

#### General

1. For the purposes of these Terms, the word 'Seller' shall be understood to mean a member of the above-mentioned trade association in its capacity as provider, seller, (sub)contractor, supervisor or in any capacity whatsoever. For the purposes of these Terms, the word 'Buyer' shall be understood to mean the prospective buyer, prospective customer and generally the contracting partner of the Seller.
2. These General Terms of Sale and Delivery ("Terms") shall apply to any agreements concluded by the Seller under which the Seller undertakes to deliver goods and/or to provide services. The Seller and the Buyer agree that once a contract is concluded subject to the applicability of the following Terms, these shall fully apply to subsequent transactions as well. Any Terms, however named or described, stipulated by the Buyer shall not apply and are expressly rejected by the Seller unless the Seller accepts them in writing.
3. Trade terms, used in these General Terms of Sale and Delivery, quotations, order confirmations or otherwise must be interpreted in accordance with the International Rules for the Interpretation of Trade Terms produced by the International Chamber of Commerce (Incoterms 2000) in force at the time when the Agreement is concluded.

#### Agreement

- 2.1. Quotations, price lists and other communications from the Seller shall not be binding on the Seller. Commitments and agreements made orally by or with staff members of the Seller shall only be binding on the Seller after and in so far as they have confirmed such explicitly in writing.
- 2.2. Only the Seller's confirmation shall be binding if there is a discrepancy between the Buyer's order and the Seller's confirmation.
- 2.3. Any additions and amendments to the Agreement and any agreements ancillary to the Agreement shall be valid only if they have been agreed or made in writing.
- 2.4. If the Seller reasonably believes that the Buyer's financial position so warrants, the Seller shall be entitled to request payment in advance or the provision of security and, in anticipation thereof, to suspend the performance of the Agreement in whole or in part.
- 2.5. If the Seller cannot reasonably be expected to meet its delivery commitment as a result of force majeure, the Seller shall have the right to suspend delivery. Force majeure shall in any case include any shortcoming that is caused by circumstances beyond the Seller's control, such as, but not be limited to, the following:
  - a. operational failure or business interruption, irrespective of the nature and cause;
  - b. delayed or late delivery by (any of) the Seller's suppliers or by a third party or third parties;
  - c. transport difficulties or transport impediments of any kind which hamper or impede transport to the Seller's location or from the Seller's location to the Buyer;
  - d. import and export restrictions of any kind.
- 2.6. The goods shall be sold and delivered subject to the standard tolerances in terms of dimensions, quantity and weight, unless explicitly agreed otherwise.
- 2.7. The Seller shall not be liable for any errors in illustrations and in statements regarding prices, sizes, weight or quality, in price lists and and/or other publications.
- 2.8. An agreement that has been concluded may be cancelled by the Buyer only subject to the Seller's prior consent in writing. If the Seller agrees to the cancellation, the Buyer shall be required to pay compensation to the Seller of 25% of the amount that the Buyer would have had to pay to the Seller if the Agreement had been carried out, without prejudice to the Seller's right to compensation in full for any expenses and losses incurred.

#### Delivery dates and times

- 3.1. The agreed delivery dates and times shall always be approximate and subject to unforeseen circumstances.
- 3.2. If delivery cannot be made at the agreed date and time or, as the case may be, within the agreed period, the Seller shall be entitled to make partial deliveries and to extend the delivery period by a reasonable period.
- 3.3. Failure to meet the delivery period shall not entitle the Buyer to dissolve the Agreement and/or to demand compensation unless the Buyer can prove intent or wilful recklessness on the part of the Seller and subject to the provisions of article 8.2.

