

GENERAL COMMERCIAL AND DELIVERY TERMS AND CONDITIONS METAL TRADE COMAX, a.s. for Metallurgical production (GTC) applicable as of 1 January 2021

The Seller is manufacturer of foundry non-ferrous alloys, surface treated strips, manufacturer of thin-walled profiles, and processor of metal coils for strips and sheets.

A Conclusion of purchase agreement

- A.1. Purchaser shall send written demand to the seller which does not form binding order, in which requested goods shall be stipulated in detail based on seller's offer as well as requested delivery term. Based on his possibilities and based on purchaser's demand, the seller shall send non-binding proposal to the purchaser, in which it shall be specified if and when and for which price the seller is able to deliver respective goods to the purchaser. Proposal shall be valid for the time stipulated in it.
- A.2. Based on the proposal of the seller pursuant to the art. A.1. The purchaser send an order to the seller. Order for good shall include, in particular:
- specification of goods ordered (quantity and technical data);
 - price;
 - order goods delivery time;
 - place of destination;
 - tax identification number of the purchase for the VAT applicable in the destination country of goods (DIČ DPH).
- Orders may also have verbal form.
- A.3. Based on delivered order (written or verbal) of the purchaser the seller shall immediately (within 3 business days) at the latest send to the purchaser purchase price becoming binding after its signing by both parties and it will not be possible to cancel it or otherwise unilaterally terminate without written consent of the seller. Entitled person shall sign the purchase agreement on behalf of both parties.
- A.4. Purchase agreement is considered concluded by delivery of goods based on purchase agreement signed by the seller and the purchaser.
- A.5. The seller is not obligated to deliver goods to the purchaser, unless the purchaser provides for either opening irrevocable bank guarantee or irrevocable documentary letter of credit or unless he issues and submits promissory note (without protest), availed by natural person (approved by the seller) or unless he pays to the seller's account advance payment to secure payment of the purchase price before delivery of goods, unless stipulated otherwise.
- A.6. If parties apply international interpretation rules while concluding purchase agreement, such agreement shall be governed by international rules for interpretation of delivery terms issued by the International Chamber of Commerce in Paris - INCOTERMS.
- A.7. Acceptance of goods by the purchaser always means also acceptance of any and all commercial terms and conditions of the seller as applicable to the day of conclusion of the purchase agreement or acceptance of goods.
- A.8. The purchase agreement replaces and supersedes any previous arrangements and written contracts.
- A.9. All deliveries are made based on these GTC forming integral part of the purchase agreement, or as the case may be, framework agreement concluded between parties.

B. Price and payment conditions, performance term

- B.1. Total purchase price stipulated in the purchase agreement is established based on CTP delivery term (INCOTERMS), unless stipulated otherwise.
- B.2. To confirm hand over and acceptance of goods from the seller to the purchaser, delivery note or similar document shall be issued into which the purchaser or carrier shall confirm the acceptance of goods from the seller.
- B.3. The purchase price is due within 30 days as of the issue of tax document (invoice) corresponding to the date of delivery of goods for purchaser's disposal or to the carrier, unless stipulated otherwise in specific purchase agreement. In the case of doubts regarding delivery date it is assumed that the invoice was delivered third day after its posting. Payment shall be made by wire transfer to the seller's bank account or to seller's box office in his headquarters during working hours. In the box office only payment up to the limit established by the Act on cash payments, Act No. 254/2004 Coll., may be paid.
- B.4. Invoice has to meet all appurtenances established by applicable legal regulations. The purchaser is entitled to claim incorrect or invalid data on stipulated invoice within 5 business days as of the acceptance at the latest, stipulating reasons for the claim.
- B.5. Parties may agree on different payment conditions, e.g. advance payments. Default with payment of advance payment is considered gross breach of the agreement. If installments of purchase price are agreed, default with one installment caused that whole purchase price becomes due.
- B.6. In the case of purchaser's default with payment of due purchase price, e.g. due advance payment for the purchase price, the seller is not obligated to perform the agreed purchase agreement, in particular he is not obligated to deliver goods to the purchaser and, furthermore, the seller may claim his right for indemnification against the purchaser, up to the amount of all costs occurred to the seller in connection with the delivery and provision of production of agreed goods, as well as of all connected costs and loss of profit. However, the seller shall deliver to the purchaser goods corresponding to amounts already paid. While canceling confirmed order by the purchaser the seller is entitled to bill to the purchaser the contractual penalty amounting to 15 % of the price of goods to be produced and 35 % of price of goods already produced (including work in progress) to which such agreement termination refers.
- B.7. Term of performance may be extended by the seller accordingly without any liabilities towards the purchaser, if the purchaser is in default with the payment of any advance payment or delivery invoices arising from purchase agreements, regardless of if such default is partial or if no invoices are paid at all.
- B.8. Purchaser's advance payment may be unilaterally settled by the seller against payment of seller's due receivables against the purchaser.
- B.9. Payment date is the date when the amount is fully credited to the seller's account stipulated in individual invoices or when due amounts in cash are fully accepted.
- B.10. Agreed purchase price does not include any packaging, returnable packaging, items securing goods during transportation and transportation costs, unless stipulated otherwise.
- B.11. The purchaser is liable for bank costs connected with payment of the purchase price. Unless stipulated otherwise, each party is liable for payment transactions costs including international ones.
- B.12. The purchaser is not entitled to settle any amounts without written consent of the seller. In the case of settlement without written consent of the seller the seller is entitled to claim payment of contractual penalty amounting to CZK 250,000. By payment of contractual penalty supplier's rights for indemnification shall remain untouched.

