

# GENERAL PURCHASING CONDITIONS

**Affilips N.V.**, having its registered seat and headquarters in Tienen (Belgium), Biezenstraat 26-31  
Chamber of Commerce Leuven 02325066

## 1. Definitions

In these General Purchase Conditions of Affilips N.V. ('conditions') the following words shall have the following meanings:

### Agreement

The agreement the parties have entered into in accordance with article 3 with the purpose of delivering products, any amendment or supplement thereof, as well as any (juristic) acts carried out for the performance of the agreement.

### Confirmation

The Supplier shall supply the Purchaser with a statement confirming the carrying out of the order placed by the purchaser.

### In writing

By (registered) letter, fax or E-mail.

### Order

Any order the Purchaser places with the Supplier, in any form whatsoever.

### Parties

The Purchaser and the Supplier.

### Products

Any goods and services that are subject to an agreement.

### Purchaser

The public limited company Affilips N.V., having its registered office and principal place of business at 3300 Tienen (Belgium), at Biezenstraat 26-31 3300 Tienen, and all companies and/or ventures associated with its legal successors.

### Supplier

Any natural or legal person who delivers products to the Purchaser, or with whom the Purchaser enters into an agreement or with whom it is negotiating to enter into an agreement, as well as its successors by universal or by particular title.

## 2. Applicability

2.1 The present conditions are an integral part of all agreements and shall be applicable to all (other) actions and juristic acts carried out by the Supplier and the Purchaser, the Supplier agrees to these conditions by confirming or by delivering the order.

2.2 Notwithstanding the possible derogatory conditions which only can be applied subject to explicit written confirmation by the Purchaser, current conditions have, by right, primacy on the sales conditions of the Supplier. By confirmation or delivery of our order, the Supplier agrees with our purchase conditions.

2.3 Insofar as parties have entered into an agreement on the basis of the conditions before, they agree that the conditions shall also be applicable to agreements concluded between them at a later date. The above provision does not apply to any deviations agreed upon in respect of the conditions that are only deemed to be valid for one single agreement.

2.4 The applicability of the Supplier's conditions is hereby explicitly rejected. In case the Supplier confirms our order with derogatory general conditions, our general purchase conditions apply nevertheless, even if we have not made any explicit objection against this deviation. If the Supplier does not agree, he must immediately send a written note of objection. In that case the order can only be carried out after explicit and written approval of the Purchaser. Furthermore, in this case, we preserve ourselves the right to cancel the order without for this compensation of damages can be progressed.

## 3. Conclusion of the Agreement

3.1 An agreement is entered into if the Purchaser has placed an order with the Supplier and the Supplier has confirmed the order in writing to the Purchaser, or when this confirmation has not arrived within 8 working days from the day the order was placed.

3.2 Should the confirmation of the Supplier not be in the possession of the Purchaser within 8 working days from the day the Purchaser sent its order, the Purchaser is entitled to revoke the order it has placed. In the event of revocation of the order within the meaning of the previous sentence, the Supplier shall not be entitled to payment or compensation in any form whatsoever.

3.3 Should the confirmation deviate from the original order the Purchaser shall only be bound to the order after having agreed to the confirmation in writing.

3.4 Subject to the provisions of article 16.3, additions or changes to an agreement shall only come into effect if they have been agreed upon in writing between the Purchaser and the Supplier. Verbal agreements shall only be legally binding when they are confirmed by the Purchaser in writing within 3 working days after the day that the verbal agreements were made, and have not been subsequently contradicted by the Supplier within 3 working days after said confirmation.

3.5 Any technical advice, numbers, measures, etc. provided by the Supplier is/are binding. The Supplier shall be liable for the damage resulting from any incorrect information it provides.

## 4. Delivery

4.1 The Supplier shall deliver the products on the agreed delivery date and the agreed location.

4.2 Without prejudice to the right of the Purchaser to demand execution of the agreement and without prejudice to the rights of the Purchaser referred to in the provisions of the article 4.3, the Supplier will forfeit an immediately payable fine of 10% of the full purchase price of the agreement for each started week after the supply date, with a maximum of 30% of the price of the order. This penalty shall not replace the compensation for damage on the part of the Purchaser.

