

1. **Definitions** The terms written in capital letters have the following meaning:
  - “**Business Day**” means a calendar day, other than Saturday, Sunday and public holiday, at the places where Seller and Purchaser have their respective registered offices;
  - “**Framework Agreement**” means a written agreement between Purchaser and Seller determining the terms and conditions on which Seller will supply the Products to Purchaser within the specified period of time. The Framework Agreement may be entered either by Purchaser’s acceptance of Seller’s Framework Proposal or by way of execution of a negotiated written agreement between Seller and Purchaser;
  - “**GTC**” means these General Terms and Conditions of Sale as from time to time amended by Seller and notified to Purchaser;
  - “**Incoterms**” means the latest ICC Incoterms edition, unless otherwise expressly agreed in a Framework Agreement or indicated in an Order confirmed by the Seller;
  - “**Order**” means Purchaser’s order, written or oral, for Products submitted to Seller by Purchaser’s authorized representative in accordance with Art. 4 (Orders);
  - “**Order Confirmation**” means a written, unconditional Order’s confirmation signed by the Seller’s authorized representative;
  - “**Products**” means any and all Products offered, from time to time for sale by Seller;
  - “**Purchaser**” means any person, company or other entity purchasing Products from Seller in the course of its business;
  - “**Seller**” means:
    - a) **Nissha Metallizing Solutions NV**, with registered office in Woudstraat 8, B-3600 Genk, Belgium, referred to also as the “**Belgian Seller**”, or, as the case may be,
    - b) its Italian subsidiary **Nissha Metallizing Solutions S.r.l.**, with registered office in Via Lombriasco 4-12, 12030 Casalgrasso (CN), Italy, referred to also as the “**Italian Seller**”;
  - “**Seller’s Framework Proposal**” means a written proposal made by Seller to Purchaser, providing the terms and conditions on which Seller proposes to supply the Products to Purchaser within the specified period of time, indicating, among others, delivery terms and relative Products’ prices;
  - “**Single Transaction Order**” means an Order submitted without a prior signed Framework Agreement, in accordance with Art.4 (Orders).
2. **General** Unless otherwise expressly agreed by the parties, these GTC govern all sales of Products by Seller to Purchaser and take precedence over all and any terms and conditions of the Purchaser (including, without limitation, Purchaser’s general conditions of supply/purchase) that could otherwise apply to such sale. Catalogues, brochures, price lists, technical specifications and other information materials provided by Seller to Purchaser do not constitute a binding offer to sale and are supplied without any commitment.
3. **Contract Formation** A contract for sale of Products may be formed by way of executing a Framework Agreement followed by specific Order(s) and respective Order Confirmation(s) issued within its scope, or, in absence of a Framework Agreement, by way of the exchange of Purchaser’s Single Transaction Order and relevant Order Confirmation by Seller. In each case, a contract for sale of Products as between Purchaser and Seller shall be deemed conditional upon previous written acceptance by Purchaser of these GTC which, for the avoidance of any doubt, shall regulate all matters not expressly regulated in signed Framework Agreement (if applicable), or in an Order confirmed by the Seller.
4. **Orders** Whether submitted within the scope of a Framework Agreement or as a Single Transaction Order, an Order to be valid must: (i) specify type and quantity of ordered Products and requested terms and conditions of delivery, (ii) be placed or submitted by an authorized representative of Purchaser to an authorized representative of Seller, (iii) be placed or submitted together with a properly signed copy of these GTC, unless the signed copy thereof has been attached to/submitted with the binding Framework Agreement. An Order will be considered as fixed and binding upon Purchaser upon its receipt by Seller and will be considered as binding upon Seller only upon receipt by Purchaser of corresponding Seller’s Order Confirmation. In the event of an oral Order or orally made modifications and/or specifications to a written Order, the Order Confirmation will be considered as accepted by Purchaser, for the purposes of proof, after 5 (five) Business Days from receipt of the Order Confirmation by Purchaser, unless objected in writing by the Purchaser within the same timeframe. Any Order submitted by Purchaser, which do not comply with provisions of this Art. 4 (Orders), may be considered by Seller as null and void. For the avoidance of any doubt, in case of a Single Transaction Order or if Purchaser has not specified its authorized representative in the binding Framework Agreement, Seller shall have the right to assume that the person(s) signed on the Order has(ve) been duly authorized to do so by the Purchaser.