- B.13. Withholding payments or decreasing purchase price by the purchaser in the case of claims is prohibited.
- B.14. In the case of payment received from the purchaser without stipulating variable symbol for the payment, the seller shall decide on use of payment.
- B.15. Quantities, dimensions, or weights stipulated by the seller are decisive for the billing.
- B.16. In the case of default with the payment of the purchase price by the purchaser, the seller may bill default interests amounting to 0.03 % of the amount due for each even partial day of default. In such case the seller may also bill indemnification to the purchaser occurred due to exchange rate fluctuation losses.
- B.17. Regardless of agreed due date all invoices become immediately due if the previous delivery or part of it based on individual purchase agreement or other purchaser's liabilities against the seller were not paid in agreed term or if the seller discovers circumstances actually or potentially decreasing purchaser's credibility. In such case the seller is entitled to request advance payment for actual or new deliveries or to terminate the agreement including right to request indemnification from the purchaser due to frustration of this agreement. The seller is also entitled to ban the purchaser to dispose with materials to which reservation of ownership right refers and by accepting these GTC the purchaser entitles the seller to enter his premises to remove goods. Goods shall be removed at purchaser's costs and risk, whereas the seller is entitled to bill the purchaser administrative costs connected in lump sum amounting to 10 % of value of goods removed based on seller's invoices. Indemnification right remains thereby untouched.
- B.18. In the case the purchaser undertakes to ensure goods transportation at his own, he shall do so within 5 days as of the seller's notice. In the case the purchaser fails to ensure expedition within 5 days, the seller is entitled:
- send goods at purchaser's costs and risk;
 - store goods at purchaser's costs and risk at seller's warehouse or warehouse of any third person. In the case of goods storage the seller is entitled to bill the purchaser warehousing costs amounting to CZK 3,00/sq.m of stored material a day.
- B.19. Any potential additional requests of the purchaser for change of goods accepted by the seller shall extend the agreed delivery term accordingly. The seller has the right for reimbursement of costs connected with such changes.
- B.20. In the case of late delivery or failure to deliver goods, the seller is not liable for damages, if such default or failure occurred due to circumstances excluding liability.
- B.21. In no case the seller is liable for contestable damages as e.g. loss of potential future profit, loss of business, loss of trade, loss of future businesses, loss of production, loss of cooperation, loss or damage to image, loss of income, loss of profit, capital costs, costs connected with production or operation interruption, etc.
- B.22. The seller is not liable for selection of goods by the purchaser for his final use; in this connection the seller is not liable against the purchaser for damage caused by improper use of goods.

