

# General terms and conditions of sale and delivery Hempel Special Metals

## 1. General Informations

Hempel Special Metals SAS (hereinafter referred to as « **Hempel Special Metals** ») provides various products (hereinafter referred to as « **Products** ») to any professional buyer (hereinafter referred to as « **The Buyer** ») upon request. .

The Seller and Buyer may individually be referred to as a « **Party** » and collectively as the « **Parties** ».

These general terms and conditions of sale and delivery (hereinafter the "GTC") apply without restriction or reservation to any order placed with Hempel Special Metals and prevail over any condition not expressly accepted by Hempel Special Metals, including The Buyer's general terms and conditions of purchase, unless there is a prior written agreement to the contrary, expressly and specifically from Hempel Special Metals.

Any order placed by The Buyer implies their full and unconditional adherence to these GTC, which are communicated by Hempel Special Metals along with the quotation (hereinafter the "**Quotation**"), provided prior to any order. In the event of a contradiction between the GTC and the Quotation, the latter shall prevail.

Regardless of any translations of these GTC, the French language version shall prevail.

## 2. Order

### 2.1. Order validation

All information contained in catalogs, brochures and on the Seller's Internet site or in any other advertising material is provided for indication only, subject to revision at any time and cannot be considered as firm offers.

The Quotation defines the special conditions that complement or modify these GTC, including details of the Products that Hempel Special Metals intends to sell to the Buyer, their cost and any deposit required. The Quotation and the indicated prices are valid for the duration specified in the Quotation.

Any order is validated and becomes firm and definitive, subject to the availability of the Products ordered, after the Buyer has signed and returned these Terms and Conditions and the Quote to Hempel Special Metals, and after Hempel Special Metals has sent a written confirmation acknowledging the receipt of the order to the Buyer (hereinafter referred to as the "**Order**").

For the purpose of these GTC, any advance payment made by the Buyer shall not be considered as a down payment within the meaning of Article 1590 of the French Civil Code.

It is the Buyer's responsibility to verify that each Product offered by Hempel Special Metals in the context of the Order meets their needs, and to immediately notify Hempel Special Metals of any misunderstanding or doubt regarding the ability of a Product to meet their requirements.

The Buyer acknowledges having received all necessary and relevant information enabling them to make an informed decision, and having been provided with any information that may influence their consent.

### 2.2. Order modification

No Order modification will be taken into consideration if it has not been expressly accepted by Hempel Special Metals.

In the event that Hempel Special Metals accepts the requested modification, it may result in a change of the price amount and the issuing of a new Quotation, which will be validated under the conditions described in Article 2.1 "Order Validation" above.

The Buyer shall bear all direct or indirect consequences resulting from this Order modification and will bear any potential extension of the deadlines.

### 2.3. Cancellation of Order

No cancellation of the Order can be taken into consideration.

The Buyer shall remain required to pay the full amount of the Order to Hempel Special Metals and payment of all costs incurred by Hempel Special Metals.

### 2.4. Warranty or advance payment

In case of Hempel Special Metals identifies a risk regarding the solvency of the Buyer after the approval of the Order, in particular in absence or delay of payment of a previous Order, it is entitled to demand, from the Buyer, the provision of guarantees or advance payment of the Order.

This request must be made in writing and on a durable medium.

Pending the aforementioned advance payment or the provision of guarantees requested by Hempel Special Metals, the Order is suspended, regardless of its nature or progress status.

If warranties are not granted or if the advance payment is not made within seven (7) calendar days following the request of Hempel Special Metals, it has the right to terminate the Order automatically within a period of eight (8) calendar days following the receipt, by the Buyer, of a registered letter of formal notice, which remains unsuccessful and explicitly mentions the application of this clause.

## 3. Transfer of risks, shipment and packaging

The transfer of risks of loss and damage is governed by the incoterm indicated in the Order (hereinafter referred to as the "Incoterm").

However, if delivery is delayed due to reasons attributable to the Buyer, the risks are transferred to Buyer on the day Buyer is notified that the ordered Products are ready for delivery.

