

**METALLO BELGIUM NV**  
**General Terms and Conditions of Sale**

1. **Scope and general provisions**

- 1.1. These general terms and conditions of sale (“general conditions”) are applicable to all sales of Metallo Belgium NV, a limited liability company incorporated under Belgian law, with registered office at 2340 Beerse, Nieuwe Dreef 33, with enterprise number 0403.075.580 (RLE Turnhout, Belgium) (“Metallo”), unless explicitly agreed upon otherwise in writing. These general conditions form an integral part of every sale and purchase agreement in which Metallo acts as seller. Metallo and the buyer shall together be referred to as the “Parties” and each individually as a “Party”. The special terms and conditions of such sale and purchase agreement take precedence over these general conditions.
- 1.2. These general conditions take precedence over any conditions of purchase of the buyer, even if Metallo has not expressly nullified or excluded the application of these conditions of purchase. Preference for other general terms and conditions can thus only be given in writing, in which case these general conditions shall apply supplementarily.
- 1.3. The full or partial invalidity and/or nullity of a provision of these general conditions shall not result in the invalidity and/or nullity of these general conditions in their entirety. Metallo and the buyer expressly renounce their right to invoke the nullity and/or invalidity of these general conditions on such basis. In the event that any provision of these general conditions is (deemed) invalid, null or unenforceable, that provision shall be severed from these general conditions to the extent it is invalid, null or unenforceable without affecting the validity and enforceability of the remainder of these general conditions. Parties agree that the invalidity, nullity or non-enforceability of one or more of the provisions of these general conditions, does not in any way constitute a reason for terminating any agreement between Metallo and the buyer.
- 1.4. By entering into an agreement with Metallo, the buyer declares to have received a copy of these general conditions and declares to have accepted these general conditions. The buyer declares that it knows and understands the meaning of all technical terms used in these general conditions, as well as any possible additions to them.
- 1.5. If a Party does not invoke a provision of these general conditions, although the conditions for this are fulfilled, then this position cannot be interpreted as a waiver by such Party of its rights under this provision, nor may this position be construed as such.

1.6. Unless otherwise expressly stipulated, notifications of any nature whatsoever, including orders and order confirmations, shall only be considered to have been received as follows:

- a) By registered letter with receipt confirmation: at the moment of actual receipt;
- b) By registered letter: three calendar days after the post mark;
- c) By email/regular mail/fax: at the moment that receipt is confirmed by the other Party in a non-automated way;
- d) By courier: at the moment of actual receipt.

1.7. In these general conditions, time periods are calculated as followed:

- a) The term is calculated from midnight to midnight. This shall be calculated from the day after the day of the deed or of the event that has caused it to take effect, and includes all days including Saturdays, Sundays and public holidays in Belgium.
- b) The day of the expiry date is included in the period. However, if this day is a Saturday, Sunday or a public holiday, then the expiry date shall be moved to the subsequent work day.
- c) A period that is determined in months or years is calculated from a given day of a month to the day before that day.

1.8. Unless expressly stated otherwise, days are calendar days. Business days are all days of the week other than Saturdays, Sundays and public holidays. For price determination and conversion of currencies, "business days" are considered to be all days upon which the respective exchange or institution is open.

1.9. "REACH" is understood to mean Regulation (EC) No. 1907/2006 of the European Parliament and the Council of 18 December 2006 on the registration, evaluation, authorisation and restriction of chemical substances (REACH).

## **2. Constitution of the agreement**

Every offer made by Metallo is drawn up conditional upon omission and/or calculation errors and is valid until the expiry date that is expressly stated in the offer. An offer without a specific expiry date is not binding upon Metallo.

By entering into a purchase agreement with Metallo, the buyer confirms that, if he purchases goods that fall within the scope of REACH, he purchases these goods for an identified use within the meaning of REACH.

An agreement is only established once an order that is placed by the buyer, whether or not following a prior offer by Metallo, is accepted in writing by Metallo. Accepted orders are binding upon both Parties.

