

Terms and Conditions of Sale

Clause 1: Definitions – In these conditions “the Seller” means Simpson Strong-Tie or Simpson Strong-Tie Scotland (divisions of Simpson Strong-Tie International Inc) and “the Buyer” means the individual, firm, company or other party with whom the Seller contracts. “International Supply Contract” means such a contract as is described in section 26 (3) of the Unfair Contract Terms Act 1977.

Clause 2: Order Acceptances – Quotations issued by the Seller are not offers capable of acceptance so as to form a binding contract and the Seller may withdraw or modify them at any time. No order in pursuance of any quotation or otherwise shall be binding on the Seller unless and until such order is accepted by the Seller either issuing a written acknowledgement of order or delivering the goods (whichever is the earlier) or upon the Seller signing its Disclaimer Notice as applicable. Any contract made between the Seller and the Buyer shall be subject to these conditions any no representative or agent of the Seller has authority to agree any terms or make any representations inconsistent with them or to enter into any contract except on the basis of them unless such term is in writing and signed by the Seller’s director of sales, operations or marketing. These conditions shall override and exclude any terms and conditions stipulated, referred to or implied by the Buyer. In the event that the Seller has not given a written acknowledgement of the Buyer’s order of these conditions, provided the Buyer shall have had prior notice of them, shall nonetheless apply to the contract.

Clause 3: Representations – Save for any instructions or guidance as to the installation or use of the goods any description, drawing, illustration or specification contained in the Seller’s catalogues, samples, price lists or advertising material is intended merely to present a general picture of the Seller’s products and shall not form a representation or be part of the contract.

Clause 4: Prices – The prices shall be those set out in the Seller’s current price list as at the date of the contract. All prices quoted are exclusive of VAT and the Buyer shall pay any and all taxes, duties and other government charges payable in respect of the goods.

Clause 5: Quantity Tolerances for Under/Over Deliveries – Quantities are approximate and accordingly the Buyer shall accept up to plus or minus 10% of the order quantity and any such variations will be deemed to be due execution of the order.

Clause 6: Dimensional Tolerances – The goods will be supplied to the dimensional tolerances defined by the Seller.

Clause 7: Warranties and Liability –

a) The Seller warrants that it has good title to the goods and that the goods will, for a period of 12 months from the date of delivery comply with their specification and be free from defects in material and workmanship. The Seller does not warrant that the goods are fit for any particular purpose and it is the Buyer’s responsibility to ensure the goods are suitable for the use(s) to which it intends to put them.

b) The warranties in condition 7(a) are given on condition that the Seller is not liable for a defect in the goods caused by:

- (i) fair wear and tear, wilful damage, negligence, or abnormal or unsuitable storage or working conditions of the goods by the Buyer;
- (ii) failure to follow the Seller’s instructions or guidance whether oral or in writing (including but not limited to any instructions set out in the Seller’s catalogue) as to the storage, commissioning, installation, use and maintenance of the goods or (if there are none) good trade practice regarding the same;
- (iii) the Buyer altering or repairing the goods without the written consent of the Seller;
- (iv) the Buyer making further use of the goods after giving notice in accordance with condition 7(c); or
- (v) the goods differing from their specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

c) The Seller is not liable for a defect in the goods unless it is notified to the Seller within 5 days of the date of delivery or, if the defect would not be apparent on reasonable inspection, of the date on which it would become apparent to a reasonable buyer.

d) The Seller shall not be liable for damage in transit, shortage of delivery or non-delivery unless the Buyer shall have given the Seller written notice of such damage, shortage or loss, with reasonable particulars of it within 5 days of receipt of the goods or (in the case of total loss) of receipt of the invoice or other notification of dispatch.

e) If the Seller is liable under these warranties then (subject to condition 7(j)) the Seller’s only obligation is, at its option, to make good any shortage or non-delivery; replace or repair any goods which are damaged or defective; or refund to the Buyer the amount paid by the Buyer for the goods that are the subject of the claim.

f) Except as expressly set out in these conditions, all conditions, warranties and representations, expressed or implied by statute, common law or otherwise, in relation to the goods are excluded.

g) The Seller is not liable to the Buyer, whether for negligence, breach of contract, misrepresentation or otherwise, for:

- (i) loss or damage incurred by the Buyer as a result of third party claims; or
- (ii) indirect or consequential damage suffered by the Buyer, including, without limitation, loss of goodwill, business opportunity or anticipated savings; or (iii) economic losses including without limitation loss of profit.

