

**SHEFFIELD FORGEMASTERS ENGINEERING LIMITED
CONDITIONS OF SALE**

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions (unless the context otherwise requires), the following words and phrases shall have the following meanings:

"Conditions" means these terms and conditions of sale.

"Contract" means a contract for the sale of Goods and/or Services made by us or on our behalf with you incorporating these Conditions and any Order Acknowledgement.

"Company", "our", "we", "us" means Sheffield Forgemasters Engineering Limited (company number 04864216) of Brightside Lane, Sheffield, South Yorkshire, S9 2RX or any Group Company as set out in the Order Acknowledgement.

"Force Majeure Event" means any circumstance beyond our control including, but not limited to acts of God, fire, explosion, adverse weather, flood, earthquake, terrorism, riot, civil commotion, war, hostilities, strikes, work stoppages, slow-downs or other industrial disputes, breakdowns, accidents, acts of government, lack of power and delays by suppliers or sub-contractors or materials shortages but, for the avoidance of doubt, nothing shall excuse you from any payment obligations under these Conditions.

"Goods" means the Goods which we supply pursuant to a Contract including but not limited to raw materials, finished or semi-finished materials or articles, machinery parts, spares and commodities.

"Group Company" means every company which is from time to time a subsidiary company of Sheffield Forgemasters International Limited and the term "subsidiary" shall have the meaning given to it by section 1159 of the Companies Act 2006).

"Incoterms" means the International Chamber of Commerce terms for the international supply of goods 2020.

"Order" means an order in writing for the Goods and/or Services received by us from you.

"Order Acknowledgement" means our formal Order confirmation which is signed by our authorised representative from time to time.

"Services" means the services which we provide pursuant to a Contract.

"Working Day" means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory holiday in England.

"you" or "your" means a person to whom we supply or are to supply Goods and/or Services pursuant to a Contract.

1.2 In these Conditions (unless the context otherwise requires):

1.2.1 construction of these Conditions shall ignore the headings (which are for reference only); and

1.2.2 any reference to any legislative provision shall be deemed to include any subsequent re-enactment or amending provision.

2. GENERAL

- 2.1 These Conditions shall govern and be incorporated into every Contract to the exclusion of any terms or conditions contained or referred to in any correspondence, Order or documentation submitted by you or any other standards, specifications, conditions or particulars of or adopted by you or elsewhere implied by custom, practice or course of dealings, unless expressly accepted in writing by us as part of a Contract.
- 2.2 Your acceptance of delivery of the Goods or performance of the Services shall (without prejudice to Condition 3 or any other manner in which acceptance of these Conditions may be evidenced) constitute unqualified acceptance of these Conditions.

3. QUOTATIONS AND TENDERS

- 3.1 No Order placed in response to our quotation will be binding unless accepted by us in writing on our Order Acknowledgement.
- 3.2 Where Goods are to be supplied from stock, such supply is subject to availability of stocks at the date of delivery.
- 3.3 Quotations submitted by us shall remain open for acceptance for a period of 30 days from the date of the quotation, unless some other period is specified in the quotation.

4. PRICES

- 4.1 Where the Goods are sold by reference to our published price list, the price payable shall be the price which is current at the date of despatch of the Goods from our works. In other cases the price for the Goods or Services shall be as stated in the Contract.
- 4.2 Where the price is varied in accordance with Condition 4.3 the varied price shall be binding on both parties and shall not give either party any option of cancellation.
- 4.3 We may at any time prior to the despatch of the Goods or performance of the Services change our prices to take account of increases in costs including, without limitation, the cost of any goods, raw materials, energy, transport, labour or overheads, the increase or imposition of any tax, duty or other levy and any variation in exchange rates.
- 4.4 There shall be added to the price of the Goods and/or Services any VAT, a surcharge and other tax or duty relating to manufacture, transportation, insurance, export, import, sale or delivery of the Goods or performance of the Services (whether initially charged on or payable by us or you) and (where appropriate) the freight and other charges as specified in the relevant carriage tariff current at the date of despatch. The surcharge (e.g for alloy or scrap content or any other factor) will be added in accordance with our surcharge ruling at the date of dispatch for each lot of Goods unless otherwise expressly agreed.
- 4.5 All Goods are sold EXW (Incoterms) unless otherwise stated in writing between the parties.
- 4.6 Where Goods are sold EXW or under other commercial terms, such as FOB, FAS, etc, the definitions and rules in Incoterms (as revised from time to time) shall apply, except as expressly provided in the Contract or otherwise agreed in writing between the parties.