Unless otherwise agreed by the Parties, shipment is carried out through an appropriate shipping method in standard packaging. The packaging and shipping cost of are borne by The Buyer and will be separately indicated on the invoice issued by Hempel Special Metals.

Transport insurance is only taken out upon request and at The Buyer's expense.

## 4. Deadlines and delivery dates

Delivery dates and deadlines are binding only if they have been confirmed in writing by Hempel Special Metals and provided that The Buyer has previously communicated or made available to Hempel Special Metals, as agreed upon, all necessary information for the execution of the delivery, including quality specifications, approved drawings, documents, approvals and releases, and the payment of any required deposit.

The agreed deadlines start from the date of the written Order confirmation.

In the case of additional Orders or subsequent extensions, the deadlines are extended accordingly.

Delivery deadlines considered met when the ordered Products are handed over for delivery in accordance with the Incoterm specified in order.

Delays in delivery are possible, in particular due to production bottlenecks. Hempel Special Metals is entitled to make partial deliveries, provided that its own suppliers deliver correctly and in a timely manner.

Hempel Special Metals shall not be held responsible in any way for delays or suspensions of delivery attributable to The Buyer, any third party or force majeure events.

## 5. Prices, invoicing and payment

### 5.1. Prices

The prices are stated in euros on in the currency defined in the written Order confirmation and according to the Incoterm, excluding taxes, packaging fees, transportation costs, and anticipated disposal fees. Consequently, they will be increased by the amount of legally applicable VAT on the day of invoicing.

The price stated in the Order.

The prices of semi-finished Products ordered from Hempel Special Metals are calculated based on the weight of the semi-finished Products measured by Hempel Special Metals, unless another method has been agreed upon, such as per piece or by theoretical weight.

## 5.2. Invoicing

The Order will be invoiced upon delivery.

Hempel Special Metals reserve the right to issue partial invoices in case of partial deliveries as mentioned in Article 4.

## 5.3. Terms of payment and conditions

All payments are to be made via bank transfer to the coordinates provided by Hempel Special Metals.

Unless otherwise specified in the Order and except for the Buyer's first Order with Hempel Special Metals, which be paid on Order, each invoice from Hempel Special Metals must be paid in full within thirty (30) calendar days of receipt of the invoice.

Any payment delay by The Buyer will result in the automatic application, without any prior formalities or notice, of a lump sum indemnity for recovery costs in the amount of forty (40) euros as well as late payment penalties at the rate corresponding to the interest rate of the European Central Bank's most recent refinancing operation, increased 10 percentage points, without prejudice to any other damages and interest that may be owed.

If The Buyer is in payment arrears, Hempel Special Metals have the right to refuse any new Order from The Buyer until the outstanding amounts, including late payment interest, are fully settled.

Any claim by The Buyer may not under any circumstances lead to a deferral or suspension of payments.

Unless expressly agreed upon in writing by Hempel Special Metals, and provided that the reciprocal claims and debts are certain, liquid and due, no valid set-off can be made between the Parties.

## 5.4. Discounts

Hempel Special Metals will not grant any discount for payments before the date indicated on the invoice or within a period shorter than that stated in these GTC.

## 6. Retention of Title

The ordered Products remain the property of Hempel Special Metals until the full payment of the purchase price by The Buyer, followed by the collection of the corresponding amounts, even in the case of a payment extension, regardless of the date of delivery of said Products.

## 7. Warranty

### 7.1. Conformity Warranty

Hempel Special Metals guarantees that the ordered Product(s) have the agreed-upon quality at the time of their delivery to the Buyer.

This quality is measured exclusively based on the specific written agreements between the Parties regarding the properties and characteristics, specifications, standards of the ordered Product(s) as well as the Buyer's particular requirements expressly accepted in writing, on any durable medium by Hempel Special Metals.

Any other warranty, in particular regarding the value or suitability for intended particular purpose, is expressly excluded.

The information in catalogs, price lists and other information material provided to The Buyer by Hempel Special Metals as well as descriptive indications of the Products must not be considered as guarantees of a particular quality of the ordered Products. Such guarantees of quality must be expressly agreed in writing.

