



## **GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF WEPA NEDERLAND B.V.**

**Filed with the Chamber of Commerce for Limburg under number 13029403**

### **Article 1 Applicability**

- 1.1 In these General Terms and Conditions of Sale and Delivery, 'Wepa Nederland' will refer to Wepa Nederland B.V. In these General Terms and Conditions of Sale and Delivery, the terms 'product' and 'products' will refer to products supplied, sold, rented, used, lent and/or supplied by Wepa Nederland.
- 1.2 These Terms and Conditions will apply to all offers made by Wepa Nederland and all agreements concluded with Wepa Nederland.
- 1.3 These Terms and Conditions will apply to the exception of any General Terms and Conditions applied by the buyer or potential buyer (hereafter 'the Buyer').
- 1.4 Any stipulations deviating from these Terms and Conditions may be invoked by the Buyer only if and insofar as such have been accepted by Wepa Nederland in writing.

### **Article 2 Offers, orders and agreements**

- 2.1 All offers made by Wepa Nederland will be without obligation. Any orders and acceptance of orders by the Buyer will be irrevocable.
- 2.2 Wepa Nederland will not be bound until it has confirmed the order in writing or has commenced its performance.
- 2.3 Verbal commitments or agreements by or with its staff will be binding on Wepa Nederland only if it has confirmed same in writing.
- 2.4 Wepa Nederland will not be bound by any depictions, descriptions, advertising materials and offers. Any statements issued by Wepa Nederland regarding quantities, colours, dimensions, quality, performances, etc., should always be considered approximations and will be without obligation.

### **Article 3 Conformity**

- 3.1 Any statements issued by Wepa Nederland regarding quantities, colours, purity, dimensions and/or other specifications regarding its products will be made with the greatest possible care. However, Wepa Nederland cannot guarantee that no deviations will occur in respect of such statements. Upon taking delivery of the products, the Buyer should check whether the delivery is consistent with the quantities and/or other specifications given by or agreed with Wepa Nederland. Any statements issued by Wepa Nederland regarding capacity, weights, dimensions, purity, colours, performances, etc., should always be considered approximations and will be without obligation.
- 3.2 Wepa Nederland will not be bound by any depictions, descriptions, catalogues, brochures, advertising materials, price lists, information provided on the website or offers.
- 3.3 Minor deviations in terms of colour, purity and quality will under no circumstance form grounds for complaints, refusal to accept the delivery, the dissolution of the agreement or delays in the payment of the purchase price.
- 3.4 All technical requirements set by the Buyer in respect of the products to be supplied that deviate from the standard requirements should be emphatically stated by the Buyer upon the conclusion of the agreement.
- 3.5 In the event of a supply of hygienic or other paper, a 5% deviation will be permitted over or under the product specifications provided by Wepa Nederland. Any deviation within these limits cannot be considered a shortcoming and will therefore not constitute a ground for complaints.
- 3.6 If Wepa Nederland has shown or provided a model, sample or example, such should be presumed to have been shown or provided as an indication only: the characteristics of the products to be supplied may deviate from the sample, model or example, unless Wepa Nederland has expressly stated that the products supplied would be in full accordance with the sample, model or example shown or provided.



- 3.7 The Buyer will be responsible for establishing that any products ordered and/or to be ordered by it as well as the packaging, labelling and other information provided with such products are in accordance with all government regulations imposed in respect of such in the country of destination. The use of the products and the conformity with government regulations will be at the Buyer's risk.

#### **Article 4 Intellectual property**

- 4.1 All intellectual and industrial property rights in respect of the products and the product's names and anything else developed, produced or supplied by Wepa Nederland, including packaging materials, manuals, advertising materials and depictions, will be vested in Wepa Nederland.
- 4.2 The Buyer will not be permitted to remove or change any reference to trademarks, trade names or other intellectual or industrial property rights from the products. The Buyer will offer, sell or supply the products only with the trademark, logo and packaging given to the products by Wepa Nederland or its supplier.

