

**METALLO BELGIUM NV**  
**General Conditions of Purchase – Non Metals**

**1. General stipulations**

- 1.1 These general purchase conditions ("General Conditions") apply to any purchase or rental of goods or services by the Belgian company Metallo Belgium N.V. (hereinafter referred to as "Metallo"). These General Conditions are an integral part of any agreement where Metallo Belgium N.V. acts as a buyer.
- 1.2
- 1.3 These General Conditions take precedence over any conditions of sale of the seller of the goods or services ordered ("Seller"), even if Metallo has not expressly rejected the application of these conditions of sale.
- 1.4 The total or partial nullity and/or invalidity of any provision of these General Conditions shall not result in the invalidity and/or nullity and/or non-applicability of these General Conditions in their entirety. The Seller and Metallo expressly waive their right to invoke the nullity and/or invalidity of these General Conditions.
- 1.5 If Metallo does not invoke any provision of these General Conditions, although the conditions for this have been fulfilled, then this attitude does not constitute a renunciation of the rights that Metallo can assert *vis-a-vis* the Seller with respect to this provision of the General Conditions. Nor can this attitude be interpreted as such.
- 1.6 Unless otherwise expressly provided, written notices of any kind, including, among others, additional orders, are deemed to have been received as follows:
- a. By registered letter with acknowledgment of receipt: at the time of actual receipt;
  - b. By registered letter: three days after the postmark;
  - c. By e-mail/ordinary mail/fax: at the time that receipt is confirmed;
  - d. Per carrier: at the time of actual receipt.
- 1.7 In these General Conditions, the periods are calculated as follows:
- 1.7.1 The period is calculated from midnight to midnight. It is calculated from the day following the legal act or event which gives rise to it, and includes all days, including Saturdays, Sundays and Belgian statutory public holidays.
- 1.7.2 The due date is included in the period. However, if this day is a Saturday, a Sunday or a Belgian statutory public holiday, the due date moves to the next working day.
- 1.7.3 In some months or years, certain periods are calculated from one day until the day before another.
- 1.8 Unless otherwise expressly provided, days shall be calendar days. Working days are all days of the week, except Saturday, Sunday and Belgian statutory public holidays.
- 1.9 A reference to an article or sub-article is a reference to an article or sub-article of these General Conditions.

- 1.10 If the parties to a contract of sale refer to an Incoterm, then Incoterms 2010 shall apply to the interpretation thereof.

## 2 Agreement

- 2.1 If the order consists of work on Metallo's business site, the Seller of the goods or services must submit a risk inventory and evaluation (RIE) which has been approved by Metallo, at least 1 week prior to the work (unless otherwise agreed to in writing), all of this regardless of the duration of the work. If the Seller does not comply with this provision, Metallo reserves the right to terminate the order by operation of law, without any compensation.
- 2.2 An order for a product or service can only bind Metallo if this order is entered into a written purchase order whether purchase order by Metallo by post, by fax, by e-mail or any other (electronic) means of communication (the "Purchase Order").
- 2.3 The Seller shall be deemed to have accepted the Purchase Order unconditionally if it (i) signs this Purchase Order or (ii) if it confirms the Purchase Order in writing or (iii) if the Seller does not submit an objection against the Purchase Order within two (2) working days, regardless which of these actions took place first.
- 2.4 Each agreement is deemed to have been concluded, after acceptance, at the place of Metallo's registered office.

## 3 Delivery

- 3.1 Unless otherwise specified in writing, the delivery of the goods in accordance with DDP Beerse (Incoterms 2010) and after unloading of the goods. These regulations shall apply *mutatis mutandis* to the supply of goods, where the Seller is also based in Belgium. The delivery of the goods shall be confirmed in the manner provided for in Article 3.4.3.
- 3.2 Unless otherwise specified in writing, the services shall be provided at the business premises or at the business sites of Metallo. The delivery of services shall be confirmed in the manner provided for in Article 3.4.3.
- 3.3 Delivery period or lead time
- 3.3.1 The Seller must strictly comply with the delivery period or lead time. If the last day of such period is not a working day, the period shall be extended to the next working day.
- 3.3.2 If the Seller of the goods or services cannot deliver or does not deliver within the delivery period or lead time, then Metallo reserves the right to dissolve the contract of sale with immediate effect and by operation of law, payable by the Seller, without prejudice to the right of Metallo to damages. If Metallo gives the Seller an additional delivery period or lead time, this means that Metallo does not waive its right to invoke this termination penalty if the seller of the goods or services is unable to deliver or does not deliver to Metallo within this additional period. Metallo reserves the right to demand the performance of the agreement, in all cases, without prejudice to its right to damages.