5. **Prices** The prices indicated in a Framework Agreement and/or in an Order Confirmation are indicative and, up to the issuing of the relevant invoice(s), may be changed by the Seller in line with relevant market fluctuations and/or increase/decrease in the prices of raw materials that occurred after the execution of the Framework Agreement and/or after the issuing of the Order Confirmation.
6. **Passage of Risk** Without prejudice to Art. 12 (Retention of title), the risk of loss of the Products passes to Purchaser at the moment of their delivery/collection pursuant to applicable Incoterms.
7. **Delivery** Delivery times and dates specified in Confirmation Order or otherwise are indicative and are for organization purposes only and any delay in the delivery time stated shall not give rise to any Purchaser’s claim or right to compensation. In any case, circumstances beyond the control of Seller shall result in suspension of the delivery time.
8. **Collection** Purchaser shall be ready to collect the Products at the agreed place and on the agreed delivery day/week and, if no delivery day/week has been agreed, not later than within 10 (ten) Business Days from being informed that the Products are available for collection. Seller shall have the right to charge to Purchaser documented costs and expenses (such as e.g. related demurrage costs, storage costs out of the Seller’s warehouse, etc.) incurred by him due to Purchaser’s default to timely collect the Products. Purchaser must examine Products prior to their collection. If the quantity of Products delivered is less than agreed (within the limits of applicable standard tolerance), Seller’s only obligation towards Purchaser shall be to deliver additional Products.
9. **Warranty** Seller warrants that the Products, at the time of their delivery, comply with Seller’s standard technical specifications in force at the time of their manufacturing, subject to the standard tolerance. The Purchaser assumes all risk and liability arising from the processing of the Products, including, without limitation, the use of the Products together with other substances or materials, or the use for the purposes not expressly communicated to Seller before the Order Confirmation’s issue. Seller shall not be liable under the warranty if Products non-conforming to the technical specification have been used or processed after the discovery of the non-conformity. Claims in relation to Products that have been damaged (in a way which affects their functioning) after their collection or that became unusable due to improper processing or use by the Purchaser, third party intermediary/supplier or final user, shall not be accepted. Any complaints regarding Products or regarding the execution of Seller’s obligation(s) under any Products’ sale contract entered hereunder shall be made within: 5 (five) Business Days from: (i) the receipt of the Products or (ii) in the event of a hidden defect, from the date on which such defect has been or should have been reasonably discovered and, in any case, not later than within six months from the date on which the Products have been or should have been collected. All complaints shall be made in writing, by recorded delivery letter, or email with confirmed receipt and shall state the nature and reason(s), which lay(s) at the basis of the complaint, quantity of Products affected and quote the delivery note number. The Seller’s sole guarantee shall be limited to, at Seller’s discretion, (i) the replacement, in part or in full, of the defective/non-conforming Products or (ii) the repayment, in full or in part, of the defective/non-conforming Product’s value resulting from relevant Order Confirmation. Unless stated in any relevant mandatory legal provision regarding manufacturer’s liability, the Seller shall not be liable to pay any compensation for losses and damages suffered, whether direct or indirect, foreseeable or unforeseeable including losses arising from the use of Products. This warranty is exclusive and replaces all other warranties, whether written or oral, implied or statutory, including, without limitation, every other warranty with respect to hidden defects, merchantability or fitness for certain purposes or particular purposes.
10. **Invoices, Payment** Unless otherwise results from relevant Framework Agreement or Order Confirmation, the Products shall be invoiced upon their delivery pursuant to relevant Incoterm and the invoices shall be payable on the payment date indicated in relevant invoice.