C. Delivery, transfer and exclusion of ownership rights, risks of damage of goods

- C.1. Ownership right to goods passes to the purchaser by full payment of the purchase price.
- C.2. In the case of failure to pay the purchase price in time, the seller is entitled to ban the purchaser immediately to dispose of goods unpaid or part of it in any way, including to process it, dispose it, encumber it for the benefit of third persons until the full payment of the purchase price, including any of its accessories and additional costs occurred due to the late payment of the purchase price by the purchaser.
- C.3. The purchaser is liable against the seller for any damage of goods pursuant to the provision of Section 2120 of the Civil Code.
- C.4. In the case the unpaid goods was sold to a third person, the purchaser shall provide the benefit from such sale to the seller up to the amount of unpaid purchase price including accessories and additional costs occurred due to the late payment of the purchase price by the purchaser.
- C.5. In the case the unpaid goods was processed, but not sold, the purchaser is, based on written consent of the seller, to sell goods processed and provide the benefit from such sale to the seller up to the amount of unpaid purchase price including accessories and additional costs occurred due to the late payment of the purchase price by the purchaser.
- C.6. Until the provision of the benefit from the sale of unpaid goods the purchaser shall, based on the provision of Section 1879 of the Civil Code, assign the receivable against his customer or part of it, up to the amount of unpaid purchase price including accessories and additional costs occurred due to the late payment of the purchase price by the purchaser.
- C.7. The purchaser shall provide unpaid goods to the seller based on his request any time.
- C.8. Risk of damage passes to the purchaser pursuant to the delivery terms agreed in the purchase agreement pursuant to INCOTERMS.
- C.9. Goods is considered delivered by meeting agreed delivery conditions pursuant to INCOTERMS.

Registration into the Commercial Register held by the Municipal Court in Prague, Section B, File NO. 11701

www.mtcomax.cz



D.I. Defects of goods and claims in general

- D.I.1. The seller shall produce goods pursuant to agreed international, national, or other technical conditions for dimensional, mechanical, physical, surface, or other agreed characteristics. Such technical conditions, or any additional requests of the purchaser, shall be clearly stipulated in the purchase agreement.
- D.I.2. The Purchaser shall provide for due inspection of goods as soon as possible after transfer of risk of damage of goods, before its processing, at the latest.
During accepting the goods, the buyer is obliged to check the correctness of quantity and quality.
- D.I.3. Claims for apparent defects (as e.g. damage of coil or pile due to careless manipulation, in the case of foundry alloys and master alloys, e.g. inclusions, local corrosion and other defects visible or detectable by gauges and scales, will not be recognized if claimed after elapse of 30 days as of the delivery of goods to the destination specified in the purchase agreement. Claims of other defects shall be applied within 6 months as of the delivery of goods to the destination specified in the purchase agreement, at the latest.
- D.I.4. The purchaser shall deliver its claim to the seller in writing without undue delay after establishment of the defect. Written claim shall include:
1. identification information on product as:
 - product name;
 - number of coils, or number of ingot;
 - delivered weight;
 - purchase agreement number;
 - number and date of issue of delivery note, or invoice or copy of it;
 2. defect characterization including photo documentation
 3. enclosed sample with the claimed defect, if possible
 4. suggestion on solving the complaint – estimated extent of loss
 5. indemnification demand
 6. most suitable date for the visit by the Buyer to inspect the claimed product
- In case the goods were damaged during the transportation arranged by the Seller, the Buyer is bound to submit following documents:
1. Damage report with preliminary estimate of its extent
 2. By the freight forwarder confirmed commercial report
 3. Consignment note (CIM, CMR, B/L)
- D.I.5. Goods claimed shall be stored in its original unchanged condition separately from other goods and shall be protected against spoilage. Until resolution of the claim such goods by the seller may not be used, sold, processed, changed, or otherwise modified. If transfer to a third person of goods being subject of the claim or a part of it occurs in the time after notification of defects of goods to the seller, claims of the purchaser due to liability for defects automatically cease to exist.
- D.I.6. The purchaser shall provide for seller's inspection of defective goods to resolve the claim.
- D.I.7. The claim shall not be granted if damaged goods is not properly stored and shall suffer damages due to incorrect storage and handling.
- D.I.8. In the matter of defective goods the purchaser shall make all measures necessary to avoid or minimize damages.
- D.I.9. Seller's liability for defects to which quality guarantee refers, shall not occur, if such damages occurred after transfer of risks of damage on goods by external events and if such events were not caused by the seller.
- D.I.10. Within defects of goods claim, the purchaser is entitled:
- a) to request rectification of defects by delivering replacement goods for defective goods, by delivering missing goods; or
 - b) to request rectification of defects by repair of goods if they are repairable; or
 - c) to request adequate discount from the purchase price.
- D.I.11. Choice of claims stipulated in previous provision pertains to the purchaser only in the case when he stipulated it in its defect claim timely sent to the seller. The purchaser is not entitled to change the claim applied without seller's consent. If it is established, that goods defects are not repairable or that inadequate costs are connected with such repairs, the purchaser is entitled to claim delivery of replacement goods, if he asks the seller for it without undue delay after the moment when the purchaser got the information about irreparability of defective goods from the seller. If the seller fails to rectify defects of goods in adequate additional time or if he informs the purchaser before elapses of such time limit that he will not rectify such defects, the purchaser may request replacement of defective goods for defect-free or request discount from the purchase price. The seller is liable for demonstrable damage occurred by breach of his obligations only up to the amount of value corresponding to purchase price of material being subject of claim.