#### Complaints and liability

- 4.1. Immediately on delivery the Buyer shall be required to inspect the goods delivered for any variances from the agreed requirements. Any complaints must be lodged with the Seller in writing within ten working days of the delivery date. On expiry of the aforesaid period, the Buyer shall be deemed irrevocably and unconditionally to have accepted the goods delivered. The Buyer must keep any defective goods at the Seller's disposal and shall allow the Seller the possibility to examine the goods. Lodging a complaint shall not suspend the Buyer's payment obligation in respect of the goods in dispute. The Buyer must report in writing any invisible defects within ten working days of discovery thereof, but no later than one year of the delivery. Any legal action must be brought within one year of the date on which a complaint was lodged punctually, on pain of nullity.
- 4.2. Quality requirements or quality standards with respect to goods to be delivered by the Seller must have been agreed explicitly. Minor variances and differences in quality, colour, size or finish - usual in the sector or technically unavoidable - shall not be regarded as a shortcoming and do not constitute grounds for dissolution or compensation.
- 4.3.
  - a. Subject to the provisions hereinafter under b., neither the Seller nor the Seller's employee(s), nor third parties engaged by the Seller shall ever be liable, for any reason, for any loss sustained by the Buyer or any third party in respect of any delivery commitment, the delivery of goods, the delivered goods themselves or the use thereof or any work or recommendations, including but not limited to damage as a result of improper compliance with an obligation to repair or to redeliver. Nor are transport costs, travel and accommodation expenses, (dis)assembly and/or (re-)installation costs, profit reduction and interruption of operations liable for compensation, even if the Seller has been advised of the possibility of such types of loss or damages, unless the Buyer proves intent or wilful recklessness on the part of the Seller, in which event the Seller shall never be liable to compensate more than the direct loss suffered by the Buyer.
  - b. The Seller's liability in the event of an error or shortcoming in the performance of the Agreement, shall be limited at all times to redelivery or to the invoice amount for the order, such at the discretion of the Seller.
- 4.4. In no event shall there be a shortcoming on the part of the Seller if:
  - a. and for as long as the Buyer is in default vis-à-vis the Seller;
  - b. the goods have been exposed to abnormal conditions or have been handled incompetently or without due care;
  - c. the goods have been stored for longer than usual and if a loss of quality is likely to have been sustained as a consequence thereof;
- 4.5. The goods delivered by the Seller shall comply with the agreed quality standards. However, and subject to article 4.2, the Seller does not guarantee and shall never be deemed to have guaranteed or to warrant that the goods purchased are suitable for the purpose for which the Buyer wishes to treat or process them or wishes to use them or cause third parties to use them. Samples shall be provided for indication purposes only.
- 4.6. If this Agreement covers goods that the Seller procures or has procured from third parties, the Seller's responsibility and/or liability shall be limited to the responsibility and/or liability to the Seller of the Seller's supplier or of a third party or third parties engaged by the Seller.
- 4.7. The Buyer shall indemnify the Seller against any third-party claims for compensation for loss or otherwise which relate directly or indirectly to any delivery commitment, the delivery of goods, the delivered goods themselves or the use thereof or any work or recommendations. The Buyer furthermore indemnifies the Seller against any claims by third parties for compensation for loss or otherwise which relate directly or indirectly to the editing and/or (electronic) transmission of the information furnished by the Seller. The indemnification as set out in this article shall not be applicable in the event of intent or wilful recklessness on the part of the Seller

#### Transport

- 5.1. If the goods are ready for purchase by the Buyer, regardless of the agreed mode of transport, and if the Seller has informed the Buyer accordingly, the Buyer shall be required to purchase the goods forthwith. If the Buyer fails to meet this requirement, the Seller shall be entitled either to warehouse the goods at the Buyer's expense and risk, or to keep them warehoused, and to invoice the Buyer without the possibility of a refusal of payment thereafter on account of pending collection, or to dissolve the Agreement subject to the provisions of article 8.
- 5.2. The Buyer shall be required, at the agreed place of delivery, to unload the goods as quickly as possible, at the Buyer's expense and risk. If this requirement is not met, the provisions set out in clause 5.1 shall apply by analogy.
- 5.3. The means of transport shall be at the Seller's option; the choice of transport shall not affect the provisions set out in clause 2.5.
- 5.4. All deliveries are ex works (Incoterms 2000), unless explicitly agreed otherwise.