4.3 As soon as the Supplier knows or expects that the delivery will be delayed or will take place in an improper fashion, it will immediately inform the Purchaser about this in writing, mentioning the circumstances that caused the failure to perform. If the products are not wholly or partially delivered at the agreed time, or, if the time of delivery has not been agreed upon, at the agreed date, or if the parties cannot come to an agreement concerning postponement of the delivery date and compensation for losses due to delays, the Supplier is in default and the Purchaser shall be entitled to dissolve the agreement without giving notice of default by a statement in writing addressed to the Supplier and may turn to another party to obtain the products. In case of dissolution of the agreement the Supplier is obliged to refund the Purchaser at its first request all damage suffered and incurred with additional costs explicitly included.

4.4 Should the Purchaser request the Supplier for postponement of the delivery, the Supplier shall store, secure and insure the products for the Purchaser in a properly packed and recognizable condition.

4.5 Under no circumstance whatsoever the Supplier shall be entitled to postpone performance of obligations or to exercise any right of retention owed with regard to the products, or to seize the products. The provisions in the previous sentence shall also apply if a dispute has arisen between the Purchaser and Supplier concerning the performance of any agreement whatsoever.

## 5. Transport

5.1 The Supplier shall secure the products to be delivered and make sure that the products are transported and packed in an appropriate manner, reach the agreed destination in good condition and are safely unloaded. The Supplier shall be liable for damage caused by insufficient packaging.

5.2 All provided goods must as such be labeled that they can be identified easily. Further, all provided goods must be accompanied of a shipping note, on which our order number is mentioned, and all documents which are required by law and/or our order. If it has not been satisfied to, the Purchaser preserves the right to refuse supply of the goods, even if the goods were already discharged, where all costs and risks are the expense of the Supplier.

## 6. Inspection

6.1 The Supplier shall at all times be obliged to provide the Purchaser an opportunity to inspect the products at its first request, be it before, during or after delivery. If at the request of the Purchaser a third party inspects the products before, during or after delivery, the third party inspection shall be treated as if it were an inspection by the Purchaser.

6.2 If during an inspection within the meaning of article 6.1 it becomes apparent that the products are not in any way wholly or partially in conformity with the provisions in the agreement, the Supplier shall be in default and the Purchaser shall be entitled to dissolve the agreement without giving notice of default by a statement in writing addressed to the Supplier and may turn to another party to obtain the products. In case of dissolution of the agreement the Supplier shall be obliged to, at the Purchaser's first request, refund all costs and damages, whether they are incurred or shall be incurred in the future.

6.3 Even if the Purchaser does not decide to dissolve the agreement, the Purchaser shall at all times be entitled to return the products to the Supplier at the expense and risk of the Supplier. The Supplier is obliged to refund to the Purchaser without delay any sum already paid from the purchase price, as well as the costs involved in returning the products and any resulting damages. The Supplier shall in no way be entitled to make or claim a settlement. The provisions in this article (6.3) shall also apply if a dispute has arisen between the Purchaser and Supplier concerning the execution of any agreement.

## 7. Ownership

7.1 The ownership of the products is transferred from the Supplier to the Purchaser after inspection and acceptance in writing by or in the name of the Purchaser. The products shall remain at the risk of the Supplier until the moment of receipt at the address designated by the Purchaser.

7.2 The supplier guarantees that the products are free from third party rights.

## 8. Quality and quantity

8.1 The supplier guarantees that the delivered products conform to the agreement, that the products have the promised properties, that they are free from defects, are fit for the purpose intended and are consistent with statutory requirements and other government regulations, as well as with requirements of, among others, the safety, size and quality norms used in the branch such as they apply at the moment of delivery.

8.2 The signing of shipping notes or transport documents can only be used as proof of reception and not as proof of revision or acceptance of the quality and quantity of the products.

