

## **GENERAL CONDITIONS OF SALE**

### **1. General scope of application.**

These general conditions of sale apply to all contracts of sale entered into by the seller and enjoy priority over all conditions or terms that might appear in the buyer's letters, documents or commercial correspondence. The receiving without protest of any letters or documents issued by the seller in which reference is made to these standard terms of sale is regarded as tantamount to an acceptance of these terms and to a waiver of the buyer's own terms. These terms of sale may only be departed from with the written consent of both parties.

### **2. Formation of the contract.**

The contract of sale is formed as soon as an agreement is reached between the seller and the buyer regarding the object and the price, this agreement to be either in writing or orally with subsequent written confirmation by the seller. If there is any discrepancy between the confirmation by the seller and any confirmation by the buyer, the wording of the seller's confirmation shall enjoy priority over the wording of the buyer's confirmation. If the contract envisages several consecutive deliveries, each part-delivery shall be regarded as constituting a separate contract.

### **3. Delivery.**

Unless otherwise agreed in writing, the goods will be delivered 'ex works' or 'ex warehouse' in accordance with the provisions of the latest edition of INCOTERMS as published by the International Chamber of Commerce and valid at the date of the contract.

### **4. Transfer of risk.**

The risk relating to the goods is transferred to the buyer at the moment of delivery in conformity with the provisions of either the applicable INCOTERMS or of the written agreement to the contrary. If nothing has been agreed between the parties with respect to delivery, the risk will be considered to have been transferred to the buyer at the moment the goods left the seller's factories or warehouse.

### **5. Transfer of ownership / Retention of ownership.**

Unless otherwise agreed in writing, the goods will remain the seller's property until full payment of the price by the buyer. The buyer is considered to have expressly accepted this clause of retention of title (ownership). Advance payments remain acquired by the seller in order to compensate possible losses in case of re-sale.

### **6. Weighing.**

The seller shall, no later than the moment of dispatch of the goods from his factories or warehouse, weigh the goods on the calibrated weigh bridges or weighing machines located there. The buyer is entitled to attend and/or verify the weighing of the goods. If the buyer has omitted to appoint someone to attend or verify the weighing, the weight determined by the seller at the moment of dispatch shall be binding. If the check-weighing performed by the buyer deviates by more or less than 0.5% from the weighing performed by the seller, the parties will proceed to a counter weighing, either on the seller's calibrated weigh bridges or weighing machines or at a measuring station to be designated by the parties. The results of this weighing will be binding on both parties.

### **7. Quantity.**

The seller is authorized to deliver up to 5% more or less than the quantity agreed between the parties. The difference between the delivered and the agreed quantity will be adjusted against the contract price. The normal weight-loss that occurs when bulk goods are unloaded will be borne by the buyer.

### **8. Analysis.**

If the buyer so requests, the seller shall, at the moment the goods leave his factories or warehouse, take at least four (4) sealed specimens or samples, two (2) of which he shall make available to the buyer. The buyer can, at his own expense and within five (5) working days of the date of sampling, have an analysis performed by a legally recognized laboratory. The buyer will then notify the seller of the result of the analysis within five (5) working days of the analysis. The seller has the right to arrange, at his own expense, for a counter analysis to be performed within five (5) working days of receipt of the results, once again at a legally recognized laboratory. If the results of the analyses diverge, the average of the two (2) analyses performed by legally recognized laboratories shall be binding on both parties.

#### **9. Acceptance of weight and quality.**

The quality and weight of the delivered goods will be accepted by the buyer at the moment the goods leave the seller's factories or warehouse, unless otherwise agreed in writing. The seller's standard product specifications are valid and binding, unless otherwise agreed.

#### **10. Shortcoming by the buyer/taking of delivery.**

If the buyer does not take delivery of the goods in whole or in part within the agreed deadline or at the agreed time, the seller is entitled, at the buyer's expense and risk (including the quality risk), to store and/or reprocess the goods and/or, within five (5) working days of sending a notice of default by registered mail, either to demand the enforced performance of the contract or to consider the contract, in whole or in part and without judicial intervention, as being automatically dissolved to the detriment of the buyer, without prejudice in either case to the seller's right to compensation.

#### **11. Personalized packaging.**

Unless otherwise agreed, the cost of any personalized packaging (which is understood to include labels) which was designed and acquired by the seller at the buyer's request will always be for the buyer's account. In the event of this contract being terminated, the buyer is obliged to buy, at his own expense, the ordered quantity of personalized packaging (including labels), in default of which the seller is entitled to charge on to the buyer the full cost price thereof, without prejudice to the seller's rights to compensation as provided for by law.

