

### **Applicability**

- 1.1 These terms and conditions are applicable to every offer, quotation and agreement between 'X', hereafter depicted as: "seller", and a buyer whereon the seller has declared these terms and conditions applicable, for as much as neither party has explicitly and in writing deviated from these terms and conditions.
- 1.2 These terms and conditions are applicable to every act and legal act between the seller and the buyer, even if the (legal) act does not lead to or is not related to an agreement.
- 1.3 The applicability of any purchasing terms and conditions or terms and conditions of any other type from the buyer is explicitly dismissed.
- 1.4 The terms and conditions at hand are also applicable to agreements with the seller for which the seller appoints third parties to execute the agreement.
- 1.5 The terms and conditions encompass the seller's employees and management.
- 1.6 In case one or more conditions in these terms and conditions at some point entirely or partly are abolished, the other conditions in these terms and conditions will remain applicable in their entirety. Seller and buyer will in that case discuss in order to establish new conditions which would replace the abolished conditions, in which case the aim and scope of the original conditions will as much as possible be adhered to.
- 1.7 In case of ambiguity concerning how one or more conditions of these terms and conditions ought to be applied, they should be applied in accordance with the general direction of these conditions.
- 1.8 In case a situation between the parties occurs which has not been covered by these terms and conditions, the situation should be judged in accordance with the general direction of these terms and conditions.

### **Offers, quotations, realisation of the agreement**

- 2.1 All offers or quotations of the seller are noncommittal and do not contract him unless in an offer or quotation a term of acceptance has been stated. Offers or quotations of the seller are merely invitations for a buyer to place an order.
- 2.2 An offer or quotation of the seller expires in case the product associated with the offer or quotation in the meantime has become unavailable.
- 2.3 The seller can not be forced to abide to its offer or quotation in case the buyer can reasonably understand that the offer or quotation, or part thereof, was incorrect.
- 2.4 The products offered by the seller are recycled products, unless specified accordingly on the description/specification. The specifications of these products (such as weight, melt flow index, colour, density and/or other specifications) are listed on the description/specification. Given that these are recycled products the seller can not guarantee that no deviations can prevail as compared with the available description/specification. If the buyer demonstrates that the delivered products deviate from the seller's description/specification to such an extent that the buyer reasonably can not be expected to purchase the products, then the buyer has the right to dissolve the agreement, but only to the extent that this dissolution is reasonably necessary.
- 2.5 The seller reserves the right to make adjustments in the composition of the products he delivers, in case he due to modifications in among others laws and regulations is forced to do so. The seller guarantees that in such cases the functional properties of the products will not be compromised.
- 2.6 A composed quotation does not oblige the seller to deliver part of the consignment for a comparable part of the quoted price. Offers or quotations do not automatically apply to future orders.
- 2.7 An agreement does only come into existence if and to the extent that the seller has accepted an order from the buyer in writing, and that a payment method, including an irrevocably confirmed letter of credit, has been agreed on and accepted in writing by the seller. Every agreement is made by the seller on the dissolvable condition that the buyer, exclusively as perceived by the credit insurer and the seller, proves to be sufficiently creditworthy in order to be able to observe the agreement.
- 2.8 In case the acceptance (whether or not on secondary points) deviates from the offer included in the quotation or offer, it does not bind the seller. The agreement in that case will not be made in accordance with this deviating acceptance, unless the seller states otherwise.

### **Alterations and supplements**

3.1 Alterations of and supplements on any condition in this agreement and/or the terms and conditions are only binding if they are explicitly agreed on in writing.

### **Pricing**

4.1 All prices are expressed in Euro's, excluding VAT and other governmental taxations and any costs incurred in association with the agreement, including travel, accommodation, sending and administrative costs, unless otherwise depicted in writing.

4.2 Costs incurred for special types of packaging and sending are to be covered by the buyer, unless otherwise agreed on in writing.

