

FIRTH RIXSON GROUP

TERMS AND CONDITIONS OF PURCHASE FOR UK BUSINESSES

1. DEFINITIONS

In these terms and conditions:

"Buyer" means any one of Firth Rixson Limited, Firth Rixson Forgings Limited, Firth Rixson Metals Limited or any other subsidiary of Firth Rixson Limited as is named in the Order;

"Contract" means the contract between the Seller and the Buyer for the sale or supply of the Goods or Services pursuant to the Order which arises upon the Buyer's acceptance of the Seller's quotation.

"Goods" includes all goods covered by the Order whether raw materials, processed materials or fabricated products;

"Incoterms" means the International Chamber of Commerce rules for the interpretation of trade terms known as Incoterms 2010 as amended from time to time;

"Intellectual Property" means patents, inventions, know-how, trade secrets and other confidential information, registered designs, copyrights, database rights and design rights, rights affording equivalent protection to copyright database rights and design rights, semiconductor topography rights, trade marks, service marks, logos, domain names, business name, trade names, moral rights and all registrations or applications to register any of the aforesaid items in any country as jurisdiction, rights in the nature of unfair competition rights and rights to use for passing-off relating to the Goods and/or Services.

"Order" means the order placed by the Buyer for the sale or supply of the Goods or Services and incorporating these terms and conditions;

"Seller" means the person, firm or company to whom the Order is issued; and

"Services" includes all services covered by the Order;

References in these conditions to any statutory provision includes a reference to that statutory provision as from time to time, amended, extended or re-enacted and any regulations made under it.

2. GENERAL

- 2.1 These terms and conditions shall govern and be incorporated into every Contract and shall prevail over any other terms and conditions issued by the Seller or implied by custom, practice or course of dealing unless it is accepted in writing by a director of the Buyer.
- 2.2 No variation of these terms shall be binding on the Buyer unless made in writing by a director of the Buyer.
- 2.3 In the event of any conflict between these terms and conditions, the Order, the Seller's quotation and the Seller's acknowledgement of the Order, the following order of precedence shall apply:
- 2.3.1 the Buyer's acceptance of the Seller's quotation;
 - 2.3.2 the Order;
 - 2.3.3 these terms and conditions;
 - 2.3.4 the Seller's acknowledgment of the Order; and
 - 2.3.5 the Seller's quotation.

3. ACKNOWLEDGEMENT AND PRICE

- 3.1 Unless an acknowledgement is received by the Buyer within 14 days of the date on an Order the Buyer reserves the right to declare the Order invalid.
- 3.2 Unless the Order or any other formal agreement made between the Buyer and the Seller expressly accepts or stipulates any provision for price variation and the basis of such variation, the price or rate for the Goods and Services to be supplied or provided by the Seller is fixed and not subject to variation unless the Buyer expressly agrees in writing.
- 3.3 In the event that the Seller fails to provide any of the following details, the Buyer may delay in payment but no prompt payment discount shall be forfeited by the Buyer on account of the Seller's failure:

- 3.3.1 to send on the day of despatch for each consignment of the Goods a separate advice note and invoice for each delivery; or
- 3.3.2 to mark clearly the Order number on the consignment package, packing notes, invoices, monthly statements and all other correspondence relating thereto.
- 3.4 Unless otherwise agreed in writing payments will be made at the end of the second calendar month following the month of delivery provided that a hardcopy of the invoice reaches the Buyer by the fifth day of the month following the month of delivery. All payments will be made without prejudice to the Buyer's rights should the Goods or any Services prove unsatisfactory or not in accordance with the Order.
- 3.5 Value added tax, where applicable, shall be shown separately on all invoices as strictly net extra charge.

