

GENERAL PURCHASE CONDITIONS

I Definitions

1. The following terms have the specified meaning in this document of General Purchase Conditions (hereinafter referred to as GPC):
 - a) Ordering Party - Nicromet Spółka z ograniczoną odpowiedzialnością spółka komandytowa based in Bestwinka, Oświęcim branch, Skawina branch and Nicromet s.r.o. based in Karvina (Czech Republic).
 - b) Supplier – entity that is the order addressee,
 - c) Order - document in a written form, e-mail or fax that is the only acceptable form of placing an order by the Ordering Party,
 - d) Goods or Services – subject of a commercial deal between the Ordering Party and the Supplier, i.e. aluminium and copper scrap, waste, additives as well as other raw materials or components,
 - e) Delivery Date – daily date, in which the goods are delivered to the appropriate branch of Nicromet
 - f) Appendix No. 1 - principles for accepting scrap valid for Nicromet Spółka z ograniczoną odpowiedzialnością S.K.A. and Nicromet s.r.o.
 - g) Legal acts concerning international transport of waste refer to:
 - act on international transport of waste of 29 June 2007 (Journal of Laws of 2007, No. 127, item 859, as further amended)
 - act of 27 April 2001 - Environmental protection act (Journal of Laws of 2006, No. 129, item 902 as further amended)
 - act of 27 April 2001 on waste (Journal of Laws of 2007 No. 39, item 251 and 88, item 587 as further amended)
 - regulation (EC) No. 1013/2006 of the European Parliament and the Council of 14 June 2006 on transport of waste (Official Journal of the EU L 190 of 12 June 2006, page 1) and financial penalties for breach of duties within international transport of waste
 - directive 2006/12/EC of the European Parliament and the Council of 2006 on waste (Official Journal of the EU L 114 of 27 April 2006, page 9)
 - Council regulation (EU) No. 333/2011 of 31 March 2011 establishing criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98/EC of the European Parliament and of the Council (Official Journal of the EU L 94 of 8 April 2011, page 2).

II General terms

1. These GPC apply to all purchase deals made by the Ordering Party, unless the parties decide otherwise in a written form, e-mail or fax. Any deviation from these GPC requires to be confirmed in writing by two contracting parties.
2. If a part or all GPC of the Ordering Party are inconsistent with the sales or delivery conditions of the Supplier, the GPC of the Ordering Party become effective. Executing a job or Order the Supplier agrees to follow the Ordering Party's GPC. If the Supplier does not agree with the Ordering Party's GPC they are obliged to inform the Ordering Party about the fact immediately. In such case, the Ordering Party reserves the right to renounce the contract. The Supplier has no rights for claims if the Ordering Party withdraws from the contract due to the abovementioned reasons.

III Orders

1. An Order can refer to contracts concluded for a specified or unspecified period of time. Orders shall be placed in writing, by e-mail or fax or any other form approved in writing. All offers made by the Supplier are valid for 5 working days.