### 3.4 Special obligations

#### 3.4.1 The delivery must take place during normal business hours, i.e.:

- Monday to Thursday: 7.45 am - 3.00 pm;
- Friday: 7.45 am - 2.30 pm;

#### 3.4.2 The goods must be delivered together with a delivery note. The performances related to the delivery of the services are listed in a work order in detail. The delivery note and/or work order must contain at least the following information:

- Date and place of delivery;
- Number of the Purchase Order;
- Identification of the supplier/service provider;
- Usual manner of identification of the goods or services supplied;
- List of documents to be communicated to Metallo in accordance with Article 3.4.5;
- A detailed list of the services performed with respect to the work order.

#### 3.4.3 After delivery of the goods or services, the delivery note and/or work order must be signed 'for receipt' by the person employed by Metallo for this purpose, to ensure that visible defects in the goods or services are detected when the accepting the goods or services after the expiry of the periods referred to in Article 6. In the absence of a signed 'for receipt' delivery note and/or work order, the goods and/or services shall be deemed not to have been accepted and visible defects shall be deemed not to be covered. This presumption is indisputable.

#### 3.4.4 The references and the date of the order will be included on all work orders, delivery notes and transport documents so that it is possible to identify the delivery of the goods or services.

#### 3.4.5 At the time of delivery of the goods or services, the Seller must provide Metallo with all the documents required in accordance with the law or the specific provisions of the contract of sale.

#### 3.4.6 The Seller shall, unless otherwise expressly stated, in the event the goods to be delivered need to be installed, at no extra cost for Metallo, either install the goods itself or provide Metallo with all the information and documentation available so that Metallo is capable of installing the goods itself. The Seller shall indemnify Metallo for all actions, claims, demands, proceedings and/or costs arising from an event caused by the negligence or fault of the Seller, its personnel and/or any subcontractor(s) in carrying out the assembly work.

#### 3.4.7 AEO (Authorised Economic Operator) Declaration of Security - Customs Simplification

The Sellers ensure that the goods that are manufactured, stored, transmitted or transported on behalf of one or more authorized economic operator(s) (AEO) or that are delivered to one or more AEO or that are removed from the premises of one or several AEO for the delivery:

- are manufactured, stored, prepared and loaded in secure business premises as well as secure loading and transport areas;
- are protected against unauthorized intrusion during the production, storage, preparation, loading and transportation;
- the personnel assigned to the production, storage, preparation, loading and transportation of these goods are reliable in view of safety;
- the trading partners, acting in their own name, have been informed that they must ensure the security of the international supply chain by taking the aforementioned measures.

#### **4 Risk and title**

4.1 The risk of loss and/or damage in relation to the goods shall pass to Metallo at the time of delivery. If the delivery is delayed for any reason, these risks are borne by the Seller, even if the goods have been customized. If Metallo, after the delivery of the goods or services, does not accept these in accordance with Article 6, the risk and loss revert to the Seller. In such case, the risk reverts to the Seller, either on the date of removal of the goods from the business site of Metallo, or ten (10) working days after the dispatch of the notification in accordance with Article 1.5, whichever occurs first.

4.2 The goods become the property of Metallo at the time the goods are accepted by it in the manner provided for in Article 6, unless Metallo has paid for the goods prior to the expiry of the acceptance period set out in Article 6.

4.3 By accepting the Purchase Order, the Seller undertakes in the event of termination of the Purchase Order - for whatever reason - to deliver the goods to be produced to Metallo at a later date within the framework of the Purchase Order, in the state in which the goods are found on the date of termination of the Purchase Order, at the first request of Metallo. The purchase price is then equal to the direct production costs, plus a lump sum equal to  $[**]\%$  of the direct production costs as compensation for indirect costs. In such case, this purchase price may be deducted from the advances already paid by Metallo to the Seller under the Purchase Order before the termination, which amounts must be repaid as a result of the termination.

This promise to sell does not oblige Metallo to actually purchase the goods in the state in which are found at the time of the termination.

4.4 Insurances

4.4.1 The Seller has concluded all insurances required for its activity, both for its personnel and for its equipment. It is also insured for its civil liability, its liability as a manufacturer and Seller and for the environmental risks to which it may be exposed.