E. Force majeure

If the goods delivery is delayed directly or indirectly due to causes outside control of the seller, as e.g. war, threat of war, rebellion, sabotage, fire, storm, flood, explosion, natural disaster, governmental regulation or restriction of the European Union, strike, total or partial destruction of the seller's or its supplier's plants or production lines, suppliers' supply, change of customs regulations, import and export quotas, export or import prohibition or any other cause outside control of the seller and which can prevent him from performance, the delivery period shall be extended correspondingly. If any of events above cause delay of the delivery or if the delivery is not provided at all, any party is liable to indemnify to the other party any damages including loss of profit.

F. Agreement termination

- F.1. Any party is entitled to terminate the agreement by written termination notice if:
- a) the other party repeatedly commits breach of contractual provisions; or
 - b) the other party commits gross breach of the agreement. Gross breach of the agreement by the purchaser means default with the payment conditions by more than 10 calendar days;
 - c) failure to accept agreed volume of goods in established terms in which case the purchaser shall pay to the seller any and all costs occurred to him by producing goods;
 - d) it is stipulated in purchase or framework agreement.
- F.2. Termination of the agreement becomes valid and effective as to the day of the delivery of the written counterpart to the other party.

G. Other provisions

- G.1. Partial deliveries are permissible. Tolerance of delivered volume is +/- 5 % of goods ordered. The purchaser shall pay for volume actually delivered
- G.2. Based on seller's request, the purchaser shall provide to the select documents regarding delivery of goods (e.g. transportation document including place of destination including name and signature of carrier, purchaser's confirmation of actual delivery of goods to the destination), including certificate of acceptance of goods issued by person who accepted goods on behalf of the purchaser. Should the purchaser fail to meet this obligation he shall indemnify the seller for sanctions requested from the seller by tax bodies due to the breach of purchaser's obligations established herein.
- G.3. Should circumstances occur which it was impossible to anticipate by concluding the purchase agreement creating obstacles for the seller in performing his contractual obligations, the seller is entitled to extend the performance term by the time for which such obstacle lasted.
- G.4. In all cases of circumstances excluding liability the seller is entitled to withdraw from the agreement without creating any right for indemnification of the purchaser.
- G.5. If any provision of this GTC is or become invalid, validity of other provisions shall remain thereby untouched. Parties undertake to replace invalid provision by valid provision establishing as close as possible the economical purpose of the original invalid provision. In the case of gap in the GTC requiring amendment hereto, parties shall fulfill such gap by adding additional provision taking into consideration the economic purpose of the agreement.
- G.6. Rights and obligations of the purchaser cannot be assigned to a third person without written consent of the seller.
- G.7. The seller considers confidential any and all data provided in the purchase agreement and any and all information and documents received in connection with the purchase agreement.
- G.8. Agreement including these GTC shall be governed by Czech law, by respective provisions of the Act No. 89/2012 Coll., as subsequently amended, in particular.
- G.9. Parties shall take care of remove any potential causes of disputes while making amendments of contractual relations or executing mutual performances.
- G.10. Any party shall immediately inform the other party in writing of any change of data in trade certificate, commercial register, or any other registers or of facts that application for bankruptcy or insolvency was filed or of any refusal of an application due to lack of assets or application for settlement.
- G.11. Parties agreed that any disputes occurring based on this contractual relationship or in connection with it shall be finally resolved based on claimant choice by general competent court of the defendant or within arbitration proceedings (held by the Arbitration Court by the Economical Chamber of the CR and Agricultural Chamber of the CR in Prague) pursuant to the Act No. 216/1994 Coll., on arbitration proceeding and execution of arbitration awards, as subsequently amended.
- G.12. These GTC shall always apply if parties did not agree otherwise. Pursuant to the provision of Section 1752 of the Act No. 89/2012 Coll., as subsequently amended, the company METAL TRADE COMAX, a.s. may amend these GTC, if reasonably needed. The other party shall be informed of any GTC amendments at least 14 days before applicability of any such amendment. The other party is entitled to refuse any GTC amendment within 7 days, whereas in the case of refusal, GTC in its original wording shall remain valid.
- G.13. Any and all correspondence between parties shall be in Czech and English.
- G.14. Electronic copy confirmed by sender sent per e-mail are valid as original. The purchaser shall send confirmed copy back to seller's email address stipulated in the purchase price.

