

**General Conditions
of Contract for the
Hire of Plant
With or Without
an Operator**

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General Conditions of Contract for the Hire of Plant with or without an Operator

Conditions governing the hire of plant by Outokumpu Stainless Ltd and/or any of its subsidiary companies.

- 1. Definition of Terms**
- 1.1 **"The Hirer"** means Outokumpu Stainless Ltd and its subsidiary companies and their respective successors and assigns.
- "The Contractor"** means the person, firm or company whose offer has been named us such in the Contract accepted by the Hirer and shall also include sub-contractors.
- "The Contract"** means the Agreement between the Hirer and the Contractor.
- "The Plant"** means all goods and/or services to be provided or used by the Contractor in carrying out the Contract or as are reasonably incidental thereto.
- "The Site"** means any land or premises occupied by the Hirer and any other place provided by the Hirer on, over or through which the Plant is to be operated.
- 1.2 In these conditions the masculine shall include the feminine and the singular shall include the plural and vice versa unless the context otherwise requires.
- Any reference to an Act of Parliament in these Conditions shall be a reference to that Act as it may re-enacted or modified.
- Clause headings and marginal notes are inserted for convenience only and shall not affect the construction and interpretation of these Conditions.
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- 2. Contractors Proper Performance of the Contract**
- 2.1 The Contractor shall perform the Contract:
- (a) in accordance with, and to the standards specified, in the Contract; and
 - (b) to the reasonable satisfaction of the Hirer; and
 - (c) so as to meet any criteria for performance specified in the Contract and/or guaranteed by the Contractor.
- 2.2 If no such standards and/or criteria have been expressly specified or guaranteed then without prejudice to the remainder of the preceding sub-clause, the contractor shall perform the Contract to the standard and so as to meet the criteria that are indicated by, and may reasonably be inferred from, the Contract taking into account any relevant circumstances known to the Contractor at the time the Contract was made.
- 2.3 Time shall be of the essence in the performance of the Contract.
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- 2.4 If and insofar as the Contractor operates as an employment agency or employment business in its dealings with the Hirer, the Contractor warrants that he will comply with the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Business Regulations 2003.
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- 3. Hire Period**
- The hire period shall commence on delivery of operational Plant to the place specified by the Hirer and its acceptance by the Hirer and shall terminate, unless otherwise specified, upon the Hirer giving notice to the Contractor. The rate of hire charges specified in the Contract shall not be altered without the prior written agreement of the Hirer. The hire charges could be agreed to be paid periodically otherwise they shall be paid at the end of the Hire Period.
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<p>4. Payment of Hire Charges</p>	<p>The Contractor shall not be entitled to any payment in respect of any item or items of Plant for any period during which either the item or items of Plant shall fail to meet the Contract requirements or use of the item or items of Plant is prevented by the non-availability of any other item of Plant to be provided by the Contractor in conjunction with which use is contemplated by the Hirer and of which notice is given to the Contractor. Where any payment is in respect of a number of items of Plant and is undifferentiated it shall be apportioned between those items in such shares as is reasonable.</p>
<p>5. Payment</p>	<p>Unless otherwise specified in the Contract payment of the Hirer will be made on the 30th day of the second calendar month following the month of the period of payment provided that the invoice contains the Hirer's purchase order number and reaches the Hirer on or before the fifth day of the first calendar month following the month in which the hire period of payment.</p>
<p>6. Recovery of Sums due from the Contractor</p>	<p>Any sum due from the Contractor to the Hirer in accordance with the Contract may be deducted by the Hirer from any sum due or becoming due to the Contractor under the Contract without prejudice to any other rights the Hirer may have.</p>
<p>7. Inspection and Notice of Dissatisfaction</p>	<p>Whenever the Plant is supplied with an operator the Hirer shall at all reasonable times be allowed to inspect any area or place in which the Contract is being performed. If, whilst the Contract is being performed the Hirer gives notice in writing to the Contractor that the Hirer is dissatisfied with the manner of execution of the Contract on account of the same being improperly or unsoundly performed or on account of the performance not being in strict accordance with the Contract then the Contractor shall immediately perform in accordance with the Contract.</p>
<p>8. Termination</p>	<p>Unless otherwise specified in the Contract the Hirer may terminate this Contract for any reason in whole or in part at any time by giving seven days notice to the Contractor. If the Contract is terminated without notice or other than pursuant to the Contract the Hirer shall compensate the Contractor for any unavoidable costs resulting directly from the termination that the Contractor would not otherwise have incurred, but the Hirer shall incur no other liability whatsoever.</p>
<p>9. Site Conditions</p>	<p>9.1 The Contractor shall be deemed to have informed and satisfied himself fully as to the nature and extent of the Site and of the work for which the Plant is required and therefore to have provided, unless expressly otherwise specified in the Contract, for all reasonably foreseeable eventualities in the hire charges.</p> <p>9.2 The Contractor shall inform the Hirer and confirm in writing any circumstances where delay and/or disruption in the performance of the Contract may be expected or has occurred due to restrictions imposed by the operation of the business of the Hirer in the vicinity of the area or place in which the Contract is to be performed.</p>
<p>10. Access to Site and Use of Facilities</p>	<p>10.1 The Contractor shall have access (but not exclusive access) only to such parts of the Site as are reasonably necessary for the purpose of carrying out the Contract and to such other parts as the Hirer may from time to time authorise. The Contractor shall be responsible for ensuring that no other part of the Site is entered and that use is made only of such roads, routes and facilities and at such times as the Hirer may from time to time authorise.</p> <p>10.2 The Contractor will at his own expense provide everything necessary for carrying out the Contract except as otherwise agreed in writing. However, the Contractor may, with the prior written consent of the Hirer, be permitted to use such supplies of electricity, water, gas and any other services as may from time to time be avail-</p>