- 4.4.2 If the Seller has entered into obligations in the Purchase Order to insure its liability with regard to the production and delivery of the ordered goods to a certain amount and in favour of Metallo, at the first request of Metallo, the Seller shall provide a copy of the policy in question as well as evidence that the insurance premiums have been paid.

## **5 Purchase price and payment**

- 5.1 Besides the required legal information, the invoices shall also explicitly refer to the number of the Purchase Order and the delivered goods and/or services shall be described in detail. Metallo has the right to refuse any invoice that does not include this information.
- 5.2 The purchase price stated in the Purchase Order is binding. Unless notified otherwise, the prices of the Seller DDP Beerse (Incoterms 2010) include all costs of unloading of the goods. They include the possible assembly of the goods, the documents to be provided in accordance with Article 3.4.5, all environmental taxes and contributions and all rights to products or services, including licencing fees.
- 5.3 Unless otherwise agreed in writing, the prices are expressed, invoiced and paid in Euros.
- 5.4 Price increases can only be take place with the explicit prior consent of Metallo. A unilateral price increase by the Seller gives Metallo the right to terminate the order by operation of law and against the Seller, without prior notice of default or judicial intervention.
- 5.5 Invoices are payable to the registered office of Metallo and in accordance with the applicable payment period. Unless otherwise specified on the Purchase Order, the standard payment period is 45 days after the end of the month following the invoice date.
- 5.6 Metallo reserves the right to suspend its payment obligation if the Seller has not met its obligations under the contract of sale, including these General Conditions, and Metallo sustains damage as a result, even if the payment obligation of Metallo precedes the non-compliance by the Seller of its obligations to Metallo. Metallo also reserves the right to offset the outstanding purchase price against this damage.
- 5.7 Interest will be payable only after the expiry of a period of ten (10) working days after Metallo has been declared in default by registered letter. The Act of 2 August 2002 combating late payment in commercial transactions is not applicable to the contracts of sale, which are governed by these General Conditions.

## **6 Conformity and acceptance**

- 6.1 General
- 6.1.1 The Seller should check whether its deliveries and services match the subject of the order. For this purpose, it should specifically check all information, specifications, plans and contract documents provided by Metallo and inform Metallo immediately of any errors or omissions.

- 6.1.2 In the contract of sale, Metallo will, where necessary, expressly include the specifications to which the goods or services must comply.
- 6.1.3 Metallo may decide at any time to carry out inspections or to have such inspections carried out and to have work deemed not in conformity suspended and to refuse any delivery or performance that does not meet the required quality, without these decisions being able to justify any delay by the Seller. If Metallo performs inspections or has these performed, then these inspections will be performed according to the rules.
- 6.1.4 If the Seller demands an inspection of the goods at the time of delivery, then this inspection shall be carried out at the expense of the Seller. The Seller shall also be invited to be represented during this inspection.
- 6.1.5 If the goods or services are not in conformity, then Metallo has the right to ask for replacement goods or services of the same sort and of the same type within one month after the discovery, and to request repayment of a proportionate share of the price for the defect or the termination of the contract. In all these cases, moreover, Metallo is entitled to compensation for damage caused by the non-compliance.
- 6.1.6 The acceptance of the goods or services does not cover the hidden defects and therefore does not constitute a waiver of any rights, claims and/or remedies, including those which Metallo can also assert to the Seller in respect of hidden defects.

## 6.2 Goods

- 6.2.1 The Seller guarantees that the goods are ready for use and free of all visible and hidden defects. It declares that the goods comply with the required specifications, the normal requirements of usability, reliability and durability, and with legal requirements.
- 6.2.2 Before the goods are unloaded at Metallo, Metallo has the right but not the obligation to conduct checks within a reasonable time to determine whether the goods are in conformity with the contractually determined specifications. Neither the failure to perform such checks at the time of delivery, nor the unloading of the goods, nor the signing of the Purchase Order, a delivery order and/or a similar document, prejudice the right of Metallo to damages for non-conform delivery if such non-compliance is detected later. With respect to non-compliance, Metallo will notify the Seller of this within five working days after delivery. If such notification is within the aforementioned period of five working days, the Seller cannot reject the claims of Metallo because of lateness and/or acceptance of this apparent non-compliance.

## 6.3 Services

Metallo shall inform the Seller within ten (10) working days of the outcome of the examination of the services provided, and - where appropriate - of the rejection of the services provided.