4.3 The prices stated by the seller are based on the pricing factors as they were during the realisation of the agreement, including purchasing prices, transport costs, currency exchange rates, taxation rates and others. In case one or more of these or comparable supposed factors are increased after the agreement has been made but before the delivery takes place, then the seller reserves the right to recharge the increase reasonably to the buyer.

4.4 The buyer ensures that the seller will not incur costs or damage as a result of the fact that the buyer is not appropriately registered for turnover tax or comparable taxation in relevant EU member states.

4.5 The buyer ensures that the seller will not incur costs or damage as a result of the fact that the buyer incorrectly or untimely provides its details to the seller and/or authorities concerning turnover tax or comparable taxation in relevant EU member states.

### **Payments**

5.1 Payments are to be made within 14 days of the date depicted on the invoice and without any subtraction of discount, banking costs or compensation, unless explicitly agreed on in writing. All payments are to be made in the agreed on currency and with mentioning of the associated invoice number(s) to a bank account specified by the seller.

5.2 The buyer is at all times responsible for correctly executing the payment associated with an agreement.

5.3 In case the prevailing payment term is exceeded, the buyer is from the date the payment term is exceeded, without further notice, legally in omission and is obliged to pay interest equal to the prevailing legal standard interest for business transactions. At the end of every month the amount over which interest is calculated is increased with the interest to be paid for that month.

5.4 The seller reserves the right to use the payments made by the buyer in the first place for covering the costs, then to cover the interest incurred, and eventually to cover the capital sum and the current interest.

5.5 The seller can, without omission, decline an offer to pay, if the buyer indicates another sequence of covering the different aspects to be paid. The seller can decline the payment of the entire capital sum, if the incurred interest, current interest and collection fees are not paid for at the same time.

5.6 The buyer does never have the right to settle for the amount he owes the seller.

5.7 Objections about the amount indicated on an invoice do not delay the payment obligations. A buyer who is not eligible for an appeal in accordance with department 6.5.3 (the articles 231 until 247 book 6 of the Dutch Civil Code) neither has the right to delay the payment of an invoice for any other reason.

5.8 In case the buyer delays or omits (timely) fulfilling his obligations, all costs incurred are to be paid by the buyer without intervention from the judiciary. The extrajudicial costs are calculated based on prevailing customs in the Dutch collection practice. In case the seller incurred higher costs of collection which were reasonably necessary, he will be eligible for compensation of the actual costs incurred. The legal and executive costs incurred are also to be covered by the buyer. The buyer is to pay interest over the outstanding collection fees.

5.9 All judicial costs, including reasonable costs of legal expenses within or outside of a procedure calculated based on the rates proposed by the Dutch Lawyers Society, are to be covered by the buyer.

5.10 Payments made by the buyer in the first place cover the judicial and/or the extrajudicial costs, then the incurred interest, and eventually the capital sum and the current interest. The payments will be registered in an anti-chronological sequence, ensuring that the first payment covers the earliest existing debt.

### **Adjournment, abolition and interim resignation of the agreement**

6.1 The seller is eligible for adjourning the fulfilment of his obligations or abolishing the agreement, if: the buyer does not, not entirely or not timely fulfil his obligations derived from the agreement; after the agreement has been made the seller perceives circumstances due to which he reasonably may assume that the buyer will not fulfil his obligations; the buyer has been requested to proof that he will be able to fulfil his obligations as the agreement was signed, and this proof is absent or insufficient;

In case due to delays derived from the buyer the seller can no longer be expected to fulfil the agreement in accordance with the original conditions, the seller reserves the right to abolish the agreement.

6.2 Furthermore the seller is eligible for abolishing the agreement in case circumstances arise which impede the fulfilment of the agreement or in case other circumstances arise which cause that the agreement as it is reasonably can not be fulfilled by the seller.

6.3 In case the agreement is abolished the claims of the seller to the buyer are immediately claimable. In case the seller adjourns the fulfilment of his obligations, he retains his rights derived from the law and the agreement.

6.4 In case the seller proceeds to adjourn or abolish the agreement, he is not in any way obliged to cover the damage and costs which may be incurred as a result.