4. QUALITY AND DESCRIPTION

- 4.1 Goods and Services supplied shall:
 - 4.1.1 conform as to quality, quantity and description with the particulars stated in the Order and additionally with all representations, whether oral or written, made by or on behalf of the Seller prior to the Order (and whether to the Buyer or to third parties) as to quality, quantity, description, suitability and performance on all of which representations of the Buyer shall be entitled to rely;
 - 4.1.2 be of sound materials and workmanship and free from any defect (which term in these conditions includes defect within the meaning of section 3 of the Consumer Protection Act 1987);
 - 4.1.3 be equal in all respects to the samples, patterns or specifications provided by either party but in the event of conflict between those provided by the Buyer and those provided by the Seller, those provided by the Buyer shall prevail;
 - 4.1.4 be capable of any standard of performance specified in the Buyer's Order; and

- 4.1.5 be fit for any particular purpose for which they are required and which either expressly or by implication is indicated by the Buyer or otherwise available to the Seller on or before placing of the Buyer's Order.

5. INSPECTION AND TESTING

- 5.1 The Buyer's inspector or representative and any inspector or representative of the Buyer's customer or the agent thereof, or of any government department concerned, shall be entitled on the Buyer's authority to inspect or test the Goods or work the subject of the Order at any reasonable time at the Seller's works or at the works of any sub-contractor or assignee. For this purpose the Seller will give to the Buyer or any nominee of the Buyer or otherwise arrange for reasonable facilities of access to the Seller's works or any such other works.
- 5.2 If specified by the Buyer the Seller will give adequate notice of works tests which the Buyer is entitled to attend and will provide the Buyer with such test certificates as the Buyer or its customer may reasonably require.
- 5.3 Such inspection does not relieve the Seller of any liability nor does it imply acceptance of the Goods or work the subject of the Order.
- 5.4 The Buyer reserves the right at its option either to reject any Goods or materials in whole or in part (whether or not the same have been delivered to and accepted by the Buyer) or to cancel the Order or any part of the Order or to delay acceptance of the whole or any part thereof without any further payment or charge for storage or delay in any of the following circumstances:
- 5.4.1 failure by the Seller to comply strictly with the description, specification and drawings relating to the materials or Goods to be supplied or work to be carried out and/or failure to comply with any British Standard Specification or other industry accepted specification where applicable;
- 5.4.2 if the materials or Goods or work are below the specified standard or fail to pass any inspection or test in accordance with these conditions;
- 5.4.3 if the Seller otherwise fails to comply in all respects with any of its obligations hereunder.

5.5 If the Buyer rejects any Goods and/or Services, the Seller will replace them with Goods and/or Services which are in all respects in accordance with the Contract. If the Seller fails to replace such rejected Goods and/or Services within a reasonable time period that is acceptable to the Buyer, the Buyer may, at its option and without prejudice to any other remedies it may have:

5.5.1 request a refund from the Seller of any money paid in respect of such rejected Goods and/or Services; or

5.5.2 purchase replacement goods or services from an alternative source at the Seller's cost.

6. PERFORMANCE, DELAY

6.1 Unless otherwise agreed in writing, any time or period given for delivery, despatch, performance or completion shall be of the essence. The Seller shall forthwith notify the Buyer of any anticipated delay in delivery, despatch, completion or performance. Liquidated damages shall be payable for delay in delivery at the rate set out in the Order. The liquidated damages shall become due and payable at the Buyer's written demand.

6.2 The Buyer reserves the right to defer the date of delivery or payment or to cancel the Order or reduce the volume of Goods ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

6.3 The Buyer reserves the right to reject Goods or work or performance not delivered or performed on time and/or cancel the whole or any part of the Order of which such Goods, work or Services form part and/or to return any Goods already delivered which by virtue of such rejection or cancellation are no longer in use. Such rights of rejection, cancellation or return shall be available to the Buyer irrespective of the cause of delay, without prejudice to the Buyer's right to damages and any other remedies against the Seller for breach of contract.

- 6.4 No concession with respect to delay in delivery, despatch, completion or performance shall be construed as a waiver of any of the Buyer's rights and remedies, unless such waiver is specifically agreed in writing.

