

# Terms and Conditions of the BIBUS METALS s.r.o., for the Sales of Goods

## 1. Binding Effect of Terms and Conditions

1.1. Subject of these terms and conditions of the company BIBUS METALS s.r.o., headquartered in Brno, Vídeňská street No. 204/125, Postal Code 619 00, ID No: 292 56 135, registered in the Commercial Register kept by the Regional Court in Brno, Section C, File No. 68706 issued in accordance with § 1751 of the Act No. 89/2012 Coll., The Civil Code, as amended by applicable laws and regulations (hereinafter referred to as "the Terms" or "Terms and Conditions") is a modification of basic conditions of purchase contracts for the supply of goods.

1.2. Each contract of purchase which will be concluded with the BIBUS METALS s.r.o. as a seller (hereinafter referred to as "Seller") with any business partner as a purchaser or other customer (hereinafter referred to as "Purchaser") shall be governed by these terms and conditions, unless explicitly agreed otherwise in writing. Buyer acknowledges that the condition of purchase contract for the supply of goods is acceptance of these Terms.

## 2. The Rights and Obligations of the Contracting Parties

2.1. The seller undertakes to deliver the goods to the purchaser as specified in the contract of purchase along with all necessary documents and to allow the purchaser to acquire the ownership of the goods and the purchaser undertakes to accept the goods and pay the purchase price in specified manner and currency.

2.2. The seller in the sale of goods does not bind to the installation, assembly or provide other similar services.

## 3. Concluding Contracts of Purchase

3.1. The contract of purchase shall be concluded in writing and has to be signed by a person authorized to act on behalf of the purchaser. The written form of the contract is maintained when the contract, signed by the authorised person, is delivered by fax or electronic mail (as an attachment) via data box or data message with an electronic signature. The written form is maintained even if seller attaches his signature to the contract and then sends this signed contract by e-mail to the buyer, who attaches his signature to the signed contract.

## 4. Place, Manner and Time of Delivery of the Goods, Reservation of Ownership

4.1. Place of handover of the ordered goods is the seat of the seller, unless explicitly agreed otherwise in writing.

4.2. The ordered goods can be taken over from the seller only by the purchaser in person or by a person entitled to act on behalf of the purchaser, for example the trustee of the purchaser or the carrier, and is obliged to confirm the receipt of the goods in writing. These persons are obliged to prove their identity to the seller (identity card, etc.) and the permission to receive the goods (certificate of incorporation, power of attorney, a written contract of carriage, etc.)

4.3. The seller is entitled to withhold delivery of the goods to the purchaser especially if the purchaser is in default with the payment of any receivable of the seller from the purchaser or if the purchaser is in a conflict with the provisions of other agreements or contracts between the seller and the purchaser. In case of delay with the payment of the receivable of the seller from the purchaser, seller is entitled to withhold delivery of the goods to the purchaser until the receivables are covered.

4.4. Unless explicitly agreed in writing with the purchaser something else, it is considered that the purchaser shall acquire the ownership after full payment of the purchase price of the goods. If the purchase price is paid before delivery of the goods, the purchaser acquires the ownership to the goods at the time of delivery of the goods.

## 5. The Purchase Price and the Terms of Payment

5.1. The purchaser is obliged to pay the purchase price in the manner, currency, amount and within time specified in the contract of purchase. As a basis for the payment of the purchase price the seller shall issue an invoice with the terms of the tax document.

5.2. The purchase price is due for payment at the maturity date of the invoice. The invoice is payable within the period and in the currency specified by the seller on the invoice. To the purchase price will be added the value added tax (VAT). Unless otherwise agreed in writing, in the purchase price there are not included the cost of transporting the goods to the purchaser, postage, cost of transport packaging, packing, handling fees, insurance of goods during transportation or other charges. All these costs are borne by the purchaser. If the goods are delivered on a pallet, the price of the pallet will be part of the packing costs and the seller is not obligated to purchase the pallet from the purchaser back.

5.3. The seller reserves the right to demand from the purchaser a deposit for the purchase price up to 100 % of the agreed purchase price. In case of agreed partial payment of the purchase price in advance, the advance payment will be made on the basis of issued invoice by the transfer order or in cash before delivery of the goods.

