

**Article 1 Applicability and definitions**

1.1. These Terms of Use apply to the use of the Service.

1.2. In these Terms of Use, the following terms, always capitalized and used both singular and plural, are given the following meaning:

a. Subscription:

the subscription to use the Service for a duration of three (3) months or twelve (12) months, whereby the User can choose a number of functionalities included in the Service;

b. Item:

an article from these Terms of Use;

c. Shift:

the cloud software (software-as-a-service) made available online by Metal Heaven in the context of the Agreement with which the User can, among other things, perform Quotation Calculations and by means of which she can receive a file folder for further processing in production;

d. User:

the natural or legal person who enters into the Agreement with Metal Heaven, such as described the Registration Form or an Offer;

e. Terms of use:

these Terms of Use, available for download and print on [www.metal-heaven.com/general-conditions](http://www.metal-heaven.com/general-conditions)

f. Intellectual property rights:

all intellectual property rights and all related rights, including but not limited to copyrights, database rights, domain names, trade name rights, trademark rights, design rights, neighboring rights, patent rights, know-how rights, rights to trade secrets;

g. Office hours:

the hours from 8:30 am to 5:00 pm on weekdays (Monday to Friday), with the exception of official and official holidays recognized in the Netherlands;

h. Customer:

the Customer's User;

i. Metal Heaven:

the private company with limited liability Metal Heaven BV, registered in the trade register of the Chamber of Commerce under number 75407353, established in Tilburg on the Burg. Visserstraat 15 (5037 PN);

j. Quote:

a quote that Metal Heaven has made to the User that includes what the Service consists of and what fees are due for this;

k. Quotation estimates:

The calculations that can be performed by the User using the Service on the basis of drawing files supplied by the User;

l. Agreement:

the agreement between Metal Heaven and the User to use the Service, including these Terms of Use, the Registration Form or the Quotation (depending on whether the Agreement has been concluded by means of the Registration Form or a Quotation) and the user's choice Subscription;

m. Parties:

Metal Heaven and the User;

n. Privacy declaration:

the privacy statement of Metal Heaven, which is made available on [www.metal-heaven.com/privacy-statement](http://www.metal-heaven.com/privacy-statement)

o. Trial version:

The trial version of the Service that allows the User to perform a limited number of Quotation Calculations free of charge or to use the Service free of charge for a limited period;

p. Registration form:

the Registration Form that has been made available on the Website and has been completed and sent by the User, and in which Metal Heaven has recorded what the Service consists of and what fees are due for this;

q. Price list:

the most up-to-date price list, available via: [www.metal-heaven.com/rhodium24](http://www.metal-heaven.com/rhodium24)

r. Website:

the website <https://www.metal-heaven.com> and / or <https://www.metal-heaven.nl>

## **Article 2 Realization agreement**

2.1. Metal Heaven offers a Registration Form for use of the Service by the User on the Website.

2.2. Instead of a Registration Form, Metal Heaven can make an Offer to the User. An Offer is valid for the duration of thirty (30) calendar days after the date of dispatch by Metal Heaven, unless otherwise indicated in the Offer.

2.3. The Agreement is concluded when the User has received the confirmation email in which Metal Heaven has confirmed receipt of the completed Registration Form or, in the case of art. 2.2, by acceptance of an Offer by the User.

2.4. Art. 6: 227c Dutch Civil Code does not apply.

2.5. User guarantees that information entered on the Registration Form or included in the Quotation is complete, current, truthful and correct. User will immediately pass on relevant changes to its data, such as a change in its address and / or billing data, to Metal Heaven.

2.6. Any provisions or conditions of the User that deviate from, or do not appear in, these Terms of Use are only binding for Metal Heaven if and insofar as they have been expressly accepted in writing by Metal Heaven.

## **Article 3 Subscription**

3.1. When concluding the Agreement, the User must make a choice for a Subscription.

3.2. Modification of the Agreement during the term of a Subscription is immediately possible in consultation with Metal Heaven in the case of purchasing a larger Subscription (new functionalities, longer period or several companies) than for which the original Subscription was concluded. Changing or canceling this change (s) is only possible in consultation with Metal Heaven with effect from the following subscription period, without prejudice to the respective payment obligations under Article 7.