7. DELIVERY, PACKING, ETC

- 7.1 Goods shall be sold DDP (Incoterms), Buyer's works or such other place as is set out in the Order unless otherwise agreed in writing. The Seller shall ensure that the Goods are cleared for import at the named place of destination in the Order. If Goods are incorrectly delivered, the Seller will be held responsible for any additional expense incurred by the Buyer in delivering them to their correct destination.
- 7.2 Deliveries made in advance of the Buyer's requirements may be returned to the Seller at the Seller's expense or accepted at the Buyer's option. If the Buyer accepts them, the Buyer shall be entitled to defer payment until the end of the second calendar month following the month in which delivery should have taken place.
- 7.3 A scheduled Order indicates the Buyer's estimated requirements for the Goods described therein. The Buyer will not accept delivery or be in any way liable to pay for any Goods described in a scheduled Order unless the Buyer has given the Seller written release instructions which are directly attributable to that scheduled Order.
- 7.4 No responsibility is accepted for Goods delivered in excess of the Order. If the Goods are delivered to the Buyer in excess of the quantities ordered the Buyer shall not be bound to pay for the excess and any excess shall be and shall remain at the Seller's risk and shall, if requested by the Buyer, be collected by the Seller at the Seller's expense.
- 7.5 All Goods must be adequately protected against damage and deterioration in transit and delivered, carriage paid, in accordance with the Buyer's instructions (if given) and must bear the description, the quantity of the contents and the Buyer's Order number on the packages thereof.
- 7.6 The Seller shall deliver metal in consistent weights and length in so far as it is practicable and, in particular, deliveries of metal must not be longer than 7 metres or heavier than 9 tonnes per piece (deliveries to the Meadowhall site must not be longer than 4.5 metres or heavier than 2.8 tonnes per piece) and must be loaded suitable for

off-loading with a forklift-truck or overhead crane. Metal to be off-loaded by overhead crane must be on a flat back, uncovered lorry.

- 7.7 Unless otherwise agreed in writing by the Buyer, the Seller shall unload the Goods immediately on their arrival at the Buyer's premises. The Seller shall indemnify the Buyer against each loss, liability and cost arising as a result of the Buyer or its sub-contractors assisting the Seller in the unloading, loading or other removal of the Goods from the point of delivery.
- 7.8 The Buyer accepts no liability for packing materials or cases unless previously agreed.
- 7.9 The Buyer will not be responsible for any failure to give notice to carriers of loss, damage, delay, detention or non-delivery.
- 7.10 All Goods shall be delivered by the Seller carriage paid unless otherwise stated in the Order.
- 7.11 Where Goods are despatched direct to customers of the Buyer at the Buyer's request, the relevant advice notes must be sent to the Buyer as well as to such customers. The Seller must send to the Buyer a copy of the advice note signed on behalf of the customer acknowledging delivery, once delivery has taken place.

8. RISK AND TITLE

- 8.1 The property in the Goods ordered shall pass to the Buyer on delivery to the place specified in the Order or as otherwise agreed without prejudice to any right of rejection or other right which may accrue or have accrued to the Buyer under these conditions or otherwise.
- 8.2 If the Seller postpones delivery at the Buyer's request the property in the Goods shall nevertheless pass to the Buyer on the date when but for such postponement the Goods would have been delivered. The Buyer shall, however, pay the Seller the reasonable cost of storing the Goods during any period of postponement of delivery at the Buyer's request.
- 8.3 Goods shall be at the risk of the Seller until actually delivered, even when the delivery has been delayed or postponed by the Buyer or at the Buyer's request.

- 8.4 All Goods rejected or returned for any reason shall be at the risk of the Seller during transit back to the Seller.
- 8.5 All Goods returned by the Buyer to the Seller for whatever reason must be credited at full value forthwith and re-invoiced only if re-delivered by the Seller.

