

## **General Purchase Conditions Metals Chemicals Maastricht BV**

Version: July 2023

### **Article 1. Definitions**

1. The following terms have the following meanings unless otherwise apparent from these purchase conditions:
  - a) offer: an oral or written offer by the supplier, including quotations, stock lists and price lists;
  - b) order: an acceptance by MCM of an offer from the supplier;
  - c) purchase conditions: these purchase conditions of MCM;
  - d) supplier: the party from whom MCM accepts an offer or with whom MCM concludes an agreement;
  - e) delivery:
    - i. in case of a good: delivery as referred to in section 3.4.2 of the Civil Code, e.g. by actual delivery of the good ;
    - ii. in the case of a service: the performance or provision of the service;
  - f) delivery time: the time within which or the time at which a delivery is to be made;
  - g) MCM: Metals Chemicals Maastricht BV;
  - h) agreement: the agreement between MCM and the supplier to which these purchase conditions apply;
  - i) parties: MCM and the supplier jointly;
  - j) product: an item which the supplier manufactures, causes to be manufactured or trades, as well as a property right which he trades and a service which he offers.

### **Article 2. Applicability**

1. These purchase conditions apply to offers of the supplier accepted by MCM as well as to the agreement between the parties.
2. General terms and conditions or other conditions or stipulations of the supplier do not apply and are expressly rejected by MCM, unless and to the extent that MCM agrees in writing to the applicability (in part) of the (general) terms and conditions or stipulations of the supplier.

### **Article 3. Orders**

1. An order from MCM only creates an agreement between the parties if the order is made in writing by MCM.
2. A verbal order from MCM has no effect if MCM has not confirmed the verbal order to the supplier in writing. MCM shall not be obliged to confirm that oral order in writing after a verbal order.
3. If a licence or permission from a national and/or international government authority is required, the order shall be made under the suspensive condition that the licence or permission is obtained. If the relevant licence or permission is not obtained, then the supplier shall not be entitled to claim compensation for damages or costs from MCM.

### **Article 4. Delivery and transport**

1. Delivery will take place at a place, time and manner determined by MCM.
2. The supplier delivers products unencumbered and free of (limited) rights or claims of third parties. By delivery, the ownership of the product passes to MCM. If the ownership has not been transferred to MCM, not unencumbered or not free of (limited) rights or claims of third parties at the time of delivery, the supplier will be liable for the damage

suffered by MCM as a result and MCM will be entitled to dissolve the agreement partially or entirely.

3. If the product has been delivered, then the supplier cannot reclaim ownership or possession of the product on any grounds.
4. The delivery and transport of the product shall be at the supplier's expense and risk. The supplier shall bear all foreseen and unforeseen costs related to the delivery, including the costs of packaging the product, loading and unloading, transport, costs related to the import-export of the products as well as possible taxes. The supplier shall be liable for damages, defects or weight deviations that may or may not have occurred due to or during delivery or transport.
5. The supplier guarantees that all products comply with national and international regulations regarding the products.
6. The supplier shall ensure that the products are properly packed for delivery and transport. Packaging shall comply with all applicable national and international regulations, including safety and environmental regulations.
7. Supplier shall attach a detailed shipping note to the products to be delivered, which shall specify, inter alia, the quantity and quality of the products delivered as well as MCM's (order/order/reference) number. Supplier shall also enclose with the products to be delivered all documents required under applicable national or international regulations.
8. MCM is not obliged to take over the packaging of the product from the supplier free of charge or otherwise. If requested, the supplier shall take back the packaging upon delivery. If the supplier leaves the packaging with MCM upon delivery, MCM may return the packaging to the supplier. The supplier shall bear the risk and cost of returning the packaging. MCM is not liable for any damage to the packaging that may occur due to the return or other causes.

#### **Article 5. Delivery time**

1. The delivery time agreed by the parties is binding and is a firm deadline. If the supplier fails to deliver in accordance with the agreed delivery time, the supplier shall be in default without notice of default being required.
2. Supplier shall be liable for all losses suffered by MCM as a result of delivery not being made in accordance with the agreed delivery time. If the supplier does not perform the delivery in accordance with the agreed delivery time or MCM has good grounds to fear that the supplier will not perform the delivery within the agreed delivery time, MCM is also entitled to dissolve the agreement, while retaining the right to compensation for the damages suffered by MCM as a result of the dissolution of the agreement and/or the fact that the delivery has not been or will not be performed in accordance with the agreed delivery time.
3. The supplier can no longer invoke force majeure if it has not invoked force majeure within 3 days after the force majeure situation arose by means of a registered letter to MCM.
4. If the supplier invokes force majeure, MCM is authorised to dissolve the agreement in part or in full. If MCM does not exercise its power to dissolve the agreement, then delivery will take place after the force majeure situation has worked out at a time to be specified by MCM, without the supplier being entitled to compensation.

#### **Article 6. Quality and quantity**

1. Supplier shall deliver the product in accordance with the order and/or instructions of MCM. Furthermore, the product, also in view of the order and/or instructions of MCM, must be free of defects and must have the quality that the product should have.

Supplier will also ensure that the product complies with applicable national and international regulations.

