properly and safely positioned and secured.
- 4.2 Where the carriage of goods includes carriage by air, by sea or by inland waterway in a vehicle owned or provided by the Transport Operator, such Vehicle shall have a loading restraint system and sufficient anchorage points that are accessible and of adequate strength to withstand forces likely to be encountered. The Transport Operator, its drivers, servants and agents shall comply with any advice, direction or requirement of the ferry or shipping operator, their servants or agents.
- 4.3 In any case where a load is placed on a Vehicle otherwise than in the presence and under the direction of its driver, the driver must before moving it inspect the Vehicle and be satisfied that the load is positioned and secured properly.
- 4.4 If a driver is not satisfied that a load is properly distributed a request should be made for it to be adjusted in accordance with the driver's requirements. The Purchaser's employees have instructions to comply with such requests.
- 4.5 The Transport Operator shall sheet or take such other measures to protect its load as may be specified from time to time by the Purchaser.
- 4.6 Where the Purchaser loads or provides any tackle for ensuring the load or any labour for either purpose it shall be provided and carried out under the direction, control and to the satisfaction of the drivers, servants or agents of the Transport operator and without acceptance of any responsibility or liability by the Purchaser, its servants or agents.
- 4.7 The Purchaser shall not be liable for any claims, costs or expenses incurred by the Transport operator due to delays in loading or unloading howsoever caused.
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5. Transit

Goods shall be deemed to be entrusted to the Transport Operator from the time the goods are loaded onto its Vehicle at the point of loading until such time as unloading of the goods is commenced at the point of final delivery. For the avoidance of doubt the Transport Operator shall be responsible for all goods that have been loaded onto its Vehicle and the Vehicle itself also whilst such Vehicle and those goods remain on the Purchaser's premises.

6. Dangerous Goods

- 6.1 The Purchaser will notify the Transport Operator before the commencement of the carriage of any goods if those goods are Dangerous Goods.
- 6.2 The Transport Operator may at its discretion refuse to carry any Dangerous Goods or may agree with the Purchaser in writing terms and conditions relating to the carriage of any such goods other than these terms and conditions, provided such refusal or demand for additional terms are made with the Purchaser without unreasonable delay.
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7. Transhipment

The Transport Operator will not tranship the goods entrusted to it either in whole or in part without the prior consent of the Purchaser.

8. Assignment and Sub-Contracting

- 8.1 The Transport Operator shall not without the prior consent in writing of the Purchaser, sub-contract, assign or transfer the contract of carriage of goods entrusted it, in whole or in part. Such consent may be forthcoming in exceptional circumstances but shall not relieve the Transport Operator from any of its obligations.
- 8.2 Where the haulage of goods fall within the terms of the CMR (and only in such cases) the Transport Operator may sub-contract the contract of carriage of goods entrusted to it either in whole or in part but such sub-contracting shall not relieve the Transport Operator from any of its obligations.
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9. Proof of Delivery

- 9.1 The Transport Operator shall be responsible for providing proof of delivery of the goods to the consignee by obtaining the Purchaser's delivery document to be signed by consignee in acknowledgment of receipt within 10 days of the date of delivery of the goods.
- 9.2 The Transport Operator shall retain the signed delivery document (and where relevant the CMR note) for twelve months from the date of delivery and shall supply the same to the Purchaser whenever so requested during that period.

- 9.3 The Purchaser shall be entitled to treat the failure by the Transport Operator to obtain, retain or supply the delivery document as aforesaid as evidence of mis-delivery and/or loss of the goods by the Transport Operator entitling the Purchaser to make a claim against the Transport Operator and compensation pursuant to clause 11 below.
- 9.4 Where the Transport Operator falls within the terms of the CMR (and only in such cases) the Transport Operator shall provide written proof to the Purchaser within 28 days of loading of export from the UK of the goods carried by the Transport Operator. A copy of such evidence shall be retained by the Transport Operator for 7 years from the date of loading.