5. TERMS OF PAYMENT

- 5.1 Unless otherwise agreed between you and us in writing, the prices quoted by us are net of VAT and other taxes and you shall make all payments due to us under any Contract in pounds sterling within 30 days from the date of the invoice together with VAT. We shall be entitled to despatch invoices for Goods or Services delivered under any Contract at the date which Goods leave our premises. When deliveries are spread over more than one month, each consignment will be invoiced as despatched and each month's invoices will be treated as a separate account and be payable by you accordingly.
- 5.2 The time of payment is of the essence under a Contract and failure to pay for any Goods or Services or for any delivery or instalment in accordance with Condition 5.1 shall entitle us to

suspend further deliveries and work both on the same Order and on any other Order from you without prejudice to any other rights we may have.

- 5.3 We may charge interest on any overdue amounts due under a Contract at the rate of 8% per annum over and above the base rate for the time being of the NatWest Bank Plc.
- 5.4 If we have genuine doubts as to your financial position or in the case of failure to pay for any Goods or Services or any delivery or instalment we may suspend delivery or performance of any Order or any part of an instalment without liability until full payment or satisfactory security for payment has been provided.
- 5.5 We may alter or withdraw any credit facility provided to you by us at any time.
- 5.6 Notwithstanding any appropriation by you to the contrary, all payments made by you to us shall be appropriated first to Goods which have been resold by you and then to Goods which remain in your possession or control.

6. DELIVERY AND COMPLETION DATES

- 6.1 The delivery or performance dates specified in Contract and/or the Order are approximate only and, unless otherwise stated, time is not of the essence for delivery of the Goods or performance of the Services. We shall not be liable for any failure to deliver the Goods or perform the Services on or by a particular date or dates. In the case of any delay (howsoever caused) we shall be entitled to extend the dates specified in the contract for delivery of the Goods or performance of the Services as we see fit.
- 6.2 No delay shall entitle you to reject any delivery of Goods or provision of the Services or any further instalment or part of an Order or any other Order from you or to repudiate the Contract or the Order.
- 6.3 We cannot undertake to meet any schedule of your requirements supplied after the date of the Contract and will have no liability whatsoever for any delay in meeting or failure to meet all or any of such requirements (howsoever such failure or delay may arise) unless and to the extent that we expressly agree in writing to meet such requirements, and in which event the provisions of Conditions 6.1 and 6.2 shall apply.
- 6.4 We will have fulfilled our contractual obligations in respect of each delivery of Goods provided that the quantity actually delivered is not more than 5% more or less than the quantity specified in the Contract. You shall pay for the actual quantity delivered.
- 6.5 We will make an additional charge for delivery other than EXW from our premises.
- 6.6 If delivery is agreed to be other than EXW or if we arrange delivery for you, you are solely responsible for unloading the Goods at the point of delivery. You shall indemnify us against each loss, liability and cost arising as a result of you (or your agent or subcontractor) unloading the Goods.
- 6.7 Unless otherwise expressly agreed, we may deliver in one or more instalments and each instalment shall be treated as a separate Contract.

7. DELAYED ACCEPTANCE

If for any reason you refuse or fail to accept delivery of the Goods or Services when they are due and ready for delivery or performance we may, in addition to any other rights we may have in respect of your failure to take delivery:

- 7.1 arrange storage of the Goods and you shall be liable to us for the reasonable costs (including insurance) of such storage;
- 7.2 terminate the Contract with immediate effect, dispose of the Goods as we may determine and recover from you any loss and costs incurred as a result (including, without limitation, destruction costs, storage costs and insurance costs);
- 7.3 invoice you for the Goods and/or Services when the Goods should have been delivered and/or the Services provided and to receive payment in accordance with Condition 5 hereof.

