

## **GENERAL CONDITIONS OF SALE**

### **1. BINDING FORCE OF THE CURRENT GENERAL CONDITIONS OF SALE**

These general conditions are the only general conditions that apply to the contractual relationships between Cemminerals NV (hereinafter the "Vendor") and the client (hereinafter the "Purchaser") unless otherwise explicitly agreed in writing. They apply to the sale of cement, limestone filler and ground granulated blastfurnace slag in bulk delivered transport paid unless otherwise stipulated.

The Purchaser declares explicitly and unconditionally to waive its own general or special conditions. If there are conflicting provisions in the Vendor's general and special conditions included in the contractual documents, the special conditions shall prevail. If there are conflicting provisions in the Vendor's special conditions included on the tender and/or order confirmation on the one hand and the delivery order on the other, the provisions of the former shall determine the agreement between the parties. Any full or partial invalidity and/or unenforceability of one or several provisions of these conditions shall not affect the validity of the remaining provisions.

### **2. QUALITY**

The Vendor guarantees that the goods it sells meets the strength class and type of the standard referred to on the delivery order at the time of unloading. The Purchaser may not offer any third parties any quality guarantees other than those it has been offered by the Vendor. When the Purchaser wishes to carry out an *inter partes* quality inspection, no later than when the goods are being unloaded, samples shall be taken in accordance with the European standard EN 196-7. The tests shall be carried out as prescribed by the standard referred to on the delivery order and their results shall be judged by that same standard. The Purchaser shall bear any costs associated with sampling and testing. The Vendor will only accept them if the quality inspection shows the goods do not meet the above standards.

The Vendor's liability is in any case strictly limited to the replacement of the disputed goods within a reasonable term. The Purchaser is otherwise not entitled to any damages while still observing the law concerning liability for goods with defects.

The Purchaser acknowledges receipt of the safety information leaflet in accordance with the Royal Decree of 11 January 1993 regulating the categorisation, packaging and properties of hazardous preparations with a view to its introduction to the market or its use, as amended from time to time.

### **3. QUANTITIES**

The bulk quantity of the goods as delivered by the Vendor is determined at the point of dispatch, as the case may be, either based on the tonnage of the tanker or by weighing the bulk lorry. The Vendor is only bound by either the certificates establishing the tonnage in case of transport by ship, or the weight established on the Vendor's weighbridge and referred to in the lorry's shipping documents. At the Purchaser's request, the Purchaser is invited to observe the tonnage or the weighing operations.

### **4. ORDERS**

No later than two calendar days before the desired delivery date, the Purchaser must communicate the date of delivery, as well as the correct quantity to be delivered. The hour of delivery and a confirmation of the above information must be communicated to the Vendor before 2pm on the day prior to the day of delivery.

In the absence of these communications, the Vendor reserves the right to disregard the order.

In any case, contracts and consequently orders are only final after signed copies (by the Purchaser) have been confirmed by the Vendor. Orders are carried out against prices valid at the day of delivery as communicated by Vendor to Purchaser. Prices are never valid for a fixed period unless otherwise and specifically agreed by the Vendor and Purchaser.

For orders that require delivery on Saturday or Sunday, a surplus on the transport costs (for every lorry) will be charged and billed to the Purchaser by the Vendor as described below:

- Saturday: + 25%
- Sunday: + 50%

In the case an incomplete load (< 30 tonnes) was ordered by the Buyer, the transport price for a full load will nevertheless be charged to the Buyer, unless explicitly agreed otherwise between the Buyer and the Seller.

Prices always exclude VAT as well as any other taxes that may be levied on the sale of the goods.

## **5. HARDSHIP**

If any other unforeseen circumstances occur that could not reasonably be prevented by Vendor or Purchaser and which affect the economic basis of the Agreement to the detriment of one of the Parties, then the Parties must agree on the necessary changes to the order, including adjusting the price. If Parties fail to reach an agreement, the Vendor has the right to terminate the Agreement immediately without such act entitling Purchaser to a claim damages of any kind.

## **6. TRANSPORT**

Unless otherwise specified by Purchaser at the moment of ordering in accordance with the INCOTERMS, the delivery is carried out transport paid to the shipping destination indicated by the Purchaser.

