



## **General Terms and Conditions of Sale and Delivery AmEuro Metals B.V.**

### Article 1: Applicability of these terms

**1.1.** The terms in question are applicable to all offers, orders and agreements of AmEuro Metals B.V., both concerning the delivery of merchandise and/or their components as well as concerning the carrying out of activities, unless explicitly agreed otherwise in writing. In merchandise are also comprehended services in these General Terms and Conditions.

**1.2.** The General Terms and Conditions of the purchaser apply only if the application of said terms to the agreement to the exclusion of these terms has been expressly agreed in writing. In that case any conflicting provisions of the General Terms and Conditions of the user and the purchaser will only apply between parties if and in so far as said form part of the terms of the user.

**1.3.** The terms in question are also valid for a third party by whom we have the contract carried out fully or partly.

### Article 2: Offers

**2.1.** The offers, price-lists, prices and stock statements by AmEuro Metals B.V. are always completely without engagement. Pictures, descriptions, drawings, statements of measures and weights, technical statements and such like in booklets and the like are always completely without engagement and do not bind us.

**2.2.** Forwarding of offers and/or brochures and/or documents and/or estimates and/or plans and/or drawings and/or models and/or price-lists and the like do not bind us to the delivery or acceptance of the order. The cosignatory will be informed by us as soon as possible but in any case within thirty days of non-delivery or non-acceptance of an order. The above-mentioned forwarded documents will always remain our property and must be returned to us at first request. They may not be copied, neither be given to others for examination without our explicit permission barring in so far this should be necessary for normal business-practice.

**2.3.** We reserve the right to refuse orders without giving reasons or to deliver C.O.D.

### Article 3: Contract

**3.1.** Orders are only considered as being accepted by AmEuro Metals B.V. when they are acknowledged by us in writing or when we carry out the order. In this the date of confirmation is decisive.

**3.2.** Any arrangements or changes as well as (oral) arrangements and/or promises by our staff, representatives, agents or intermediaries will only bind us if and in so far confirmed by us in writing.

**3.3.** We are entitled, when or after concluding the contract, before further performance, to demand payment in advance or insurance from the cosignatory that both the financial and other obligations will be met.

**3.4.** We are entitled to deliver semi-manufactured articles with a deviation of 10% in weight or quantity.

### Article 4: Quotations

**4.1.** Unless stated otherwise all the estimates are made by AmEuro Metals B.V. under reservation of price alteration.

**4.2.** Unless stated otherwise our quotations are:

- based on the level of purchasing prices, the extra charges for alloy and scrap, wages, cost of wages, social and public charges, freight, insurance fees and other costs valid at the time of the offer;
- based on delivery ex business, warehouse or other storage;
- exclusive of VAT, import duties, levies raised by the authorities, tariffs and other taxes;
- exclusive of cost of packing and shipment;
- stated in EUR. Fluctuations in currency, if any, will be passed on. If prices are stated in foreign currency and the counter value in EUR is stated, this counter value will only be valid by approximation.

**4.3.** In case of rise of one or more of the cost price factors we are entitled to raise the order price accordingly, all this with due regard to the existing relevant legal regulations.

However, any price increases that can reasonably be foreseen must be stated in the confirmation of order. Should the rise in price take place within three months after concluding the contract the cosignatory is entitled to dissolve the contract unless we are obliged to the rise in price on the ground of legal regulations.



#### Article 5: Payment

**5.1.** Unless agreed upon otherwise in writing payment must take place without any discount or by deposit or remittance on a bank or giro account appointed by AmEuro Metals B.V., within thirty days after the date of invoice. The currency date stated on our bank or giro copy is decisive and is consequently considered as day of payment.

**5.2.** Each payment by the cosignatory is primarily intended in settlement of the interest owed by him and also of the collecting expenses and administration expenses made by us and will thereafter be deducted from the longest outstanding claim.

**5.3.** In cases that the cosignatory:

**a.** is adjudged bankrupt, requests statutory debt repayment under the Debt Repayment (Natural Persons) Act (Wet Schuldsanering natuurlijke personen), applies for a letter of licence or when a distress is levied on his property or part of it;

**b.** dies or is put in ward;

**c.** fails to meet any obligation resting on him by force of law or proceeding from these terms;

**d.** fails to settle an invoice-amount or part of it within the specified term;

**e.** takes to strike or to transfer of his business or an important part of it into a partnership or has his business admitted into a newly founded partnership, or changes the objectives of his business;

the cosignatory is in default solely through the occurrence of one of the above-mentioned circumstances. In that case all our claims on the cosignatory will immediately become claimable and we are entitled to suspend the (execution of the) contract completely or partly or to regard the contract as being dissolved, unimpaired by our right to compensation of damage or loss, expenses and interest, without holding anyone liable and without judicial intervention.

#### Article 6: Interest and expenses

**6.1.** Should the time of payment be exceeded the cosignatory is in default according to the law and AmEuro Metals B.V. will be entitled to charge the statutory or prevailing interest as from the due date of the invoice.