able from the Hirer but shall make reasonable payment therefore unless the Contract expressly provides otherwise. The Hirer will not be liable for loss or damage caused by variation, cessation or diminution in pressure or quantity or quality or by the interruption, withdrawal or failure of such services. The Contractor shall at his own expense provide any apparatus and material necessary for utilising such services and shall be responsible for any loss or damage to persons or property caused by his use of them.

11. Contractor's Workmen	11.1	The Contractor shall in respect of all persons employed by him or his subcontractors in the performance of the Contract pay rates of wages and observe hours and conditions of labour in accordance with either local or national agreement between the contractor(s) and the trade(s) union(s) which shall reflect the general level of wages, hours and conditions observed by other employers in the locality whose general circumstances in the trade or industry in which the Contractor is engaged are similar.
	11.2	All persons directly or indirectly working for the Contractor under the Contract shall have the necessary skills and experience to the best professional standards and have sufficient and well maintained equipment, (including but not limited to safety clothing and safety equipment) to carry out the Works. The Hirer shall be entitled if it so requested to have suitable certificates of competence from the Contractor for any person provided by the Contractor in the performance of the Contract.
	11.3	The Contractor shall not without the consent of the Hirer or other contractor at the Hirers site concerned knowingly take into employment workmen or other employees from the Hirer or from any other contractors employed by the Hirer in providing a similar or comparable service.
	11.4	The Hirer shall be at liberty to object to any representative or person provided by the Contractor in the performance of the Contract on the Site or in any other place who shall; in the opinion of the Hirer misconduct himself or be incompetent or negligent. The Contractor shall remove that person from the Site and he shall not be employed again by the Contractor in connection with the Contract without the permission of the Hirer. Any removal of labour under this clause shall not constitute a valid reason for the Contractor's failure to perform his obligation in accordance with the Contract.
	11.5	The Contractor shall abide by the Hirer's site harmonisation procedures for the smooth co-operation for all work carried out at the Hirer site.

12. Operating Time	12.1	If the Contract requires the Contractor to supply an operator with the Plant, he shall keep records of the periods during which the Plant was working or standing and shall make this information available to the Hirer.
	12.2	For Plant supplied without an operator, the Hirer shall, subject to the provisions of Clause 19, use said Plant for the periods of time specified in the Contract.

