



## GENERAL TERMS AND CONDITIONS OF DELIVERY

In these terms and conditions, the following terms have the following meaning, if written with a capital letter:

**Seller:** the user of these terms and conditions, the private limited liability company Seablinc B.V. or any of its affiliates;

**Buyer:** the legal entity with whom Seller is in contact in connection with the possible conclusion of an Agreement or with whom Seller has concluded an Agreement with;

**Agreement:** the agreement concluded between Seller and Buyer;

**Product(s):** the product(s) Seller has sold/delivered to Buyer.

### Article 1: Applicability

1.1 These terms and conditions apply to all offers made by and Agreements concluded with Seller, to all agreements arising from those Agreements and to all other legal relationships between Seller as (potential) seller and Buyer.

1.2 The standard (purchase) conditions, if any, applied by Buyer are herewith expressly rejected.

1.3 Any deviations from these terms and conditions must be expressly agreed in writing.

1.4 If there is a conflict between the content of the Agreement and these terms and conditions, the provisions of the Agreement prevail.

1.5 If there is a conflict or ambiguity regarding translations of these terms and conditions, the English version shall prevail at all times.

1.6 If a provision of these terms and conditions is void or voided or cannot be invoked by the parties for any other reason, Seller may replace that provision by a provision that is valid and enforceable, and of which the object and purport resembles the original provisions as closely as possible. The other provisions shall remain in full force and effect.

1.7 Seller acts in accordance with European regulations and guidelines (amongst which Regulations 2271/96, 2276/96 and 2018/1101), when selling its Product to buyers outside the European Economic Area.

### Article 2: Offers; Concluding the Agreement

2.1 All offers of Seller are subject to contract. All offers are valid for a period of 30 (thirty) days as from the date of the offer, unless the offer provides otherwise.

2.2 If Buyer provides Seller with delivery information or any other information, Seller is entitled to assume that this information is accurate. Seller's offer shall be based on this information.

2.3 An Agreement is not concluded until Seller has accepted/confirmed (in writing or electronically) the order(s) placed, or until it starts executing the order. If there is a conflict between the order and the order confirmation, what is stated in the order confirmation shall prevail.



2.4 <sup>SUPPLIER</sup> Seller may <sup>REFUSE</sup> refuse orders or <sup>SUPPLY</sup> make the delivery subject to specific conditions. The fact that Seller has supplied Buyer with Products on a regular basis in the past does not signify that a continuing performance agreement of any kind is in place between the parties or that Seller is under any obligation to accept any new orders.

2.5 Any additional arrangements or changes that are subsequently made, or (oral) arrangements and/or commitments made by staff of or on behalf of Seller are only binding on Seller if confirmed by representatives of Seller who are authorised to do so.

2.6 The Agreement or any obligations Buyer has under the Agreement may only be transferred with the express prior written permission of Seller, which permission Seller may make subject to conditions.

### **Article 3: Price**

3.1 Unless otherwise agreed in writing, prices are in Euro's, exclusive of VAT and exclusive of all costs necessary for the execution of the order, including but not limited to transport costs, import duties, packaging costs, insurance(s) and the like.

3.2 All prices quoted by Seller in the offer or order confirmation are based on the current price list and on the conditions that have been agreed and confirmed in the order confirmation.

3.3 The prices quoted in the order confirmation of Seller are the final and fixed prices solely for the relevant Agreement.

3.4 The Supplier shall be entitled to increase the agreed prices should one or several of the following circumstances occur after the conclusion of the Agreement: rise in the costs of materials, semi-finished products or services required for executing the Agreement, rise in the cost of forwarding, wages, employers' contributions to social insurances, or costs of other employment conditions, the introduction of new and the increase in existing government levies on raw materials, energy or residues, substantial changes in currency rates or, generally speaking, other circumstances that are comparable with the above.

### **Article 4: Intellectual Property Rights**

4.1 Unless otherwise agreed in writing, Seller reserves all intellectual property rights in all of its offers, order confirmations, illustrations, drawings, (test) models, delivered Products and the like, regardless of whether Buyer has been charged any costs for preparing these. These data and objects may not be reproduced, used, or disclosed to third parties without the prior written permission of Seller.

4.2 Buyer is not allowed to use the trademarks, patents, utility models, trade names, domain names, copyrighted works and/or databases of Seller, without the prior written permission of Seller.

### **Article 5: Advice**

5.1 Buyer shall not derive any rights from any advice and information provided by Seller where this does not pertain directly to the Agreement.



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## Article 6: Invoices; Payment

6.1 Unless agreed otherwise, the agreed price shall be invoiced upon delivery.

6.2 The term of payment is stated in the order confirmation of Seller and on the invoice. In the event no payment term is agreed, invoices must be paid within 14 (fourteen) days from the invoice date. Payment shall be effected by transferring the invoiced amount to the bank account and in the currency and otherwise subject to the conditions stated in the invoice.