#### Price and payment

- 6.1. Irrespective of whether they have been stated orally, in writing, in a specific quotation or otherwise, the prices quoted by the Seller shall be based on any information furnished at the time of the request and are exclusive of VAT and other Government charges payable on sale and delivery, and shall be based on delivery ex works (Incoterms 2000). If one or more cost components are subject to an increase after the date of the Agreement - even if such happens consequent to foreseeable circumstances - the Seller shall be entitled to increase the agreed price accordingly.
- 6.2. Every payment is to be made within thirty days of delivery, net and in cash, without the Buyer being entitled to any discount or set-off that has not been explicitly agreed. Different payment arrangements must be agreed in writing. The Buyer's right to set off any claims it may have on the Seller or to suspend his obligations is explicitly excluded.
- 6.3. The term of payment mentioned in clause 6.2 is a strict term. The Buyer shall be deemed to default on payment, without any reminder or notice of default being required, on expiry of this period. If the Seller believes that the Buyer is in a dire financial state or if a moratorium or bankruptcy has been applied for, or is pronounced, the Buyer shall be in default and all claims on Buyer shall become immediately payable.
- 6.4. As from the moment of default, as provided in clause 6.3, the Buyer shall be required to pay the statutory commercial interest. If the Seller has to take (extra)judicial measures in connection with late payment, the Buyer shall bear all the costs arising therefrom, which shall total at least 15% of the outstanding claim, subject to a minimum of EUR 150, without prejudice to the right to compensation in full.
- 6.5. Irrespective of different requirements or payments, the Seller shall be entitled to apply any payments, in a sequence at the Seller's discretion, to the reduction of any sums that the Buyer is required to pay to the Seller on account of deliveries, interest and/or costs.
- 6.6. If and for as long as the Buyer fails to meet any of its obligations to the Seller under the Agreement, or to meet such in full, properly or on time, the Seller shall be entitled to suspend the delivery of goods.

#### Ownership and Retention of Title

- 7.1. Any goods delivered shall remain the Seller's exclusive property until such time as the Buyer meets all obligations arising from or associated with agreements under which the Seller has undertaken to make delivery, including claims relating to penalties, interest and costs, plus any costs on account of loss of value and costs for repossessing the delivered goods. Until such time the Buyer shall be required to keep the goods which the Seller has delivered separated from other goods and clearly identified as the Seller's property and to insure the goods properly and keep them properly insured and shall not proceed to treat or process the goods.
- 7.2. If the Buyer fails to meet any of its obligations vis-à-vis the Seller under clause 7.1 or if the Seller has reason to fear that the Buyer will not meet the aforesaid obligations, the Seller shall be entitled, without any notice of default being required, to repossess the delivered goods forthwith, regardless of where they are located. The Buyer shall bear the repossession costs.
- 7.3. Until the above-mentioned claims are met, the Buyer shall not be entitled to dispose of the goods in question or to create a lien or pledge, either possessory or non-possessory, on the goods in question.
- 7.4. At such time as the Buyer has complied with all its obligations towards the Seller as stated in clause 7.1, the Seller shall transfer title to the delivered goods to the Buyer, subject to the Seller's pledge on account of any other claims which the Seller may have on the Buyer. The Buyer shall, on the Seller's first demand, assist with any necessary acts in that respect.

#### Dissolution

- 8.1. The Seller shall be entitled to undo this agreement, by registered letter, with immediate effect and without judicial intervention being required and without being obliged to pay any compensation for any loss whatsoever if:
  - a. at first request the Buyer refuses to make an advance payment or to provide adequate security in the circumstances referred to in article 2.4;
  - b. the Buyer files for a moratorium or for its bankruptcy or if a third party files for the bankruptcy of the Buyer or if the Buyer is dissolved;
  - c. the Buyer dies;
  - d. the Buyer does not, not in full, not properly or not in time, comply with any of its obligations under the agreement towards the Seller and despite a request thereto, fails to remedy such shortcoming within 7 days after such a request is made.
- 8.2. In addition, both the Buyer and the Seller may undo the agreement by way of registered letter in the event that the force majeure as referred to in article 2.5 on the part of the Seller has lasted for more than six (6) months, but solely for that part of the obligations that have not yet been performed. In that event the parties shall not be entitled to compensation as a result of the loss they have suffered or will suffer due to the dissolution.

#### Disputes

- 9.1. All agreements concluded by the Seller shall be governed by Czech law. The provisions of the UN Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) shall not apply, nor shall any existing or future international regulations for the sale of goods the applicability of which can be excluded by the parties.
- 9.2. Any disputes arising between the parties shall be subject to the jurisdiction of the competent court in Czech Republic in whose area of jurisdiction the Seller's domicile is located, unless another court is competent under mandatory statutory rules.
- 9.3. In so far as these Terms of Sale and Delivery are also available in a language other than Czech, the Czech version shall prevail at all times in the event of any discrepancy.

Any quotations, offers and agreements relating to goods to be delivered and/or services to be provided by us shall be subject to the Terms of Sale and Delivery dated 2 January 2008. A copy of these Terms may be downloaded from [www.vanleeuwen.cz](http://www.vanleeuwen.cz) and/or will be sent to you free of charge upon request. Any other terms and conditions or different technical standards are expressly rejected.