3.3. Changing the Agreement during the term of a Subscription Period is not possible in the case of purchasing a smaller Subscription (fewer functionalities, shorter period or fewer companies) than for which the original Subscription has been concluded.

3.4. A change as referred to in the preceding paragraph is possible if a Subscription is extended by the same period as for which the Subscription was concluded.

3.5. All the aforementioned changes take effect from the moment that Metal Heaven has confirmed the change by e-mail or from the date stated in that e-mail. Metal Heaven can set further conditions for acceptance of the change.

3.6. User is responsible for choosing a suitable Subscription. The user must himself investigate which functionality and which subscription suits her best. Metal Heaven B.V. or (one of) its reseller(s) only acts in an advisory capacity. No rights can be derived from these recommendations.

#### **Article 4 Execution of the Agreement**

4.1. Metal Heaven will provide the User, under the suspensive and resolutive conditions of the Agreement, the Service as described in the Agreement and on the Website for use under the conditions of this Agreement.

4.2. The obligation of Metal Heaven to make the Service available extends exclusively to the object code of the software for use as part of the Service, and explicitly not the source code of the software. The source code of the software and the accompanying technical documentation are not made available to the User.

4.3. The Service provided by Metal Heaven is performed on the basis of a best efforts obligation. The user accepts that the Service only contains the functionalities and other features as found on the Service at the time of use ("as is"). Metal Heaven explicitly excludes express and implied guarantees, promises and / or indemnities of any kind, including but not limited to guarantees, promises and / or indemnities with regard to the quality, safety, legality, integrity and correctness of the Service, unless otherwise specified in these Terms of Use.

4.4. The compensation rates stated by Metal Heaven are always indicative rates and do not bind Metal Heaven.

4.5. Metal Heaven can make an API available to the User to link the Service to external systems deemed suitable by Metal Heaven. The installation, the correct commissioning and the operation thereof is at the expense and risk of the User.

4.6. Metal Heaven is at all times entitled to change the Service, to adjust it, to put it (temporarily) out of use, to limit its use, and / or to terminate it, without being or becoming liable for any damages or liability to the User. If the User cannot agree with the adjustments and / or changes made, its only option is to stop using the Service and to terminate the Agreement, with due observance of the provisions of Article 8 of the Terms of Use.

#### **Article 5 Guarantees and responsibilities**

5.1. User acknowledges and accepts that Metal Heaven offers a Service that works exclusively on the basis of industry standards and catalogs of materials in combination with the data entered by Users. Metal Heaven does not guarantee that the standards and catalogs used for the Service are current and / or complete at all times. The user is solely responsible for the correct entry of her data.

5.2. User acknowledges and accepts that she herself is responsible for, and must investigate for herself how to set up the possibilities of the Service for his own use, including but not limited to initially setting up with which machines she works, what those machines work with. can and at what rates, and which preferences for calculations are made by the User

5.3. The user guarantees that the information entered by him is complete, up-to-date, truthful and correct and does not infringe any rights of third parties.

5.4. The tools and similar resources made available by Metal Heaven in the context of the Service are without obligation and offer no guarantee of success. The user acknowledges and accepts that Metal Heaven is not liable for (the outcome of) these means.

5.5. Metal Heaven has no knowledge of and / or involvement with the specific results that are made available to the User through the Service. Since Metal Heaven works with standards, the results delivered by the Service are not tailored to the specific User. The user acknowledges and accepts that Metal Heaven is not liable for the result delivered by the Service and / or the use thereof.

5.6. The user acknowledges and accepts that Metal Heaven is partly dependent on the services of third parties in the context of providing the Service. Metal Heaven is not liable for the services of third parties.