6.3 The agreed payment conditions notwithstanding, Buyer shall provide Seller at its first request and to its satisfaction with sufficient security for payment. If Buyer fails to do so within the stipulated period, it shall be automatically in default.

6.4 If the term of payment is exceeded, Buyer shall immediately owe Seller an interest of 1% per month for each month or part of a month in which Buyer has failed to comply with its payments obligations in full. If the statutory interest is higher, the statutory interest rate is charged.

6.5 If the term of payment is exceeded, Buyer shall additionally owe Seller the following compensation due to extrajudicial collection costs:

- a. 15% on the first \$ 5.000;
- b. 10% on the excess up to \$ 10.000;
- c. 8% on the excess up to \$ 15.000;
- d. 5% on the excess up to \$ 60.000; and
- e. 3% on the excess over \$ 60.000.

If the actual extra judicial collection costs incurred by Seller are higher, Buyer shall compensate Seller the actual costs.

6.6 At Seller's first request Buyer shall compensate Seller all costs Seller has incurred in connection with legal proceedings Seller has brought in order to obtain payment of the amount Buyer owes to Seller, if the matter is decided wholly or in part in Seller's favour.

6.7 Buyer is not allowed to suspend its payment obligations or to set off any claims of Seller with its own.

6.8 Seller's claim for payment shall be immediately due and payable if:

- a. a term of payment is exceeded;
- b. Buyer is declared bankrupt, or a petition for its bankruptcy is filed, or it files for a moratorium;
- c. any of Buyer's assets or receivables are attached; and/or
- d. Buyer (being a legal entity) is dissolved or liquidated.

6.9 If Buyer is in default, Seller may suspend (the remainder of) its delivery obligation, terminate the Agreement in whole or in part and/or to recover its loss from Buyer.

6.10 All payments made by Buyer are first of all applied to settle any outstanding interest, next to settle the judicial and extrajudicial collection costs incurred by Seller and to settle any loss suffered by Seller, and are only then deducted from the oldest outstanding invoice that was sent to Buyer or to another company in Buyer's group, regardless of whether that invoice pertains to another agreement concluded between the parties or between Seller and that company.

#### **Article 7: Delivery**

7.1 All Products are delivered subject to the terms of delivery stated in the order confirmation.

7.2 The delivery time is determined by Seller by approximation and is consequently not to be regarded as a strict deadline within the meaning of Section 6:83 Dutch Civil Code. Any delivery time stated by Seller is at all times calculated as from the moment when the Product is ready for delivery at Seller. The remaining time until the moment of delivery at the agreed delivery address depends on the logistics planning of Seller in the period concerned. Exceeding of the agreed delivery time and/or period of execution shall in no event be cause for terminating the Agreement.

7.3 When determining the delivery time Seller assumes that it will be able to execute the Agreement under the circumstances of which it is aware at the time of the order confirmation. If the circumstances are different, the delivery time and the actual delivery of the Product shall at least be extended with the time that is required to execute the Agreement under these different circumstances. If it is not possible to incorporate the transport of the Products in the planning of Seller, these will be executed as soon as its planning so allows.

7.4 Buyer warrants that the agreed delivery address is accurate and complete and that the Products may actually be delivered at that address. If it turns out to be impossible to deliver (unload) the Product, Seller may deliver the Product, for the risk of Buyer, at the most suitable location in the immediate vicinity of the agreed delivery address, such to the discretion of Seller and / or its haulier, or take the Products back, store them elsewhere and/or deliver them at a later date for the account and risk of Buyer.

#### **Article 8: Retention of title**

8.1 All delivered Products remain the property of Seller until Buyer has fulfilled all obligations under the Agreement or other comparable agreements and/or has fully satisfied all claims arising from Buyer's failure to fulfil these agreements, including loss, penalties, interests and costs.

8.2 If Buyer fails to fulfil its obligations as referred to in paragraph 1 above, Seller may (procure to) repossess Products immediately from the place where they are located. Buyer agrees to fully cooperate with this. Buyer warrants Seller that it may enter all locations, or have them entered, for this purpose. The costs related to repossessing the Products shall be for Buyer's account. Seller may furthermore recover any damage to the Products from Buyer or charge any decline in value.

8.3 During the period referred to in paragraph 1 above, Buyer is not allowed to dispose of the Products, to pledge them or encumber them in any other way, or to rent them, give them in loan, or to let them out of its control in any other way, except within the context of its normal business activities. Buyer is obliged to retain the Products with all requisite care and marked as the property of Seller. Buyer shall furthermore sufficiently insure the Products during this period.