If Metallo's order confirmation contains any change or addition or differs in any way from the buyer's order, it shall be binding upon the buyer unless the buyer notifies Metallo about its disagreement within 5 business days after receiving the order confirmation.

Metallo retains the right to suspend the execution of an order if the buyer's account at Metallo shows that the buyer is in default of any payment obligation to Metallo or its affiliates or if Metallo has information from which it can reasonably assume that the buyer has liquidity or solvency issues.

Every agreement is considered to be signed, after acceptance, at the location Metallo's registered office.

### **3. Delivery**

Unless the sale and purchase agreement explicitly states otherwise, any delivery date is only indicative and in no way binding. The presumptive delivery date will be agreed upon at the time of acceptance of the order. Metallo shall in any event use reasonable endeavours to deliver the ordered goods on time.

Metallo shall inform the buyer in reasonable time that the goods are available to the buyer. The buyer shall inform Metallo as soon as reasonably possible and no later than 14 business days prior to loading that he desires to load the goods on that day. Metallo has the right to reject the loading date proposed by the buyer, insofar as Metallo must then provide at least two dates upon which the goods from Metallo can indeed be loaded.

Delivery shall be done FCA factory/warehouse (Incoterms 2010), unless otherwise expressly specified. If the parties in an agreement refer to an Incoterm, then the Incoterms 2010 shall be applicable for the interpretation thereof. Metallo shall not be liable for any risks whatsoever related to transport, unless in accordance with the applicable Incoterm.

The goods shall be packed in a usual way and marked where necessary, unless otherwise agreed upon in writing. If special packaging and/or marking is required for transport or other reasons, the buyer shall inform Metallo of this in writing within reasonable time and no later than the moment at which the order is placed. In this regard, Metallo is only bound insofar as Metallo has confirmed in writing its agreement to the delivery of the goods with such special packaging or marking.

Special obligations:

- Unless explicitly otherwise agreed, the loading must occur in accordance with the loading instructions as will be made available by Metallo in due course.
- At the moment of loading, the buyer, in the capacity of the transporter, shall present to Metallo the cargo manifest that makes it possible to identify the delivery.
- The buyer shall ensure that the goods are transported in accordance with the legal provisions in this regard, and in the absence thereof, in a usual and appropriate manner, taking into account the nature of the goods and loading.
- The vehicles that the buyer uses for transport must be in a good state of
- repair at all times and be suitable for the goods being transported. Metallo reserves the right to refuse loading on non-suitable vehicles.

Metallo Belgium NV is AEO certified under reference BE AEOF0000024GDH.

#### 4. **Risk and property**

The risk of loss and/or damage with regard to the goods shall be transferred to the buyer at the moment of delivery, even if the property transfer takes place at a later time. Included therein is the risk in the event of unusual cause, coincidence and Force Majeure (as defined below), or similar circumstances arising from whichever party.

The goods remain property of Metallo until full settlement of all claims of Metallo against the buyer under all business relations between the Parties, including interests and liquidated damages, if applicable. If the buyer has not yet (completely) paid the purchase price, the buyer will notify third parties (for example a bankruptcy receiver, insolvency administrator and creditors) of Metallo's retention of title by registered letter each time this is required by the circumstances, including but not restricted to the situation wherein a third party is threatening to seize or has seized the goods. The buyer will notify Metallo of this immediately.

Goods may only be mixed with other goods of the same type, resold or processed after full payment of the purchase price. In the event that the buyer sells or otherwise transfers the goods in breach of this clause 0 0, the buyer's claim for payment towards its customer shall be automatically assigned to Metallo, Metallo hereby accepting such assignment. The buyer shall inform its customers of the assignment to Metallo and shall provide to Metallo all information and documents on the collection of the claims.

The buyer warrants (if necessary on behalf of a third party (buyer) or holder) that Metallo shall be notified of the location of the goods at its first request and that they shall be made available to Metallo again at the expense and risk of the buyer if Metallo so requests. To the extent necessary, Metallo shall be granted both an irrevocable mandate for repossession, and a mandate to enter the premises for this purpose.