13. Notification of Accidents	All accidents involving any Plant and/or any operator shall be notified to the other by whichever party has first knowledge of any accident. This notification shall be confirmed in writing.
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14. Things found on Site	All minerals, metals, objects and other things found or discovered on, under or around the Site shall as between the Contractor and the Hirer be the property of the Hirer and shall be dealt with as the Hirer may direct.
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15. Assignment and Subletting	The Contractor shall not assign or sub-let the carrying out of the Contract nor any part thereof without the written approval of the Hirer. All the Contractor's subcontracts shall contain a provision prohibiting any further subcontracts without the written consent of the Hirer. Should the Contractor sub-let, he shall be held fully responsible in all respects for any part of the Contract carried out by the sub-contractor as if he himself were undertaking the same and he shall bind the sub-contractor to observe these conditions and any other conditions incorporated in the Contract so far as the same are applicable to the sub-contracted work.
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16. Contractor's Default	16.1	If the Contractor shall fail to execute the Contract with due diligence and expedition or shall refuse or neglect to comply with any reasonable order given to him in writing by the Hirer in connection with the Contract or shall contravene any provisions of the Contract, the Hirer may give notice to the Contractor to remedy the same and shall confirm this in writing.
	16.2	Should the Contractor fail to comply with the notice referred to in Clause 16.1 within seven days from the date of its service, in the case of matters capable of being made good within that time or otherwise within such time as may be reasonably necessary for making good, then, without prejudice to any other right under the Contract the Hirer may at the Contractor's cost either. (a) employ others to or itself execute that part of the Contract which the Contractor shall have failed to execute or (b) take the Contract in whole or in part out of the Contractor's hands and contract with any other person to complete the same.
	16.3	The Hirer shall be entitled to retain any sum which may otherwise be due to the Contractor and to apply that sum towards the payment of the cost of carrying out any work referred to in Clause 16.2. If the cost of doing this work shall exceed the sum retained, the Contractor shall pay the excess forthwith to the Hirer.

17. Delivery in Good Order and Maintenance of Plant	17.1	The Contractor shall give reasonable notice to the Hirer of the time and date of delivery of all Plant to Site. Delivery shall be made at a place, time and date acceptable to the Hirer.
	17.2	The Contractor shall be responsible for the delivery, unloading, and where appropriate installation and dismantling, and reloading of the Plant at the Site.
	17.3	All Plant shall be sited or deposited as directed by the Hirer but shall remain in the custody of the Contractor who shall be liable for the care, safety and storage thereof whenever an operator is provided.
	17.4	The Contractor shall on completion of the Hire Period remove all Plant and leave the Site in a clean condition.
	17.5	The Contractor shall cause regular and appropriate inspection and maintenance of the Plant to be carried out by competent persons and shall observe all statutory requirements relating thereto. No hire charges shall be payable in respect of the duration of such inspection or maintenance
	17.6	Where the Contractor provides an operator, the Contractor shall make sure that the operator keep himself acquainted with the state and condition of the Plant and the Contractor shall undertake a thorough inspection of the Plant at least once a week.
	17.7	The Contractor shall at his own expense keep the Plant in good and suitable for use and make sure that all health and safety regulations are upheld at all times and provide all repairs, maintenance, lubricants and fuel. Acceptable replacement plant shall be made available to the Hirer by the Contractor for any period during which the Plant is unavailable for use according to the Contract. No extra hire charges shall be payable for above work and cost unless otherwise agreed in writing between the parties.

18. Failure to Deliver		In the event of the Contractor failing to deliver the Plant or any part thereof in accordance with the Contract the Hirer may obtain substitute Plant from any other source and the Contractor shall reimburse any costs or expenses thereby incurred by the Hirer.
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19. Breakdown	19.1	If the Plant at any time is unsafe or operates unsatisfactory the Contractor shall immediately notify the Hirer and shall forthwith confirm such notification in writing to the Hirer.
	19.2	The Contractor shall immediately remedy any unsafe or unsatisfactory operation

of the Plant or shall forthwith provide acceptable substitute Plant.

- 19.3 If the Contractor fails to act as aforesaid the Hirer may hire from any other source substitute Plant for such period as may be reasonable or maintenance or repair the Plant.
- 19.4 No hire charges shall be payable in respect of the duration of any period during which the Plant is unsafe or operates unsatisfactory.
- 19.5 Where the Hirer hires substitute Plant or maintenance or repair pursuant to Clause 19.3 the Contractor shall reimburse the Hirer any costs or expenses thereby incurred by the Hirer due allowance being made for the hire charges that would have been payable under the Contract but for such unsafe or unsatisfactory operation.