5.4. The moment of the purchase price payment shall be the date of receipt of the payment to the seller's account.

5.5. In case that in the contract of purchase the purchase price is stated in foreign currency, the purchaser is obliged to pay the purchase price in the agreed currency and the purchase price of goods is calculated at the exchange rate of that currency at the date of conclusion of the contract of purchase and published on that date by the Czech National Bank. The contracting parties agree that if at the date of the invoice the exchange rate (CNB) of CZK against the agreed currency changes by more than 5 % due to the rate applicable on the date of conclusion of the contract of purchase, the purchase price may be raised or lowered by the seller in the same proportion. In case that in the contract of purchase the purchase price is given in foreign currency, the seller may invoice to the purchaser in CZK and the amount of the purchase price, as agreed in the contract of purchase, will be converted by the purchaser to CZK using the Czech National Bank exchange rate effective at the date of invoice and in that case the purchaser is obliged to pay the purchase price in the amount of CZK indicated on the invoice.

## 6. Breach of Contractual Obligations and its Consequences.

6.1. In case of the purchaser's delay in payment of the purchase price or its deposit, the parties agree that the default interest rate that the purchaser is obliged to pay to the seller is 0,25 % of the outstanding amount of money for each day of delay. By paying the interest on late payment the seller's right to claim the full compensation for damages and penalties is not affected.

6.2. In case of the purchaser's delay in payment of the purchase price or its deposit, the seller is entitled to withhold delivery of other goods, even in case previously confirmed orders. In this case the seller is not in default with the delivery of the goods detained. The date of delivery of the goods detained shall be extended for the period of the purchaser's default in payment of the purchase price or its deposit.

6.3. In case of the purchaser's delay in payment of the purchase price or its deposit the seller has the right to a penalty of 0,25 % per day of the amount payable with the fact that the penalty does not affect the right to compensation in full.

6.4. The purchaser's delay in payment of any payment longer than 10 days will be considered as a substantial breach of the contract of purchase.

6.5. In case of the purchaser's delay in receipt of the goods, the seller is entitled to withdraw the contract (cancel the order of the purchaser) or preserve the goods and continue to dispose of the goods in a manner appropriate to the circumstances. The seller is entitled to withhold the goods, until the purchaser pays all the reasonably incurred expenses associated with preservation of the goods. For the preservation of the goods, the purchaser will be charged a fee of 1% + VAT on the price of unaccepted goods, which is at least CZK 500 + applicable VAT for each day of the purchaser's delay. If the purchaser's delay in receipt of the goods is longer than 10 days, the seller is entitled to sell the goods at any price to the third party. In that case the purchaser is obligated to pay the loss caused to the seller as a compensation and further to pay the contractual penalty in the amount of the purchase price of the goods.

6.6. In case of the purchaser's delay in receipt of the goods, the purchaser shall also compensate the seller any loss incurred in this connection.

6.7. The purchaser is not entitled to withhold a part or all of the purchase price due to any goods complaints or due to any claims against the seller.

6.8. The seller is entitled to withdraw the contract by written notice with an immediate effect in case of purchaser's fundamental breach of the contract. Withdrawal from the contract for breach of other obligations is governed by the Civil Code.

6.9. If the purchaser withdraws from the contract and the withdrawal has no basis in the contract, in these Terms or in law, the purchaser is obliged to pay contractual penalty in the amount of the purchase price of the goods ordered to the seller, unless the contracting parties agree otherwise in writing. Penalty does not affect the claim for loss in full.

6.10. The seller is not entitled to withhold all or part of the purchase price of the goods due to any complaints or due to any claims against the seller. In the case that the purchaser is in conflict with aforesaid, the purchaser gets into delay with the payment of the purchase price.

6.11. The purchaser shall compensate the seller all costs incurred in the judicial and non-judicial debt collection and related costs, including the costs of legal representation.

## 7. Terms of Delivery, Transfer of Risk to the Goods.

7.1. The seller is obliged to deliver the goods within the agreed time, unless there are unexpected facts or obstacles on the seller's side that the seller could not have reasonably foreseen; in this case the term is extended for the duration of such unexpected facts or obstacles. The seller is entitled to deliver the goods before the agreed date or in parts. The purchaser is obliged to accept the goods thus supplied.

7.2. The moment of delivery of the goods to the purchaser shall be the date on which the purchaser could pick up the goods at the headquarters of the seller or the day when the goods was handed to the first carrier to transport (transport, postal or other). Evidence proving the delivery of the goods is the seller's record of the possibility to pick up the goods, or delivery note or other document (e.g. the contract of carriage, packing list, postal sheet, invoice) showing that the goods were handed over to the purchaser or carrier for transportation.

7.3. The risk of accidental destruction or damage to the goods passes to the purchaser at the moment of delivery of the goods to the purchaser. The seller is not liable for damage to the goods incurred during transport.

7.4. If the delivery of the goods is carried out by passing the goods to the carrier, the seller is obliged to mark the goods as a shipment of goods to the purchaser.

