

# STANDARD PURCHASE CONDITIONS



## Article 1: Applicability

- 1.1 These General Purchase Conditions shall apply to all offers made by the Seller to the Buyer and all agreements the Buyer concludes concerning the supply and delivery of Products and/or Services. The Buyer is a legal person or entity who/that uses these conditions. The other party is designated as the Seller.
- 1.2 The standard conditions of the Seller shall not apply and are expressly rejected.

## Article 2: Prices

- 2.1 The prices referred to in the offer are based on delivery "DDP" for deliveries within and outside the European Union, in accordance with Incoterms 2000. All prices are firm, fixed, net of all duties and taxes and include adequate packaging.
- 2.2 Any increase in prices after the agreement has been concluded shall not be passed on to the Buyer.

## Article 3: Delivery and Penalty

- 3.1 The Seller shall deliver the Products in accordance with the delivery date mentioned in the Purchase order. If the Products have not been delivered in full by the delivery date, the Seller shall be deemed to be in default. As soon as the Seller has reasons to suspect that he will not be able to effect delivery wholly or partly in time, he shall inform the Buyer immediately of any (impending) delay.
- 3.2 The Seller shall be liable for any damage and/or loss incurred as a result of a delay in delivery attributable to it, or as a result of giving the Buyer inadequate notification of (possibly) exceeding the delivery terms as meant in article 3.1.
- 3.3 Furthermore, the Buyer reserves the right to deem the agreement dissolved in full or in part, after notification of default in writing.
- 3.4 For each day of delay in delivery the Seller shall pay the Buyer a penalty payable on demand of 2% of the agreed purchase order with a minimum of € 500,- to a maximum of 10% of the agreed purchase order. The Buyer reserves the right to offset this penalty and/or claims against the Seller.

## Article 4: Transmission of risk

- 4.1 Delivery of the Products shall be made "DDP" for deliveries within and outside the European Union, in accordance with Incoterms 2000.
- 4.2 If the Seller still chooses either to transport or to arrange for transport, despite the fact that the prices are based on delivery "ex works", the risk for loading and transport shall be borne by the Seller.
- 4.3 If the Products are collected on behalf of the Buyer, the Seller has to assist the Buyer with the loading free of charge. In that case the risk of loading shall be borne by the Seller.

## Article 5: Inspection

- 5.1 Taking delivery or payment of the Products and/or the Services does not imply approval thereof. The Buyer reserves the right to inspect the Products. The costs and risks shall remain the Seller's responsibility until the Buyer has accepted the Products.
- 5.2 Should the Buyer reject either delivery or the Services the Seller shall within 14 days at the Buyer's discretion:
- repair the Products free of charge; or
  - replace the Products free of charge or carry out the work in accordance with the agreement.
- 5.3 If the Seller fails to meet his obligations as set forth in article 5.2 the Buyer has the right to repair the Products himself or have the Products repaired at Seller's costs. The Buyer has the right to offset the costs against Seller's invoice.
- 5.4 Notwithstanding the stipulations in articles 5.2 and 5.3 the Buyer reserves the right to recover any loss or damages from the Seller and/or to terminate the agreement. Buyer shall not be liable for the damages the Seller suffers as a result of rejection of the Products.

## Article 6: Appliances

- 6.1 All appliances such as drawings, models, moulds, matrices and tools which Buyer puts at the disposal of the Seller for the purpose of executing its respective contractual obligations shall remain under all circumstances the property of the Buyer. This also applies to the appliances, which Seller especially made within the framework of the agreement irrespective of whether costs are charged to the Buyer for their production.
- 6.2 The Seller must return all appliances and all copies or other facsimiles thereof supplied to him.
- 6.3 At Buyer's demand the appliances have to be clearly marked as the property of the Buyer. The Seller shall indicate the Buyer's ownership of these appliances to any third party that may wish to seize them.
- 6.4 The Seller shall not use the appliances for any purpose other than the performance of his contractual obligations. The Seller shall not reveal the appliances to third parties without Buyer's express written permission.
- 6.5 The Seller shall bear the risk of loss of and/or damages to the appliances and shall at his own expense insure the appliances against these risks.