8. TITLE TO GOODS

- 8.1 Ownership in the Goods (whether separate and identifiable or incorporated in or mixed with other Goods) will not pass to you until we receive payment in full from you for the agreed price of the Goods together with any interest due on such monies. Nevertheless, all risk in the Goods shall pass to you when the Goods are despatched from our premises.
- 8.2 Until the time of actual payment to us of the amounts in Condition 8.1, you shall keep the Goods on our behalf and shall store the Goods in a way that they are separately identifiable as our property and shall not attach the Goods to real property without our consent.
- 8.3 Prior to the time of actual payment for the Goods you are entitled to use or sell the Goods to third parties in the normal course of your business. Any sale shall be a sale of our property but on your own behalf. You shall not act as our agent.
- 8.4 At any time before title to the Goods passes to you (whether or not any payment to us is then overdue or you are otherwise in breach of any obligation to us), we may (without prejudice to any other of its rights):
- 8.4.1 retake possession of all or any part of the Goods and enter any premises for that purpose (or authorise others to do so) which you hereby authorise; or
 - 8.4.2 require delivery up to us of all or any part of the Goods.
- 8.5 We may at any time appropriate sums received from you as we think fit, notwithstanding any purported appropriation by you.
- 8.6 From the time of dispatch until title in the Goods passes to you in accordance with Condition 8.1, you shall insure the Goods for their full value with a reputable insurer and, if we so request, ensure that our name is noted on the insurance policy. Until title in the Goods passes to you, you shall hold the proceeds of any claim on such insurance policy on trust for us and shall immediately account to us with the proceeds.

9. WARRANTIES AND LIMIT OF LIABILITY

- 9.1 Subject to the provisions of Conditions 9.3, we warrant for a period of 12 months commencing with the date of the Order:
- 9.1.1 in relation to Goods of our manufacture that:
 - 9.1.1.1 Goods will be free from material defects; and
 - 9.1.1.2 Goods will conform in material respects with the Contract;
 - 9.1.2 in relation to Goods not manufactured by us, that we will so far as we are able to do so, give you the benefit of any express guarantee or warranty by the manufacturer or supplier of such Goods and any rights we have against the manufacturer or supplier; and
 - 9.1.3 in relation to Services we may provide, that the Services will be carried out with reasonable skill and care.
- 9.2 All other warranties, conditions and other terms implied by statute or common law, save for the condition implied by Section 12 of the Sales of Goods Act 1979 are to the fullest extent permitted by law, excluded from the Contract.
- 9.3 The warranties in Condition 9.1 are given on (and are subject to) the following conditions:
- 9.3.1 A defect in the Goods is not caused by fair wear and tear, abnormal or unsuitable conditions of storage or use or an act, failure to follow any instructions given by us, neglect or default of you or a third party;

- 9.3.2 the Goods have not been modified, altered or otherwise tampered with in any way other than by a duly authorised representative of ours;
 - 9.3.3 you have made no further use of the Goods;
 - 9.3.4 if the Services involves the use of your materials those materials are not defective;
 - 9.3.5 the Goods and Services have been fully paid for by you;
 - 9.3.6 you notify us within 15 Working Days of the date that a breach of warranty becomes apparent (the expiry of which shall be not later than 12 months from the date the Goods are despatched from our premises, or where Services, the commencement date of Services); and
 - 9.3.7 you allow us a reasonable period of time to carry out any technical investigations and co-operate with us fully.
- 9.4 Where a warranty claim is accepted by us, we will (at our sole choice) either repair or replace (or where Services, re-perform) the Goods. These are your sole remedies.
- 9.5 Subject to the provisions of Condition 9.7 below, in connection with any Contract we are not liable to you in contract, tort (including negligence or breach of statutory duty) misrepresentation or otherwise for any of the following losses or damages, whether direct or indirect, and even if such losses and/or damages were foreseen, foreseeable or known, or we were advised of the possibility of them in advance:
- (a) loss or damage incurred by you as a result of third party claims;
 - (b) loss of actual or anticipated profits;
 - (c) loss of business opportunity;
 - (d) loss of anticipated savings;
 - (e) loss of goodwill;
 - (f) injury to reputation; or
 - (g) any indirect, special or consequential loss or damage howsoever caused.
- 9.6 In any event our entire liability under or in connection with the use of, supply of or failure to supply the Goods, or the performance or non-performance of the Services, whether for negligence, breach of contract, misrepresentation or otherwise, is limited, in respect of each event or series of connected events, to the net amount invoiced to you of the defective, damaged or undelivered Goods or Services which give rise to such liability.
- 9.7 Nothing in these Conditions shall operate to exclude or restrict our liability for:
- 9.7.1 death or personal injury resulting from our negligence;
 - 9.7.2 breach of the obligations arising from section 12 of the Sale of Goods Act 1979; or
 - 9.7.3 fraud or deceit.