5.7. The User may be bound by the conditions of third parties for the performance of the Service. These conditions apply between the User and the relevant third party / parties, Metal Heaven is not bound by it. The User hereby authorizes Metal Heaven to enter into agreements with third parties required for the Service. Metal Heaven is not a party to that agreement (s). If the terms and conditions of third parties - for whatever reason - do not apply or appear to apply, then the terms and conditions of these Terms of Use apply.

5.8. User is fully responsible and liable for all actions that she performs with the help of the Service.

5.9. The user indemnifies Metal Heaven against any claim from third parties that arises through its actions with the help of the Service.

5.10. The user is responsible for the accuracy, availability and correct operation of the required (computer) equipment, browser (s) and internet connections. User is also responsible for the security thereof.

#### **Article 6 Trial version**

6.1. Parties can agree on a Trial Version. Through its Website, Metal Heaven will offer a Registration Form intended for this purpose that can be filled in and sent by the User. Metal Heaven will send the User a confirmation of receipt of the Registration Form by e-mail.

6.2. If the Parties have agreed on the Trial Version, the User has the right to use the Service for a limited period or to perform a limited number of Quotation Calculations without being bound to any payment obligation. This period starts from the moment that Metal Heaven has processed the request and has confirmed the use of the Trial version by e-mail. The Trial Version automatically ends after the agreed period or the number of agreed Offer Calculations. After this period, the User will no longer have access to the Service.

6.3. Metal Heaven reserves the right to remove, suspend or extend the Trial Version at any time.

6.4. Metal Heaven is in no way liable for the use of the Trial Version.

6.5. The Terms of Use apply to the User and the use of the Trial Version as they apply to the User and the use of the Service, taking into account the provisions of this article.

6.6. If the User wishes to continue to use the Service, the User must conclude an Agreement with Metal Heaven.

#### **Article 7 Payment and pricing**

7.1. A fee is attached to the use of the Service. The reimbursement for a Subscription must always be paid in full and in advance of the subscription period.

7.2. In addition to a reimbursement from the Subscription, a second component of reimbursement for use applies, namely the consumption part. This part concerns a fixed amount per processed part in the Service. This consumption part is always charged to the User afterwards, after each month in the Subscription Period.

7.3. Metal Heaven is responsible for the correct registration and reporting of the number of processed parts by (customers of) the User.

7.4. The amount of the compensation is determined on the basis of the Subscription Rates List, unless the Parties agree otherwise

7.5. All prices mentioned in the Tariff List are exclusive of turnover tax (VAT) and other levies that are or will be imposed by the government and are in euros.

7.6. All prices mentioned in the Price List can be changed by Metal Heaven. Price changes do not apply to already purchased Services and apply with effect from the new term for the chosen Subscription.

7.7. Payment by the User must take place by transferring the invoice amount within 14 days after the invoice date to the bank account sent by Metal Heaven or by way of online payment via the appropriate services of third parties. This payment term is a strict deadline. Metal Heaven may require authorization from the User. User will lend his cooperation to this.

7.8. If the User does not meet its payment obligation(s) in time, it is, after Metal Heaven has pointed out the late payment and Metal Heaven has granted the User a period of 14 days to still meet its payment obligations and hence its payment obligations. failure to clear, after failure to pay within this 14-day period, owe statutory interest on the amount due. In that case Metal Heaven is entitled to charge all costs incurred and to be incurred as a result thereof, including explicitly all extrajudicial (collection) costs and all judicial costs actually incurred, including but not limited to attorney fees. The extrajudicial (collection) costs will be calculated according to the Staffel Extrajudicial collection costs (BIK), unless the extrajudicial (collection) costs actually incurred are higher. In the latter case, the actually incurred extrajudicial (collection) costs will be charged to the User.

7.9. In the event of liquidation, (application for) suspension of payment or bankruptcy, debt restructuring or any other circumstance as a result of which User can no longer freely dispose of its assets, Metal Heaven is free to terminate the Agreement immediately with immediate effect without that there will be some obligation on Metal Heaven, such as the obligation to pay compensation. The claims of Metal Heaven on the User are immediately due and payable in these cases.