## 9. Risk, liability and indemnification

9.1 As long as the Supplier retains the products and their packaging, or as long as they are retained on its behalf by third parties, the Supplier shall bear the risk for the products and their packaging and shall be liable towards the Purchaser for any damage to the product and/or its packaging, including without limitation damage resulting from fire, loss and theft. The Supplier shall bear the risk for the products and its packaging that are stored in a container at its site and, irrespective of the ownership of the container, shall be liable within the meaning of the previous sentence. The products and its packaging that are stored, stocked, dispatched and/or transported by third parties on the instructions of the Supplier, are presumed by these third parties to be retained by the Supplier.

9.2 The Supplier shall be liable for any damage incurred to the Purchaser or third parties, including without limitation immaterial damage, damage to the environment, loss of profit, resulting from a defect in any of its products and/or its packaging delivered by it and/or its own acts or omissions, that of its staff or anyone involved by the Supplier in the performance of the agreement.

9.3 The Supplier indemnifies the Purchaser against any claims by third parties arising from or related to a defect and/or acts or omission as referred to in article 9.2. The Supplier shall take at its expense any costs related to any such claims made by the Purchaser.

9.4 The goods have to be guaranteed against all visible and/or hidden lacks: the acceptance and/or processing of the goods does not relieve the Supplier in case of poor goods.

9.5 In case of delivery of damaged and/or goods not in accordance with expected quality, the Purchaser will notify the Supplier, within 30 days after reception of the goods, in case of clearly visible lack. In case of stock reserves, the larger packaging was not immediately opened and possible "hidden" lacks cannot be determined immediately, the Purchaser preserves himself the right for also after 30 days claim the exception of non-accordance of the goods.

9.6 The Purchaser preserves himself the right to send back or make available refused goods because of lack or non-accordance, each time at the expense of the Supplier. Goods which are made available to the Supplier, must be picked up within 14 days (30 days for foreign suppliers) after notification by the Purchaser, if not the goods will be sent back at the expense of the Supplier.

## 10. Prices and terms of payment

10.1 Payment in no way implies the surrender of the right to reconsider the execution of the order.

10.2 The prices stated in the order of the Purchaser are fixed prices. Increases in price will not be accepted unless the Purchaser agrees explicitly and in writing.

10.3 The invoice (one original and at least 2 copies) must be sent according to our purchase conditions. The invoice must be established in the currency of our order and must refer to our purchase number. If the above mentioned stipulations are not met, the invoice will be refused.

10.4 Unless differently agreed upon, the invoice will be settled 60 days after the end of the month of reception and acceptance of the goods and invoices; at cash payment within 10 days, the Purchaser will be entitled to bring in a 3% discount on the invoiced amount.

10.5 In case of non-swift payment, the Supplier will only be entitled to claim delay interest at the legal interest rate.

## 11. Settlement by Purchaser

11.1 The Purchaser shall be entitled to set off any debts of whatever nature due to the Supplier to any claims due to it, or to its affiliated companies.

11.2 At the moment, the following companies are affiliated with the purchaser:

- Roba Metals N.V., Genk (Belgium);
- Roba Metals B.V., IJsselstein (The Netherlands);
- Roba Metals Processing N.V., Genk (Belgium);
- Roba Metals Ltd., Alcester (UK);
- Roba Metals Polska Sp. Z o.o. (Poland);
- KBM Affilips B.V., Oss (The Netherlands);
- KBM Master Alloys B.V., Delfzijl (The Netherlands);
- Roba van der Rijn N.V., Assen (Kobbegeem) (Belgium).

## 12. Dissolution without notice of default

12.1 The Purchaser is entitled to revoke any order it has placed and to wholly or partially dissolve and/or postpone the execution of any current agreement by means of an extrajudicial declaration without giving notice of default, if the Supplier:

- cannot (fully) deliver the products or cannot deliver them at the agreed price, for example though not exclusively as a result of government measures or seizure;
- offers an extrajudicial settlement, files a petition for liquidation, is declared bankrupt, ceases the business operations, requests or is granted a (temporary) moratorium of payment, or otherwise gives evidence of being in a state of insolvency, or by seizure, or by being placed under guardianship or otherwise loses the power to dispose of its property or parts thereof.