**6.2.** In case of non-payment, when overdue or failure to fulfil one of the other obligations of the cosignatory, the cosignatory owes us, apart from the purchasing price and the interest, all the collecting charges, both the judicial and the non-judicial, caused by non-payment or non-fulfilment. The non-judicial collecting charges amount at least to 15% of the amount due by the cosignatory with a minimum of EUR 50.00 inclusive of the above-mentioned interest.

#### Article 7: Delivery

**7.1.** Stated times of delivery are only given by approximation under reservation of the alloy, necessary for the material, being available in time and do not concern fatal terms unless explicitly agreed upon in writing. If delivery is not effected within a reasonable term the cosignatory is thereafter entitled to cancel an order and to reclaim the money he might have paid.

**7.2.** In consultation with the cosignatory a date for (first) delivery will be fixed. However, we cannot be held responsible for exceeding the time of delivery if that time was reasonably unforeseeable at the time the contract was concluded. In such cases as there are: fire, riots, strikes, problems in transportation and the like we are entitled to extend or to cancel the contract such in consultation with the cosignatory.

**7.3.** Except for what is stated in the previous paragraph we can only be held responsible for exceeding the time of delivery after we have been given a reasonable time for fulfilment and after we have been put in default by registered mail by the cosignatory.

**7.4.** Any possible damages and/or imperfections of the packing and the merchandise supplied which are present at the time of delivery and/or differences in the number of packages must be stated on the packing note, the invoice and/or the shipping documents. Differences in the number of goods in the packing and defects which are revealed when these packings are opened must be reported to us within eight days after delivery.

**7.5.** Unless otherwise agreed upon does delivery take place ex business, warehouse or other storage. In all cases the risk is for the account of the cosignatory from the point of time of delivery. The point of time of delivery is the moment when the goods leave our business, warehouse or other storage.

**7.6.** AmEuro Metals B.V. will always reject penalty clauses.



#### Article 8: Transportation and risk

**8.1.** The way of transportation, shipment, packing and such like is, if no further instruction has been given to AmEuro Metals B.V. by the cosignatory, decided by us as good merchant, without any liability on our side. Any possible specific wishes of the cosignatory concerning transportation/shipment are only carried out if the cosignatory has declared to bear the extra cost of it.

**8.2.** Transportation is always for account and at the risk of the cosignatory also if carriage paid delivery has been agreed upon, even in case the carrier stipulates that all transportation damages are for account and risk of the sender.

**8.3.** We are entitled to invoice a compensation for persistent packing materials which is stated on the invoice. Unless explicitly agreed upon otherwise packing materials are not taken back.

#### Article 9: Claims

**9.1.** All claims must have been laid in writing with AmEuro Metals B.V., not later than 14 days after delivery, listing our packing note/delivery note and/or invoice number under specification of the nature and ground of the complaints. The cosignatory is considered to have approved of the merchandise respectively the invoice after expiration of this term. In that case complaints will no longer be dealt with by us.

**9.2.** The cosignatory is obliged to check the merchandise delivered or the packing immediately at delivery or to check them after having been informed by us that the merchandise is at the disposal of the cosignatory or to check the activities performed immediately after they have been concluded.

**9.3.** Should the claim concern defects which can only become evident in use a claim can still be made valid within 14 days after the defect has been discovered or reasonably could have been discovered, however, never later than two months after the date of invoice.

**9.4.** Claims can only be made valid with regard to goods that are still in the condition in which they were delivered, except for the case in which it concerns hidden defects.

**9.5.** Claims will not be handled if it appears that the cosignatory or a third party has altered or repaired something of the merchandise, except for the case this has been done with our knowledge and permission.

**9.6.** The quality of the goods and the materials used are to be judged on the basis of the instructions and quality requirements valid on the date of the offer of the goods and/or material involved. Small, usual differences in quality, quantity, width, colours, finish, size, workmanship and the like which are considered admissible in trade, or which cannot be technically avoided, cannot cause reason for claims.

**9.7.** Only if and as far as the claim is considered valid by us do we exclusively have to carry out the performance agreed upon again, within a reasonable delay.

#### Article 10: Guarantee

**10.1.** AmEuro Metals B.V. guarantees good operation of the goods delivered by us only as far as this is guaranteed and fulfilled by their suppliers and/or manufacturers in accordance with those regulations referring to the guarantee given to us. Concerning this we will never be adhered to any other performance than the transfer of our rights towards the manufacturer to the cosignatory with delivery of the warranties in question.

**10.2.** Our guarantee does not apply if:

- the defects result from injudicious use by the cosignatory and/or a third party retained by him, normal usage or, if it concerns other causes than defectiveness of the material or manufacture;
- the cosignatory and/or a third party retained by him have carried out changes or have changes and/or repairs carried out on the goods delivered during the guarantee period;
- the cosignatory does not fulfil, does not fulfil in time or does not fulfil properly any obligations resulting from these or other agreements with us, as, among other things, the obligation with regard to inspection and claims;

**10.3.** Our guarantee implies that we, this only to our exclusive judgement, either take back the goods delivered entirely or partly and replace them by new goods or credit the cosignatory with the invoice-amount in question. We will never be obliged to compensate the expenses that exceed the original value of the goods mentioned in the contract which appeared to be in default. If we, in order to fulfil our obligation of guarantee, choose to replace, the (parts of the) goods which are replaced will become our property.