9. VARIATIONS

- 9.1 The Seller shall not alter any of the Goods, except as directed in writing by the Buyer; but the Buyer shall have the right, from time to time during the execution of the Contract, by notice to direct the Seller to add or to omit, or otherwise vary, the Goods and the Seller shall carry out such variations and be bound by the same conditions, so far as applicable, as though the said variations were stated in the Contract.
- 9.2 Where the Seller receives any such direction from the Buyer which would occasion an amendment to the Contract price the Seller shall, with all possible speed, advise the Buyer in writing to that effect giving the amount of any such amendment, ascertained and determined at the same level of pricing as that contained in the Seller's acknowledgement of order.
- 9.3 If, in the opinion of the Seller, any such direction is likely to prevent the Seller from fulfilling any of its obligations under the Contract he shall so notify the Buyer and the Buyer shall decide with all possible speed whether or not the same shall be carried out and shall confirm its instructions in writing and modify the said obligations to such an extent as may be justified. Until the Buyer so confirms its instructions shall be deemed not to have been given.

10. LOSS OR DAMAGE IN TRANSIT

- 10.1 The Buyer shall advise the Seller and the carrier (if any) in writing of any loss or damage within a reasonable period of time.
- 10.2 The Seller shall make good and free of charge to the Buyer any loss or damage in transit to the Goods.

11. ACCEPTANCE

- 11.1 The Buyer reserves the right to inspect Goods supplied on receipt to ensure they comply with the Buyer's Order.

11.2 In the case of Goods delivered by the Seller not conforming with the Contract whether by reason of being of a quality or in a quantity measurement not stipulated or being unfit for the purpose for which they are required, the Buyer shall have the right to reject such Goods within a reasonable time of their delivery and to purchase elsewhere as near as practicable to the same Contract specifications and conditions as circumstances shall permit, and to recover from the Seller any difference in price of any such replacement goods over and above the price of the Goods but without prejudice to any other right the Buyer may have against the Seller. The making of payment shall not prejudice the Buyer's right of rejection. Before exercising the said right to purchase elsewhere, the Buyer shall give the Seller the reasonable opportunity to replace rejected Goods which conform to the Contract.

12. BUYER'S PROPERTY, PATTERNS, ETC

12.1 All designs, tools, patterns, drawings, dies, materials, specifications and other items supplied by the Buyer or provided by the Seller shall be or become the Buyer's property and, shall be maintained by the Seller in good condition, and kept confidential and not be used for any purpose other than carrying out this Order or any subsequent order placed by the Buyer and shall be returned or delivered to the Buyer carriage paid on request. The Seller will be responsible for making good any loss of or damage to such items howsoever arising.

12.2 The Seller agrees neither to quote nor to supply parts made with the Buyer's designs, tools, patterns, drawings, dies or specifications to any third party without the Buyer's prior consent in writing.

13. INTELLECTUAL PROPERTY

13.1 All Intellectual Property arising from the Seller's supply of the Goods and/or performance of the Services made to the Buyer's specification or design shall vest in the Buyer.

13.2 The Seller will keep the Buyer indemnified (except in respect of Intellectual Property provided by the Buyer) against all claims howsoever arising from infringement of third party Intellectual Property in relation to the Order and in relation to the use of articles or processed pursuant to the Order.