6.5 In case the abolishment can be imputed to the buyer, the seller reserves the right to oblige the buyer to cover the damage caused, including any direct or indirect costs.

6.6 In case the buyer does not fulfil the obligations derived from the agreement and this failure to fulfil his obligations justifies abolishment, then the seller is eligible to immediately and without any obligation on his side to pay damage restitution or compensation abolish the agreement, while the buyer, due to his failure, is obliged to pay damage restitution or compensation.

6.7 In case of liquidation, a (request for a) moratorium of payment or a bankruptcy, or repossession - in case and to the extent that the repossession is not lifted within three months - at the expense of the buyer, or debt restructuring or another circumstance causing the buyer not to be able to spend his capital freely, the seller reserves the right to abolish the agreement immediately or to cancel the order or agreement, without any obligation to pay damage restitution or compensation on his side. The claims of the seller to the buyer in that case are immediately claimable.

6.8 In case the buyer cancels a placed order entirely or in part, the cost of products ordered or prepared, including any transport and delivery costs thereof as well as the cost of labour spent on the execution of the agreement, are to be covered in their entirety by the buyer.

### **Delivery term**

7.1 The delivery term of products stated by the seller is based on circumstances as they prevail during the signing of the agreement. These delivery terms merely serve as an indication and can never be seen as a deadline. The seller is not in omission concerning the delivery time until he has been notified in writing of his failure by the buyer, the buyer has given him a reasonable chance to deliver once again, and the seller has omitted to do so. Delivery terms, in accordance with article 2.7, are counted from the date on which the agreement has been signed or as is depicted in writing.

7.2 In case the term is exceeded, this does not leave the buyer eligible to claim (damage) restitution. Only in case of excessive exceeding (more than 12 weeks) of the delivery term the buyer will be eligible to abolish the agreement, unless the exceeding was caused due to force majeure.

7.3 The seller will at all times reserve the right to divide the products over different shipments. The seller reserves the right to demand payment for these partial deliveries in advance of executing the remaining partial deliveries.

### **Delivery**

8.1 The conditions of delivery are agreed on per every individual transaction. All delivery conditions are in accordance with the currently prevailing incoterms.

8.2 In case the buyer does not or not timely accept the products for a legally invalid reason, he will be in omission without further notice. The seller in that case has the right to store the products at cost and risk of the buyer, or to sell the products to a third party. The buyer remains obliged to pay the capital sum, increased with the interest, costs and damage restitution, but in particular cases reduced with the net profit derived from the sale to the third party.

8.3 The buyer not timely fulfilling the payment obligation adjourns the seller's obligation to deliver.

### **Force majeure**

9.1 In case the seller can not fulfil his obligations as a result of non imputable circumstances, the obligation is adjourned for as long as the force majeure prevails.

9.2 In case the force majeure prevails for over three months, both parties have the right to entirely or in part abolish the agreement in writing.

9.3 Force majeure according to these terms and conditions entail, besides what is termed as force majeure in law and jurisprudence, all causes, expected or unexpected, which the seller can not influence, but which prevents the seller from fulfilling his obligations, including, but not limited to, transportation difficulties, no or untimely delivery by the seller's suppliers, strike and fire. Parties are obliged to inform one another about a (possible) force majeure situation as soon as possible.

9.4 In case the agreement has partly been fulfilled by the seller, the buyer will pay for the products which thus far have been delivered.

### **Reservation of title**

10.1 The ownership of the products, despite the actual delivery thereof, is only transferred to the buyer once he has fulfilled in their entirety all obligations and any future obligations associated with any agreement concerning deliverable products to the seller, including the purchasing amount, possibly including any interest, taxes, costs and claims derived thereof based on the terms and conditions of the agreement, due to failure in fulfilling the buyers obligations derived from any agreement. All products delivered by the seller in association with the agreement remain property of the seller until the buyer has duly fulfilled all obligations derived from the agreement(s) made with the seller.

10.2 Until the ownership of the products has been transferred to the buyer, the buyer does not have the right to sell, rent out, lend or pawn the products to third parties, or to provide them to third parties in any other way. Until the ownership of the products has been transferred to the buyer the products can not be used as currency.