2. An Order is considered as completed after delivery within the agreed term the agreed quantity of the given goods, the following deviations of weight are admissible:
 - 5% for the orders, in which the weight of the ordered goods does not exceed 30 tonnes;
 - 3 tonnes for the order, in which the weight of the ordered goods exceeds 30 tonnes.
3. The Supplier shall confirm accepting an Order in a written form, e-mail or fax or declare that the order cannot be completed, within 3 days from receiving the Order. If the Supplier does not do so, the Order is assumed to be accepted together with GPC without any reservations. The acceptance of the Order shall bear the Company seal as well as the signature of persons authorized to represent the Supplier in terms of Orders issued by the Ordering Party.
4. If the Supplier accepts an Order with written reservations as for the Order content, the Ordering Party shall confirm their validity separately. Unless the Ordering Party accepts them in a written form, e-mail or fax, the contract concerning the Order is considered as not concluded.
5. After the Order is accepted, the agreed conditions of commercial collaboration remain unchanged, unless both parties clearly state in writing that the previous arrangements are not valid.
6. All arrangement made orally or by phone have to be confirmed by the Ordering Party in writing, by e-mail or fax.
7. Once the Supplier has accepted an Order, they have to observe all delivery terms. In case of delays in delivery times, the Supplier has to repair the damage and cover all direct and indirect costs borne by the Ordering Party, resulting from not observing the delivery time, in particular all costs related to breaking or reducing production at the Ordering Party's or their clients. The Supplier will also cover all additional costs caused by the need to order deliveries at third parties.
8. If the Supplier does not fulfil their contractual obligations, the Ordering party has the right to withdraw from the Order, which applies both to orders under completion or orders not completed, and the Supplier has no right for claim towards the Ordering Party in such a case. The Supplier cannot claim for damages or contract execution in such a case.
9. If the Supplier does not fulfil their contractual obligations, the Ordering Party will call the Supplier to repair the entire breach or its part and after an ineffective deadline they have the right to withdraw from the contract and claim for damages from the Supplier on the suffered damage.
10. The Ordering Party has the right to refuse accepting parts of deliveries or previous deliveries made against the rules stipulated in the Order. The Parties agree that the Ordering Party can, upon their discretion, accept the abovementioned deliveries or store them at the Supplier's cost and risk.
11. If a delivery, including scrap metal and waste, is not accepted, the Supplier will cover all transport costs, including costs related to returning and storing the goods.
12. The Supplier declares that the delivered goods, scrap metal in particular, were appropriately inspected for hazardous or explosive elements. In the case of scrap metal deliveries, the Supplier will state in a written form that the scrap metal was inspected and it does not contain any hazardous and/or explosive and/or radioactive elements.
13. The delivered scrap metal will be prepared and selected according to the principles mentioned in Appendix No. 1 that is an integral part of GPC.

IV Price, conditions of payment

1. The prices used in the Order are flat-rate prices and not subject to changes, unless the parties clearly state otherwise in writing. No increase in the price against the Order is acceptable, unless the Ordering Party has clearly accepted the change in writing. The Supplier whose offer was accepted by the Ordering Party is mandatorily obliged to execute the contract according to the conditions mentioned in the Order and these GPC and at a price finally accepted by the Ordering Party.

2. The price formula is understood according to a definition acquired in Incoterms 2010 or subsequent Incoterms versions that can supersede Incoterms 2010.
3. The price given in the Order covers all additional services related to the Order, such as drawings, packaging, tax, fees or customs that apply to the goods delivered to the Ordering Party, unless otherwise specified by the price formula given in the Order.
4. In the case of deliveries including documentation, software or other works covered by the copyright law, upon delivering the goods/ services, the Supplier will provide licence to the Ordering Party. Additionally, at a date and within the scope specified by the Ordering Party, the Supplier will transfer the copyright for the works to the Ordering Party. Remuneration for providing the licence and transfer of copyright is included in the price.
5. The Supplier declares that the deliveries do not violate industrial and intellectual property law or copyright of third parties, and the delivered goods are free of any legal faults.
6. The date of payment will be individually specified in the Order. The payment will be made only when the Ordering Party receives a correctly issued invoice or another accounting document according to respective regulations effective for the Supplier's head office. The invoice shall be issued after the Ordering Party confirms with a signature that they accept the goods or services being the subject of delivery, without any reservations.
7. The payment is considered executed on the day when the Ordering Party makes a bank transfer order for the amount due.
8. The Ordering Party will have the right to deduct the sums due for the Ordering Party from the Supplier on any account, from the issued invoice.
9. The invoices shall be sent upon the goods shipment or immediately after the shipment and be delivered to the Ordering Party not later than on the 10th calendar day of the next month.
10. The invoice shall contain correct data of the Ordering Party i.e. EU-VAT ID number, description and type of the delivered merchandise, price, quantity, delivery conditions according to Incoterms 2010 or its subsequent versions, payment method and bank account number.
11. The payment term of wrongly issued invoices is counted from the day of receiving corrective invoices from the Ordering Party.
12. In case of a claim concerning the goods quality or quantity, the Ordering Party has the right to withhold the payment completely or partly until the reasons for the claim are removed and the payment terms are counted from the moment the reason of the claim is removed.
13. The price for the received delivery will be finally specified considering such documents as Appendix No. 1 to GPC, weighing receipts, Material Inspection Sheets, spectrometer analyses results, yield analyses results and the results of all other analyses necessary to determine the real value of the delivered goods.

