



General Conditions of Purchase – NMC Cellfoam

1. Validity

All orders for goods and/or the performance of services are subject solely to the present General Conditions of Purchase, unless otherwise explicitly agreed in writing. Suppliers' sales conditions which differ in substantive terms shall not become the basis for a contract even if in particular individual cases NMC does not explicitly contradict them. If NMC accepts the delivery/service without an explicit protest, this shall under no circumstances justify the inference that NMC accepts the supplier's delivery conditions. The supplier accepts these General Conditions of Purchase, as from the performance of the first order, for all future orders.

2. Offers

An offer is binding upon the party making it, and must be exact and complete. It must also precisely abide by the demand from NMC and in the event of deviations, explicitly indicate this. An offer must satisfy all legal and administrative provisions valid in Europe and in Belgium.

3. Orders

Orders are binding if they are made or confirmed in writing. Orders placed, and/or confirmations sent by e-mail, fax or electronic data transfer are assimilated to written form. Orders must be confirmed in writing by the supplier within 48 hours of receipt. Failing this, NMC shall be entitled to cancel. NMC may demand alterations to the delivery item even after the contract has been concluded, if this may be reasonably expected of the supplier. In such cases, the consequences, in particular in terms of higher or lower costs and delivery deadlines, are to be duly taken into account by both sides.

4. Security of supply

Any potential modification of the technical characteristics of the product released and delivered to NMC must be notified a minimum of 12 months before its introduction. In any case, the delivery of the modified product requires the prior written agreement of NMC in the framework of a fresh release of the pre-delivered samples. This likewise applies in the event that the product is manufactured on the basis of the instructions of NMC.

The procedure in Article 4 § 1 shall apply in the following cases: change by the supplier of its sources of supplies of raw materials or components, change of the supplier's production site or major change to the supplier's production process.

In the case of a product developed specifically for NMC or in the case of a product in respect of which NMC has participated, whether directly or indirectly, in either its development or its manufacturing process, the supplier undertakes in all cases to deliver to NMC the object of the contract and to accept all orders from NMC on that subject. NMC undertakes to provide its supplier, as far as possible, with the purchasing forecasts based on the forecasts of its own clients. Unless agreed otherwise in writing, the supplier shall not benefit from any undertaking from NMC to take these estimated amounts.

5. Delivery / Passage of risk / Transport / Packaging / Documentation

Delivery shall be made at the cost of the supplier, free of charge, to the receiving location specified by NMC. In exceptional cases where NMC has to bear the freight costs, the supplier must select the method of carriage prescribed by NMC, or else the type of transport and delivery that is most advantageous for NMC. The risk shall pass to NMC only on receipt at our receiving location.

The supplier must guarantee safe transport packaging which allows for proper delivery. Any disposal costs in respect of the packaging are to be borne by the supplier. On every delivery, the delivery dockets, packing slips and invoices must include the following details: NMC order number and item number; NMC item description; the NMC contact person indicated on the order; quantities and quantity units; gross, net and as appropriate computation weight; statistical code of the good/s; remainders outstanding in the case of part deliveries; where agreed, control test certificates, certificates of analysis; batch or lot numbers; in addition, in the case of deliveries of hazardous goods, a safety data sheet in accordance with the valid EU directives and a notice giving concrete information regarding handling and storage.

The REACH regulation requires that before the first delivery and every time a change is made to the composition of the product supplied by the supplier or any revision is made to the REACH regulation, including its annexes, e.g.: 14, 15 and 17 or the lists of substances identified as being dangerous on the basis of another regulation (Excel file of 'directives' to be completed and sent back to NMC), the supplier must inform NMC of the presence of any SVHC listed in the latest version of REACH and its annexes, stating the concentration present of each of the said substances. It must provide NMC with a safety sheet complying with the latest European directives applicable, as well as the detailed handling and storage instructions. The supplier will be held liable for any direct or indirect damage incurred by NMC following an incomplete, out of date or incorrect declaration.

In supplying the products, the supplier accepts automatically to comply in all respects with the NMC Sustainable and ethical procurement principles available on following link:

https://nmc.eu/wp-content/uploads/2022/12/NMC_Ethical-and-Sustainable-Procurement_Final_EN.pdf

NMC reserves the right to levy a flat-rate charge of a minimum of € 150.- or 2% of the value of the goods to cover any additional expenditure or delays caused to us as a result of defective or missing details. This sum will be withheld from the appropriate invoice. Invoices will remain open for as long as the supplier fails to draw them up correctly.