#### 5. **Purchase price and payment**

The prices are excluding VAT and in Euros unless otherwise specified.

In case of an intra-EU delivery, the VAT shall still be charged to the buyer, if (i) the buyer omits to provide the documents requested by Metallo within ten days that show that the goods have been sent or transported outside Belgium, but within the EU, (ii) Metallo can reasonably suppose that the buyer does not have the capacity that is legally required for an exempted intra-EU delivery and/or (iii) Metallo can reasonable suppose that the buyer has not acted in this capacity. In any case, at the first request of Metallo the buyer shall repay the VAT paid by the latter in the framework of an intra-EU delivery, insofar as not deductible, plus interest, any administrative increases and (whether or not criminal) fines, unless this obligation for payment of the Belgian VAT is the result of an error of Metallo.

Invoices are payable at Metallo's registered office.

The invoices must be paid no later than on the expiry date stated on the invoice. "Payment" is understood to mean payment –wire transfer, which is considered effected upon the irrevocable crediting of the bank account of Metallo.

Metallo has a credit insurance policy of the type "account receivable insurance". If a delivery of goods to the buyer results in the total open debt of the buyer exceeding the amount insured by the credit insurer for the respective buyer, Metallo has the right to demand advance payment of the full invoice with regard to this delivery prior to delivering the goods in question.

In case of omission of payment on the expiry date, the buyer shall, by right and without prior proof of default, owe a late fee of 8% on an annual basis. In addition and for coverage of the extrajudicial collection costs, the buyer shall owe compensation of damages fixed at 10% of the open invoice amount, with a minimum of 100.00 Euros.

Without prejudice to article 8, the non-payment of an invoice or an exchange on the expiry date by the buyer shall have the result that immediately and without prior proof of default:

- a) all non-expired invoices of the same buyer are payable as a whole, and
- b) all deliveries to the buyer that have not-yet been made shall be suspended until the moment that all invoices, including the non-expired invoices, are paid.

For the application of this article, "the buyer" is understood to mean the actual buyer and all companies affiliated with the buyer within the meaning of article 11 of the Belgian Companies Code.

The buyer expressly waives the right to defer, suspend or compensate payment of all amounts that he owes under the purchase agreement, including these general conditions, due to claimed breach of contract caused by Metallo including - but not limited to - claimed non-conformity and/or hidden faults. The buyer expressly recognizes the application of the rule "pay first, talk later". However, Metallo is at all times entitled to compensate its debts toward the buyer - regardless of the cause thereof - by the sums that the buyer, or a company affiliated with the buyer within the meaning of article 11 of the Belgian Companies Code, owes to Metallo, also for whatever reason. The buyer cannot set off any of its claims against any debt towards Metallo (whether or not those debts arise from the purchase of goods from Metallo).

## **6. Conformity and acceptance**

The buyer and Metallo shall finally agree in the purchase agreement to the specifications that the goods must meet. Any ambiguity with regard to the specifications provided by the buyer, insofar as they are confirmed by Metallo, shall - be construed against the buyer.

Metallo guarantees to the buyer that at the moment of delivery of the goods, the goods shall meet the contractually determined specifications and conform to the statement on the packaging or the label and in the accompanying freight documents. Metallo makes no other guarantees and confers no explicit or implicit guarantee with regard to suitability for a particular use, saleability or otherwise.

Prior to the goods being unloaded at the buyer's location, the buyer shall perform all necessary checks to ensure that the goods conform to the contractually determined specifications. The buyer shall also take at least three samples of the goods that are to be retained. Both the check and the sampling shall be done in a way that is usual for these goods, and such that the "usual character" is evaluated on the basis of all relevant circumstances. The costs of this shall be borne by the buyer. Metallo also has the right to be present, at its expense, at the checks and sampling - whether or not via a representative. If the buyer unloads the goods without prior checks and sampling, he shall incontestably be considered to have accepted the goods and irrevocably waives his rights - of whatever nature - toward Metallo regarding non-conformity that could be immediately established with a check and/or sampling.