7.10. User is not entitled to settlement or suspension of any payment or amounts due, for whatever reason.

### **Article 8 Duration and termination**

8.1. The Agreement is entered into for a fixed duration of three (3) or twelve (12) months, depending on the chosen Subscription, unless expressly agreed otherwise. If the Agreement does not state which term applies, a term of twelve (12) months applies.

8.2. Without written notice, with due observance of a notice period of thirty (30) calendar days before the end of the agreed duration, the Agreement will always be extended by the same period, unless explicitly agreed otherwise.

8.3. The parties have the right to terminate the Agreement if the other party is accountably in breach of its obligations under the agreement and this Party, after having received a proper and as detailed as possible written notice of default, whereby a reasonable period is set for clearing the agreement. shortcoming, attributable failure continues to fall short of compliance.

8.4. The services provided by Metal Heaven for dissolution and the related payment obligation (s) of the User will not be subject to cancellation in the event of dissolution.

8.5. Invoices that have already been sent by Metal Heaven to the User prior to the cancellation or dissolution in connection with what has already been (partially) carried out or delivered in the context of the Agreement must be paid by the User. These invoice amounts are immediately due and payable at the time of termination of the Agreement.

### **Article 9 Intellectual Property Rights**

9.1. For the use of the Service, Metal Heaven provides the User with a non-exclusive, non-transferable, non-pledgeable and non-sublicensable license for use solely for its own business purposes.

9.2. All Intellectual Property Rights with regard to the Service rest with Metal Heaven and / or its licensor (s).

9.3. The user only receives the rights of use and powers that he is entitled to under the Agreement or the law.

9.4. The User is expressly not permitted to reproduce, publish, sell or otherwise make available to third parties (parts of) the Service or to thereby use any other unlawful act or to use it for direct or indirect commercial purposes or for to use any other purpose than the purposes stated in these Terms of Use, unless Metal Heaven or the relevant entitled party has given permission for this or mandatory Dutch law permits this use.

9.5. Metal Heaven is entitled to take (visible or not visible) technical measures to protect materials or other works. The User is not permitted to circumvent or remove these security measures.

9.6. Information that the User stores or processes via the Service is and remains the property of the User (or of its Customers). The User grants Metal Heaven permission to use the information for the purpose of facilitating the Service.

9.7. The User guarantees that it does not infringe on Intellectual Property Rights of third parties when using the Service. The user indemnifies Metal Heaven against all claims and other claims from third parties that are based on infringement (s) of Intellectual Property Rights.

9.8. User gives Metal Heaven explicit permission to use her trade name, logo and possibly brand for promotional activities including, but not limited to, use on the Website.

#### **Article 1 Data Processing Agreement (DPA)**

10.1. If during the execution of the Agreement by Metal Heaven personal data of or on behalf of Customer and / or User are processed, then the provisions of this article apply. This Personal Data will be processed in accordance with this DPA and applicable laws and regulations.

10.2. The capitalized terms used in this DPA, which are used in both singular and plural terms, have the meaning as defined in Article 1 of the Terms of Use or Article 4 of the "Regulation (EU) 2016/679) of the European Parliament and the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General Data Protection Regulation) "(hereinafter: the "GDPR").

10.3. For the processing referred to in paragraph 1, the User and / or Customer is designated as the Controller and Metal Heaven as the Processor. If the Client is (co-) Controller, the User guarantees Customer's compliance with the agreements in this DPA, as if the User is the sole Controller. Metal Heaven continues to be the Data Controller for its own processing of Personal Data.

10.4 Metal Heaven will comply with all its obligations arising from applicable laws and regulations, including the GDPR, or binding codes of conduct, which contain rules regarding the protection of Personal Data.

10.5. All obligations of Metal Heaven arising from this article also apply to those who process Personal Data under the authority or in the service of Metal Heaven.

10.6. Metal Heaven undertakes to process Personal Data under the authority of the User under the conditions of this article.

10. 7. If the User issues a new assignment to Metal Heaven and Metal Heaven within the context of this assignment processes Personal Data, then this DPA also applies.

