

General Terms and Conditions of Sale Metals Chemicals Maastricht BV

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Article 1. Definitions

1. The following terms shall have the following meanings, unless otherwise apparent from these terms of sale:
 - a) offer: an offer by MCM, including offers, stock lists and price lists;
 - b) Customer: the party to whom MCM makes an offer or with whom MCM concludes an agreement;
 - c) call-off contract means an agreement in which the parties have stipulated that the customer will purchase products of a certain monetary value, or quantity of products from MCM within the call-off period;
 - d) call-off period means the period of time agreed by the parties in the call-off contract within which the buyer will take delivery of products for the monetary value or quantity specified in the call-off contract;
 - e) delivery:
 - i. in case of a good: delivery as referred to in section 3.4.2 of the Dutch Civil Code, for example 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 customer to which these conditions of sale apply;
 - i) Parties: MCM and Customer jointly;
 - j) products: goods which MCM manufactures, has manufactured or trades, as well as property rights which it trades and services which it offers;
 - k) conditions of sale: these conditions of sale of MCM.

Article 2. Applicability

1. The conditions of sale apply to offers made by MCM and to the contract between the parties.
2. General conditions or other terms and conditions of the customer 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 of the customer.

Article 3. Offers

1. Offers from MCM are made without obligation.
2. If the customer accepts an offer of MCM without engagement, an agreement between parties will only be established after written confirmation thereof by MCM (order confirmation). MCM is not obliged to confirm acceptance by the customer after acceptance by the customer of MCM's offer.

Article 4. Delivery time

1. MCM is only bound by a delivery time if the parties have explicitly agreed the delivery time in writing.
2. The delivery period commences after MCM has confirmed customer's acceptance in writing, all preparations and formalities required for delivery of the product have been completed by customer, all necessary documents and data have been provided to MCM and customer has complied with any agreed payment terms.

3. Delivery is deemed to have taken place when the product has left the premises of MCM or, if the product is on the premises of a third party, has left the premises of that third party.
4. Exceeding the delivery time does not put MCM in default. Furthermore, exceeding the delivery time does not entitle the customer to compensation, dissolution of the agreement or suspension of the fulfilment of its obligations.
5. The customer cannot claim fulfilment of any agreed penalty clause in connection with the exceeding of the delivery time if the exceeding of the delivery time is the result of force majeure.
6. If MCM is unable to deliver within the agreed delivery time as a result of force majeure, MCM may, after the force majeure situation has ended, either still perform the delivery within a reasonable period of time without owing compensation to the customer or dissolve the agreement in whole or in part without owing compensation to the customer.
7. If the customer exceeds the call-off period in the event of a call-off contract, MCM may demand performance, claim damages and/or dissolve the contract in part or in full. If the call-off period is exceeded, the customer shall be in default without notice of default being required.
8. If delivery cannot take place at the agreed time due to circumstances attributable to the customer, the customer cannot invoke suspension. MCM will store the products to be delivered at the expense and risk of the customer until delivery has been made.
9. If the customer does not or cannot inspect the delivered products, this will be at the expense and risk of the customer, without this leading to liability of MCM or dissolution of the agreement by the customer.

Article 5. Delivery and transport

1. The Customer is obliged to take delivery of the product it has ordered.
2. The risk for damage that may occur to or by the product to be delivered by MCM shall pass to the customer at the time of delivery. The third subsection of Article 4 applies mutatis mutandis.
3. Only if Customer requests MCM in writing to insure the product to be delivered against damage, MCM will take out such insurance at Customer's expense.
4. Unless the parties have stipulated otherwise, delivery shall take place at the buyer's expense and risk. This also applies in the event of carriage-paid delivery.
5. Unless Customer has designated a mode of transport, MCM will determine the mode of transport at its own discretion, without MCM being liable for any damage that may occur to the product due to the mode of transport determined by MCM.
6. The documents accompanying the delivery, due to the regulations and rules of the European Union and/or the Dutch Government and concerning the subject matter, must be handled by the customer with the obligation to comply with the procedures applicable.

Article 6. Quality and quantity

1. MCM delivers products that have the quality that such a product usually has, also in view of the specifications agreed by the parties at the time of MCM's order confirmation as referred to in the second subsection of Article 3 with regard to the form and/or composition of the product.
2. If parties agree that quality control of the product will take place, the quality control will be performed by (a third party on the instruction of) the customer at a place and time to be determined by MCM. If the customer is unable to perform the quality control or is unable to be present at the quality control, MCM will perform the quality control at the expense of the customer in accordance with the manner determined by the

parties. If MCM determines that the results of the quality control correspond to the quality that such product usually has or meet the specifications agreed upon by the parties, then the customer is deemed to have accepted the products.

3. With respect to the quantity of a product to be supplied by MCM, a margin usual for the product in question applies. A margin of 10% is deemed customary in any event. If a higher margin is customary for a product, that higher margin will apply.
4. The weight or quantity of the product registered or observed at the customer's premises, shall determine the price to be paid for the product, unless the parties have agreed otherwise in writing.
5. Information provided by MCM, with or without the offer, including, for example, leaflets, advice, instructions for use, drawings or shipping documents, shall not form part of the agreement between the parties, unless otherwise stipulated in writing.

Article 7. Complaints

1. The customer can no longer invoke a defect if he has not complained about it in writing to MCM within 14 days of delivery. The complaint must clearly state the nature and extent of the defect. The third subsection of Article 4 applies mutatis mutandis.
2. If Customer has complained about a defect, Customer must store the products in question until MCM has dealt with the complaint. Until the moment the complaint has been dealt with by MCM, Customer is not allowed to use the products concerned (or have them used), trade them or have them incorporated into another or new business. If desired, Customer shall offer MCM the opportunity to inspect or have inspected the products about which Customer has complained.
3. Acting or failing to act in violation of the first or second subsection will result in the customer no longer being able to claim the defect.
Customer must fulfil its obligations under the agreement. Customer shall not be entitled to suspension or set-off, even if the product is allegedly defective and/or Customer has complained to MCM.