The Buyer is responsible for immediately and carefully inspecting the quantity, dimensions and quality of all ordered Products upon receipt. Any claims and reservations must be communicated in writing (including by e-mail) to Hempel Special Metals within five (5) working days of receipt of the Products ordered and must be accompanied by a detailed description. In all case, any apparent transport damage must be immediately reported in writing to Hempel Special Metals and

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noted on the carrier's delivery note.

Hempel Special Metals will remedy, at their discretion, either by eliminating the defect at no cost to The Buyer or by delivering defect-free replacement product (referred to as "**Subsequent Performance**"). Any other warranty claims (particularly claims for compensation) are excluded. Hempel Special Metals may refuse Subsequent Performance if it would involve disproportionate efforts and/or costs.

If the claim is found to be unjustified, intentionally or due to gross negligence, The Buyer is required to reimburse Hempel Special Metals for all expenses incurred in this context (example: travel or shipping costs).

## 7.2. Exclusion of Warranty for Hidden Defects

In accordance with Article 1643 of the French Civil Code, when Hempel Special Metals and The Buyer are of the expertise, The Buyer expressly acknowledges that they do not benefit from any warranty for hidden defects in the sold Products.

When the Buyer is not of the same expertise as Hempel Special Metals, the latter is bound by the warranty for hidden defects of the sold item within the meaning of articles 1641 and following of the Civil code.

## 8. Liability of Hempel Special Metals

### 8.1 . Limitation of Liability

Hempel Special Metals liability for any proven claim, liabilities, or expenses, of any nature, shall be limited to the amount of the price excluding taxes, actually paid by The Buyer and received by Hempel Special Metals, relating to the respective Order.

Hempel Special Metals liability is also limited to direct material damage, excluding any indirect and/or immaterial damages, particularly, damages related to The Buyer's business activities, any loss of turnover, profit, operation, customer base, business reputation, moral, financial or economic damages and any other loss of revenue or loss of earnings incurred by The Buyer.

### 8.2 . Exclusion of liability

Hempel Special Metals shall not be held liable for any failure or delay that does not result from their own actions but from the action of The Buyer or a third party, including but not limited to:

- When the delay in the delivery of the ordered Products is attributable to The Buyer, particularly in cases of the recipient's absence for the receiving the ordered Products, or due to errors cause by a lack of information or incorrect information provided by the Buyer.
- When the delay is due to a force majeure event or the actions of the carrier responsible for the delivery.

## 9. Force majeure

Hempel Special Metals shall not be held liable if the non-performance or delay in the execution of any of their obligations described in these GTC results from a case of force majeure as defined in Article 1218 of the Civil Code.

Furthermore, force majeure events include those recognized by case law, including but not limited to: total or partial strikes, whether internal or external to Hempel Special Metals, epidemics, pandemics, the blocking or disruption of communication, telecommunication or postal services, unavailability and shortage of raw materials and/or equipment, terrorist attacks, wars of any kind, fires, frost, storms, floods, transportation blockages, water damage, power outages, lockdowns, administrative measures or similar events.

Hempel Special Metals shall notify The Buyer in writing and through any durable medium as soon as possible, on, in the event of force majeure. The occurrence of a force majeure event shall have the effect of suspending the performance of Hempel Special Metals' contractual obligations.

Upon the cessation of the cause of the suspension of its obligations, Hempel Special Metals shall make every effort to resume the normal performance of their contractual obligations. To the end, they shall notify The Buyer of the resumption of their obligations...

If the impediment is permanent or persists beyond sixty (60) calendar days, either Party may terminate the Order, by operation of law, by registered letter with acknowledgement of receipt informing the other Party of the application of this force majeure termination clause.

## 10. Hardship

In the event of unforeseeable change in circumstances at the time of Order validation, in accordance with the provisions of Article 1195 of the Civil Code, the Party that has not agreed to bear an excessively burdensome performance risk may request renegotiation of the contract from the other Party.

The hardship provision shall apply only to events or circumstances that result in a variation of more than 10% compared to the initially agreed price between the Parties at the time of Order validation.