Partial, over- or under-deliveries, as well as early deliveries or services, require our prior consent.

6. Deadlines, default of delivery

Delivery deadlines agreed are binding and relate, unless otherwise agreed, to the arrival at the place of performance specified in the order. In the event that delays are likely, the supplier must notify this immediately in writing. If a supplier fails to comply with agreed delivery deadlines, it shall be required to compensate NMC for the damage caused by the delayed performance, insofar as it is answerable for the delay.

After a deadline has been extended to no avail, or if interest ceases to exist, NMC shall be entitled to demand compensation for non-performance, or to withdraw from the order concerned. In the case of repeated default of delivery, NMC shall be entitled, after serving due notice, to terminate the order not fulfilled at that point, as a whole, with immediate effect and without cost. NMC is entitled to return deliveries made before the agreed deadline at the supplier's cost and at its risk, or to charge storage fees.

7. Payment and payment conditions

The prices are fixed prices and net of value-added tax. They include packaging and carriage, unless otherwise agreed in writing. Invoices are to be issued separately for every order.

Payment is made only after the full arrival of the defect-free goods or the complete defect-free performance of the service, and on receipt of the correct invoice. In the case of part deliveries, this applies accordingly. Time delays arising, as a result of incorrect or incomplete invoices shall not affect the agreed discount periods. Payment will be on choice of NMC with a discount of 3 % if made in 20 workdays or 60 days end of month unless otherwise explicitly agreed in writing. Payments are to be made by the means of payment of our choice.

The supplier is not entitled, without the prior written consent of NMC, to assign its claims or to have them collected by third parties. The settlement of an invoice does not equate to the relinquishment of a letter of complaint regarding the goods invoiced. In the event of a defective delivery, NMC shall be entitled to retain payment until correct performance.

8. Notice of defects, guarantee and liability

Defective deliveries will be notified by NMC to the supplier immediately in writing, as soon as they are noticed in the ordinary run of business. The supplier shall relinquish the objection of a late letter of complaint.

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The supplier guarantees that the items forming the subject of the contract are free of faults and that they meet the agreed specifications and the recognised industry standards.

Where defective goods are supplied, NMC shall be entitled to demand either a repeat delivery or reworking, after prior agreement with the supplier. If the repeat delivery or reworking generates higher costs for NMC in meeting its own delivery deadlines, these are to be borne by the supplier.

If the good is resupplied in a defective state, or if the reworking is unsuccessful, NMC shall be entitled, after written notice, in the event of repeated defective deliveries/defective reworking, to cancel the order without costs, even for the part of the delivery not yet satisfied at this point, with immediate effect.

NMC is entitled, after prior agreement with the supplier, to sort out and return or destroy defective items forming the subject of the contract at the supplier's cost. NMC reserves the right to levy a flat-rate charge of € 150.- to cover any additional claim expenditure.

Should a supplier fail to comply immediately with NMC's demands for repeat delivery or reworking, NMC may withdraw from the order and return the goods at the supplier's cost and at its risk.

In urgent cases, where possible after first notifying the supplier, NMC may, to the extent necessary in order to meet its own delivery obligations, carry out reworking itself, or have it carried out by a third party, or as appropriate procure the items forming the subject of the contract without defects from third parties. The costs involved in this are to be borne by the supplier.

Where, despite compliance with the regulations in point 8 § 1 of these conditions, a defect is not discovered until after the further processing of the items forming the subject of the contract, the supplier shall be obliged to bear all the costs associated with the exchange or reworking of the defective items forming the subject of the contract, in particular testing, transport, route, work and material costs, etc. These also include the costs of a necessary exchange or the repair of products into which NMC has incorporated defective items forming the subject of the contract and the costs of handling and warranty processing (incidental material charges).

Where, as a result of a series error, the exchange of an entire series of items forming the subject of the contract, or NMC products into which the items forming the subject of the contract have been incorporated is necessary, for example because an error analysis in the individual case is uneconomic, impossible or unreasonable, the supplier shall also refund the above-mentioned costs with regard to the part of the series concerned, which technically shows no defects. The statutory limitation is interrupted by the letter of complaint.