h) For the avoidance of doubt, subject to condition 7(j) the entire liability of the Seller arising out of or in connection with the goods, whether for tort (including negligence), breach of contract, breach of statutory duty, misrepresentation or otherwise, is limited to the Seller’s level of insurance cover in place from time to time (currently £500,000) and the Buyer shall be responsible for making its own arrangements for the insurance of any excess loss.

i) The Seller’s prices are determined on the basis of the liability limits in this condition. The Buyer may by written notice to the seller request the Seller to agree a higher limit of liability provided insurance cover can be obtained for that higher limit.

j) Nothing in these conditions shall operate to exclude or restrict the Seller’s liability for death or personal injury resulting from negligence, or breach of the obligations arising from section 12 of the Sale of Goods Act 1979, or for fraud/deceit.

Clause 8: Buyer’s Indemnity – The Buyer shall fully indemnify the Seller on demand against any claim or liability in respect of any infringement of a patent or registered design, copyright or other industrial property resulting from compliance with the Buyer’s instructions, express or implied, and the Buyer undertakes further to indemnify the Seller on demand for any loss, damage or expense in respect of any liability arising under or by reason of the provisions of the Consumer Protection Act 1987 in relation to the specification or design of such goods or any similar legislation in any other country in which the goods are supplied.

Clause 9: Proprietary Information – All information of a confidential nature which the Seller has divulged or may divulge to the Buyer and any information relating to the Seller’s business, products or processes which may have come or may come into the possession of the Buyer in the course of quoting and/or carrying out the order, shall be treated by the Buyer in confidence and shall not, without the prior written consent of the Seller, be disclosed to any third parties.

Clause 10: Delivery Arrangements –

(a) The Buyer shall supply delivery instructions within two days of placing an order. Unless otherwise agreed in writing by the Seller, the Buyer shall take delivery of the goods or any instalments at the Seller’s premises within 14 days after receiving notification from the Seller that such goods are ready. If the Seller agrees to deliver the goods elsewhere the Seller shall be entitled to add to the contract price a reasonable charge for delivery. Off loading shall be at the Buyer’s risk and expense. Delivery dates are estimates given in good faith but the Seller shall not be liable for any failure to deliver on these dates nor shall such failure be deemed to be a breach of the contract. Moreover, the Seller shall be entitled to defer delivery until any monies due from the Buyer have been received.

(b) The Seller shall not be liable for any loss or damage sustained by any goods left with the Seller, howsoever caused, and whether or not attributable to negligence on the part of the Seller or negligence or wilful default on the part of any servant or agent of the Seller.

Clause 11: Force Majeure – If the Seller is delayed or prevented from supplying goods due to strikes, lock outs, trade disputes, breakdowns, accidents, lack of supply of materials, parts or power, war, riot, civil commotion, malicious damage, fire, flood, storm, governmental requirements or other causes beyond the reasonable control of the Seller, the Seller may cancel or suspend orders placed by the Buyer without incurring any liability and shall not be in breach of contract. If such an event exceeds three months, the Seller shall promptly notify the Buyer and the Buyer may cancel the order.

Clause 12: Orders for Multiple Goods – Notwithstanding that the Buyer may, in a single order purchase several different products, each product shall be construed as forming a separate contract, and failure to supply any of these shall not constitute a breach of contract in respect of the other items.

Clause 13: International Agreements – Where a contract is an International Supply Contract, it shall incorporate the version of Incoterms current at the date of contract (except to the extent that they are inconsistent with these conditions) and the goods shall be supplied F.O.B. to a transport point and means of transport nominated by the Seller and the responsibility of the Seller shall cease when the goods are placed on board ship. The Seller shall be under no obligation to give the Buyer the notice specified in Section 32 (2) of the Sale of Goods Act 1979 and may make such contract as the Seller thinks appropriate with the carrier.