14. INDEMNITY

- 14.1 The Seller shall keep the Buyer indemnified against:
- 14.1.1 any claim in respect of loss or damage to any movable or immovable property of any nature or type whatsoever of the Buyer or any third party and against any claim in respect of the death or personal injury to any person whether in contract or tort or otherwise arising under common law statute or otherwise howsoever as a result of breach of any statutory or common law duty or of any act or omission on the part of the Seller or any of its employees, sub-contractors, assignees or agents or as a result of the performance or non-performance of the Order or otherwise howsoever arising wherever such loss, damage, death or personal injury occurs (including but not limited to the Buyer's premises);
 - 14.1.2 all losses, damage, injury, costs and expenses which result directly or indirectly from defective Goods, workmanship, design or Services supplied or provided by the Seller or any other defect or fault in construction of the Goods and in addition the Seller will repair, replace or reinstate at the Buyer's option any defective item or items free of charge; and
 - 14.1.3 any liability suffered by the Buyer as a result of any breach of the conditions or warranties in the Contract on the part of the Seller.
- 14.2 Without prejudice to any right or remedy available to the Buyer under statute or common law the Seller will keep the Buyer indemnified in respect of any liability suffered or incurred by the Buyer as a result of the supply or use of the Services in carrying out the Order or as a result of any breach of the conditions, warranties, inducements or representations expressed or implied in the Contract or any breach of contract on the part of the Seller, including but not limited to consequential or indirect loss and loss of profits.
- 14.3 The provisions of this paragraph shall remain in full force and effect notwithstanding the parties' remaining obligations under the Contract may have been performed or otherwise discharged.

15. PRODUCT LIABILITY, HEALTH AND SAFETY, ENVIRONMENTAL

- 15.1 Goods and Services supplied shall have the Seller's full guarantee as to accuracy, quality and workmanship for a minimum period of 12 months unless otherwise agreed in writing and the Goods and Services, together with the Seller's manufacture, supply, packaging, packing and delivery thereof, shall comply with all applicable treaties, statutes (including but not restricted to the Consumer Protection Act 1987 and the Health and Safety at Work Act 1974), statutory instruments, rules, orders, regulations, byelaws and all other such requirements of which the Seller has notice or of which the Seller ought to be aware including but not restricted to requirements imposed by any insurance arrangements put in place by the Buyer (hereinafter called "**Requirements**").
- 15.2 The Seller shall effect and keep in effect full and proper insurance in respect of the Seller's liability under the Consumer Protection Act 1987 in an amount sufficient to cover all prospective claims by consumers under the said Act in respect of the Goods, and shall on request from the Buyer show the Buyer the policy of insurance.
- 15.3 Where, in the provision of the Goods or the performance of the Services, work has to be carried out on or in the vicinity of the Buyer's premises by the Seller, the Seller's employees and/or its agents, the Seller warrants to the Buyer that Seller and its employees and/or agents will comply with all applicable site regulations that such work shall be performed by appropriately qualified and trained personnel, with due care and diligence and in a manner so as to comply with all the requirements set out in clause 15.1 and all reasonable instructions issued to them by the Buyer including, but not restricted to, the right to inspect the work under clause 5. Such inspection shall not relieve the Seller of its obligations under this section.

16. TERMINATION

- 16.1 On or at any time after the occurrence of any of the events in clause 16.2 the Buyer shall be at liberty (but not bound) at any time thereafter:
- 16.1.1 to terminate any Contract forthwith by written notice and to collect forthwith all material, goods, tools or articles of any description sent to the Seller for any purpose; or

16.1.2 to give the Seller or the receiver, administrative receiver, liquidator or other person the option of carrying on with the Order subject to his providing a guarantee up to an amount to be agreed for the due and faithful execution of the Order.

16.2 The events are:

16.2.1 the Seller being in breach of any obligation under a Contract or these Conditions;

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

16.2.3 an application being made, or resolved to be made by any meeting of the Seller's 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;

16.2.4 an incumbrancer taking possession, or a receiver or manager or administrative receiver being appointed, of the whole or any part of the Seller's assets;

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

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

17. ASSIGNMENT AND SUB-CONTRACTING

17.1 The Seller shall not without the consent in writing of the Buyer assign or transfer the Order or any part of it to any other person.

17.2 The Seller shall not without the consent in writing of the Buyer sub-contract the Order or any part thereof other than for materials, minor details, or for any part of the

Goods of which the makers are named in the Order or the specification. Any such consent shall not relieve the Seller of any of its obligations under the Contract.