#### Article 11: Reservation of property

**11.1.** Possession of the goods passes on to the cosignatory only at full payment of all AmEuro Metals B.V.'s claims in return for goods delivered or to be delivered to the cosignatory by and/or in the name of and/or for account of us, in virtue of the contract, as well as for any failure in the fulfilment of such contracts.

The cosignatory is obliged to take care of careful treatment and does not have the right to yield the matter to a third party, give it in pledge, put it in pawn, or remove it from the area where it was delivered or have it removed, until the entire purchase-money and eventual additional costs have fully been paid, except for as far as this is necessary for a normal execution of business.

**11.2.** Under the suspending condition that the reserved property passes on to the cosignatory or any third party, whether in security or not, a lien is attached to every merchandise that is not removed until all our claims on the cosignatory, on any account, are fulfilled. As far as the law requires the cosignatory authorizes us hereby irrevocably to draw up deeds or to act in law in order to set up such a lien.

**11.3.** In case of non-payment of a claimable amount, suspension of payment, moratorium, bankruptcy, statutory debt repayment under the Debt Repayment (Natural Persons) Act, placement under guardianship, liquidation of the cosignatory or death we will have the right, without judicial intermediary, to cancel the order or delivery of part of it still to be delivered and to reclaim in possession merchandise delivered but which have not or not fully been paid for, under settlement of the amount eventually already paid and without prejudice our rights to require compensation for eventual loss or damage. In those cases each claim we have for the account of the cosignatory will be directly and entirely claimable.

#### Article 12: Unaccountable failure in performance

**12.1.** By unaccountable failure in performance is understood: a failure which AmEuro Metals B.V. cannot be blamed for and which should not be for our account, nor by law, act in law or in current views.

Causes for unaccountable failure in performance are: strike or lock-out, (announcement by the state of) war or siege, mobilisation, insurrection, fire, difficulties in transportation, extreme weather conditions, government measures causing prevention or hindrance for the execution of the contract including in any case import and out port prohibition, rationing, breakdown at our suppliers, as well as non-fulfilment by our suppliers preventing us from fulfilling our obligations towards the cosignatory and all remaining circumstances independent of our will, which hinder or exclude execution of the contract.

**12.2.** In case of unaccountable failure in performance do we have the right to agree, in consultation with the cosignatory, on a period in which performance can as yet take place. If performance is not possible any more the parties have the right to regard the contract as dissolved. In this case they must inform the cosignatory in writing; they are not obliged to pay any compensation, as far as statutory regulations will allow this.

**12.3.** We are entitled to claim payment of the performances carried out on execution of the contract concerned before a situation as described in this article has become evident.

#### Article 13: Liability

**13.1.** Our liability is restricted to the obligation of guarantee mentioned in article 10. Consequently, we are not liable for and therefore never obliged to compensation of any kind of mediate or immediate damage sustained directly or indirectly under which industrial damage to movables or immovables or to persons as well with the cosignatory as with a third party caused by defects of sold and delivered or repaired goods, while we are not obliged either to repair defects which are the result of natural usage, injudicious or wrong treatment and/or excessive load.

**13.2.** We are not liable for damage generated or caused by use of the goods delivered or because of unsuitability for the purpose for which the cosignatory has purchased it.

**13.3.** We are not liable for damage resulting from failures or omission by a third party who was charged by us with the delivery of material or the performance of operations.

**13.4.** We are never liable for damage or defects to specific materials, parts or constructions which, in contravention of the regulations in force, are prescribed by or in the name of the cosignatory or put to our disposal by the cosignatory.

**13.5.** The cosignatory guarantees us from all claims of a third party concerning goods delivered by us, unless it becomes clear by right that these claims directly result from gross negligence from our side and the cosignatory shows in addition that they are not to blame in any way.



**Article 14: Applicable right**

**14.1.** The Dutch law applies to all offers and agreements of AmEuro Metals B.V. as well as their execution.

**Article 15: Disputes**

**15.1.** All disputes, including those which are considered disputes as such by one of the parties, resulting from or connected with the contract to which these terms apply or the terms in question themselves and its interpretation or execution, both de facto and legal in character, will be decided by the competent Civil Judge, within the business area of AmEuro Metals B.V., this as far as legal regulations allow, unless the cosignatory, within one month after we have stipulated in writing towards the cosignatory, requests in writing to have the dispute settled by the Judge qualified according to the law.

**15.2.** In the event of a difference of opinion concerning the content or interpretation of these conditions, the Dutch text prevails over the English translation.

December 1, 2003