10.8. The User bears, among other things, the responsibility and is therefore fully liable for (the stated purpose of) the Processing, the use and the content of the Personal Data, the provision to Metal Heaven and to third parties, the duration of the storage of the personal data, the method of processing and the means used for this. User guarantees that he will only lawfully process personal data in and with the help of the Service. User guarantees that the content, use and the order to process personal data are not unlawful and do not infringe any right of third parties. The User indemnifies Metal Heaven against all third-party claims arising from the User's failure to comply with the aforementioned guarantee.

10.9 The User will inform Metal Heaven in writing of the processing purposes, the types of Personal Data, the duration of the Processing, the categories of individuals, the access levels, the subjects and the nature of the Processing.

10.10. Metal Heaven will only process Personal Data for the benefit of and on behalf of the User and in accordance with specific processing instructions. Under no circumstances will Metal Heaven process Personal Data for its own or other purposes.

10.11. Metal Heaven will inform the User immediately if, in its opinion, instructions from the User infringe applicable laws and regulations, including the GDPR, or binding codes of conduct, which contain rules with regard to the protection of Personal Data.

10.12. Metal Heaven will, at its first request, inform the User of the measures it has taken with regard to its obligations under this DPA.

10.13. Metal Heaven will keep a register with all processing activities that it performs for the User under this Processing Agreement in accordance with Article 30 of the GDPR. On request, User will provide Metal Heaven with access to this.

10.14. Without the prior Written permission of the User, Metal Heaven will not process, provide, make accessible or pass on Personal Data to a country outside the European Economic Area if that country does not offer an adequate level of protection with regard to Personal Data.

10.15. Metal Heaven will take all appropriate technical and organizational measures to ensure a level of security appropriate to risks to protect Personal Data from destruction, loss, alteration, unauthorized disclosure or access to Personal Data transmitted, stored or otherwise processed, whether accidentally or unlawfully.

10.16. Metal Heaven does not guarantee that the security is effective under all circumstances. Metal Heaven will endeavor to ensure that the security meets a level that is not unreasonable, given the state of the art, the sensitivity of the Personal Data and the costs associated with taking the security.

10.17. User will only make Personal Data available to Metal Heaven for Processing if it has ensured that the required security measures have been taken. The user is responsible for compliance with the measures agreed by the Parties.

10.18. Metal Heaven is entitled to use third parties (sub-processors) for analytical purposes within the framework of a Processing on the basis of this Processing Agreement, provided that these are notified in advance to the User. User may object if the use of a specific reported third party is unacceptable to him. In any case, Metal Heaven will ensure that these third parties assume in writing at least the same obligations as those that rest on Metal Heaven under this DPA.

10.19. Metal Heaven will not store Personal Data longer than necessary for the execution of its obligations. After the retention period, Metal Heaven will anonymize or delete the Personal Data, unless the law requires a longer retention period and there is a basis for the processing.

10.20. The User is responsible for backing up the Personal Data, unless the parties have explicitly made different agreements to this effect.

10.21. At the User's first request, Metal Heaven will fully cooperate with the Data Subjects in exercising their rights with regard to the Processing of Personal Data in accordance with Articles 12 to 23 GDPR, including the right to information, inspection, deletion, including the 'right to be forgotten, rectification, transferability, objection and rights regarding automated individual decision-making, including profiling. The costs associated with the obligations from this paragraph are for the account of the User in accordance with the usual rates of Metal Heaven.

10.22. Metal Heaven will immediately forward to the User all requests it receives from Data Subjects based on their rights.

10.23. Metal Heaven will enable the User to verify compliance with Metal Heaven with regard to the Processing of Personal Data under the Agreement by an independent third party who is bound by secrecy. At the User's first request, Metal Heaven will make its facilities for Processing Personal Data available to the User during an audit, so that the User or an auditor chosen by the User can carry out an audit and provide a report with all information necessary to comply with the DPA. and / or demonstrate applicable laws and regulations, including the GDPR, or binding codes of conduct, which contain rules regarding the protection of Personal Data. The audit of the User will always be limited to the systems of Metal Heaven that are used for the processing. User will keep the information found during the audit secret and only use it to check compliance by Metal Heaven with the obligations under this DPA and to erase the information or parts thereof as soon as possible. The costs that the User and / or Metal Heaven have to make for this are for the account of the User.

