

General Conditions of Sale and Delivery Heijmul Plukkorven BV

1. APPLICATION

- 1.1. *The General Conditions listed below, apply to all offers by Heijmul Plukkorven BV and to the acceptance, as well as to the thus constituted agreement/contract.*
- 1.2. *All offers stand for one month, unless the offer itself mentions otherwise.*
- 1.3. *The agreement/contract is constituted as soon as the acceptance of the offer has been received by Heijmul Plukkorven BV.*
- 1.4. *In case the purchaser includes conditions and/or alterations in the acceptance of the offer, the agreement is not constituted (contrary to Par. 1.3.) until Heijmul Plukkorven BV has notified the purchaser of the acceptance of the said alterations and/or conditions.*
- 1.5. *No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the director o Heijmul Plukkorven BV.*

2. ALTERATIONS

- 2.1. *Departures from these General Conditions, as well as alterations in the purchase agreement, are only valid if and in so far as expressly agreed upon in writing by all parties.*
- 2.2. *In case departures from the agreement/contract lead to an increase or decrease of costs, a new price must be agreed upon - and confirmed- in writing by both parties.*
- 2.3. *In the event of lack of an agreement concerning an alteration in price, a conflict arises on which art.17 of these General Conditions is applicable.*

3. QUALITY AND DESCRIPTION

- 3.1. *Heijmul Plukkorven BV is obliged to deliver the goods according to the description, quality and amount as specified in the offer.*
- 3.2. *Heijmul Plukkorven BV is obliged to deliver to the purchaser the goods that are:*
 - a. *made of decent material;*
 - b. *in all ways equal to possible samples or models made available by Heijmul Plukkorven or the purchaser;*
 - c. *able to perform as advertised in the offer (capacity, yield, speed, finishing etc.).*
- 3.3. *Heijmul Plukkorven BV does not guarantee its products are suited to serve the purposes of the purchaser, not even when the purchaser has expressly indicated his purpose, unless the contrary has been agreed upon in the offer/agreement.*
- 3.4. *Claims must be submitted in writing, by registered mail, within 8 days after shipment or the rendering of services, at Heijmul Plukkorven BV. Default of these conditions liberates Heijmul Plukkorven BV of legal obligations following claims.*

4. PACKING AND SHIPMENT

- 4.1. *Heijmul Plukkorven BV is obliged to pack the goods as might be expected (unless the nature of the goods does not allow it) and to secure them in such a way that regular shipment allows these goods to reach their destination in good condition.*
- 4.2. *The goods shall be delivered by the seller, or on behalf of him, at an agreed location or several agreed locations, in a way as agreed upon by the terms of agreement/contract or by terms set afterwards. The goods shall be delivered from the sellers outlet. The goods will travel at the expense of and at risk of the purchaser. The purchaser is obliged to take care of -and pay for- the insurance of transport.*
- 4.3. *In case the seller has provided containers, crates, packing boxes, pallets etc. to facilitate packing and transport, the purchaser is obliged to return these goods to an address indicated by the seller. In default, the purchaser is responsible for the damages.*

5. STORAGE

- 5.1. *If, for any reason, the purchaser cannot receive the goods (ready for transport) at the time listed in the agreement/contract, and if space allows, the seller shall provide, at the request of the purchaser, storage facilities. The seller will take measures to secure the goods and to prevent deterioration of quality until the goods are finally delivered to the purchaser.*
- 5.2. *The purchaser is obliged to compensate to the seller the costs of storage according to the regular tariff or, lacking such a tariff, according to tariffs customary to the branch. These costs are due over the period starting from the time the goods were ready for shipment or, in the event of a special term, from the time set for delivery by the agreement/contract.*

6. EXCHANGE OF OWNERSHIP AND RISKS

- 6.1. *Notwithstanding par. 2 and 4 of this article, the owner- ship of -and the risks for- the goods changes hand to the purchaser at the time of delivery.*
- 6.2. *As long as the purchaser has not paid the full amount of the purchase, including possible additional charges, or has not provided sufficient securities/guarantees, the seller remains owner of the goods. In that case, the ownership changes hand in the event of fulfilment of the purchasers obligations.*