## 8. Liability for Defects and Damage.

8.1. The seller is responsible to the purchaser for defects, which exist at the time when the risk of damage to the goods passes to the purchaser, i. e. the date when the purchaser could pick up the goods at the headquarters of the seller or the date of the handover of the goods to the first carrier for transport (transport, postal or other).

8.2. The purchaser is obliged to notify in writing the obvious defects of the goods to the seller immediately, but not later than within 3 days after the purchaser under professional attention should detect the defects on the first inspection of the goods under § 2014 of the Civil Code.

8.3. The seller has the right to choose a claim for defective goods.

8.4. The seller provides the purchaser a quality guarantee within 12 months from the delivery of the goods. In case of conclusion of a consumer contract of purchase, the guarantee provided for by the Civil Code will be applied.

8.5. When making a claim of defective goods, the purchaser is obliged to observe the claim conditions of the seller with which the purchaser was aware of and which is published at the headquarters of the seller and the website [www.bibusmetals.cz](http://www.bibusmetals.cz), otherwise the seller is not responsible for the defects of the goods.

8.6. The seller is responsible to the purchaser solely for the actual damage incurred due to breach of the obligations of the seller, explicitly provided in these Terms, or in the concluded purchase of contract, under the conditions set out hereafter. The total liability of the seller for fulfillment of its obligations under the Terms and Conditions and in the contract of purchase is limited to the amount equal to 40 % of the price of the delivered goods.

8.7. Eventual contractual fines or other penalties paid by the seller to the purchaser are included in compensation for damages in full.

8.8. The seller is not liable for any indirect, consequential or incidental damages, or loss of profits or for any damages or losses arising on the basis of contracts concluded between the purchaser and third persons. The seller is not also responsible to the purchaser for any damage caused by circumstances excluding responsibility, such as government intervention, traffic, transport and energy problems, disorders of electronic commerce, strikes or lockouts. These factors are the reasons for delay the fulfillment of contractual obligations by the seller for the period and extent of the effectiveness of these circumstances. The same is true even when the circumstances occurred in sub-seller of the seller.

## 9. Final Provisions

9.1. The purchaser acknowledges that the terms and conditions are in accordance with the provisions of § 1751 of the Civil Code mandatory for the regulation of relations between seller and purchaser under contract of purchase, if this contract of purchase does not contain varying arrangements. By concluding the contract of purchase the purchaser agrees that these conditions are becoming an integral part of the concluded contract of purchase.

9.2. The seller reserves the right to change or amend the Terms and Conditions, especially when the related laws are changed or if the way of trading is changed. The changes, additions and their effectiveness will the seller appropriately publish.

9.3. The rights, obligations and legal status of the participants of the contract of purchase shall be governed by Czech law, especially by the Civil Code. Legal relationships of the seller and the purchaser which are not explicitly regulated by the contract of purchase and/or by the Terms are governed by the Czech Civil Code and related legislation.

9.4. Legal acts on the basis of which the change is to occur, cancellation or termination of the contractual relationship of the contract of purchase must be done in writing.

9.5. Withdrawal from the contract of purchase shall not terminate the provisions of the arbitration, interest on arrears and damages.

9.6. No part of the purchase price for the delivered goods shall be paid by offsetting own receivable of the purchaser from the seller.

9.7. The seller has the right to inform third parties about the receivables from the purchaser, especially through public media and the internet. In accordance with this right, the seller has also the right to contact third parties with request for joint action against the purchaser as a part of insolvency proceedings.

9.8. All disputes arising from the present contract and/or in connection with it shall be finally decided with the Arbitration Court attached to the Czech Chamber of Commerce and the Agricultural Chamber of the Czech Republic by one arbitrator appointed by the President of the Arbitration Court. The parties agree that all disputes shall be decided at Regional Court Branche in Brno.

9.9. A document sent by registered mail to the purchaser shall be considered as delivered, regardless of whether the recipient actually receives it. Effect of delivery occur at the date of delivery of the consignment to the addressee, even if the document is delivered to other person than the addressee. If the document is not delivered at all, the effects of delivery occur at the date of the deposit of the document at the post office, even if the addressee does not know about the deposition of the document at the post office.

9.10. The purchaser is not entitled to assign the rights and obligations arising from this contract of purchase to a third person, or to move or stop the receivable from the seller to a third person without the prior written consent of the seller.

9.11. These terms and conditions are available at the headquarters of the seller and online at [www.bibusmetals.cz](http://www.bibusmetals.cz).

9.12. These terms and conditions are effective since 10<sup>th</sup> June 2015.