10. Indemnity and Insurance

- 10.1 The Transport Operator shall indemnify and keep the Purchaser 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 Purchaser in relation to death or injury to persons (including but not limited to any employee of the Purchaser) or loss of or damage to property (including but not limited to property of the Purchaser) or a breach of contract by the Transport Operator to the extent that the death injury loss damage or breach is attributable to any acts or omissions of the Transport Operator 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 provisions of the Contract for the benefit of the Purchaser.
- 10.2 Except in the case of personal injury or death or loss of or damage to third party property or wilful misconduct or intent by the Transport Operator the liability of the Transport Operator arising under Clause 10.1 for any one act or omission shall not exceed 200% of the amount to be paid by the Purchaser annually under the Contract or £10 million, whichever is the greater.
- 10.3 The Transport Operator shall during the period of the Contract hold adequate insurance policies to cover the full amount of the Transport Operators' potential liability under Clause 10.1 and 10.2. Satisfactory evidence of such insurance and payment of the premium shall be shown to the Purchaser upon request. If insurance is not effected or premiums not paid, the Purchaser may effect or pay the same and may deduct the cost of so doing from payment under the Contract.
- 10.4 The Transport Operator 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.

11. Liability

- 11.1 The Transport Operator shall be liable for all damages whether to persons or property and all losses, expenses, costs and claims which the Purchaser or any other person or persons shall incur or suffer by means of any negligence or otherwise or by reason of loss or mis-delivery of or damage to goods entrusted to the Transport Operator unless such loss, damage or mis-delivery is due solely to any Act of God, Act of War or of the Queen's enemies, riot or civil commotion, strike or lock-out, radioactive contamination or by any requisition destruction of or damage to such goods by or under the order of any government or public or local authority or to any neglect or omission of the Purchaser, its servants and agents.
- 11.2 Subject to the provisions hereof the liability of the Transport Operator in respect of any one consignment shall not exceed:
- 11.1.2 where the loss or damage however sustained is in respect of the whole of the goods comprising that consignment so entrusted to the Transport Operator to a sum at the rate of £5,000 per tonne on the gross weight of such goods or such other sum as may be agreed;
- 11.1.3 where the loss or damage however sustained is in respect of part of the goods so entrusted to the Transport Operator to the proportion of the sum ascertained in accordance with Clause 11.1.1 which the actual value of that part of the goods bears to the actual value of the whole of the goods so entrusted to the Transport Operator.

12. Claims

The Purchaser will use all reasonable endeavours to notify any claim hereunder to the Transport Operator within 28 days of the Purchaser becoming aware of such claim.

13. Trademark

The Transport Operator shall not, without the prior written consent of the Purchaser, apply the Purchaser's house style livery, or use Purchaser's name for any marketing activities, or except as may be required by the performance of the Contract, make known to third parties the fact that the Transport operator supplies services to the Purchaser.

14. Transport Operator's Workmen

- 14.1 The Purchaser shall be entitled if it so requires to have suitable certificates of competence from the Transport Operator for any person employed by the Transport Operator as a driver.
- 14.2 The Transport Operator shall not without the consent of the Purchaser knowingly take into employment personnel employed by the Purchaser.
- 14.3 The Purchaser shall be entitled to object to any driver employed by the Transport Operator who shall in the opinion of the Purchaser misconduct (or may have misconducted) himself or be incompetent or negligent. The Transport Operator shall ensure that any such driver shall not be employed again by the Transport Operator in the provision of haulage services to the Purchaser without the permission of the Purchaser. Any removal of labour under this condition shall not constitute a valid reason for the Transport Operator's failure to provide haulage services to the Purchaser.

15. Payment

Payment for goods delivered will be made on the 30th day of the second calendar month following the month of dispatch of the goods provided the invoice contains the Purchaser purchase order number and reaches the Purchaser on or before the fifth day of the first calendar month following the month of dispatch.

16. Lien

The Transport Operator shall not be entitled to exercise any lien over the goods entrusted to it in respect of any unpaid haulage charges.

17. Bankruptcy

The Purchaser may by written notice with immediate effect and without compensation to the Transport Operator cancel the Contract if the Transport Operator becomes bankrupt or goes into liquidation or suffers a receiver to become appointed.

18. Priority

Nothing in the Contract shall restrict the Transport Operator, subject always to its obligation to supply the Purchaser under the Contract, as regards its provision of services to other persons.

19. Law

The Contract shall be governed and construed in accordance with English Law.

If the Transport Operator 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 Transport Operator 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.