- 6.3. *If the seller has reasonable doubt about the solvency of the purchaser, he is authorised to postpone delivery of the goods according to art. 4.2., until the purchaser has provided sufficient securities/guarantees. The purchaser is answerable to the seller for damages caused by delayed delivery.*
- 6.4. *If delivery of the goods is postponed until a time agreed upon by both parties, according to article 5, the goods will remain the property and risk of the seller, until the goods are finally delivered and received at a place or places as mentioned in article 4.2.*

7. TIME OF DELIVERY

- 7.1. *The listed times of delivery are without obligation. No compensation is due in case the time of delivery cannot be met. The selling price is based on existing prices, rates, wages, tariffs &c. at the time of the confirmation of the order. In case of price increases, the seller/deliverer has the right to alter the agreed prices of the goods accordingly.*

8. FORCE MAJEURE

- 8.1. *The term of delivery will be extended with a period equal to the time the seller is not able to fulfil his obligations due to force majeure.*
- 8.2. *Force majeure for the purchaser arises if the purchaser is not able to meet his obligations after the agreement/contract is constituted, due to: war, danger of war, civil war, uproar, fire, molest, water-damage, flood or other natural disasters, strike, occupation of industrial or trade property, debarment, lockouts, in- and export or transit obstructions or governmental actions. In all these cases, the purchaser must be without any blame or responsibility for the situation.*
- 8.3. *If delivery is delayed by more than two months, due to force majeure, both the seller and the purchaser have the right to terminate the agreement/contract. In that case, the purchaser is only entitled to indemnification of the costs made by him.*
- 8.4. *When, in case of force majeure, part of the agreement/contract has been executed and the remaining part is delayed for more than two months, the purchaser has the right to either keep the goods which are already delivered and pay their price, or to consider the contract terminated and send back the delivered goods to the seller at the risk and expense of the purchaser; the latter only, when the purchaser can prove that the delivered goods are no use to him without the remaining part not delivered due to force majeure.*

9. RESALE

- 9.1. *In case of resale, the purchaser is not allowed to export.*
- 9.2. *The original purchaser shall, in case of resale, to all next purchasers, include in the terms of contract the obligation to make obligatory the prohibition to export and to see to it that this obligation is passed on to all other resale's by companies.*
- 9.3. *The purchaser is not entitled to sell and deliver to parties indicated specifically by the seller.*
- 9.4. *The purchaser will cooperate, in case of resale, with measures taken by the seller to promote his products. The seller will inform the purchaser in due time about respective activities. These activities could be, for example: commercials, special offers, premiums or competitions, discounts, displays in the selling-room of the purchaser, exchange offers, &c. &c.*
- 9.5. *The purchaser is entitled to add his trade mark to the packing, in such a way that the trade mark of the seller remains entirely visible.*

10. GUARANTEE

- 10.1 *The seller is responsible for damages to -and caused by- the goods sold to the purchaser, as well as buyers from the purchaser, during the period of guarantee listed in the order-confirmation, unless the purchaser, as well as buyers from the purchaser, used the goods in a way other than advised in the manual or any other fault in use.*
- 10.2 *The liability of the seller is limited to the obligation to repair damages to sold goods or to replace the sold goods or parts of them.*
- 10.3 *No guarantee will be given for broken products.*