8.4 Buyer shall notify Seller immediately in writing if third parties assert any rights to the Products delivered by Seller subject to retention of title or if Buyer becomes aware that third parties intend to assert rights to the said Products.



9.1 Seller solely warrants that its Products meet the agreed specifications and are suitable for the purpose for which they are developed and produced. This warranty expires one year after delivery by Seller.

9.2 This warranty also expires if the defect is (partially) caused by:

- a. use without fully observing the users' instructions for the Product;
- b. other inexperienced use, including exposure to extreme circumstances such as acids or extremely high or low temperatures;
- c. failure to carry out (sufficient) maintenance;
- d. installation or assembly without fully observing the assembly instructions for the Product;
- e. changes or repairs made to the Product by other parties than Buyer;
- f. using (replacement) parts that are not provided by Seller or a reseller appointed by Seller.

9.3 Buyer is obliged to inspect the Products for any damage immediately upon delivery. Buyer shall make a note of any shortcomings or visible defects on the consignment note and shall properly document this, including by means of photographs.

9.4 Buyer may no longer invoke a (visible or non-visible) defect to the Product or any shortcoming if it has not notified Seller thereof in writing within 48 hours after discovering the defect or shortcoming, or ought reasonably to have discovered it, under submission of the photographs and other documentary evidence mentioned in article 9.3.

9.5 The decision whether the defects or shortcomings reported by Buyer are justified is solely to the discretion of Seller, which shall act in this regard as a reasonably acting supplier. Upon request, Buyer shall provide Seller with all information that is necessary in its judgment. A defect shall only exist if the Product does not fully satisfy the above-mentioned warranties.

9.6 In the event of a defect, Seller is only obliged to either – at Seller's sole discretion – replace the defective Product free of charge by supplying a new Product in accordance with Article 7 hereof or to credit the purchase price, without Buyer having any right to any compensation and without any other obligation on the part of Seller. Buyer is obliged to return the defective Product part at Seller's first request. The return shipment, which shall be effected in accordance with the instructions of Seller, shall be at no charge for Buyer.

9.7 Buyer may only invoke the warranty if it has fulfilled all of its obligations towards Seller.

## **Article 10: Force Majeure**

10.1 A situation of force majeure on the part of Seller exists if Seller is unable to fulfil its obligations under the Agreement due to circumstances that have occurred through no fault of Seller or which are not for its risk. These include but are not limited to war / danger of war, (threat of) terrorism, civil war, riot, revolution, and kindred risks, fire, water damage, flooding, pandemic, epidemic, government measures, import and export restrictions, defects to machinery, strikes, sit-ins, restrictions in transport due to weather conditions and traffic congestion, suppliers and/or subcontractors of Seller failing to timely fulfil their obligations, disruptions in the supply of power and water in the business of Seller and disruptions in (tele)communication networks.

10.2 Seller may suspend the fulfilment of its obligations in the event and for the duration of a force majeure situation.



## **Article 11: Liability**

11.1 Without prejudice to Article 9.1 hereof, Seller is solely liable for any loss Buyer suffers in the event of wilful misconduct or gross negligence on the part of Seller or its directors.

11.2 Seller is not liable for any damage caused by its subordinates or by third parties engaged in the execution of the Agreement.

11.3 Seller is in no event liable for consequential loss suffered by Buyer. Consequential loss is understood to include loss of profit, losses suffered and costs incurred, as well as loss of business opportunities and savings not realised, loss caused by interruption of or standstill in the production or operations.

11.4 The liability of Seller is in all instances limited to the loss that is covered under its liability insurance, and to the amount that is paid out by the insurer in the specific loss event. Seller is not obliged to make a claim under its liability insurance if it is held liable by Buyer.

11.5 Seller may engage the services of third parties in the execution of the Agreement and is at all times entitled to invoke any limitations of liability invoked by these third parties against Seller against Buyer.

11.6 Seller stipulates all statutory and contractual defences it may rely on to contest its own liability towards Buyer, also for the benefit of its subordinates and those who are not its subordinates but for whose acts it is liable by law.

11.7 The foregoing is without prejudice to the liability of Seller under mandatory statutory provisions.

11.8 Buyer shall indemnify Seller against all third-party claims regardless of the ground.

## **Article 12: Applicable Law; Arbitration**

12.1 All Agreements and other legal relationships between Seller and Buyer, regardless of their nature, are governed by the laws of the Netherlands. The applicability of the Vienna Sales Convention (C.I.S.G.) is excluded.

12.2 All disputes between Seller and Buyer shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute. The arbitral tribunal shall be composed of one arbitrator. The place of arbitration is Rotterdam, the Netherlands. The proceedings shall be conducted in English.