

# General purchasing condition of BIBUS METALS Sdn Bhd.

## A GENERAL

1. By accepting our order or by supplying the goods ordered, the SUPPLIER is deemed to have accepted the present conditions.

## 2. Definitions

Client	shall mean BUYER's customer
Goods	shall mean material
Party/Parties	shall mean BUYER or SUPPLIER or both
Purchase order	shall mean a statement of BUYER to SUPPLIER specifying goods to be supplied and stating the terms and conditions whereupon delivery of these goods shall take place. These also concern delivery schedule and call-off orders.
BUYER	shall mean the relevant buying company, affiliated to BIBUS METALS Sdn. Bhd.
SUPPLIER	shall mean the manufacturer, vendor or seller of goods

## 3. Form

Only orders in traceable form (in writing, by fax, email) are binding. Verbal orders or orders by phone as well as changes and additions to BUYER's order or other conditions deviating from the order shall be binding only if confirmed by BUYER in traceable form. The SUPPLIER shall immediately return his order confirmation including the exact delivery date.

## 4. Communication

Each party shall continuously inform the other party on all matters that are of importance to the parties' performance under the general purchasing conditions and shall also in all such communications express themselves with such clarifications and with such means as are required in order to ensure a correct performance in all respects.

## PRICES, PAYMENTS AND TERMS OF DELIVERY

### 5. Prices

The prices shall be those contained in the purchase order. Unless otherwise agreed in writing the price is firm and fixed and exclusive V.A.T. Any further costs shall be borne by the SUPPLIER. This shall apply also to any customs, consular costs, freight, insurance premium and any further additional costs.

### 6. Payment

6.1 Payment shall be made within the agreed terms of payment (calculated from receipt of the invoice by the addresses stated on the purchase order, but not earlier than the day of delivery), and shall be made in accordance with any other conditions that the parties have agreed upon in writing. The term of payment shall, in the absence of any other agreement, be sixty (60) days from the end of the month of delivery. All invoices shall be correctly addressed, without being marked for the attention of any individual.

6.2 Remittance of payment shall not imply any acceptance of the delivery or the invoiced amount.

6.3 BUYER is entitled to set off sums which it or one more of its affiliated companies owe SUPPLIER against sums which SUPPLIER owes to BUYER or one or more of its affiliated companies.

### 7. Terms of delivery

The agreed delivery clause shall be construed in accordance with Incoterms. In the event of any doubt, the latest version of Incoterms shall be used. As place of performance for the goods and the services shall be considered the agreed place of destination.

## WARRANTY AND QUALITY

8. The SUPPLIER warrants that the goods supplied are free from defects. Goods shall be considered defective if it

- (i) in any respect deviates from the technical specification required from BUYER, or

- (ii) does not possess the characteristics that the SUPPLIER has referred to through samples, prototypes or in marketing, or
- (iii) is not fitted for the particular purpose for which the parties intended it to be used.

8.1 The BUYER shall examine the Goods delivered and notify any defects to the SUPPLIER basically within thirty (30) days of delivery or – in case of a hidden defect – within thirty (30) days of detection. The warranty period is valid five (5) years from the date the part has been delivered from the SUPPLIER's warehouse.

The above-stated time limit shall, however, not apply, should there be a risk of personal injury or damage to property other than the Defective Part, or of repetitive defect.

8.2 The parties may conclude a separate agreement for the handling of warranty claims and for a more extensive warranty liability.

## LIABILITY FOR DEFECTS OR SHORTCOMINGS AS WELL AS SANCTIONS

### 9. Liability for defects or shortcomings

9.1 In the event that goods are defective in accordance with Section 8.1 above or a delivery does not contain the agreed quantity, then BUYER shall be entitled to (i) demand immediate rectification, or (ii) demand immediate delivery of substitute goods.

9.2 If defective goods cannot be repaired or replaced without delay or if there is a risk of production disturbances at BUYER or CLIENT or delivery disturbances from BUYER or CLIENT. BUYER shall be entitled, after acceptance from the SUPPLIER and at the latter's expense, to make the necessary repair work or completely or partly terminate the purchase of the goods and other such goods that BUYER or CLIENT do not consider having any use of due to the defect or shortcoming, and also, to undertake substitute purchases from another supplier.