V Packaging

1. The Supplier obliges to deliver goods in containers that will be suited to the delivery type and method as well as storage conditions so that the subject of the Order is delivered maintaining the highest quality possible.
2. Documents required in compliance with transport regulations shall be enclosed with each delivery. The documents cover a waybill, weight specifications and other documents necessary to identify the delivery and allow for inspecting its quality and quantity as well as appropriate acceptance of goods. In the case of scrap metal deliveries, the Supplier shall enclose a written statement confirming that the scrap metal was checked and does not contain hazardous or explosive elements.
3. The Supplier is responsible towards the Ordering Party for any damage that occurs during the delivery i.e. damage, faults etc. resulting from inappropriate or incorrect packing of the goods.

4. The Ordering Party reserves the right to request from the Supplier to deliver particular goods or scrap assortments without packaging, i.e. in the loose form on semi-trailer truck. The Ordering Party, in case of transports realized by the Supplier, reserves the right to determine the type of the semi-trailer applicable for the particular goods or scrap assortments.

VI Origin of goods

1. The Supplier declares that all delivered goods will be free from any physical and legal faults and that they will originate from the European Union.
2. If the goods do not originate from the European Union, the Supplier will submit a statement informing on the origin of goods to the Ordering Party.
3. The Supplier shall always document the origin of goods, The Supplier shall immediately inform the Ordering Party on a different origin of goods in writing.
4. If the delivered goods require customs procedures, the Supplier shall provide a certificate of origin for the goods.

VII Inspection and commissioning

1. The Ordering Party has the right to check and inspect the delivered goods for quality and quantity in each case and time and in such case the delivered goods shall be given the following description: "Conditionally Accepted for further Control".
2. The inspection and check may cover, in particular, external visual inspection of the delivered goods, spectrometer analysis and any other methods used at the Ordering Party's aimed at identifying the quality of goods and their chemical composition.
3. Principles of scrap metal acceptance effective at the Ordering Party's (Appendix 1), Material Inspection Sheet according to individual Ordering Party's models shall be used as the basis for classifying the delivered goods. In case the delivery is rejected, The Ordering Party shall submit a Complaint Protocol within 7 days, upon the Supplier's expressed request.
4. The weight of goods used as the basis for settling accounts is the weight of goods specified by the Ordering Party according to the indications of scales installed at the Ordering Party's. The Supplier has the right to take part in the goods weighing procedure and in case of serious discrepancies or doubts as for the indications of the scales they can request using another measuring instrument. The Supplier will cover the cost of any additional weighing procedures. After the weighing procedure is completed by another entity, the Parties will specify the correct weight of goods used as the basis for settling accounts, in the course of negotiations.
5. Upon the Supplier's request, the Ordering Part can present documents used as the basis for calculating the amount due, including the Material Inspection Sheet and weighing receipt.
6. In case of a dispute concerning properties of the delivered material and its quality, Appendix No. 1 and Material Inspection Sheet shall be used as the basis for settling the dispute and setting the price.
7. The Supplier can make a claim with the Ordering Party as for the way of classifying the delivered material, including weighing receipts or arrangements in the Inspection Sheet. The claim shall be made in writing, by fax or e-mail not later than 1 day from the date of delivery. The Ordering Party will consider the claim and inform the Supplier on accepting in total or in part or dismissing in total or in part the claim within 10 days from submitting the claim.
8. If the parameters of good delivered by the Supplier make it impossible to use the material in the technological process used at the Ordering Party's plant, the Ordering Party has the right to refuse accepting the delivered goods.
9. In cases described in the paragraph above, the Supplier will cover all costs of storage and shipping the goods to the Ordering Party as well as costs of accepting the goods.