Article 8. Cancellation

Customer may cancel its order before MCM has commenced (the transport for) the delivery of the product. In case of cancellation, customer shall immediately owe MCM a fixed compensation of 10% of the value of the cancelled order, without notice of default being required.

Article 9. Liability

1. MCM is not liable for damages resulting from the infringement of third party rights, including intellectual property rights and exclusivity, as a result of the use of instructions or data provided by customer to MCM. Customer indemnifies MCM against claims of third parties.
2. If MCM has delivered the product in accordance with instructions or data provided to MCM by the customer, MCM shall not be liable for any damage resulting from the application of the relevant instructions or data by the customer.
3. MCM's liability is limited to the damage to the product itself (transaction damage), which MCM compensates by free (re)delivery of products possessing the quality referred to in the first subsection of Article 6. MCM is not liable for any other damages, including consequential damage and delay damage
4. MCM is not liable for damage caused by or during its activities or delivery of goods of the customer or third parties on which, where or in which these activities and/or delivery are performed. Customer indemnifies MCM against claims of third parties. The preceding two sentences apply accordingly to (auxiliary) persons, personnel and suppliers engaged by MCM.

Article 10. Payment

1. The payment period is 30 days from the invoice date, unless the parties agree otherwise in writing.
2. The payment term is a strict deadline. Upon expiry of the payment term, the customer shall be in default without notice of default being required.
3. Payment shall in principle be made by giro into a bank account designated by MCM. A different method of payment is only possible if the parties so agree in writing. The costs of another method of payment are for the account of customer.
4. After expiry of the payment term, the customer shall immediately owe interest on the overdue outstanding amount at the rate of 1.5% per month or part thereof, without notice of default being required. The interest works cumulatively (interest on interest).
5. Furthermore, if the term of payment is exceeded, Customer shall owe MCM an immediately due and payable penalty in the amount of 10% of the overdue outstanding amount with a minimum of €100.00, without notice of default being required and without prejudice to MCM's right to compensation.
6. The judicial and/or extrajudicial costs incurred by MCM for the collection of its claim shall be borne by Customer.
7. In the event of a dispute regarding the indebtedness of the amount invoiced by MCM, Customer is obliged, at MCM's first request, to place the invoiced amount on deposit with a bank to be designated by MCM or in a bank account to be designated by MCM. The preceding paragraphs are fully applicable in the event of a deposit.
8. The customer shall not be entitled to claim set-off or suspension.

Article 11. Security

1. Customer is obliged at MCM's first request to provide security for the fulfilment of its obligations towards MCM.
2. If customer fails to provide security, despite MCM's request to do so, MCM may suspend its obligations under the agreement and/or dissolve the agreement, without MCM being obliged to compensate any damage but without prejudice to MCM's right to compensation for the damage it suffers.

Article 12. Retention of title

1. The product delivered by MCM will remain the property of MCM until the customer has fully complied with its obligations towards MCM with regard to claims relating to the consideration for goods delivered or to be delivered by MCM to the customer under the terms of an agreement or work also performed or to be performed for the customer under such an agreement, as well as with regard to claims for failure to comply with such agreements.
2. As long as the ownership of the product has not been transferred to the customer, the customer is not authorised to alienate, encumber, trade or transfer de facto power over the product in full or in part to a third party.
3. The first and second subsections shall apply mutatis mutandis to products delivered by MCM, which have become part of a different or new object, for example, by way of accession, mixing or property formation.
4. MCM is entitled to demand the surrender of the product delivered under retention of title, if the customer defaults or MCM has good grounds to fear that the customer will default on its commitment(s). MCM is also entitled to demand the surrender of goods if the bankruptcy of the customer has been declared or if the bankruptcy or moratorium has been applied for or will be applied for in the near future.
5. If MCM demands delivery of the product, the customer is obliged to transfer possession of the products to MCM. The surrender will take place at the expense and risk of the

customer. The customer is obliged to compensate MCM for the damage suffered by MCM as a result of demanding the surrender of the products, with a minimum of €250.00.

6. Delivery of the product may be of temporary or permanent duration. If MCM is authorised to demand the surrender of the products, MCM is also authorised to dissolve, in whole or in part, the agreement in which customer has failed. The product surrendered to MCM serves as security, even if the product surrendered falls under a different agreement than the agreement in which Customer has defaulted.

Article 13. Other provisions

1. Customer is not permitted to provide data originating from or destined for MCM to third parties on 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 conditions of sale shall belong to 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. Customer 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 application is filed in relation to the buyer.
 - A petition for bankruptcy is filed regarding the buyer.
 - 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 14. Applicable law and choice of forum

The Agreement and related matters between parties are governed by Dutch law to the exclusion of the Vienna Convention on Contracts for the International Sale of Goods (the Vienna Convention CISG). The Court of Limburg, location Maastricht, the Netherlands has exclusive jurisdiction to take cognisance of disputes arising from or in connection with the agreement between the parties, on the understanding that MCM, at its discretion, may also submit disputes between the parties to the court in the country where the customer is domiciled or where the customer defacto conducts its business. If MCM chooses to submit a dispute to the court where the customer is domiciled or where the customer defacto conducts its business, MCM may, at its discretion, choose not to have the dispute adjudicated according to Dutch law but on the basis of the law of the country where the customer is domiciled or defacto conducts its business.