10.24. The costs of the audit will be borne by the User, unless the findings of the audit show that Metal Heaven has not complied with the provisions of the DPA and this non-compliance is not trivial. In that case, the costs will be borne by Metal Heaven.

10.25. Metal Heaven will immediately and adequately cooperate with the User if this is necessary in connection with the performance of data protection impact assessments (also called a 'Data Protection Impact Assessment' or 'DPIA') of the User or in the context of compliance with obligations to authorized (government ) consult authorities prior to Processing. The costs of the aforementioned cooperation will be invoiced separately to the User. User will reimburse these costs.

10.26. Metal Heaven will implement adequate procedures in its business operations that are aimed at detecting, responding and remedying a Breach of Relationship with Personal Data (also known as: a data breach). In any case, this includes drawing up and maintaining an incident register.

10.27. Metal Heaven will notify the User within 48 hours after the Breach of Personal Data has become known to him. Metal Heaven will fully cooperate with the User in connection with the implementation of a recovery plan in the context of the Breach of Relationship with Personal Data.

10.28. The user determines, and is responsible for, the choice whether an infringement of personal data found at Metal Heaven is reported to the supervisor and / or concerned parties. The User is at all times responsible for reporting a Breach of Personal Data Breach to the supervisory authority and / or data subjects.

#### **Article 11 Availability and maintenance**

11.1. Metal Heaven will make every effort to keep the Service available as much as possible.

11.2. Metal Heaven offers no guarantees regarding the availability of the Service, unless explicitly agreed otherwise in a service level agreement concluded separately for this purpose.

11.3. Metal Heaven actively maintains the Service. Metal Heaven has the right to put its systems or components thereof out of use temporarily due to maintenance, modification or improvement thereof.

11.4. Metal Heaven will make every effort to ensure that the activities from Article 11.3 take place outside Office hours as much as possible. Metal Heaven will endeavor to inform the User in good time about planned downtime.

#### **Article 12 Support**

12.1. Metal Heaven will endeavor to offer the User support quickly and to the best of its knowledge via a tool or Website via the contact information in Article 17. The User acknowledges that this support offers no guarantee of success.

#### **Article 13 Liability**

13.1. Metal Heaven is not liable for damage resulting from any unauthorized use of the Service by third parties.

13.2. Metal Heaven does not accept any liability for damage resulting from the provision of the Service or from unlawful acts or otherwise.

13.3. If, despite the foregoing, Metal Heaven is liable to the User for damage, for whatever reason, Metal Heaven is only liable for direct damage suffered by the User as a result of a shortcoming and / or unlawful act attributable to Metal Heaven up to a maximum amount. of the payments received by Metal Heaven from the User that have been made in the context of the current Subscription. The total liability towards the User will never amount to more than EUR 7,500 (seven thousand five hundred euros).

13.4. Direct damage is exclusively understood to mean:

- i. material damage to property;
- ii. reasonable costs incurred to prevent or limit direct damage that might be expected as a result of the event on which the liability is based; and
- iii. reasonable costs incurred to determine the cause of the damage.

13.5. Any liability of Metal Heaven for other than direct damage, as discussed above, including consequential damage, is excluded. Consequential damage includes loss, costs incurred to prevent or establish consequential damage, failure to achieve desired (business) results, loss, confusion or damage to electronic data and / or damage due to delays in the transport of data traffic.

13.6. The limitation of liability included in this Article does not apply in the event of intent and / or deliberate recklessness on the part of Metal Heaven and / or its managers.

13.7. Unless fulfillment by Metal Heaven is permanently impossible or there is a situation as referred to in article 6:83 sub c BW, the liability of Metal Heaven arises due to an attributable shortcoming in the fulfillment of the Agreement only if User enters Metal Heaven directly in writing. defaults, whereby a reasonable period



for remedying the shortcoming is set, and Metal Heaven continues to fail to fulfill its obligations, even after that period. The notice of default must contain a description of the shortcoming that is as complete and detailed as possible, so that Metal Heaven is given the opportunity to respond adequately.