9.3 In addition to what is set forth in sections 9.1 and 9.2 above, the SUPPLIER shall compensate BUYER for any loss or damage, direct as well as indirect, arising out of or relating to the defect or shortcoming in delivery, including but not limited to costs for assembly and disassembly, detection and analysis, scrapping and transportation.

9.4 If due to delivery of any defective goods BUYER considers it necessary to inspect all goods of the same kind delivered by the SUPPLIER, BUYER shall be entitled, after acceptance from the SUPPLIER, to make such inspection at the latter's expense and without awaiting the latter's approval. The notice shall describe the nature of the defect as well as the time and place of the inspection. If possible, the SUPPLIER shall be present at the inspection.

### 10. Product liability and insurance

10.1 The SUPPLIER shall compensate the BUYER for all direct and indirect losses and damages arising out of or relating to a product or goods having caused personal injury or property damages due to the fact that the goods were defective.

If BUYER receives such a claim BUYER shall immediately notify the SUPPLIER accordingly and the parties shall undertake all necessary investigations in order to defend such claims in the best possible way. At BUYER's request the SUPPLIER shall also assist BUYER in the event of any dispute.

10.2 If there is a risk of a product causing personal injury or property damage due to goods being defective, such that BUYER or CLIENT decides to recall a product, the SUPPLIER shall compensate BUYER for its costs in conjunction with such recall.

10.3 The SUPPLIER shall enter into and maintain a product liability insurance policy during the period of the purchase agreement and shall at BUYER's request also supply BUYER with a copy of the insurance certificate. Products liability insurance shall be on an amount equal to at least EUR 1.0 Mio.

## DELIVERIES

11.1 Delivery shall mean placing all goods in the possession or at the disposal of the BUYER, including the documentation necessary for

the use of the goods such as, but not limited to, certificates of quality. All goods shall be delivered strictly in accordance with BUYER's purchase order and any other attachments and conditions as agreed upon.

Partial deliveries and advance deliveries shall require the BUYER's prior written consent.

11.2 All goods shall be carefully and properly prepared, secured and packed in a manner suitable to provide adequate protection against damage whilst in transit to or in storage a SUPPLIER's premises or at the delivery destination. Any damage attributable to improper or inadequate packing shall be corrected at SUPPLIER's expense and SUPPLIER shall indemnify the costs incurred in remedying such damage.

11.3 Ownership and risk of the goods shall pass from SUPPLIER to BUYER at delivery, i.e. upon arrival at the place of performance.

11.4 Timely delivery is of essence. The SUPPLIER shall inform BUYER in writing if late delivery is anticipated, stating the reasons therefore.

In the event of a late delivery the BUYER is entitled to (i) completely or partly terminate the purchase of the goods and of other goods, which BUYER does not consider having any use of due to the late delivery, and (ii) make substitute purchases from other SUPPLIERS. The SUPPLIER shall compensate the BUYER'S direct and indirect losses and damages arising out of or relating to the late delivery.

## OTHER TERMS

### **12. Legal and Special requirements**

Each party shall comply with the laws and regulations relevant to the performance under these general purchasing conditions. The Supplier shall comply with the legal and official principles as well as with the buyers Code of Conduct, in particular with regard to:

- competition and antitrust laws
- health and safety regulations
- accident prevention
- child protection provisions
- prohibition of trafficking in human beings
- protection of environment and health
- all current laws and regulations applicable to the product, in particular REACH, RoHS, Conflict Minerals etc.)

The Supplier undertakes the following issues:

- not to accept any financial or other benefits if an unjustified advantage is expected or rewarded from the donor.
- to store all information's relating to the order and to the product-delivery for at least 10 years.
- shall employ competent and qualified persons who are aware of their contribution to product conformity, product safety and the importance of ethical conduct.
- to maintain a quality management system and implement procedures in order to process complaints/non-conformities effectively and prevent them permanently.
- to implement procedures to prevent the use of counterfeit parts or parts of doubtful origin.