Clause 14: Cancellation of Orders – (a) Cancellation, suspension, deferment of an order, whether in whole or part by the Buyer, cannot be accepted without the consent, in writing, of the Seller’s director of sales, marketing or operations and the Buyer will be liable forthwith for all expenditure incurred by the Seller towards the execution of that order including components already produced, raw materials and unrecovered die and tool costs, and the cost of storage. The Seller also reserves the right to claim for loss of profits in the case of cancellation. (b) If the Buyer shall fail to make any payment when it becomes due or shall enter into any composition or any arrangement with his creditors or is insolvent or - if being an incorporated company shall have an administrative receiver or administrator appointed or shall pass the resolution for winding up or a Court shall make any

order to that effect or shall cease or threaten to cease to carry on its business or if there shall be any breach of the Buyer of any of the terms and conditions hereof the Seller may defer or cancel any further deliveries and treat the contract as determined but without prejudice to its right to the full purchase price for the goods delivered and damages for any loss suffered in consequence of such determination.

Clause 15: Terms of Payment – The Seller shall be entitled to issue an invoice in respect of the goods at any time following seven days from the date on which the Buyer takes delivery of the goods at the Seller’s premises or the Seller dispatches the goods or the Buyer defaults in his obligation to give delivery instructions or to collect the goods, and the goods are ready for despatch, whichever shall first occur. Payment shall be made by the Buyer, net cash, not later than the last day of the month following the date of the invoice. Without prejudice to any other rights of the Seller, interest will be payable on all overdue accounts until the date of actual payment at the rate of 4% per annum above the base rate from time to time of the Seller’s bankers. Time for payment will be of the essence of the contract, notwithstanding that property in the goods has not passed to the Buyer.

Clause 16: Passing of Title in Goods Supplied – (a) Upon delivery of the goods, the Buyer shall hold the goods solely as bailee for the Seller, and the goods shall remain the property of the Seller until such time as the Buyer shall have paid to the Seller, (i) the full purchase price of all goods supplied under the contract and (ii) all amounts due under any other contract with the Seller. Payment shall mean payment in cash, and acceptance of a cheque shall constitute conditional payment only until such cheque has been cleared and cash received. Until such time the Seller shall be entitled to recover the goods or any part thereof, and for the purpose of exercising such rights, the Seller, its employees and agents with appropriate transport, may enter upon the Buyer’s premises and any other location where the goods are situated. (b) The Buyer shall hold the goods as bailee and not dispose of them save as agent for the Seller except that between itself and its customer the Buyer shall act as principal. (c) The goods must be clearly identified as being the Seller’s goods and set aside by the Buyer until such time as the goods are sold or used. (d) The Buyer shall maintain appropriate insurance in respect of the goods from the date or dates on which the risk therein passes to it. In the event of any loss or damage occurring while the goods remain the property of the Seller, the Buyer shall, immediately on receipt of the insurance monies, remit to the Seller, the full purchase price of the goods lost or damaged, less any part thereof which has already been paid, and until it has been remitted, shall hold such an amount as trustee and agent for the Seller in a separate designated account. (e) The Buyer’s licence to use or resell the goods shall be terminable forthwith at any time upon notice by the Seller to the Buyer and shall automatically terminate on the Buyer’s insolvency. No termination of the contract shall prejudice, limit or extinguish the Seller’s rights under this clause.

Clause 17: Risk – Save in the case of International Supply contracts, the risk in the goods shall pass to the Buyer on the date on which the Seller makes the goods available for delivery under clause 10 (whether or not the Buyer actually takes delivery).

Clause 18: Legal Construction – The proper law of all contracts with the Seller shall be English law which shall govern in all respect the construction and effect of such contracts and of these conditions and both parties submit to the exclusive jurisdiction of the English Courts. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions shall remain in force and not be affected.

Clause 19: Clerical or Typographical Errors – The Seller reserves the right to correct any clerical or typographical errors made by its employees at any time.

Clause 20: Information – The Buyer warrants it will pass on to all third parties to whom it may supply the goods, all information as to the use and safe handling of the Goods as may have been passed on to the Buyer by the Seller.

Clause 21: Waiver – No failure by the Seller to enforce strict compliance by the Buyer with any provision of these conditions shall constitute a waiver of that provision.

Clause 22: Data Protection – Except as required or permitted by law, personal information provided by the Buyer to the Seller will be used to supply the goods. In order to do this, personal information will be transferred to the USA. Any sale or transfer of the Seller’s business assets may include databases containing this information. The Seller may wish to send the Buyer information by post, phone or email about other products and services, and may also wish to pass information to third parties to allow them to do this. The Buyer should contact the Seller if it objects to this use of its information.

Clause 23: Rights of Third Parties – No term of any contract incorporating these conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to these conditions.