10.3 The buyer is obliged to do what reasonably can be expected from him in order to protect the ownership rights of the seller. The buyer is obliged to store the products delivered under reservation of title diligently and recognisably and to insure them for risks including fire, explosion, water damage and theft at the expense of the buyer but in name of the seller. This also prevails in those cases in which the seller is mandated by the buyer to store the products at the seller's place or elsewhere. Upon the seller's first request the buyer will cede all rights derived from the associated insurers to the seller in case and for as long as the seller is the owner of the products, and will the buyer inform the seller immediately in case any part of the products has been lost or damaged. The policy of the insurance mentioned above has to be transferred from the buyer to the seller upon the seller's first request. The seller is eligible to receive any restitution derived from the policy. The buyer binds himself in advance to the extent in which it is necessary to provide his cooperation to the seller concerning everything that turns out to be necessary or preferable in this regard.

10.4 For in case the seller wishes to make use of the ownership rights mentioned in this article, the buyer gives the seller and third parties selected by the seller in advance unconditionally and irrevocably permission to access all locations where the seller's properties are and to repossess these properties.

10.5 In case of seizure, (preliminary) moratorium of payment or bankruptcy the buyer will immediately inform the seizing process server, the receiver or the curator about the (ownership) rights of the seller and his products. In case third parties seize the products delivered under reservation of title or want to derive rights from them, then the buyer is obliged to inform the seller immediately thereof.

10.6 The buyer needs to at all times do what can be expected from him to respect the ownership rights of the seller.

10.7 The buyer is not allowed to store the products outside without a proper cover.

### **Inspection and checks**

11.1 The buyer is obliged to ensure adequate facilities for receiving and storing the products and warrants that these facilities are in accordance with associated regulations including health and safety prescriptions and that all necessary permits concerning these have been acquired.

11.2 The buyer is obliged to inspect the products diligently immediately upon their arrival at their destination, or in any case immediately upon receiving the products as to ensure that they comply with the contract. Any complaints about the products concerning their properties (such as weight, melt flow index, colour, density and/or other properties) and deviations thereof between the delivered products and the made available description/specification, are to be made to the seller in writing within 8 days upon delivery.

11.3 Any defects which reasonably could not have been recognised within the term provided in article 11.2, should be made known to the seller in writing within 14 days upon delivery.

11.4 The complaint should include an as detailed as possible description of the defect, enabling the seller to, if possible, respond adequately. In case a defect is visual, the buyer has to make the defect known to the seller with support of visual material. The buyer needs to enable the seller to investigate a complaint by himself or through a third party.

11.5 Even in case a buyer complains in time, his payment obligations are not adjourned. In such a case the buyer remains obliged to purchase and pay for the ordered products.

11.6 In case the seller is notified of a defect later, the buyer does not have any right to reparation, replacement or compensation.

11.7 In case it is clear that products are defective and complaints concerning these are made timely, the seller will based on his preference either replace, repair or compensate for the product within a reasonable term from the arrival of the returned product or, if returning the product reasonably is not feasible, upon notification in writing about the defect by the buyer. In case of replacement the buyer is obliged to return the product to be replaced to the seller and to transfer the ownership thereof to the seller, unless the seller states otherwise.

11.6 In case it becomes clear that there is no basis for a complaint, all resulting costs, including the investigative costs on the side of the seller, will have to be paid in their entirety by the buyer.

11.7 The buyer's right to complain expires in case the buyer alters the delivered products in any way, including but not limited to through adaptation, processing, meddling, blending, combining and/or additions of other resources and/or additives.

### **Specifications**

12.1 The buyer will provide all cooperation requested by the seller concerning the investigation of the complaint, including by enabling the seller to perform by himself or through a third party an investigation at the location of the product. The buyer has to enable the seller to let an inspection of the associated products be performed by an expert or an independent inspection entity. In case the expert declares the complaint to be legitimate, the costs of the inspection are to be covered by the seller. In case the complaint was found not to be legitimate, the costs are to be covered by the buyer.