The supplier undertakes to make good all damage caused by itself, its agents or assistants or their agents during the performance of the order. Where damage to NMC or a third party because of the delivery of defective parts or the defective performance of a service or other prejudice to contractual obligations is caused, the supplier must pay for all such damage in the framework of the legal provisions.

The supplier takes responsibility for the measures taken by NMC or the NMC customer for the purposes of defence against damage (eg recall actions), insofar as it is legally so obliged.

The supplier undertakes to take out product liability insurance in respect of all deliveries made by it and services provided by it, with cover appropriate to the risks in an amount of at least € 5,000,000.- (in words: five million euros) for damage to property and persons including cover for recall costs. The type and scale of the insurance protection including the appointment of the third-party risk insurer are to be proved to NMC on request in an appropriate form.

9. Security of delivery

Any intended technical alteration to the delivery of accepted goods is to be notified promptly by the supplier to NMC, if possible at least 12 months before the introduction of the alteration. In any case, the delivery of altered goods requires NMC's explicit prior written consent, for instance in the context of a renewed initial sample acceptance. Insofar as goods are manufactured to NMC's specifications, this also applies in the case of the alteration itself.

If the supplier intends to discontinue the manufacture of the goods delivered by it, it must inform NMC in writing accordingly at least 12 months in advance, to give NMC plenty of time to find an alternative sourcing option. Should this not be the case, the supplier bears full responsibility as well as the associated direct and indirect extra costs arising.

Changes to the composition of the goods and/or the production process of the supplier which (might) have an impact on the use to which NMC intends to put these goods may be made by the supplier only after prior written approval on the part of NMC.

10. Industrial property rights and protection

The supplier ensures that its delivery and the use to be made of it do not breach industrial property rights, copyrights of third parties or other rights held by third parties and do not infringe legal or official provisions of any kind whatsoever. It indemnifies NMC and its customers from all claims arising from the use of such industrial property rights. The obligation of protection upon the supplier also extends to all expenses which necessarily arise for NMC in connection with utilisation by a third party or NMC customer.

11. Force majeure

War, civil war, export or trading restrictions on account of a change in political circumstances, together with strikes, lockout, operational disturbances and restrictions and similar events which make it impossible or unreasonable for us to fulfil the contract shall be regarded as constituting force majeure and shall release us for their duration from the duty of timely acceptance. The contractual partners are obliged to notify each other about this accordingly, and to adapt their obligations to the changed circumstances in good faith.

12. Material provided

The materials and appliances provided by NMC, which the supplier requires for its activities, remain the property of NMC. The supplier is obliged to handle them carefully, to store them properly, and to insure them against fire, water and storm damage and other potential risks at reinstatement value.

Before the start of manufacturing, the supplier must inspect the materials provided for visible defects, and conduct an identity examination. During manufacture, the supplier will undertake further examinations and document them in line with instructions. Should the supplier identify any quality defects in the materials or appliances provided by NMC, NMC is to be notified immediately in order to agree the further measures.

As such, it is to be stored separately and used only for NMC orders. The supplier is also liable for impairment of value or loss even without fault.

13. Confidentiality

All information which the supplier receives direct or indirect from NMC, together with all plans, samples or documents, etc. which it draws up during the performance of the order, is confidential. It may not be divulged to third parties, and may be used only for the performance of the contract. The documents are to be issued to NMC without delay at our first time of asking.

Where a separate confidentiality agreement has been concluded with the supplier, its provisions take precedence in any doubt. The obligation of confidentiality applies in the same way for the staff and assistants of the supplier. The duty of confidentiality also applies for prices agreed with the supplier and other contractual conditions.

14. General provisions

Should one contractual partner suspend its payments, or should the opening of insolvency proceedings be applied for against its assets, then the other party is entitled at that point to withdraw from the order in respect of the parts of the delivery still remaining to be completed.

Should a provision in these conditions be or become ineffective, this shall not affect the validity of the remaining conditions. The contractual partners are obliged to replace the invalid provision, by joint agreement, with a regulation which comes as close as possible to its economic effect.

The place of performance is the headquarters of NMC or the receiving stations indicated by NMC.

Only Belgian law shall be applicable.

The place of jurisdiction for all disputes arising in connection with these conditions and the deliveries made in accordance with them shall be the headquarters of NMC, or for complaints by NMC, an otherwise competent court.

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