10. EQUIPMENT AND DRAWINGS

- 10.1 We are entitled to assume that all equipment supplied by you is in good condition, true to drawing and entirely suitable to our methods of production and for the production of the Goods in the quantities required.

- 10.2 While we use reasonable endeavours to check your drawings and equipment, we accept no responsibility for their accuracy or suitability and we are entitled to assume that all drawings, descriptions, specifications and other information supplied by you to us (written or verbal) is complete, accurate and entirely suitable for your requirements.
- 10.3 All replacements, alterations and repairs to your drawings and equipment shall be paid for by you.
- 10.4 Where the drawings and equipment are not supplied by you, only those which are specifically made by us and separately charged to you in full shall become your property, when paid for by you, otherwise we shall retain all rights in such drawings and equipment.
- 10.5 We will take reasonable care of your drawings and equipment while in our possession but we accept no liability for its loss or damage where neglect on our part was the direct cause of the loss or damage and such liability shall be limited to the actual cost of replacement or repair.
- 10.6 Unless otherwise expressly agreed, we shall have no responsibility for the performance, suitability or durability of any Goods or any materials or workmanship comprised therein to the extent that the Goods are manufactured in accordance with your designs, drawings, standards or specifications.

11. TOLERANCES AND TESTS

Unless expressly stated in the Contract gauges, weights, chemical composition and analysis, quantities and sizes will so far as possible be adhered to, but reasonable excesses and deficiencies thereof shall be accepted by you, and you shall not be entitled to reject any Goods or to replacement of any Goods on the ground that they are not precisely as specified. Unless otherwise specifically agreed, all tests and test pieces whatsoever required by you will be charged extra. Unless otherwise specifically requested by you, tests of chemical composition shall be based on the ladle analysis which shall be final. Tests and inspections shall take place under our standard testing arrangements, and such tests shall be final. All tests are subject to analytical tolerances.

12. INFRINGEMENTS OF THIRD PARTY RIGHTS

- 12.1 If at any time it is alleged that the Goods or Services infringe the rights of any third party or if in our reasonable opinion such an allegation is likely to be made, we may (at our own cost) subject to Condition 12.2:
 - 12.1.1 modify or replace the Goods or re-perform the Services without materially reducing the overall performance of the Goods or Services, to avoid the infringement; or
 - 12.1.2 procure for you the right to continue using the Goods or benefit from the Services; or
 - 12.1.3 repurchase the Goods from you at the price paid by you less depreciation at the rate we apply to our own equipment.
- 12.2 If any claim is brought or threatened which alleges infringement of the rights of any third party:
 - 12.2.1 you shall notify us as soon as you become aware of any such claim;
 - 12.2.2 we shall have control over and shall conduct any proceedings in such manner as we shall determine; and
 - 12.2.3 you shall provide all reasonable assistance as we may request.
- 12.3 You shall indemnify us against all loss, liability and cost which we incur in carrying out any work required to be done on or to the Goods or in relation to the Services in accordance with your requirements or specifications which give rise to any infringement or alleged infringement of the rights of any third party.
- 12.4 If we or our employees or agents design the Goods or perform the Services pursuant to a commission from you (whether to fulfil an Order or otherwise), any intellectual property

rights created in relation to such Goods or Services shall vest in us and you shall do or procure the doing of all such further acts and execute or procure the execution (as a deed or otherwise) of all such documents which may from time to time be necessary to give full effect to this Condition 12.4.

13. TERMINATION

13.1 On or at any time after the occurrence of any of the events in Condition 13.2, we may:

13.1.1 stop any Goods in transit;

13.1.2 suspend further deliveries to you or performance of the Services; or

13.1.3 terminate any Contract forthwith by giving you notice to that effect.