If the Purchaser wishes to preserve its rights in the event of damage, it will exercise recourse against the carrier and notify the insurer immediately. As soon as these two formalities have been satisfied, upon request of the Purchaser the Vendor will offer its services to expedite the administrative arrangement of the claims.

## **7. ACCEPTANCE**

Without prejudice to the provisions under Article 2, the goods are considered accepted at the moment of unloading. Purchaser undertakes to ensure that the goods can be delivered easily and without delay or damage within the allotted time. If such is not the case, any resulting additional costs shall be borne by the Purchaser.

The construction and maintenance of the access roads to the unloading and parking area are carried out at the expense of the Purchaser and in accordance with the rules and regulations relating to road transport, local regulations and the general rules and regulations for workers' safety.

It must be possible to begin unloading lorries within 15 minutes of their arrival or, in case of simultaneous or successive deliveries, within 15 minutes of unloading the previous delivery.

The maximum time allowed time needed to unload is 60 minutes. Any overrun of this 60 minutes will, for each lorry, result in the payment of a compensation by the Purchaser claimed from Vendor by the

carrier (18,00 EUR for every 15 minutes begun following on the above mentioned maximum unloading period of 60 minutes).

Purchaser undertakes to observe the provisions of "Recommendations for the safety of loading/unloading and receiving of the goods in bulk", drawn up by the Vendor and available on the website. If the Purchaser does not observe these provisions, the Vendor may refuse delivery without resulting in a claim in compensation for damage. The person signing the delivery order is deemed to be the Purchaser's representative in carrying out the Agreement irrespective of the Purchaser's internal organisation. The Purchaser shall pay any fees or additional costs of any kind that are due at the location of delivery, for instance port or wharf rights, demurrage charges, fees owed in case of difficulties with or interruptions in shipping traffic because of ice formation and generally any costs not included in the base carriage rate and that relate to the transport of the purchased goods.

The Purchaser shall bear the costs of blowing the bulk goods, delivered free at quayside, into the silo by self-unloading cement tanker. For every hour started by which the pre-agreed unloading time frame is exceeded, the Dutch "Tariefbeschikking Overliggeld Binnenscheepvaart 1959 (Decree Laad- en Lostijden en Overliggeld in de Binnenvaart 1991)" of the "Vereniging van Nederlandse makelaars in scheepsvrachten" will apply. For sales in Belgium the Royal Decree of 2 May 1985, and any amendments hereto, relating to loading and unloading times and demurrage charges for river cargo applies.

#### **8. LIABILITY**

Unless and insofar as binding legal provisions in terms of (product) liability or public order so require and barring any wilfulness on the part of the Vendor, Vendor shall not be held liable for any compensation for loss or damage of any kind to a movable asset, estate or person, including any trading loss or consequential damages to the Purchaser or a third party that was caused directly or indirectly or relates to goods delivered by the Vendor or in Vendor's name or that was caused directly or indirectly by or is related to the use, the application or the processing or storage of said goods. Purchaser shall indemnify Vendor for all and any third-party claims for any kind of damage caused by wrongful or careless use of the goods the Vendor delivered to Purchaser.

#### **9. FORCE MAJEURE**

If Vendor is prevented from carrying out the Agreement in part or in full because of *force majeure* of a permanent or temporary nature, because of external or internal circumstances beyond Vendor's control, Vendor has the right to extend the delivery period accordingly and, without legal intervention and without being held to any compensation for damages, to terminate the Agreement in its entirety or in part by means of a written notice. In such case, Vendor will continue to be entitled to payment of Purchaser for goods delivered prior to the case of *force majeure*.

*Force majeure* is understood to mean any circumstances that prevent Vendor from temporarily or permanently fulfilling its obligations, including but not limited to government measures, strikes, lock-outs, accidents, fire (at Vendor's and/or one of Vendor's suppliers), non-delivery by suppliers of goods required to deliver goods as well as transport difficulties, traffic jams, mechanical defects, weather conditions, epidemics, quarantine, mobilisation, state of emergency, state of war, unexpected loss of the operating license and/or CE/BENOR certification, i.e. any circumstances as a result of which the Vendor can no longer be reasonably expected to carry out or continue carrying out its obligations to Purchaser. Vendor may also invoke *force majeure* when it occurs after Vendor's obligation was suppose to have been carried out.