12.2 The buyer does not have the right to complain about delivered products on which the seller is not able to check the legitimacy of the complaint.

12.3 The buyer does not have the right to return the products before the seller has agreed thereto in writing. The costs of returning the products are to be covered by the buyer, and any risk associated with the products remains on the side of the buyer.

12.4 Defects occurring in products of one partial delivery, which forms part of an order consisting of multiple partial deliveries, do only give the buyer right to abolish the entire agreement if reasonably no retention of the remaining part of the agreement can be demanded from the buyer.

12.5 The buyer can not perform his right to complain in case the buyer has not fulfilled his obligations towards the seller.

12.6 In case the buyer complains timely, correctly and legitimately about defects of a product, then the seller's liability derived thereof is limited to the obligations described in article 13, for as much as they are in accordance with the nature of the complaint and with notion of the other conditions in article 13.

### **Warranty**

13.1 In case, based on the reasonable judgement of the seller, it has been shown that the delivered products do not properly function and the buyer has complained as in accordance with article 11.2, the seller will have the choice to either replace the not properly functioning products free of charge as the buyer returns the not properly functioning products, or to provide the buyer with a discount on the selling price to be decided on during mutual consultations, after which the seller will be entirely released from its warranty obligations and will not be obliged to provide any other compensation.

### **Liability and protection**

14.1 The seller does not accept liability concerning the performance of the products during the processing of these products. The buyer has to verify whether all signs and descriptions on containers or the packaging are in accordance with those specified by the seller in the contract, and has to ensure that the products are suitable for processing and/or use.

14.2 Unless the seller clearly had intentions or is to blame and unless it is in accordance with legal liability based on mandatory conditions, the seller is never liable for any damage incurred by the buyer.

Liability for indirect damage, consequential damage, foregone profits, foregone savings, damage due to business interruption, immaterial damage or damage to a business are explicitly excluded.

14.3 The seller is exclusively liable for direct damage.

14.4 In case and to the extent that, despite the statements in article 14.2 the seller is liable, by whichever virtue, then this liability is limited to an amount equal to the net value depicted on the invoice of the associated products, and at most to that part thereof to which the liability prevails, acknowledging that the seller at most and exclusively will be liable to an amount of 20,000 Euro per claim. A sequence of related damage-incurring events is accounted for, for as far as this article is concerned, as one single event/claim.

14.5 Unless the seller clearly had intentions or is to blame the buyer will protect the seller from all claims from third parties concerning the compensation of damage, costs or interest in association with the products or as a result of using the products.

14.6 In case the buyer modifies the products delivered by the seller, the seller is in no way liable for mistakes and/or defects associated with the newly manufactured product.

### **Transfer of rights and obligations**

15.1 The seller has the right to transfer rights and obligations derived from an agreement with the buyer to third parties.

15.2 The buyer does not have the right to transfer the rights and/or obligations derived from the agreement to any third party without prior written permission from the seller.

**Applicable law, competent judge**

16.1 The Dutch law is applicable to these terms and conditions as well as to all agreements, even if the agreement is entirely or partially executed abroad or if the associated party lives abroad. Applicability of the Vienna Convention is excluded.

16.2 All disputes between the seller and buyer deriving from these terms and conditions will be settled by a competent judge in Amsterdam, notwithstanding the eligibility of the seller to where preferred present the dispute to another competent judge. Disputes between seller and buyers based outside of the EU will be settled in accordance with the Netherlands Arbitration Institute by one or more arbitrators appointed in accordance with the arbitration rules of the N.A.I. Communication will be done in English, and the arbitration will take place in Amsterdam.

16.3 Both the buyer and the seller will appeal to the judge only after they have done everything they possibly could to settle a dispute out of court.

16.4 These terms and conditions have been registered at the chamber of commerce. At all times the latest registered version or the version which was registered at the time of the agreement with the seller will be applied.

16.5 The Dutch version of the terms and conditions will be decisive in its interpretation thereof.