

**GENERAL TERMS OF DELIVERY AND SALE OF  
'B.V.AGENTUUR EN HANDELMAATSCHAPPIJ G.W.J.J. VANDELLEN',**

hereinafter to be referred to as 'Van Delden B.V.', with registered company seat in Waddinxveen

Lodged with the clerk of court's office at the District Court of The Hague and at the Rotterdam Chamber of Commerce, Gouda office, on 15<sup>th</sup> May 2008.

Copies of these conditions may be obtained free of charge at our office, where they may also be inspected.

**1. Applicability**

These conditions of sale are applicable to all purchase and sales agreements concluded and to be concluded by us, unless and insofar as written consent is obtained from us for the complete or partial divergence from them, such divergence only applying to the agreement or agreements specifically named by us. In the event of partial divergence, the remaining sales conditions remain in full force.

**2. Offers**

All our offers are without obligation and are only binding for us after we have confirmed an order in writing, or from the moment at which we have commenced with the execution of the agreement.

**3. Documentation material**

All our price lists and other documentation material, the prices, delivery times, weights, measurements, colours and other details regarding goods to be sold by us indicated therein or elsewhere, as well as all depictions, drawings and descriptions of those goods, are non-committal and are only valid as an approximation, unless the contrary has been explicitly confirmed by us in writing.

**4. Orders, undertakings and agreements**

All orders, undertakings and agreements given to, made by or with our employees are only binding for us after and insofar as they have been confirmed by us writing. This also applies to offers and undertakings made by our representatives or other persons employed by us, as well as to the agreements made by them.

**5. Acceptance via invoicing**

A potential invoice sent by us prior to the actual written confirmation is valid as confirmation of the order insofar as this order is charged for on that invoice. Such invoicing of a part of an order does not entail any confirmation of the remaining part of that order.

**6. Prices**

The prices stated by us are valid for delivery ex our warehouse unless indicated otherwise by us in writing. We make every effort to give notice of price alterations as quickly as possible. If, subsequent to the date of our offer, there is an increase in one or more of the cost price factors, such costs will be passed on by us. If, following the conclusion of the relevant agreement, the buyer is not in agreement with the announced price increase, the buyer has the right to request the dissolution of the agreement, provided this is made know to us within 5 days following the sending of our notification of the price increase in question.

## **7. Discounts**

No other discounts are permitted other than those which have been listed by us on the invoice. Previous discounts granted by us are not binding for later agreements.

## **8. Delivery times**

We make every effort to give accurate delivery times but we reserve the right to diverge from them without prior notification. The exceeding of the delivery time does not give the buyer the right to demand the dissolution of the purchase agreement or compensation on that account, unless the exceeding of the delivery time cannot be attributed to *force majeure* on our part, which explicitly includes the non-timely delivery of our orders by our suppliers.

## **9. Delivery**

Delivery happens ex our warehouse unless we have approved another place of delivery in writing. The costs associated with delivery elsewhere are payable by the buyer. Goods which are picked up from our warehouse or which are delivered by us at another location are deemed to have been accepted from the moment that the buyer has received them in good condition and from that moment onwards are for the account and risk of the buyer.

## **10. Non-acceptance**

In the event of non-acceptance on the part of the buyer, we have fulfilled our delivery obligations when we have notified the buyer that the goods are available to him and the buyer fails to take receipt of the goods within 7 days of the sending of this notification. In that case, we may, entirely at our own discretion, store the goods or arrange for them to be stored for the account and risk of the buyer and demand full payment of both the purchase price and the storage costs, or regard the purchase agreement as dissolved without any notice of default or legal intervention and demand compensation for all damage suffered by us, including lost income.

In the event of non-acceptance on the part of the buyer, we are furthermore entitled to cancel all current transactions with the buyer, insofar as they have not been completed, under the same conditions. With each cancellation, the money owed by the buyer on the basis of the foregoing is claimable immediately and without further notice of default.

## **11. Force majeure**

If, due to temporary or permanent *force majeure*, we are partially or completely obstructed in the execution of the purchase agreement, we are entitled to regard the agreement as partially or entirely dissolved without any legal intervention, provided we inform the buyer in writing within a reasonable timeframe following the appearance of the *force majeure* situation. In this case, the buyer has no right to compensation. *Force majeure* can be regarded as all those circumstances under which the temporary or permanent fulfillment of the agreement cannot reasonably be demanded of us. In any case, *force majeure* in this sense includes non-delivery by our own supplier(s) and strike action amongst our own employees or at our suppliers or transporters upon which we are dependent.

## **12. Retention of title**

We retain the right of title to all goods delivered by us to the buyer until the buyer has fulfilled all our demands, on whatever basis. If the buyer is in default with regard to the fulfillment of the payment obligations or is in payment difficulties or, in our judgment, the payment of the outstanding invoices is not certain, we are entitled to take back the goods which are subject to the retention of title and are still with the buyer. In the event of the tacking back of the goods, the buyer shall be credited with the market value (which may in no case be higher than the original purchase price, reduced by the costs associated with the taking back of the goods). If the

occasion arises, the buyer is obliged to immediately inform the seizing bailiff and the official receiver in his bankruptcy of our retention of title on the supplied goods. The buyer is permitted to sell and physically deliver the goods subject to the retention of title to third parties within the framework of the execution of his business activities. In the event of sales on credit, the buyer is obliged to insist upon retention of title from his customers on the basis of the provisions of this article.

By accepting this agreement, the buyer grants us irrevocable authorisation to enter the grounds and buildings of the buyer in order to be able to take back the delivered goods, without prejudice to our right to compensation for the damage suffered by us.