#### **12. Payment.**

**12.1.** All the seller's invoices are payable on their due date in accordance with the payment modalities laid down by the seller and in the agreed currency of payment. In the event of non-payment on the due date, all the seller's outstanding amounts shall become immediately claimable, even if they have not yet fallen due or even if they arise from other contracts, and the buyer is, with effect from the due date of the invoice, liable to pay interest, without prejudice to the seller's right to compensation as provided for by law. The rate of interest is to be equal to the LIBOR (London International Bank Offered Rate) effective for the currency of payment plus two percent (2 %). By lack of the LIBOR for the currency of payment, the interest rate is to be equal to the legal rate of interest effective in the country of the currency of payment. In the absence thereof, the interest rate is to be equal to the Belgian legal rate of interest in force at the due date of the invoice. Non-payment also entitles the seller, without judicial intervention and without any other formality:

- to suspend all deliveries yet to be made, and/or to demand payment in advance on each delivery; and/or
- to consider all or several contracts concluded with the buyer as being automatically dissolved at the buyer's expense, without detriment to his rights to compensation as provided for by law.

**12.2.** The seller always has the right to request a surety, e.g. in the form of a bank guarantee issued by a bank approved by the seller in writing, as well as the right, on reasoned grounds, to demand pre-payment.

#### **13. Prices.**

All prices are exclusive of VAT unless otherwise agreed.

#### **14. Duties, levies and taxes.**

All increases in or new impositions of duties, levies and taxes which might burden the sold goods or the raw materials necessary for production between the date of concluding the contract of sale and the date of delivery will be for the buyer's account ; all reductions in or abolition of the same duties, levies and taxes during the period under consideration will be to the benefit of the buyer.

#### **15. Pallets.**

Unless the pallets are included in the cost price (lost pallets), the pallets used in the delivery of goods and delivered to the buyer remain the property of the seller. These pallets, or pallets of equivalent quality and identical type, must be returned by the buyer at his own expense and without expense to the seller within a maximum of 60 days of delivery. If the buyer remains in default thereof, the seller has the right to charge on to the buyer the costs of the unreturned pallets at their cost price increased by 25%.

#### **16. Liability.**

The seller can only be held liable for foreseeable damage which is caused directly by the non-performance or defective performance of his contractual obligations. The seller cannot be held liable in any way for indirect damage, such as consequential loss, loss of turnover, loss of profits or loss of goodwill, which is expressly excluded. The seller cannot be held responsible nor liable for any technical parameter or property of the product which is not included in the specifications of the product or for which there are no legal limits.

**17. Force majeure.**

The seller is entitled to invoke force majeure if the contract cannot be performed in whole or in part, whether or not temporary, as a result of circumstances or events which are not imputable to his fault or will, such as (this list being enumerative and not exhaustive): war, strikes, lock-outs, natural disasters, fire, explosion, unpunctual or defective compliance by a third party with his obligations towards the seller, as well as all unforeseen circumstances of whatsoever nature which prevent the provisioning of raw materials, auxiliary materials or semi-finished products or the production or dispatch thereof. The seller shall notify the buyer as urgently as possible of the existence and expected duration of the circumstances of the force majeure. In the event of force majeure, performance of the contract will be suspended for a period corresponding to the duration of the force majeure, which period may not, however, exceed 60 days. After the 60 days have elapsed, each party can, subject to the issue of written notification to the other party, consider the contract as automatically dissolved without judicial intervention and without any compensation. If, as a result of a case of force majeure, the goods are wholly or partially destroyed before the moment of delivery, the contract will be considered automatically cancelled up to the amount of the destroyed quantity in the absence of written agreement to the contrary.

**18. Secrecy.**

The buyer is obliged to keep secret everything regarding the company and/or the goods of the seller (this obligation to be understood in the broadest sense) of which he might become known within the framework of the performance of the contract, and to impose the same requirement on any members of his staff and/or third parties of whom he makes use for the performance of the contract.

**19. Termination.**

If the buyer does not comply with, or fails to comply in good time with, or fails to comply fully with, one or more of his obligations arising from the contract, or from any special terms, or from these general conditions of sale, as well as in the case of bankruptcy, suspension of payment, voluntary liquidation, request for composition, involuntary liquidation, merger or take-over, the seller is entitled to dissolve the contract in whole or in part at the buyer's expense without further notice of default or judicial intervention, and without being liable to pay any compensation. This without prejudice to the seller's right to compensation as provided for by law. As a compensation, the seller will be, in any case, entitled to claim the difference between the initial agreed sales price and the market price of the goods, taking into account any possible exchange rate loss at the moment the contract was dissolved.

**20. Applicable law - Competent jurisdiction.**

Belgian law will apply to the contract between the seller and the buyer. All disputes relating to the performance and interpretation of the contract fall within the exclusive competence of the courts of the legal district within which the seller's registered seat of business is situated.