10. The time of delivery shall conform to the order arrangements. If the Supplier does not make the delivery on time, the Ordering Party has the right to refuse the delivery and claim for damages equal to the amount of the incurred material damage.
11. The Supplier shall immediately notify the Ordering Party of the scheduled delivery date at least one day before the delivery by phone, e-mail or fax.
12. Accepting the delivery without any reservations does not infringe the Ordering Party's rights, particularly the rights resulting from warranty or guarantee.
13. The Ordering Part may file quantitative claims within 5 days from the date of delivery.

VIII Warranty

1. The Supplier guarantees appropriate quality of the delivered goods.
2. If the quality of goods does not conform to the requirements stipulated in the Order or if the goods are incomplete, the Ordering Party has the right to claim for price reduction, repairing the fault, delivering faultless goods or withdraw from the entire Order or its part, at their own discretion.
3. If a delivery turns out incomplete, the Supplier is supposed to complete it immediately. If the Supplier refuses to submit the missing part of material, the delivery is regarded as not executed and the payment will be made only for the delivered goods.
4. The delivered goods and provided services always have to conform to effective legal standards, necessary licences as well as specifications given in the order or technical specifications.
5. The Supplier always gives quality guarantee and warranty valid from the moment the goods are accepted without reservations. In case of hidden defects, the warranty and guarantee periods are valid from the moment the fault is discovered.
6. The warranty and guarantee period for the goods is prolonged by the period during which the goods were not suitable for their intended use as a result of the fault.

IX Force majeure

1. The Parties can be exempt from liability for non-performance or improper performance of the contract only when the non-performance or improper performance of the contract is only a result of a force majeure, understood as an occurrence that could not be predicted at exercising due diligence in merchandise relations, that is external for the contract parties and whose results were not possible to be predicted or prevented by the parties acting with due diligence.
2. According to the GPC a force majeure means: strikes, war, riots, road or water route closing, earthquake, flood, or a natural disaster in a given area.
3. The Parties shall immediately inform one another of a force majeure striking, in a written form, e-mail or fax and indicate the expected period of the force majeure occurrence and its effects for the due and timely performance of the contractual obligation.
4. The occurrence of a force majeure shall be confirmed in writing by the Commercial Chamber respective for the head office of the Party that refers to this occurrence.
5. During the force majeure occurrence at the Supplier's, the Ordering Party may obtain goods from other sources and reduce the order from the Supplier by this quantity or completely withdraw from the order.

X Transfer of ownership

1. The goods submitted within the delivery become the Ordering Party's property upon completing the delivery.

2. The Supplier can reserve ownership of the sold goods until the Ordering Party pays the price due. Such a reservation is ineffective.
3. When the order is under completion and before the goods are delivered to the Ordering Party, the Ordering Party reserves the right to inspect manufacturing processes concerning delivery of goods and inspection of deliveries.
4. The risk of incidental loss or damage of goods is transferred to the Ordering Party upon accepting the delivery without reservations.

XI Keeping confidential information

1. Any information including commercial, technical, industrial and financial information, regardless of the way it is revealed, made accessible to the Supplier by the Ordering Party, is confidential. Information revealed to the Supplier employees, their subcontractors and representatives during the order completion is also regarded as confidential.
2. The information can be used only in relation to the Order and the Supplier will exercise due diligence to ensure that confidential information is not revealed to any third parties.
3. If the Supplier reveals confidential information, the Ordering Party can claim damages equal to the value of the suffered damage.
4. Goods made according to documentation presented by the Ordering Party, such as drawings, models or based on the Ordering Party's confidential information must not be used by the Supplier or offered or passed to any third parties on the pain of a claiming damages from the Supplier, equal to the value of the suffered loss.