13.8. There is no question of a culpable shortcoming in the fulfillment of the agreement by Metal Heaven if there is force majeure. Force majeure occurs when a Party is hindered from fulfilling its obligation (s) as a result of a circumstance that is not due to its fault, nor by the law, a legal act or social opinions that apply to it account. Force majeure on the part of Metal Heaven, in addition to what is understood in this regard by law and case law, includes illness of employees and / or absence of employees crucial for the provision of the Service, interruptions in the supply of electricity, strikes, riot, government measures, fire, natural disasters, floods, war, general transport problems, shortcomings of suppliers of Metal Heaven, shortcomings of third parties engaged by Metal Heaven, shortcomings of (other) Users, disruptions in the connection to the internet, hardware disruptions, disruptions in (telecommunications) ) networks and other unforeseen circumstances.

13.9. The Party that invoked the force majeure is obliged to make every effort to ensure that the force majeure situation is as short as possible.

13.10. A condition for the existence of any right to compensation is always that the User reports the damage in writing to Metal Heaven within thirty (30) days after its occurrence.

13.11. Any claim for compensation by the User that has not been specified and explicitly reported by the User will lapse by the mere lapse of twelve (12) months after the claim arose. This is without prejudice to the User's obligation to complain.

13.12. The User indemnifies Metal Heaven against all claims and other claims of third parties and the resulting damage as a result of a shortcoming of the User of this Agreement or any other acts or omissions of the User.

#### **Article 14 Confidentiality**

14.1. The User will treat all information (in whatever form) that it receives from Metal Heaven before, during or after the execution of the Agreement as confidential and treat this information as trade secrets within the meaning of the Trade Secrets Protection Act. This applies in any case if the relevant information is marked as confidential or if the User knows or

#### **Article 15 Other provisions**

15.1. Metal Heaven is entitled to change and / or supplement these Terms of Use at any time. The most current Terms of Use will be found on the Website or will be brought to the attention of the User while using the Service. If the User continues to use the Service after changing and / or supplementing these Terms of Use, the User thereby irrevocably accepts the changed and / or supplemented Terms of Use. If the User does not agree with the amended and / or supplemented Terms of Use, its only option is to no longer use the Service.

15.2. Metal Heaven explicitly rejects the applicability of any Terms of Use, Purchase Terms and / or other (general) terms and conditions of the User.

15.3. If one or both Parties is taken over by a third party, the provisions and obligations arising from the Agreement and these Terms of Use will transfer to this third party without the consent of the other Party being required. The other Party undertakes to cooperate in any necessary contract transfer.

15.4. If these Terms of Use are or become partially invalid or appear to be partially void, the User and Metal Heaven will remain connected to the remaining part of these Terms of Use. Metal Heaven will replace the invalid or invalid part by clauses that are valid and not invalid and whose legal consequences, in view of the content and scope of these Terms of Use, correspond as much as possible with those of the invalid and / or invalid part.

#### **Article 16 Applicable law and disputes**

16.1. Dutch law applies to this Agreement and to all disputes related to it.

16.2. All disputes that may arise as a result of the present agreement or of further agreements that may be the result thereof, will be settled in accordance with the Arbitration Regulations of the Technology Arbitration & Mediation Institute (TAMI), established in Eindhoven ([www.tami.nl](http://www.tami.nl)) . The place of arbitration will be Tilburg.

16.3. Art. 16.2 does not affect the right of any Party to obtain a provisional provision or to take precautionary measures through the competent court of the Zeeland-West-Brabant District Court, location Breda.

**Article 17 Contact**

17.1. Metal Heaven can be reached via the following contact details:

Metal Heaven BV  
Burg. Vissersstraat 15  
5037 PN Tilburg  
The Netherlands  
+31 (0)85 -0653266  
info@metal-heaven.com

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