

## **GENERAL TERMS AND CONDITIONS OF VAHLKAMP INTERNATIONAL B.V.**

**WITH ITS REGISTERED OFFICE AND HAVING ITS PRINCIPAL PLACE OF BUSINESS IN HAARLEM, THE NETHERLANDS, A.HOFMANWEG 5a, 2031 BH HAARLEM.**

### **Article 1. Applicability and validity**

1.1. These General Terms and Conditions apply to all offers and agreements in accordance with which Vahlkamp Handelsonderneming B.V., hereinafter to be referred to as "vendor", supplies goods of whichever kind, in so far as it has not been agreed upon otherwise, explicitly and in writing. Any deviations from these General Terms and Conditions are only valid if and in so far as these have been confirmed by vendor, explicitly and in writing.

1.2. Any purchasing or other conditions of the opposite party of vendor, hereinafter to be referred to as "purchaser", are not applicable.

1.3. If, according to the court of competent jurisdiction, any stipulation in these General Terms and Conditions is not applicable or contrary to the law, public order, or morality, this shall be without prejudice to the validity of the other stipulations.

### **Article 2. Conclusion of agreements**

All quotations etc. presented by vendor are without obligation. Vendor is not bound until after vendor has explicitly and in writing confirmed the order or has carried out the order without prior order confirmation.

### **Article 3. Delivery and risk**

3.1. The delivery terms notified of by vendor are indicative and have been determined upon to the best of his knowledge. They do not, therefore, represent a final term.

3.2. If it is expected that the term will be exceeded, vendor will notify purchaser of this as soon as possible. If delivery term is exceeded, purchaser is not permitted to refuse delivery of the goods ordered because of it. If that is the case, vendor is entitled to meet his obligations at a date to be agreed upon with purchaser. If the ordered goods are available for purchaser, but purchaser is unavailable for reception, delivery will take place by means of a written notification by vendor. From this moment, the goods will be stored at the account and risk of purchaser.

3.3. Delivery takes place ex warehouse of vendor. The risk for the goods will pass on to purchaser the moment the products leave the vendor's warehouse, even if transport is arranged by vendor.

3.4. If vendor, whether or not assigned to do so by purchaser, arranges for the transport of the goods, vendor is free to choose the packaging, the means of transport, the route to be followed, and the transport insurance to be taken out. In that case, vendor is also entitled to actually have transport of the goods carried out by third parties, without the need to obtain prior consent of purchaser.

### **Article 4. Prices and invoicing**

4.1. All prices published by vendor in the price list or otherwise may be changed by vendor, at any time and without prior notification. Prices are net and exclusive of VAT.

4.2. Invoicing is done at the prices current on the date of delivery.

## **Article 5. Payment**

5.1. Payment is to take place in cash, by bank or by giro account, in Euros, within 30 days of the date on the invoice, without prejudice to the right of vendor to insist on a downpayment upon conclusion of the agreement. Payment should take place without any deduction or suspension for whatever reason. All costs connected to payment are for the account of purchaser.

5.2. Payment may also be required if partial deliveries are concerned.

5.3. If purchaser has not fully paid the amount owed within the term agreed upon, purchaser will be in default as soon as this term has passed, without the need for any further notice of default, and purchaser will owe an interest amounting to the promissory note discount rate of the Nederlandsche Bank N.V. plus two and a half percent on the outstanding amount from the date on the invoice to the moment of payment.

5.4. If purchaser has not paid the amounts due within the term agreed upon, vendor is also entitled to have the accounts collected judicially or by means of a debt-collection agency, in which case all costs connected with this, which are set to a minimum of fifteen percent of the receivables with a minimum of EUR ... , are for the account of purchaser. Vendor reserves the right to entrust the collection of the amounts due to him to third parties or to transfer his receivables from purchaser to third parties.

## **Article 6. Securities**

6.1. Vendor reserves the right to insist upon further securities from purchaser, in case of doubt of creditworthiness of purchaser or in case of other business considerations concerning first or later deliveries. If this is not done to vendor's satisfaction, vendor is entitled to suspend or refuse the execution of the agreements concerned, without himself being obliged to pay out any compensation or relinquishing any rights under these agreements or the law.

6.2. The ownership of the goods will not be transferred to purchaser until the latter has fulfilled all obligations of payment towards vendor concerning the delivery concerned. Purchaser is entitled to use the goods for his normal business operations. Purchaser is obliged to notify vendor forthwith if third parties are enforcing rights to products still in ownership to vendor.

6.3. Purchaser is obliged to pledge forthwith any goods purchased from vendor and/or any claims against third parties resulting from resale of these goods, to vendor, whenever vendor desires this at any moment in security of fulfilment of all of his payment obligations to vendor, in one of the ways described in the Articles 237 and 239 of Book 3 of the Dutch Civil Code.