20. Withdrawal

- 20.1 The Contractor shall remove the Plant concerned from the Site within three working days (or such other period as may be agreed) on any failure to remedy under Clause 19 or on the provision of substitute Plant or on termination of the hire period, whichever is the earliest.
- 20.2 If the Contractor shall fail to remove such Plant as aforesaid the Hirer shall at the Contractor's expense and risk remove and dispose of the Plant in such manner as the Hirer sees fit and/or to charge storage therefore.

21. Liability

- 21.1 The Hirer shall not be liable to the Contractor for any loss or damage to the Plant, other property or injury to persons which may be caused save to the extent that such loss, damage or injury is caused by the negligence of the Hirer, its servants or agents.
- 21.2 The Contractor shall indemnify and keep the Hirer 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 Hirer in relation to death or injury to persons (including but not limited to any employee of the Hirer) or loss of or damage to property (including but not limited to property of the Hirer) or breach of contract by the Contractor to the extent that such death injury loss damage or breach is attributable to the acts or omissions of the Contractor 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 Agreement for the benefit of the Hirer.

- 21.3 Except in respect of personal injury or death or loss of or damage to property conferring on a person other than the Hirer a good cause of action against the Contractor the liability of the Contractor arising under this Clause 21 for any one act or omission shall not exceed £10 Million (unless otherwise stipulated by the Hirer prior to the Contract being entered into).

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 Contractor the liability of the Contractor arising under Clause 13.1 for any one act or omission shall not exceed 200 % of the Hire Charges (for the full period of contract) or £10 Million whichever is the greater.

- 21.4 The Contractor shall insure in his own name against all those risks the subject of the Contractor's indemnity in Clause 21 with insurers and on terms approved by the Hirer in the minimum sum (subject to Clause 21.5) of £10 Million (unless otherwise stipulated by the Hirer prior to the Contract being entered into). The Contractor shall maintain that insurance in full force and effect until the Contract has been completed. Whenever the Hirer requests, the Contractor shall show the Hirer the insurance policy or policies together with satisfactory evidence of payment of premiums. If any insurance is not effected or premiums not paid the Hirer may effect or pay the same and may deduct the cost of so doing from the hire charges.

The Contractor shall during the period of contract hold adequate insurance policies to cover the full amount of the Contractors potential liability under Clause

21.2 and 21.3. Satisfactory evidence of such insurance and payment of the premium shall be shown to the Hirer upon request. If insurance is not effected or premiums not paid, the Hirer may effect or pay the same and may deduct the cost of so doing from the Hire Charges.

21.5 The insurance effected by the Contractor under Clause 21.4 in respect of his employees shall be at least a minimum of £10,000,000.

The Contractor shall during the period of 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.

21.6 In addition to the above the Contractor shall indemnify and keep the Hirer fully indemnified against all actions, claims, proceedings, liabilities, costs, expenses and losses suffered or incurred by the Hirer in relation to any claim by a person who have worked for the Contractor in relation to the Contract against the Hirer in which the person relies upon the allegations that he or she is either a worker or employee of the Hirer.

21.7 The Contractor will insert appropriate conditions in his subcontracts reflecting the provisions of this Clause 21.

22. Interference with other Operations and Rights

The Contractor in performing the Contract shall ensure that there shall be no interference with the operations of the Hirer or of other contractors or with the use and enjoyment of any public rights or with any easement or property whether of the Hirer or not unless the Contract unavoidably so requires and then the Contractor shall ensure that any such unavoidable interference is as limited as possible.

The Contractor shall indemnify the Hirer against actions, claims, demands, costs, charges and expenses arising from any infringement or alleged infringement of any patent, registered design, trademark, copyright or other like right protected by law by the use of the Plant.

23. Photographs, Advertisements, Notices

The Contractor may not without the previous written consent of the Hirer take or **and** permit to be taken or publish or consent to the publication of any photographs or written description of the Site or any part thereof or erect any advertisement or notice-board on the Site (except for those required by Law or by the Contract).