## 7 Guarantee

- 7.1 The Seller warrants that it has all rights, titles, licences and approvals necessary for the performance of its obligations in connection with the delivery of goods and services. The Seller guarantees that in no case will an infringement of the intellectual property rights of a third party take place.
- 7.2 The Seller guarantees that the goods or services are in full compliance with the applicable legal standards and regulations, the agreed specifications and are free from visible and invisible defects.
- 7.3 The Seller shall hold Metallo harmless for all damage, including claims by third parties, arising from infringements of the warranty provisions of Articles 7.1 and 7.2. This indemnification obligation applies to the normal warranty period of the Seller and, if the warranty period of the Seller is shorter, for a period of 24 months from the acceptance of the goods or services within the meaning of Article 6, all this without prejudice to longer statutory periods and without prejudice to the obligation to indemnify the Seller for hidden defects.
- 7.4 Goods or services repaired or supplied as replacement by the Seller, shall be accepted by Metallo in accordance with Article 6. The periods referred to in Article 7.3 shall restart for these goods or services.

## 8 Intellectual property rights

- 8.1 Unless otherwise agreed in writing, the transfer of title of goods and/or services includes the transfer of absolute ownership and the extent of the legal scope of their intellectual property rights, including copyright, to use the goods and services in question for the purposes for which they are intended.
- 8.2 Unless otherwise agreed in writing, intellectual property rights, including copyright, plans, drawings, models, graphical effects, etc. ("work(s)") produced on the instructions of Metallo, are freely, irrevocably, unconditionally, immediately and automatically transferred to Metallo absolute ownership and to the extent of their legal scope. With regard to the moral right of the author, this transfer also includes the right for Metallo to have third parties modify or adapt this work, and the Seller waives its right to object to such modifications and/or adaptations of its work. The Seller also waives its right to be known as the author of these works. If the Seller has this work designed by a third party (either employees or independent (sub)contractors), it commits itself to have these employees and/or independent (sub)contractors sign a commitment with identical contents. Metallo may at its discretion, submit an application for the protection of the intellectual property rights created during the execution of the work by the Seller.
- 8.3 The Seller warrants that the purchase and/or use of the goods or services does not infringe any rights of a third party relating to intellectual or industrial property. The Seller shall hold Metallo harmless against any claims by third parties that are based on the infringement of

intellectual property rights through the purchase and/or use of goods or services, and the Seller shall compensate Metallo for any damage that is caused by this, including the payment of reasonable attorneys' fees. In addition, the Seller shall take the necessary steps to acquire the necessary intellectual property rights, or at least to obtain a licence to guarantee the further enjoyment of the goods or services by Metallo. If necessary, the Seller shall replace the goods or services concerned by similar goods or services which are not protected by intellectual property rights of third parties, whereby all costs (including dismantling, reconstruction, etc.) accruing from this replacement are solely for the account of the Seller.

## 9 Transfer

9.1 Orders for goods or services placed by Metallo cannot be transferred to a third party, unless this is accepted by Metallo in writing.

9.2 In the case of transfer of the order to a third party by the Seller, the Seller retains final responsibility for the proper execution of the order for goods or services, even in the event permission was given to transfer the order.

## 10 Security

The Seller undertakes to strictly comply with the access procedures and safety rules that apply to Metallo. It shall also make its personnel and/or third parties engaged by it aware of these access procedures and safety rules.

## 11 Regulations regarding REACH: Chemical substances, preparations or intermediate products within the meaning of Regulation 1907/2006/EC

If the goods are chemical substances, preparations or intermediate products within the meaning of Regulation 1907/2006/EC, the Seller, insofar as applicable, shall provide the documents required under Regulation 1907/2006/EC, including the material safety data sheet and the Seller shall declare and guarantee that:

- the goods are preregistered or registered with the European Chemicals Agency for the use made by Metallo of these goods;
- if applicable, the Seller shall take such action necessary to amend the registration if Metallo has informed it that it wishes to use the goods, in which chemical substances, preparations or intermediate products are processed, in another way;
- the information and documentation as well as the information in the documents and their attachments (including the safety data sheet with attachments), which it provides to Metallo, is complete, accurate and truthful;
- the classification, labelling and packaging requirements are in accordance with the legal provisions applicable (CLP 1272/2008/EC and/or DSD 67/548/EEC);
- the goods do not contain any components that are on the restricted list;
- Metallo shall be informed in good time if the goods contain one or more chemical substances, preparations or intermediate products that are referred to on the authorization and/or candidate list, and it has taken the necessary actions or will take the necessary actions in this respect, so that the delivery of the goods in question to Metallo is assured.