11. **Purchaser’s Payment Default and Penalty** If Purchaser fails to properly make any payment when due under Seller’s invoice for delivered Products, the Seller may:
  - a) charge default interest at a rate determined by the applicable legislation (including Directives of the European Parliament and of the European Council on combating late payment in commercial transactions). Therefore said rate will be determined by the Belgian law of 2 August 2002 on combating late payment in commercial transactions (*Wet van 2/08/2002 betreffende de bestrijding van de betalingsachterstand bij handelstransacties/Loi du 2 août 2002 concernant la lutte contre le retard de paiement dans les transactions commerciales*) if Belgian law is applicable, or by the Italian Leg.D. No 231/2002 of 9 October 2002 on combating late payment in commercial transactions (*D.Lgs. del 9/10/2002 n. 231 relativo alla lotta contro i ritardi di pagamento nelle transazioni commerciali*), if Italian law is applicable, in each case, as amended or restated from time to time; and/or
  - b) suspend any delivery of Products in progress to the Purchaser and/or accelerate payment of other invoices issued to the Purchaser, even if not due at that time. Without prejudice to the above Seller’s rights, in case the delay in payment exceeds 30 calendar days, Seller may also:
    - a) apply a penalty equal to 5% of such invoice’s unpaid amount and/or
    - b) indicate to Purchaser an additional payment date upon the lapse of which Seller shall have a right to declare the contract terminated “for cause” without any further notice.
12. **Retention of title** All Products shall remain the property of Seller until: (i) full payment of relevant invoice or, (ii) in case of partial payment, full payment of all relevant invoices, interest and any other sums due under these GTC, relevant Framework Agreement, if any, and relevant Order Confirmation, or (iii) where there is a standing account between the parties to the Framework Agreement, until payment of any outstanding balance owed by the Purchaser.
13. **Force majeure and Hardship** No party shall be held liable for failure to timely perform its obligations under any sale contract if the failure is caused by force majeure, including but not limited to, Act of God, war, strike, riot, export and import prohibitions, currency restrictions, third party’s crime, or other extraordinary event or circumstance beyond such party’s control, which could not reasonably be avoided or limited provided, however, that the party evoking the force majeure, shall promptly inform other party about the force majeure event and its implications on the contract’s fulfillment and shall cooperate in order to mitigate the consequences thereof. In case the force majeure event has not been remedied within thirty (30) calendar days, the other party shall be entitled to terminate the sale contract by written notice with immediate effect without further liability. Without prejudice to Art. 5 (Prices), in the event the performance of the Seller, for whatever reasons, has become excessively onerous due to an event beyond its reasonable control which it could not reasonably have been expected to have taken into account at the time of the conclusion of the contract, the Seller is entitled to terminate the sale contract by written notice with immediate effect and without further liability.
14. **Notices** Notices and communications in relation to the sale of Products between Purchaser and Seller shall be in writing, in English and shall be sent:
  - a) if to Seller, by recorded delivery letter sent to relevant Seller’s registered address indicated in Art. 1 (Definitions) or by email sent to the email address indicated in the Order Confirmation or in relevant Framework Agreement (where applicable)
  - b) if to Purchaser, by recorded delivery letter sent to Purchaser’s registered address or by email sent to the email address indicated in Purchaser’s Order or relevant Framework Agreement (where applicable).
 Any notice or communication shall be deemed as received: (i) if sent via recorded delivery letter, 3 (three) Business Days from being dispatched to address within EU or 10 (ten) Business Days from being dispatched to address outside EU, (ii) if sent via email, when effectively dispatched to the addresses indicated pursuant to points a) and b) above. For the avoidance of any doubt, it is agreed that any email message submitted in accordance with the provisions of this GTC, shall be considered as submitted in writing, even if not signed.
15. **Governing law** The validity, interpretation and implementation of any contract entered between Purchaser and Seller in relation to sale Products, shall be governed and construed:
  - a) in relation to the contracts entered by Belgian Seller – in accordance with the laws of Belgium, with the exclusion of its conflict rules; and
  - b) in relation to the contracts entered by Italian Seller – in accordance with the laws of Italy, with the exclusion of its conflict rules.
 The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to sale of Products as between Purchaser and Seller.
16. **Dispute resolution** Any dispute arising out of a contract entered between Purchaser and Seller in relation to sale Products, shall be referred to:
  - a) in relation to the contracts referred to in Art. 15 (Governing law) par. (a) above – to the sole and exclusive jurisdiction of the competent court of Antwerp (Belgium), Division Tongeren, or, at the Seller’s discretion, to the Courts having jurisdiction at the Purchaser’s domicile/registered office;
  - b) in relation to the contracts referred to in Art. 15 (Governing law) par. (b) above – to the sole and exclusive jurisdiction of the competent court of Turin, Italy or, at the Seller’s discretion, to the Courts having jurisdiction at the Purchaser’s domicile/registered office.