17.3 The Seller shall be responsible for all work done and goods supplied by all sub-contractors.

18. INVENTIONS AND IMPROVEMENTS

When the Order includes manufacture to the Buyer's designs the Seller agrees to inform the Buyer of any invention or improvement in design or method of manufacture arising out of or in connection with the Order and any such invention or improvement and any patent or registered design rights in respect thereof and copyright in any drawings documents or specifications relating thereto shall be the property of the Buyer. The Seller will give the Buyer at the Buyer's expense all necessary assistance to enable the Buyer to obtain patent registered design and similar rights throughout the world.

19. GENERAL

19.1 Any notice to be given under these terms and conditions may be delivered, or be sent by prepaid post sent first class, addressed to the party to be served at its registered office for the time being or (if not a company) the address for that party last known to the party giving the notice or by email to such persons as may be notified by the parties to each other from time to time.

19.2 Notices served by post shall (except where expressly provided otherwise) be deemed served on the second business day after the date of posting: "**Business Day**" means a day other than a Saturday or Sunday or an English Bank or Statutory Public Holiday.

19.3 Notices sent by email shall be deemed to be served four (4) hours after the time of transmission if at the time that the e-mail enters the e-mail system of the intended recipient, no error message indicating failure to deliver has been received by the sender and if the transmission is received before 5.00pm on a Business Day. Any email received at any time on a day which is not a Business Day shall be deemed to have been received at 9.00am on the next Business Day.

19.4 No failure or delay by the Buyer in exercising any of its rights under the Contract shall operate as a waiver thereof.

19.5 Nothing in these conditions shall prejudice any condition or warranty (expressed or implied) or right or remedy to which the Buyer is entitled in relation to the Contract by virtue of statute or common law. The rights and remedies conferred on the Buyer by these conditions are in addition to and in no way in substitution for any conditions, warranties or other rights or remedies conferred on the Buyer or implied by law.

19.6 In the event that any of these conditions shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any of the other conditions hereof all of which shall remain in full force and effect.

19.7 Clause headings are for ease of reference only and do not affect construction.

20. ARBITRATION

If the Contract is an international supply contract as defined by Section 26 of the Unfair Contract Terms Act 1977 and the Seller has its place of business or habitual residence in a country outside of the European Union then any dispute, difference of question which shall at any time arise between the parties to the Contract as to the construction, meaning or effect of these conditions or the rights and liabilities of the parties or otherwise howsoever arising relating thereto may (at the Buyer's option) be referred to the decision of a single arbitrator to be nominated in the event of a disagreement between the parties by the President for the time being of the London Chamber of Commerce such arbitration to take place in London in accordance with International Chamber of Commerce Rules and this clause shall be deemed to be an arbitration agreement within the meaning of the Arbitration Act 1996.

21. PROPER LAW

The Contract and any issues or disputes arising out of or in connection with it, whether such disputes are contractual or non-contractual in nature, shall be governed by and construed in accordance with English Law and subject to the provisions of clause 20, both parties submit to the exclusive jurisdiction of the English Courts.

22. CONFIDENTIALITY

22.1 The Order and the subject matter thereof shall be treated as confidential between the Seller and the Buyer and shall not be disclosed by the Seller (or any sub-contractor or assignee) to any third party or used by the Seller (or any sub-contractor or assignee) for advertisement, display or publication without the Buyer's prior consent in writing.

22.2 The Seller shall treat all product, customer or business information, drawings, designs and specifications submitted to it by the Buyer as confidential and shall not disclose it to any third party without the Buyer's prior written consent or use it for any purpose except where authorised to do so by the Buyer.

22.3 Clause 22.2 does not apply to information which:

22.3.1 is at the date of disclosure or becomes at any time after that date publicly known other than by the Seller's breach of this condition;

22.3.2 can be shown by the Seller to the Buyer's satisfaction to have been known by the Seller before disclosure by the Buyer to the Seller;

22.3.3 is or becomes available to the Seller otherwise than from the Buyer and free of any restrictions as to its use or disclosure; and

22.3.4 is required to be disclosed by law.

23. 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.