### **13. Intellectual property rights**

1. The buyer is obliged to only use the (additionally) supplied software, peripheral equipment, technical information, circuit diagrams and/or work plans, user or operation instructions, drawings and all other essential documentation for internal purposes. The supplying or making available of such documentation, to third parties in whatever manner and whether for payment or not, is strictly forbidden.

2. We safeguard the buyer against legal procedures which are instituted against him by third parties and which are founded upon the proposition that the use of the equipment or documentation makes infringements upon the intellectual property rights of that third party, unless: the buyer fails to inform us in writing of the claim made by the aforementioned third party or the conscious agreements of third parties have their only cause in modifications of the products supplied by us which were introduced by the buyer or by third parties engaged by the buyer.

### **14. Security**

The buyer is at all times obliged to provide us, at our first request, with the personal and/or business assurances requested by us in order to cover the buyer's existing and/or future obligations vis-à-vis us. We are at all times entitled to defer delivery to the buyer until the buyer has provided us with the requested assurances, without prejudice to our right to regard the agreement(s) as dissolved, insofar as they have not yet been executed, on the basis of the provisions of article 20.

### **15. Guarantee**

We guarantee the proper functioning of the goods supplied by us only insofar as this is guaranteed to us by our suppliers and in accordance with the provisions relating to the guarantee given to us.

### **16. Liability**

We are never liable for any damage of whatever nature which follows from the shortcomings of other parties or from the use of goods supplied by us, except for liability by virtue of the law and also with due regard being had for the provisions of article 15 above.

For damage resulting from, or in connection with, the agreement for which we can be legally held liable and insofar as mandatory provisions of law do not entail otherwise, the following applies:

- A. Damage, insofar as it consists of lost income or reduced profits and all other indirect losses or consequential losses, such as loss of profits or any other compensation or penalty owed by the buyer to third parties, in no case qualifies for compensation.
- B. Without prejudice to the provisions under A, losses other than those mentioned in that provision are compensated up to the maximum sum against which our insurer compensates such losses. In any case, our liability shall never exceed the sum of 100% of the net invoice value, this being the gross invoice value minus VAT, other potential government charges and costs of transport and insurance.
- C. The compensation mentioned under B jointly concerns all claims which follow from the agreement in question.
- D. Without prejudice to the provisions of this article, only damage which is suffered within 6 months following the transfer to the buyer of the risk on the goods and which has been reported to us in writing within that period and at the latest on the 7<sup>th</sup> day following the discovery of the damage, qualifies for compensation.
- E. The buyer safeguards us against all claims on whatever basis from third parties, including from employees of the customer or of his buyer who allege to have suffered damage due to a good which we supplied to or on behalf of the buyer, insofar as the total of the claims exceed the boundaries stated above. This applies except for and insofar as the buyer demonstrates that we are liable for the damage on the basis of the agreement or these general conditions in relation to the buyer and must compensate the buyer for this damage.

Without prejudice to the provisions elsewhere in this article, we are, in any case, not liable for damage caused by:

- improper use of the delivered goods or the use of them for a purpose other than that for which they are suited according to objective standards;
- careless use by the buyer, his staff or other persons employed by the buyer;
- the violation of patents, licences and/or other intellectual property rights of third parties as the result of the use of information provided by, or on behalf of, the buyer, such as drawings, models, designs and suchlike.

## **17. Complaints**

If no complaints have been submitted regarding the goods in question within, at the most, 8 days following delivery, these goods are deemed to have been approved and accepted.

Complaints do not defer the payment obligations of the buyer. We only take goods back if we have been consulted about doing so in advance and have given written permission for the return of the goods.

## **18. Packaging**

The packaging, such as it is charged for, is calculated at cost price and, provided it is delivered in good condition and fully complete, will be taken back for the charged sum. Special packaging, such as export packaging, is not taken back by us. Incomplete or damaged packaging is taken back at a fee to be determined by us.

## **19. Payment**

Unless we have indicated otherwise in writing, payment of our invoices must take place within 30 days of the invoicing date and without any deduction or application of any discount other than those listed by us on the invoice. However, we at all times reserve the right to demand immediate payment.

## **20. Death, dissolution, bankruptcy and suchlike of the buyer**

If, and as soon as, the buyer

- does not pay promptly before or on the agreed due date;
- dies (in the case of a natural person);
- is dissolved (in the case of a legal entity);
- discontinues his company or relocates abroad;
- is declared bankrupt;
- the statutory debt repayment scheme is provisionally declared applicable to him;
- requests provisional suspension of payment;
- proposes a private debt scheme to his creditors;
- does not fulfill or does not properly fulfill the obligations which follow from the agreement(s) entered into with us, and
- as soon as the buyer's goods are wholly or partially seized by third parties, everything which the buyer owes us is immediately claimable in full without any notice of default being required and we are entitled to regard the agreement(s), insofar as it (they) has (have) not yet been executed, as dissolved without any legal intervention, unless we should request the fulfillment of the agreement, the above being without prejudice to our right to compensation and all other rights which follow for us from this agreement.

## **21. Late-payment interest, administration and collection costs**

In the event of overdue payment, the buyer owes us the statutory commercial interest by virtue of article 6:119a Civil Code, without any summons or notice of default being required. If, and as soon as, we subsequently pass on the claim for collection, the buyer is additionally obliged to pay us for all legal and extra-legal costs associated with the collection, which are set at a minimum of 15% of the sum to be collected, with a minimum of €100 for each unpaid invoice.

## **22. Applicable law and competent court**

Dutch law is exclusively applicable to the purchase and sales agreements entered into by us and to their execution. All disputes shall initially be exclusively presided over by the authorised judge at the District Court of The Hague.