24. Statutory and other Regulations

24.1 The Contractor shall in all matters arising in the performance of the Contract conform at his own expense with all Acts of Parliament and with all orders, regulations and by-laws made with statutory authority by Government Departments or by local or other authorities that shall be applicable to the Contract, but if by reason of the making after the date of the Contract of any Act, order, regulation or by-law the cost to the Contractor of the performance of the Contract shall be increased or reduced the hire charges shall be increased or decreased by the corresponding amount.

24.2 Whenever the Plant is supplied with an operator the Contractor and his sub-contractors shall conform at their own expense with any local and Site regulations of the Hirer particularly (but without limitation) those relating to health, safety and aware of the Hirer's local and Site regulations.

24.3 All current inspection reports or copies thereof on the Plant required under any statute or regulation shall be made available for the Hirer's inspection if required. All inspection reports provided under this Contract shall be returned to the Contractor at the end of this period.

25.4 It is a fundamental condition of the Contract and of the placing by the Hirer of the business incorporated in the Contract with the Contractor that the Contractor shall have complied and shall at all times and in every respect comply with the Code of Conduct of the Hirer as issued from time to time.

25. Safety

25.1 The Contractor shall at all times adopt safe working practices and at the proper time supply and install within the original hire charges such guards and safety devices and supply all persons employed or engaged by him in the performance of the Contract with such safety clothing as may be necessary to comply with the provisions of all health and safety legislation (including the Factories Act, 1961, the Health and Safety at Work etc. Act, 1974, and any orders and regulations made under these).

25.2 Before beginning the Contract on the Site the Contractor shall sign a certificate provided by the Hirer certifying that the Contractor has been made aware of the Hirer's local and Site regulations and that the Contractor will abide by them and will procure that his sub-contractors' employees and all other persons operating the Plant on his behalf abide by the same provided always that such certificate shall not be deemed to have conferred any authorization to work which may be required under the Hirer's Health and Safety control procedures.

26. Variations

The Contractor shall not vary, add to or omit any part of the Contract except as directed in writing by the Hirer, but the Hirer shall have full power from time to time during the execution of the Contract by notice in writing to direct the Contractor to vary, add to or omit in any manner any part of the Contract, and the Contractor shall carry out those variations and be bound by these Conditions so far as is applicable as though those variations were stated in the Contract.

27. Statutory Payments

The Contractor shall be responsible for collection, deduction (where appropriate) and payment to the responsible authority of all statutory payments (including National Insurance contributions and any Training Levy) in respect of all persons employed by or taken on or directed by the Contractor or by his sub-contractors in connection with the execution of the Contract.

28. Bankruptcy

If the Contractor shall have a winding up or bankruptcy petition presented or enter into any form of voluntary arrangement with its creditors become bankrupt or insolvent or have a receiving order made against him or compound with his creditors or enter into administration or being a body corporate commence to be wound up, not being a member's voluntary winding up for the purpose of reconstruction or amalgamation, or carry on his business under a receiver for the benefit of his creditors or any of them, the Hirer shall be at liberty and at no cost to him, either:

- (a) to terminate the Contract forthwith by notice in writing to the Contractor or to the receiver or liquidator or to any person in whom the Contract may become vested and to act in the manner provided in Clause 16 (Contractor's Default) as if the execution of the Contract had been taken out of the Contractor's hands, or
- (b) to give such receiver, liquidator or other person the option of carrying out the Contract subject to his providing a guarantee from a guarantor acceptable to the Hirer for the due and faithful performance of the Contract up to an amount to be agreed.

29. Acceptance of Conditions

The Contractor's acceptance of the Hirer's order to provide the Service includes acceptance of these Conditions and any applicable special conditions attached hereto and Site Regulations which can only be varied with the written authority of the Hirer. No term or condition attached to, or incorporated in, the Contractor's tender or quotation, nor any standard or printed terms or conditions of the Contractor shall apply unless and to the extent that it is accepted in writing by the Hirer.

30. Law

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

31. Arbitration

If the Contractor 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 Contractor 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.