In case of non-acceptance, the buyer is obliged to inform Metallo of the non-conformity, of which a detailed description shall be given, by notification within a period of 24 hours after the delivery. Except in case of Force Majeure, the buyer irrevocably loses his rights - of whatever nature - towards Metallo due to non-conformity in the absence of a timely notification in accordance with this article.

Metallo shall in no case be liable for non-conformity of goods that have since been fully or partially used or consumed, that no longer have their original form, or that have been mixed by the buyer.

## **7. Liability**

If Metallo is liable for loss or damage - other than death or personal injury - that results from, or is connected with, the contract, Metallo has the option of either paying compensation of damages or replacing the deficient goods. Any compensation of damages shall never exceed the difference between the value of the goods at the moment of delivery and the price set in the agreement. If Metallo opts to replace the deficient goods, the buyer shall be obligated to allow Metallo to repossess the originally delivered goods. In that case Metallo has the option of either providing replacement goods within a reasonable period, or granting the buyer permission (by notification in accordance with these general conditions) to buy replacement goods, it being understood that Metallo shall pay the reasonable price difference between the goods. The buyer cannot claim additional compensation of damages.

Metallo shall not be liable for consequential loss or indirect damages (including but not limited to: damage to property, financial loss, loss of profit, personnel costs, damage to third parties, loss of income), and the buyer hereby waives its rights of recourse on Metallo and/or those appointed by Metallo and releases Metallo and/or those appointed by Metallo from all such liability relating thereto. In any case - and insofar as the purchase agreement or these general conditions do not provide a more limited liability - the compensation of damages in all cases is limited to the purchase price.

## **8. Transported isolated intermediate products**

If the goods are transported isolated intermediates in the sense of REACH, Metallo shall only deliver these transported isolated intermediates if the buyer has confirmed in writing that (i) he is informed of the strictly controlled conditions that must be fulfilled to synthesize chemical substances from these intermediates (and that are also found in article 10, paragraph 4 of REACH) and (ii) he shall strictly follow these strictly controlled conditions.

The buyer shall indemnify Metallo against all claims from third parties, including the European and local governments, for violations by the buyer of these strictly controlled conditions.

## 9. **Termination following breach**

Without prejudice to other rights and available means of redress, each Party has the right to terminate (“*ontbinding*”) the agreement between the Parties with retroactive effect, without prior notification of default and without prior or retrospective judicial review with regard to the seriousness of the reasons for termination, or to immediately suspend all further performance under this agreement, if:

- a) any sum resulting from any agreement between the Parties is owing and payable and remains unpaid;
- b) if it becomes clear that the other Party will not be able to perform under this Agreement;
- c) in case of a material breach of this agreement by the other Party which is not remedied within 5 business days following a notification of default;
- d) in case of an alleged breach by the other Party of applicable anti-bribery, anti-corruption and anti-money laundering laws and regulations; or
- e) the other Party becomes insolvent, is under the administration by a court-appointed provisional administrator, fully or partially suspends payment of his debts, enters a disposition with creditors, is the object of a declaration of bankruptcy or of any other procedure of a similar nature, or in case that a similar process takes place in accordance with the law that is applicable to such party.

In case of a termination of this Agreement following delivery of the goods, such goods shall immediately be returned to Metallo.

The breaching Party shall compensate the non-breaching Party for any loss or damage incurred or sustained by the non-breaching Party in consequence of such breach, it being understood that article 7 of these general conditions shall apply.

## 10. **Force majeure**

A Party shall not be held liable for any delay in the performance of its obligations or the non-performance thereof in the event that this delay in performance or non-performance is the result of an event or unforeseen circumstances which are beyond such Party’s reasonable control (“**Force Majeure**”)

## 11. **Assignment**

A Party is not permitted to transfer the agreement or any rights or obligations resulting from the agreement to any third party without the prior written permission of the other Party, whereby any corporate restructuring governed by the Belgian Code of Companies (merger, (partial) demerger, transfer or contribution of universality or branch of activities) shall be considered a transfer. .