11. PRICE AND PAYMENT

- 11.1 *The selling-price includes the price of the goods and if agreed in a written statement of the seller also the costs of packing, shipment and delivery, at a destination specified by the purchaser within the Kingdom of the Netherlands.*
- 11.2 *The purchaser is obliged to pay on delivery or at the termination of services, notwithstanding other terms of payment agreed upon in the agreement/contract. The purchaser is not authorised to subtract any amount from the selling-price due to claims, adjustments, deductions or set-offs.*
- 11.3 *In case the purchaser does not fulfil his obligations as mentioned above, he is legally in default and the payment is immediately due in full. Furthermore, the seller has the right, in case of default, to regard the contract not binding, without interference by a court of law, at his own discretion. The seller has the right to charge a 1% interest over the total amount due to him, from the time the bill was due to the time of full payment. In that case, the purchaser is also liable for the damages to the seller, caused by missed profits, transport costs en legal charges.*
- 11.4 *Should the seller resort to extra-judicial measures in case of default of the purchaser, these measures will be at the expense of the purchaser. The costs will be 15% of the total amount of the bill, with a minimum of EUR 50,-.*
- 11.5 *The purchaser who uses his right to storage by the seller, remains obliged to pay the bill at the time mentioned in 11.2.*

12. Liability

- 12.1 *Under no circumstances will the liability of Heijmul Plukkorven BV exceed Euro 500.000 for either any actual or alleged negligence claim or for any product liability claim.*

- 12.2 *Except in respect of death or personal injury caused by Heijmul Plukkorven BV's negligence, Heijmul Plukkorven BV shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under express terms claims for consequential compensation whatsoever (and whether caused by the negligence of Heijmul Plukkorven BV's, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, except as expressly provided for in these Conditions.*
- 12.3 *Heijmul Plukkorven BV shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Heijmul Plukkorven BV's obligations in relation to the Goods, if the delay or failure was due to any cause beyond Heijmul Plukkorven BV's reasonable control. reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond Heijmul Plukkorven BV's reasonable control:*
- 12.3.1 *Act of God, explosion, flood, tempest, fire, or accident;*
 - 12.3.2 *War or threat of war, sabotage, insurrection, civil disturbance or requisition;*
 - 12.3.3 *Acts, restrictions, regulations bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;*
 - 12.3.4 *Import or export regulations or embargoes;*
 - 12.3.5 *Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of Heijmul Plukkorven BV's or of a third party);*
 - 12.3.6 *Difficulties in obtaining raw materials, labour, fuel, parts or machinery;*
 - 12.3.7 *Power failure or breakdown in machinery.*

13. LEGAL OBLIGATIONS

- 13.1 *The seller does not guarantee, unless otherwise agreed upon by contract, that the design, the composition and the quality of the goods to be delivered by contract, will satisfy all requirements by law or by any other direction from the government effective at the time.*
- 13.2 *The above is applicable to the normal use of the goods.*

14. DISSOLUTION OF THE AGREEMENT/CONTRACT

- 14.1 *Notwithstanding art. 11, the agreement/contract will be dissolved, without interference of the court, by means of a written statement to that effect, at the moment of: bankruptcy of the purchaser, official suspension of payment, legal seizure, being in ward, or any other situation wherein the purchaser cannot dispose over his assets or parts of them; unless the trustee or administrator recognizes these contractual obligations as a debt to the estate.*
- 14.2 *In case of dissolution of the agreement/contract, all claims are effective immediately by both parties. The purchaser is liable for the damages (consisting, for example, of loss of profit and transport costs) suffered by the seller.*

15. COMPENSATION AND CONTROL OF RESALE

- 15.1 *The purchaser, in breach of the terms under article 9 mentioned above, loses the claim to compensation for any transaction which falls under the terms of the mentioned prohibitions. The amount of damages is prefixed by both parties by the terms of these General Conditions at EUR 5,000.00 per transaction.*
- 15.2 *The seller is authorised to have an independent auditor examine the books of the purchaser in order to determine a possible breach of contract as mentioned above under art. 9.*

16. APPROPRIATE LAW

- 16.1 *This agreement, its performance and the interpretation of its conditions, are subject to -and governed by- Dutch Law.*

17. COMPETENT COURT

- 17.1 *Should a conflict arise between parties, the district-court of Sittard or the county-court of Maastricht is competent, without prejudice to the right of Heijmul Plukkorven BV to submit the dispute to another court of competent jurisdiction.*

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