6.4. If purchaser does not meet his payment obligations to vendor concerning the delivered goods, and in all cases mentioned in Article 7.1, vendor is irrevocably authorised, without any notice of default being required, to take back, or have taken back, all goods that are delivered that have not been paid for yet, from the place they are located. The right of taking back stipulated here also applies to any payment that has not fallen due yet, if circumstances arise from which vendor is able to deduce in all fairness that purchaser is not going to pay, or is not going to pay on time. Purchaser is obliged to render all possible collaboration to vendor if the latter makes use of the aforementioned right of taking back. (Upon the moment the goods concerned are one more in his possession, vendor regains the complete rights to the goods, to use for his normal business operations, without relinquishing any rights under the agreement or the law. If no title retention: In that case, vendor has the right to keep the goods until the amount owed, including any interest, costs or damages, has been paid in full, or to sell the goods to third parties, in which case the net proceeds are subtracted from the amount owed by purchaser to vendor.)

#### **Article 7. Suspension and dissolution**

7.1. If purchaser has not, not adequately, or not timely, met any obligation arising from the agreement; if purchaser has been declared bankrupt or if a request thereto has been submitted to the court; if purchaser has submitted a petition for suspension of payments or if such has been granted to him, if purchaser's company has been closed down or wound up, if purchaser's goods have been seized, or if purchaser has been put under administration or guardianship, vendor has the right to suspend the performance of his obligations towards purchaser or to partially or in full dissolve the agreement, without any default or judicial intervention and without himself being obliged to pay out any compensation, by means of a written notification to purchaser, all this without prejudice to the right to claim fulfilment and/or compensation for damages.

7.2. In case the circumstances mentioned in Article 7.1 occur for purchaser, all claims vendor has on purchaser will become claimable forthwith and in full and vendor will have the right to suspend or dissolve the execution of all other agreements with purchaser, without prejudice of full compensation to vendor.

#### **Article 8. Force majeure**

8.1. Force majeure is understood to mean: all circumstances beyond vendor's control or any circumstance vendor was in all fairness unable to foresee, which temporarily or permanently obstruct the performance of vendor's obligations under an agreement. Such circumstances include: restrictive governmental measures, epidemics, mobilisation, war, revolution, strike, seizure, attachment, interruption of production, natural disasters, default of a third party whose products or services are received, or lack of raw materials, semimanufactures, ancillary materials and/or energy, as well as any other circumstance beyond vendor's control or which in all fairness could not be foreseen by vendor, on the grounds of which he would not have entered into this agreement, or not on the same terms, should such circumstances have been known to him at the time the agreement concerned was entered into.

8.2. If, in case of force majeure, vendor cannot in all fairness be expected to perform under an agreement, he has the right to suspend the performance of the agreement concerned or dissolve this agreement, partly or in full, without judicial intervention and without himself being obliged to pay out any compensation.

8.3. Performance in one or any case under circumstances as described in Article 8.1 will not affect the right to make use of the right of suspension or dissolution in any subsequent cases of force majeure.

#### **Article 9. Warranty and complaints**

9.1. Notifications by or on behalf of vendor concerning the quality, composition, use – in the widest meaning of the term, applicability, characteristics etc. of goods, will only be considered as warranties if these were confirmed explicitly and in writing in the form of a warranty.

9.2. Purchaser will observe the regulations concerning the ways of storage and treatment of the goods delivered. Purchaser will inspect the goods upon arrival or as soon as possible afterwards, to the extent and in a way and/or according to usage, which may, in all fairness, be expected of him, and purchaser will, within eight days of reception, notify vendor (in writing) of any complaints concerning damage, defects and/or shortage. If complaints are notified of beyond this term, the goods are considered to be approved and accepted.

9.3. Vendor will only consider complaints if purchaser has fulfilled the stipulations in the previous paragraph and if the damages or defects are attributable to vendor. Defects to a part of the goods delivered do not give purchaser the right to refuse all goods delivered by vendor.

9.4. If a complaint is considered well-founded, vendor is obliged to replace the goods concerned or to credit the purchaser for the invoiced amount, at the discretion of vendor.

**Article 10. Liability**

10.1. Vendor is only liable for damages resulting from a shortcoming, a wrongful act or otherwise, suffered by purchaser if these are the direct and sole result of gross negligence of vendor.

10.2. In case vendor is liable to purchaser to compensate for damages, this liability is limited to the invoiced amount, less the VAT paid by vendor, of the delivery concerned, with a maximum of EUR ....

10.3. Under no circumstance is the vendor liable for damages incurred by any exceeding of a term, nor for consequential or indirect damages, including damages as a result of loss of profit or lack of savings.

10.4. In case vendor is liable to purchaser, vendor is only obliged to fulfil the obligations as described in Articles 9 and 10.10.5. Purchaser indemnifies vendor against liabilities by third parties. Purchaser will never hold any member of vendor's staff liable.

**Article 11. Modification of agreements**

Any modifications or additions to agreements entered into are only valid if these have been confirmed by vendor, explicitly and in writing.

**Article 12. Disputes and applicable law**

12.1. All disputes pertaining to an agreement or the performance of an agreement entered into by purchaser and vendor, which cannot be resolved by mutual consultation between parties, will be submitted to the court of competent jurisdiction in the legal area within which the vendor has his registered office. Notwithstanding the provisions in the previous paragraph, vendor has the right to submit any dispute to the court of competent jurisdiction in the legal area within which the purchaser has his registered office.

12.2. The agreements between purchaser and vendor are governed by the laws of the Netherlands. (Deposited at the Chamber of Commerce in Eindhoven, under number: 17047773)