2. The supplier has a duty to warn. Among other things, the supplier will warn MCM if the supplier knows or should know that the product or its composition is unsuitable for normal use or for the special use intended by MCM if the supplier knows or should have known of the special use intended by MCM. The duty to warn also applies if products are assembled or delivered in accordance with MCM's instructions. Furthermore, the supplier shall warn MCM of all matters or circumstances relevant to MCM regarding the product. Warnings under the duty to warn shall be made in writing to MCM.
3. The product must be free of substances harmful to the environment as well as explosive substances, unless otherwise stipulated in the order and/or MCM's instructions.
4. If one or more of the preceding subsections is not complied with, MCM can:
  - a. refuse delivery of the product;
  - b. return the delivered product to the supplier;
  - c. demand that the missing (part of the) product be delivered without delay;
  - d. demand that the delivered product be repaired without delay;
  - e. repair (or have repaired) the delivered product; as well as
  - f. demand that the delivered product be replaced without delay.
5. The powers referred to in subsection 4 may be invoked by MCM for a period of at least 90 days after the day on which it has become apparent that one or more of the first four subsections has not been complied with or on which it has become apparent that the product has been put into use by MCM or, if MCM has marketed the product, by a third party. If the provisions of the previous sentence result in more than one term, the term that expires last shall apply. If and to the extent that a duty to complain applies to MCM, then the period within which MCM must complain is not shorter than the longest period of at least 90 days, as referred to in the first two sentences.
6. The exercise of the powers mentioned in the fourth subsection shall be carried out by MCM at the supplier's expense and risk. The foregoing applies irrespective of whether the product is located at MCM or at third parties.
7. If one or more of the first three subsections have not been complied with, MCM is furthermore entitled to use the product (or have it used) at the expense and risk of the supplier and subsequently to repair, supplement or replace the (end) product (or have it repaired). Use of the product does not imply acceptance or approval by MCM of the product and does not affect the (other) rights and powers of MCM.
8. If MCM is entitled to invoke (one of) the powers in the fourth or seventh subsection, it shall also have the right to :
  - a. to suspend its obligations to the supplier; as well as
  - b. full or partial dissolution of the agreement.
9. The supplier is liable for the damage suffered by MCM as a result of non-compliance with one or more of the first three subsections or as a result of MCM using one or more of the powers mentioned in the fourth, seventh and eighth subsections. Damages include the costs of investigation in relation to the provisions of the first three subsections.
10. The weight or quantity of the product observed at the time of delivery shall determine the price to be paid for the product.

#### **Article 7. Inspection**

1. If MCM wishes, the supplier shall inform MCM with due observance of a reasonable period of time that the product is ready for transport prior to delivery and the supplier shall offer MCM the opportunity to test and/or inspect the product (or have it tested).
2. If, upon or after inspection, the weight or quantity of the product turns out to be less than included in MCM's order and/or MCM's instructions, the price to be paid by MCM

will be reduced proportionally and MCM will be entitled to a lump sum compensation of 10% of the initial invoice amount. The compensation referred to in the previous sentence will not be deducted from the price reduction referred to in the previous sentence or from any damages to which MCM may be entitled on any grounds whatsoever.

3. If during or after inspection it appears that the product is defective, does not have the quality that the product should have or otherwise does not comply with the order or instructions of MCM, the fourth subsection of article 6 shall apply accordingly.
4. The provisions of this Article are without prejudice to the provisions of Article 6. If MCM accepts or approves the products upon or after inspection, MCM retains its rights and powers derived from Article 6.

### **Article 8. Payment**

1. The payment period is 60 days.
2. The payment period commences on the day after the product has been delivered and the first paragraph of Article 6 has been complied with and an itemised invoice is enclosed
3. If a delivery is not complete or is part of a number of deliveries, MCM's payment obligation for the undelivered (part of the) product shall not be due and payable. The payment term for the undelivered (part of the) product, commences on the day after delivery thereof takes place and the first subsection of Article 6 has otherwise been complied with.

### **Article 9. Other provisions**

1. Supplier is not permitted to disclose data originating from or destined for MCM to third parties on a penalty of a fine of € 10.000,00 per event and under obligation to compensate all damage suffered by MCM as a result. The penalty does not replace compensation for damages. The term 'data' means, inter alia, instructions, information, communications, drawings, specifications, prices as well as business and technical information.
2. The rights and powers under these purchase conditions are vested in MCM without prejudice to all other rights, powers and claims it may have, for example under the law, including the right to performance, dissolution and/or damages.
3. The supplier is not authorised to transfer all or part of the agreement between the parties to a third party without MCM's written consent.
4. MCM is authorised to immediately terminate the agreement between the parties in writing if:  
An application for suspension of payments or a similar request is made in respect of the supplier.  
A petition for bankruptcy is filed regarding the supplier.  
Supplier does a debt restructuring proposal .
5. If any provision of these terms and conditions is invalid or voidable, the other terms and conditions shall remain in force between the parties. The parties shall replace the invalid provision or annulled provision by stipulations that are valid and binding and whose legal consequences, given the content and scope of these terms and conditions, correspond as far as possible to those of the invalid or annulled provision.
6. If any provision of these terms conflicts with a provision, or the purport of a provision, in the contract between the parties, that which is stipulated in the contract shall prevail.

### **Article 10. Applicable law and choice of forum**

1. The contract and related matters between the parties are governed by Dutch law to the exclusion of the Vienna Sales Convention( the Vienna Convention CISG)

2. The District Court of Limburg, Maastricht, the Netherlands shall have exclusive jurisdiction to hear any dispute arising out of or in connection with the Agreement between the parties, provided that MCM may, at its discretion, also submit disputes between the parties to the court in the country where the Supplier has its registered office or where the Supplier defacto conducts its business. If MCM chooses to submit a dispute to the court where the Supplier has its registered office or where the Supplier defacto conducts its business, MCM may, at its discretion, choose not to have the dispute adjudicated in accordance with Dutch law, but on the basis of the law of the country where the Supplier has its registered office or defacto conducts its business .