## 11. Intellectual property

Hempel Special Metals retains all copyrights and intellectual property to all documents such as drawings, sketches, calculations, and specifications provided to The Buyer before or after the conclusion of the Order. No intellectual property rights or know-how are transferred to The Buyer as a result of purchasing one or more Products.

## 12. Personal Data Protection

In the context of fulfilling the Order, The Buyer is informed that Hempel Special Metals processes personal data of the individual(s) responsible for the Order, within the meaning of the General Data Protection Regulation (the "RGPD") and the French Data Protection Act (hereinafter referred to as the "**Applicable Regulations**"), as the data controller.

The processing is based on the performance of these General Conditions under Article 6.1.b of the RGPD for the following purposes:

- Management, execution and delivery of the order;
- Customer relationship management ;
- Billing and payments management;
- Exercise of rights by the individuals concerned.

Personal data is intended for Hempel Special Metals and any parent or subsidiary company within the group to which it belongs.

When Hempel Special Metals transfers your data to group companies outside the European Union and the European Economic Area, in countries which have not received an adequacy decision from the European Commission, it ensures that a sufficient and appropriate level of data protection is respected, through the implementation of binding rules (or Binding Corporate Rules (BCR)).

The personal data is retained for the entire duration of the Order execution and for five (5) years following the date of its completion, for archiving purposes.

Each person whose personal data is processed has the right to limit the processing, access, rectify, rease, and port their data. They may expressly object to the processing of his or her personal data, unless this objection affects the proper performance of the order. To exercise their rights, each person concerned may write to Hempel Special Metals by e-mail: [france@hempels-metals.com](mailto:france@hempels-metals.com), or to the address:

### HEMPEL SPECIAL METALS

13 RUE PIERRE-GILLES DE GENNES – 69007 LYON

In case of difficulties related to the management of their data, the concerned person has the right to file a complaint with the CNIL:

Telephone: 01 53 73 22 22

Website: [www.cnil.fr](http://www.cnil.fr)

Finally, the person concerned is informed of their right to refer the matter to the competent administrative authority if they believe that their rights or those of their personnel have not been respected.

## 13. Final Provisions

### 13.1 . Assignment

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The Buyer is prohibited from assigning, transmitting or transferring, for any reason and in any form in whole or in part, its rights and obligations arising from these GTC to a third party whether in return for payment or free of charge, all or part of, and from entrusting a third party with the performance of all or part of its obligations, without the prior written consent of Hempel Special Metals.

### 13.2 . Amendments

Amendments and additions to the contract and/or these GTC as well as any additional agreements require written form. This also applies to a modification of the requirement for written form.

### 13.3 . Independence of clauses

If a provision of these GTC and/or the Order or the Order Confirmation is or becomes wholly or partially invalid, the other provisions shall not be affected. The Parties undertake to replace the invalid provision with a valid provision that economically comes as close as possible to the purpose of the invalid provision. The same shall apply in the event of a regulatory gaps.

### 13.4 . Tolerance

A belated exercise or absence (even partial) of the exercise of rights by a party shall not be deemed as a waiver of those rights and shall not result in their forfeiture.

### 13.5 . Applicable law – Jurisdiction

The present General Conditions and any sales contract, as well as the sales they govern, are subject to French law, to the exclusion of any other law.

ANY DISPUTE BETWEEN HEMPEL SPECIAL METALS AND ANY BUYER REGARDING THESE GENERAL TERMS AND CONDITIONS AND THE CONTRACT, INCLUDING THEIR VALIDITY, APPLICATION, INTERPRETATION, PERFORMANCE, TERMINATION, CONSEQUENCES AND FOLLOW-UP, AS WELL AS THE PAYMENT OF THE PRICE, SHALL BE SUBMITTED EXCLUSIVELY TO THE COURTS OF LYON, WHICH SHALL HAVE EXCLUSIVE JURISDICTION UNDER THE CONDITIONS OF COMMON LAW, INCLUDING IN SUMMARY PROCEEDINGS, NOTWITHSTANDING THE INTRODUCTION OF THIRD PARTIES OR THE PLURALITY OF DEFENDANTS.