The Seller undertakes to keep Metallo informed of any information that the Seller, as the supplier, must provide after delivery of the goods to Metallo, as the customer, in accordance with Regulation 1907/2006/EC.

The Seller shall indemnify Metallo for any consequences that Metallo may suffer as a result of non-compliance with the REACH regulations. If such a case, it shall hold Metallo harmless for the damage caused by the provision of incorrect or incomplete information. Moreover, Metallo reserves the right to terminate contracts concluded with the Seller if the Seller does not comply with the REACH regulations, without Metallo being due any compensation as a result of the termination.

With respect to the transported insulated (intermediary) products, Metallo will only take receipt of the products insofar as it is informed at least 20 working days beforehand of the applicable strictly controlled requirements and it has expressly stated that it can meet these requirements, unless expressly agreed otherwise. The Seller declares and guarantees that these requirements are consistent with Regulation 1907/2006/EC and ECHA guidelines.

## 12 Non-disclosure

12.1 The drawings, diagrams, calculations, etc., whether or not covered by intellectual property rights, communicated or made available on the occasion of or attached to price requests or orders or that the Seller may come into the possession of pursuant to this Agreement, shall be considered as confidential information. This confidential information will remain the exclusive property of Metallo and may not be disclosed, provided to a third party or used for any purpose other than in connection with the relevant request for an offer, an offer or with a view to the performance of the agreement, without the prior written consent of Metallo.

12.2 The Seller shall keep strictly confidential all information about Metallo's business operations (including, but not limited to, information regarding products, results of business operations, plans, commercial, financial, scientific, technical information, etc.) to which it may have access on the occasion of the sale of goods or services. The Seller shall not provide this information to third parties or use it in any way without the express written permission of Metallo. The same applies to its trade relationship with Metallo.

## 13 Personal information

Under the Act of 8 December 1992, as amended by the Act of 11 December 1998 and the Royal Decree of 13 February 2001, the personal information that the Seller is requested to communicate, is necessary for the processing of its records and is intended solely for the services of Metallo. The Seller has the right to access, modify and delete its person-related data.

## 14 Bankruptcy

When a bankruptcy procedure or judicial reorganization is adjudicated or any other fact arises that clearly affects the ability of the Seller to deliver, Metallo has the right to cancel the order, without prejudice to the right to compensation.

## 15 Force Majeure

Metallo shall not be liable for any delay in the performance of its obligations or for non-implementation, if the delay in performance or non-implementation is, in whole or in part, due to force majeure.

## **16 Anti-Bribery, Anti-Corruption and Anti-Money Laundering**

The Seller 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 Seller has his registered office and/or business address and the jurisdiction in which the agreement will be executed (if different).

The Seller will notify Metallo immediately upon becoming aware of any actual or potential breach of the provisions of this article.

If the Seller is alleged to have breached those anti-bribery, anti-corruption and anti-money laundering laws and regulations Metallo shall be entitled forthwith to terminate this agreement by written notice to the Seller without any indemnity whatsoever.

The Seller shall compensate Metallo for any loss or damage incurred or sustained by Metallo or any Metallo group company in consequence of having breached any such laws and regulations.

## **17 Compliance with Metallo's Code of Conduct**

The seller has read Metallo's Code of Conduct as set on Metallo's website under [www.metallo.com/downloads](http://www.metallo.com/downloads) and commits to comply with the principles contained in this Code of Conduct in the performance of the agreement.

## **18 Applicable law and competent court**

- 18.1 The contract shall be governed by Belgian law, to the exclusion of the provisions of the Vienna Convention of 11 April 1980. The limitation period for claims of the parties under the contract of sale, including the General Conditions, shall be governed by the Convention on the limitation period in the international sale of goods of 14 June 1974. In every case and insofar as legally possible, the period of Article 1648 of the Civil Code is not applicable.
- 18.2 The courts of the judicial district of Turnhout (Belgium) shall have exclusive jurisdiction to settle any disputes related to the contract of sale, including these General Conditions. If the dispute falls within the material jurisdiction of the justice of the peace, then only the justice of the peace of the canton Turnhout (Belgium) is competent.