XII Subcontracting

1. The Supplier must not sell or transfer the rights for the entire Order or its part without a clear written consent of the Ordering Party.
2. The Supplier must not pass the entire Order or its parts for completion to other subcontractors without a prior consent of the Ordering Party.
3. If the Suppliers receives consent for passing the entire Order or its part for completion by a third party, the Supplier is responsible for the third party's commission or omission as for their own.

XIII Contractual fines

1. The Supplier agrees that the Ordering Party runs their own production activity whose course closely depends on timely deliveries. Therefore, if the Supplier predicts any possibilities of not meeting the Order completion deadline, they shall immediately inform the Ordering Party about this fact in a written form, giving the Order number, reasons for the delay and the predicted modified Order completion deadline. The information must be passed on to the Ordering Party immediately after the Supplier learns about this fact. In such cases, the Ordering Party reserves:
 - a) the right to cancel the entire Order or its part, and in such case the Supplier has no right for claims and has to give back the potential advance payment immediately, whereby the Ordering Party has the right for claiming contractual fines or damages.
 - b) the possibility for claiming the following contractual fines, whereby the Ordering Party reserves the right to claim damages equal to the amount of the suffered loss, irrespective of the claimed contractual fines.
2. The Parties accept the following contractual fines:
 - a) The Supplier will pay a contractual fine to the Ordering Party for a delay in providing service, in the amount of 0.5% of the value of goods delayed in delivery - for every commenced day of delay,

- b) The Supplier will pay a contractual fine to the Ordering Party for a delay in repairing faults, in the amount of 0.5% of the faulty goods value - for every commenced day of delay.
- 3. If the Supplier's delay exceeds 30 days, the Ordering Party can:
 - a) claim double contractual fines from the Supplier, or
 - b) withdraw from the order maintaining their right for claiming contractual fines calculated from the day of withdrawal or complementary damages. Such withdrawal is treated as withdrawal due to the Supplier's fault.
 - c) if the Ordering Party withdraws from the Order due to the Supplier's fault, the Supplier will pay an additional contractual fine to the Ordering Party in the amount equal to 10% of the Order net value.
 - d) The Supplier agrees that any delays in the Order completion period can expose the Ordering Party to damage related to stopping the production process, delays in executing orders for the Ordering Party's customers etc. Therefore the Ordering Party also reserves the right to claim from the Supplier the return of costs incurred as a result of delayed delivery. The Supplier's liability can cover all losses and costs that the Ordering Party borne due to the delay and can be extended by the cost of lost benefits, costs of losing a contract as well as contractual fines imposed on the Ordering Party by their clients.

XIV Environment

- 1. When making deliveries the Supplier will exercise due diligence and in particular all actions related to completing the delivery will be performed according to respective effective regulations including standards of the international transport of waste.
- 2. The Supplier shall make the delivery according to the effective standards: PN-EN 13920-1. Aluminium and aluminium alloys - scrap metal. General requirements, sampling and tests. All deliveries shall be made according to the Quality Assurance System used at the Ordering Party's facility and the Environment Management System.
- 3. The Supplier shall read the acts standardising international transport of waste, standard effective according to p.2 as well as the Quality Assurance System and Environment Management System used in the Ordering Party's plant, and shall invoke not knowing them under no circumstances.

XV Closing provisions

- 1. If any of the GPC provisions become invalid or ineffective, other provisions remain effective.
- 2. All changes in the GPC shall be made in writing under pain of nullity.
- 3. To all matters not settled herein, provisions of the Polish Civil Code shall apply.
- 4. All disputes resulting from these GPC or contracts concluded based on them shall be settled by the Parties by arbitration. If a dispute cannot be settled by arbitration, the court of proper jurisdiction for the Ordering Party's head office will settle the dispute, and the Polish substantive and procedural law will be used for settling the dispute.
- 5. These GPC are made in four identical versions - in Polish, Czech, German and English. If any interpretation or linguistic differences occur, the Polish version shall apply first.