## Article 7: Confidentiality

- 7.1 All Confidential Information which means and includes all information, documents, drawings, know-how, and knowledge etc. disclosed by the Buyer in whatever form to the Seller, shall be kept secret and confidential and shall not be disclosed to others or used by the Seller for any purpose other than for the purpose of executing his respective contractual obligations.
- 7.2 The Confidential Information shall not be disclosed, directly or indirectly to any third party, without the express written consent of the Buyer. Moreover, the Seller shall bind his employees to the same confidential obligations as stipulated in this article.
- 7.3 If the Seller has to disclose the Confidential Information to any third party (parties) in connection with the execution of his contractual obligations, he shall also bind such party (parties) to the same confidential obligations as stipulated in this article.
- 7.4 Notwithstanding the right of the Buyer to recover his actual loss or damages in case the Seller acts in breach of this article, the Buyer is empowered to claim from the Seller a penalty payable on demand of € 50.000,-.

## Article 8: Warranty

- 8.1 The Seller gives warranty that all Products provided by the Seller comply with the agreement; be free from any faults or defects with respect to material, design and manufacturing for a period of 24 months after the Products have been put into use or to a maximum of 60 months from the date of delivery.
- 8.2 If the delivered Products do not comply with the warranty as meant in the first paragraph the Seller shall start repair or replacement of the faults or defects immediately upon receipt of the notification thereof. Such repairs shall be completed urgently and at no cost to the Buyer, notwithstanding other rights of the Buyer.
- 8.3 In case the Seller does not fulfil his responsibilities as agreed within article 8, the Buyer is entitled to rework or to subcontract the rework in order to fulfil his warranty responsibilities to his customers at Seller's own risk and expense. The Buyer will be entitled to deduct the amounts required for the remedy of the defect from the invoice of the Seller.

## Article 9: Liability

- 9.1 The Seller is fully liable for all losses (including damage to persons or property and consequential loss), which may arise for the Buyer, her staff or her customers or as a result of an attributable shortcoming or wrongful act of the Seller, its staff or auxiliary persons. This also includes any loss arising as a result of the presence, use, delivery or removal of the property of the Seller, its staff or other persons engaged by the Seller in the execution of the order.
- 9.1.1 The Seller shall fully indemnify the Buyer against third-party claims for loss compensation as meant in the first paragraph.

## Article 10: Intellectual property rights

- 10.1 The Seller guarantees that the Products he delivers do not infringe with any third-party intellectual property rights and shall indemnify the Buyer from all third-party claims which may be raised against the Buyer.
- 10.2 The Seller shall indemnify the Buyer from and against all liabilities, costs and expenses arising out of the infringement of any intellectual property rights.

## Article 11: Payment

- 11.1 Payment will be effected within 60 days of receipt of the invoice, unless the Buyer has a complaint after taking delivery of the goods - including the corresponding documents - with regard to the quantity and/or quality of the consignment or if the consignment is rejected.
- 11.2 In the event of advance payment or periodic payment, the Buyer shall be entitled to demand a sufficient guarantee for delivery at Buyer's discretion.
- 11.3 The Buyer shall be entitled at all times to offset any amounts the parties may have to claim from each other.

## Article 12: Choice of jurisdiction and choice of law

- 12.1 The law of the Netherlands is applicable.
- 12.2 The Vienna Convention on Contracts for the International Sale of Goods (CIGS) is not applicable, nor is any other international regulation the exclusion of which is permissible.
- 12.3 Only the civil court that has jurisdiction in the place of establishment of the Buyer may take cognisance of disputes, unless this would be contrary to peremptory law. The Buyer may deviate from this rule of jurisdiction and apply the statutory rules governing jurisdiction. The parties may agree a different form of dispute resolution such as arbitration or mediation

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