13.2 The events are:

13.2.1 you being in breach of any obligation under a Contract or these Conditions;

13.2.2 a meeting being convened, a petition presented, an order made, an effective resolution passed, or notice given for your winding up or dissolution (other than for the sole purpose of amalgamation and reconstruction); or

13.2.3 an application being made, or resolved to be made by any meeting of your directors or members, for an administration order in relation to it or any party gives or files notice of intention to appoint an administrator of it or such an administrator being appointed; or

13.2.4 an incumbrancer taking possession, or a receiver or manager or administrative receiver being appointed, of the whole or any part of your assets; or

13.2.5 you ceasing or suspending payment of any of your debts or being unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986; or

13.2.6 a proposal being made for a composition in satisfaction of your debts or a scheme or arrangement of its affairs including a voluntary arrangement within the meaning of part I of the Insolvency Act 1986.

13.3 On termination of a Contract for any reason whatsoever, your indebtedness to us shall become immediately due and payable and we shall be relieved of any further obligation to supply Goods or perform Services to you pursuant to that Contract.

14. FORCE MAJEURE

14.1 If we are prevented, hindered or delayed from or in supplying the Goods or performing the Services under these Conditions and a Contract by a Force Majeure Event we may without being liable for any loss or damage suffered by you as a result:

14.1.1 suspend deliveries or performance while the Force Majeure Event continues;

14.1.2 apportion available stocks of Goods between its customers if we have insufficient stocks to meet orders; or

14.1.3 terminate any Contract forthwith by giving notice to that effect to you.

15. LOSS OR DAMAGE IN TRANSIT

The risk in the Goods passes to you when the Goods are despatched from our works, and we accept no responsibility for any damages, shortage or loss in transit. Claims for any damage, shortage or loss in transit should be made on the carrier and any conditions imposed by the carrier in relation to claims for damage, shortage or loss in transit should be complied with.

16. PACKAGING

16.1 In the event that we are not responsible for the transportation of the Goods to you, it is your responsibility to inform us how the Goods are to be packaged for delivery to you. You will pay us for the cost of packaging in addition to the cost of the Goods.

- 16.2 We will use reasonable endeavours to ensure the suitability of packaging before despatch but no claim will be accepted by us for breakage or damage in transit on the grounds of alleged unsuitability of packaging where we have packed the Goods according to your specifications.
- 16.3 You shall dispose of all packaging in accordance with all relevant laws and regulations (whether statutory or otherwise) relating to the protection of the environment.

17. LICENCES AND CONSENTS

If a licence or consent of any government or other authority is required for the supply, carriage or use of the Goods or Services by you, you will obtain such licence or consent at your own expense and produce evidence of it to us on demand. A failure to obtain any licence or consent shall not entitle you to withhold or delay payment of the price for the Goods or Services and you will be liable pay any additional costs or expenses incurred by us as a result of such failure.

18. ASSIGNMENT

You may not assign or deal in any way with all or any part of the benefit of, or your rights or benefits under, a Contract without our prior written consent.

19. SEVERANCE

19.1 If any of these Conditions are found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other Conditions which shall remain in full force and effect.

19.2 If any of these Conditions are so found to be invalid or unenforceable but would cease to be invalid or unenforceable if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid and enforceable.

20. THIRD PARTIES

A person who is not party to a Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such Contract. This Condition does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

21. WAIVER

The rights and remedies provided by any Contract may be waived only in writing and specifically, and any failure to exercise or any delay in exercising a right or remedy by us shall not constitute a waiver of that right or remedy or of any other rights or remedies. A waiver of any breach of any of the terms of a Contract or of a default under a Contract shall not constitute a waiver of any other breach or default and shall not affect the other terms of such Contract.

22. VARIATION

No variation or alteration of any of the provisions of a Contract or these Conditions shall be effective unless it is in writing and signed by or on behalf of each party.

23. APPLICABLE LAW

A Contract and any matter arising from or in connection with it shall be governed by and construed in accordance with English law and you submit to the exclusive jurisdiction of the English Courts over any claim or matter arising from or in connection with a Contract.