## **10. TERMS OF PAYMENT**

Unless expressly agreed otherwise, all sales are deemed to be carried out against payment within 15 days of the date of invoice, payable in Gent without discount. Any disputes about invoices must be made known by registered post no later than 7 days after the invoice date. Any other method of payment does not detract from this general rule and does not imply that Vendor waives the above-mentioned clause.

If the Purchaser fails to comply with the payment obligation, any special terms of payment agreed upon between Vendor and Purchaser shall automatically be rescinded and the conditions of payment as stipulated above and below shall be of immediate application.

The non-payment of an invoice by the due date entitles Vendor to demand the full and immediate payment of any amounts still owing by Purchaser, regardless of the reason for non-payment.

In the event of late payment, Purchaser will automatically be held liable for payment of a contractual compensation of 15% of the invoice amount with a minimum of 250.00 EUR as well as late-payment interest in the amount of 12% per year.

In the event of a late payment, Vendor reserves the right to terminate or suspend existing contracts. In case of a termination, Purchaser will be held liable for payment of a termination compensation of 15% of the value of the contracts thus terminated. No dispute in this matter shall entitle Purchaser to suspend the payment obligation to which it is bound.

Every payment shall first be imputed by Vendor to late-payment interest already owing. Bills or other demand notes issued by Purchaser and/or accepted by Vendor shall not result in or imply novation.

## **11. RETENTION OF TITLE**

All goods delivered by Vendor remain Vendor's property until such time as Purchaser has paid all amounts owing in full, from whatever cause. Purchaser shall bear all risks relating to the Goods in Purchaser's possession.

## **12. PLACE OF RESIDENCE**

Vendor's elected place of residence is the registered office at 9042 Gent, Christoffel Columbuslaan 37. Purchaser shall explicitly direct all correspondence to the "Commerciële Dienst". Purchaser's elected place of residence is Purchaser's registered office.

## **13. JURISDICTION – APPLICABLE LAW**

Belgian law exclusively applies to the contracts. Any dispute or conflict that arises from the conclusion or performance of a contract is the exclusive jurisdiction of the Judicial District, Gent Division.

## **14. SUSPENSION – TERMINATION OF THE CONTRACT**

Contracts concluded by Vendor take into account financial situation of Purchaser as it is known at that moment.

Any change in the Purchaser's circumstances, including but not limited to, death, any other limitation on legal capacity, WCO, bankruptcy, debt mediation, publication of a protest, exceeded credit limit, outstanding accounts with the social security office, liquidation or reorganisation of the company, merger or scission, outstanding debt, etc., shall entitle Vendor to suspend performance of the contract

without resulting in Vendor being called to pay any kind of damages. In such cases, after examination of the situation, Vendor has the right to terminate the contract or inform Purchaser that performance of the contract can be continued under different conditions. If Purchaser chooses not to accept Vendor's new conditions, Purchaser has the right to request termination of the contract without such giving rise to any compensation for damages. In such case, Purchaser must pay all sums it owes Vendor immediately.

#### **15. TAXES**

The Purchaser shall be exclusively liable for payment of all duties, taxes and fees of any kind, regardless of when such duties, taxes or fees came into effect, that apply to the performance of the contract.

#### **16. NETTING**

Vendor, regardless of the name or brand under which it operates, is entitled to offset payments it owes to Purchaser in the framework of the performance of their contractual relationship, with sums Purchaser owes or will owe to Vendor, even when requesting or starting any kind of insolvency procedure. This clause constitutes a netting agreement as defined by the law of 15 December 2004 relating to financial guarantees and pertaining to various provisions of in rem collateral arrangements and loans regarding financial instruments.

#### **17. CLOSE-OUT**

In the event an insolvency procedure is requested or started, all sums owed by Purchaser to Vendor become immediately due and payable regardless of any agreed upon modalities and, in keeping with Article 16 of these General Conditions of sale, may be offset.

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