## **12. Anti-Bribery, Anti-Corruption and Anti-Money Laundering, Know Your Counterpart procedure**

The buyer hereby agrees that, at all times in connection with and throughout the course of the agreement and thereafter, he will comply and will take all reasonable measures to ensure that his personnel, agents, representatives, sub-contractors and any other person acting on his behalf will comply with all applicable anti-bribery, anti-corruption and anti-money laundering laws and regulations including such applicable laws and regulations in the jurisdiction in which the buyer has his registered office and/or business address and the jurisdiction in which the agreement will be executed (if different). The buyer will notify Metallo immediately upon becoming aware of any actual or potential breach of the provisions of this article.

The buyer agrees to provide Metallo with all information and documents as requested in Metallo's Know Your Counterpart procedure and to fulfill all commitments therein. All documents enabling the buyer to comply with Metallo's Know Your Counterpart procedure are sent separately to the seller.

## **13. Confidentiality and data protection clause**

Metallo Belgium commits itself to maintaining the confidentiality of all information and documents provided to it in the framework of its 'Know Your Counterpart' procedure. The submitted information and documents shall only be used by Metallo Belgium for the purposes of its 'Know Your Counterpart' procedure in the context of the professional relationship between Metallo Belgium and the supplier. Metallo Belgium shall nonetheless be allowed to disclose the submitted information and documents to the following persons and entities, in the following circumstances:

- a) directors, employees, accountants, legal counsels and other advisors of Metallo Belgium, and directors, employees, accountants, legal counsels and other advisors of its affiliates, to the extent necessary in the context of the professional relationship between Metallo Belgium and the supplier;
- b) any governmental authority or self-regulatory authority having or asserting jurisdiction over Metallo Belgium or its affiliates, to the extent requested;
- c) to the extent required by any applicable laws or regulations; and
- d) to any person or entity with the express written consent of the supplier.

The Personal Information provided by the suppliers will be processed by Metallo Belgium, with registered offices at 2340 Beerse, Nieuwe Dreef 33, Belgium, acting as the Data Controller. Suppliers warrant that the data subjects, whose personal information is included in the Supplier Information Request, are informed on the content of this Confidentiality and Data Protection Clause.

Metallo Belgium needs to process all personal information provided by suppliers in the Supplier Information Request to meet the abovementioned Anti-Money Laundering ('AML') regulatory requirements. The information provided will also be used when this is necessary for the delivery of services to the suppliers. The personal data will only be retained for as long as this is necessary for the abovementioned purposes.

The data subjects whose personal information is included in the Supplier Information Request form, have - in principle - the right to request access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability. However, Metallo will only grant such a request if all conditions for such a request or for invoking those rights are complied with.

The data subjects will have to provide proof of their identity, by providing a copy of the front of their eID. If a data subject feels like their request or complaint was not handled properly, they have the right to lodge a complaint with a supervisory authority (in Belgium, the Privacycommission).

The buyer likewise commits itself to maintaining the confidentiality of all information and documents provided by Metallo to the buyer in the context of their professional collaboration, under the same conditions as set out in this article.

#### **14. Compliance with Metallo's Code of Conduct**

The buyer has read Metallo's Code of Conduct as set forth on Metallo's website under <http://metallo.com/downloads> and commits to comply with the principles contained in this Code of Conduct in the performance of the agreement.

#### **15. Applicable law and competent courts**

All agreements, including these general conditions, made between Metallo and the buyer are governed by and construed in accordance with the laws of Belgium, with the exclusion of (1) all conflict of laws rules, (2) the UN Convention on the International Sale of Goods (1980), and (3) the NY Convention on the Limitation Period in the International Sale of Goods (1974).

All disputes in connection with the purchase agreement, including these general conditions, will be exclusively settled by the courts of Antwerp, judicial department of Turnhout (Belgium).