All of the above without prejudice to the other rights of the purchaser under any agreement whatsoever and without the purchaser being obliged to pay any form of compensation.

12.2 In the situation described in article 12.1 (a) the Supplier shall be liable for any damages incurred to the Purchaser or its affiliated companies as referred to in article 11.2, arising from non-fulfilment of the agreement.

12.3 If a situation as referred to in article 12.1 (b) arises, the Supplier shall be obliged to inform the Purchaser about this as soon as possible.

12.4 If a situation as referred to in article 12.1 arises, any claims of the Purchaser against the Supplier shall be immediately and fully due and payable.

## 13. Insurance obligation

13.1 The Supplier shall insure itself sufficiently against any consequences of obligations that it undertakes under the agreement and conditions.

13.2 At the Purchaser's first request the Supplier shall produce an insurance policy from which it becomes clear that it has acted in conformity with article 13.1.

## 14. Confidentiality

14.1 The Supplier shall undertake to observe strict confidentiality with regard to any confidential information that it has received in relation to an order and/or agreement, including the conversations and negotiations which led up to order and/or agreement, or which it has otherwise received from the Purchaser or third parties.

14.2 The Supplier shall only disclose the above-mentioned confidential information to those members of staff that are directly involved in the performance of the order and/or agreement and for whom the above information is indispensable for properly carrying out their activities. The Supplier shall also oblige said members of staff to undertake to observe confidentiality of the confidential information.

14.3 If in the context of the agreement the Supplier has to make use of third parties that need to get the confidential information provided to the Supplier, the Supplier needs to obtain prior permission from the Purchaser in writing. The above third party shall also oblige the Supplier to observe confidentiality.

14.4 In any event of violation of any of the provisions obtained in this article, the Supplier forfeits, without further notice of default being required, an immediately payable penalty of € 50,000.- per violation and € 5,000.- for each day the violation continues, without prejudice to the right of the Purchaser to claim compensation of the damage actually suffered or incurred as a result of the violation.

## 15. Force majeure

15.1 If as a result of force majeure the Purchaser fails to fulfill its obligations, the performance of these obligations shall be suspended for the duration of the force majeure.

15.2 In the event that the force majeure persists for more than three months, all parties shall have the right to dissolve the agreement by means of a statement in writing. In the event that the Purchaser experiences force majeure the Supplier shall not be entitled to any form of compensation whatsoever.

15.3 Force majeure shall be understood to mean any circumstances outside the will and control of the Purchaser that wholly or partially or either temporarily or permanently prevent the performance of the agreement, irrespective of the fact whether or not these circumstances were foreseeable at the time of entering into the agreement. Such circumstances include strikes and sit-down strikes, staff illness, breakdowns, interference from any nation or supranational agency, natural disasters, mobilization and war, etc.

## 16. Final provision

16.1 Any reference made to articles and paragraphs in the conditions shall be understood to mean the articles and paragraphs of the present conditions.

16.2 Should one (or more) of the provision(s) of the agreement between Purchaser and Supplier be null and void the other provisions of the agreement shall retain their full effect. In these circumstances the null and void provision is deemed to be replaced by a valid provision, as far as possible representing the object and purport of the provision that is null or annulled.

16.3 The Purchaser reserves the right to make changes or additions to these conditions. The Supplier agrees beforehand to any such additions and/or changes, unless this cannot be reasonably expected from the Supplier.

16.4 Any agreements entered into pursuant to the conditions shall be governed by and construed in accordance with the Belgian laws, thereby explicitly excluding the provisions of the Vienna sales convention.

16.5 Any disputes that might arise between Purchaser and Supplier shall, if the parties are unable to come to an amicable solution, be tried by the courts for the district or the canton where the social seat of the Purchaser is resided, unless if the Purchaser prefers the authorized courts accordingly Article 624 of the Judicial Book of Laws, or by arbitration in accordance with the provisions as in Article 1676 and following of the Judicial Book of Laws.