### **13. Non-exclusive supply**

The SUPPLIER is not the exclusive SUPPLIER of the goods.

### **14. Inspection Rights**

14.1 Our employees and representatives from government agencies or their delegates have access to all business premises in which work is done for us at any time during normal business hours, regardless of whether the premises belong to the SUPPLIER or its sub-suppliers. These persons may examine any and all documents related to the orders. The SUPPLIER is obligated to require any sub-suppliers to accept mutatis mutandis the obligations pursuant to this agreement. This access right must be granted in particular to our employees and the representatives of government agencies or their delegates who are responsible for monitoring the progress of the work we have ordered from the SUPPLIER and for audits related thereto.

14.2 Representatives of our customers have access to all business premises of the SUPPLIER in which work is being done for us at any time during normal business hours, provided we have given our consent and one of our representatives is also present.

### **15. Export controls and origin**

If any goods, or component therein, which the SUPPLIER delivers to BUYER are subject to national export or control regulations in those countries where the SUPPLIER produces the part of those countries from which the components originate, the SUPPLIER shall be obliged, prior to the parties agreeing on the technical specification, to notify BUYER in writing thereof and of the scope of the export restrictions.

### **16. Confidentiality**

16.1 All information, equipment, know-how and technical documentation (specifications, drawings or other order-related data), including electronically stored data and computerised geometry's, to which SUPPLIER has obtained access by BUYER through the parties business relationship, shall for the duration of the purchase agreement and for ten (10) years thereafter be treated by SUPPLIER as confidential and may not be used for any purpose other than for the deliveries to BUYER. It may not be shown to or in any other way communicated to or used by others than such personnel of either of the parties, which are directly involved in the implementation of the deliveries to BUYER. Copying or reproduction of such confidential information is permitted only within the framework of the fulfilment of SUPPLIER's obligations vis-à-vis BUYER and with regard to the applicable copyright laws and regulations.

16.2 The SUPPLIER may not make public the business relationship of the parties through advertising or in any other way without prior written consent from BUYER. The SUPPLIER shall also treat all orders of BUYER and all related deliveries as confidential.

16.3 The SUPPLIER is responsible to use all BUYER's information according to the GDPR (<https://gdpr.eu/>). SUPPLIER respects our privacy and personal data rights and uses the data only according legal regulations. The SUPPLIER shall at BUYER's request either return or destroy everything referred to in Section 14.1, including copies thereof.

### **17. Severability**

In the event that any provision of the purchase agreement should become invalid, e.g. due to new regulations only said provision shall be considered invalid while the remaining provisions shall remain in force. The parties shall in such a case immediately conclude a new agreement that replaces the invalid provision and as far as is possible ensures through its content an equivalent result.

## FORCE MAJEURE

18.1 "Force Majeure" shall mean all events which are beyond the control of the parties, and which are unforeseen, unavoidable or insurmountable, and which were not known at the acceptance of an order and which prevent total or partial performance by either party. Such events shall include earthquakes, typhoons, flood, war, epidemics, civil disturbances, and any other event which cannot be foreseen, prevented or controlled. For the avoidance of doubt, strikes, lock-outs or other industrial action or disputes solely related to the SUPPLIER and/or its subcontractors or agents shall not be deemed as events of force majeure.

18.2 If an event of force majeure occurs, a party's contractual obligations affected by such an event shall be suspended during the period of delay caused by the force majeure and the period of performing such obligations shall be extended, without penalty, for a period equal to such suspension. The BUYER has also the right to cancel the order.

18.3 The party claiming force majeure shall promptly inform the other parties in writing and shall furnish within ten (10) days thereafter evidence of the occurrence and expected duration of such force majeure.

## APPLICABLE LAWS

### **19 Applicable law & disputes**

19.1 These general purchasing conditions shall be governed by the substantive laws of Malaysia, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

19.2 Any dispute arising out from these general purchasing conditions or the orders placed shall be submitted exclusively to the ordinary courts competent at the domicile of BUYER.