#### **Article 5 Prices**

- 5.1 Any prices stated by or agreed with Wepa Nederland will be exclusive of transport costs and exclusive of VAT and other taxes, unless the contrary is expressly stated.
- 5.2 All prices will include any standard packaging materials. If the Buyer requests special packaging materials, the Buyer will be charged the corresponding costs.
- 5.3 If, after the offer being made and/or the agreement being concluded, any cost-price determining factors change, Wepa Nederland will be entitled to adjust the prices accordingly.

#### **Article 6 Lead time and delivery**

- 6.1 For purposes of the interpretation of the terms and conditions of transport and delivery applied by Wepa Nederland, the applicable Incoterms will be decisive. If no agreements to the contrary have been made, delivery will be effected ex works.
- 6.2 If another manner of delivery has been agreed following ex works, the Buyer will be obliged to take delivery of the products immediately upon their arrival at the destination. The Buyer shall ensure that there are sufficient loading and unloading facilities to ensure a quick delivery. The Buyer shall ensure the availability of sufficient staff and mechanical and other facilities for this purpose. Furthermore, the delivery address should be easily accessible by the means of transport generally used for deliveries.
- 6.3 Any delivery dates stated by Wepa Nederland are approximate and should never be considered strict deadlines. If a delivery date is exceeded, this will not oblige Wepa Nederland to pay damages and will not entitle the Buyer to the non-performance or suspension of any obligations ensuing from the agreement.
- 6.4 Any delivery dates will be based on the working conditions that apply upon the conclusion of the agreement and the timely delivery of the items required by Wepa Nederland for purposes of the agreement's performance. If, as the result of a change in working conditions and/or the late delivery of items required by Wepa Nederland, any delays occur, the lead time will be extended where necessary.
- 6.5 If the Buyer does not take delivery of the products or does not collect same or have them collected by a third party, the products will be stored for as long as Wepa Nederland considers desirable at the Buyer's account and risk. In that event, as with any other attributable failure by the Buyer, Wepa Nederland will be entitled at all time either to demand performance of the agreement, or to dissolve the agreement extra-judicially, without prejudice to its rights to compensation of damage incurred and profits lost, including any storage costs.
- 6.6 Wepa Nederland will not be obliged to honour any request from the Buyer for a redelivery or subsequent delivery. If Wepa Nederland nevertheless honours such a request, all related costs will be for the Buyer's account.
- 6.7 Wepa Nederland will be authorised to perform the agreement in parts and demand payment for the part of the agreement that has been performed.
- 6.8 If Wepa Nederland creates and/or keeps a stock specifically geared to a customer, the Buyer will be obliged to purchase such stock at Wepa Nederland's first request, and in any case within one month of the agreement's termination. All related costs will be for the Buyer's account.



- 6.9 Any packaging materials, including pallets in all sizes, should at all times be exchanged, immediately upon delivery, for packaging materials of a quality that is at least equivalent to that of the returned materials. The quantity should be at least equivalent to that of the returned packaging materials. If these conditions are not fulfilled, Wepa Nederland will be entitled to charge the corresponding costs on.

#### **Article 7 Force majeure**

- 7.1 If Wepa Nederland is prevented from performing the agreement by a situation of *force majeure*, it will be entitled to suspend the performance of the part of the agreement that cannot be performed by means of a written statement. If the situation of *force majeure* lasts longer than six weeks, the Buyer will also be entitled to suspend the part of the agreement that cannot be performed by means of a written statement. In such cases, the Buyer will not be entitled to compensation for any damage, costs or interest.
- 7.2 The term '*force majeure*' will include, *inter alia*, fire, flooding, accidents or illness of staff, interruptions of operations, transport delays, restricting statutory provisions, production or transport problems not foreseen by Wepa Nederland and the late delay of goods or services by third parties engaged by Wepa Nederland.
- 7.3 If, upon the situation of *force majeure* taking effect, Wepa Nederland has already performed part of its obligations or is able to perform only part of its obligations, it will be entitled to send a separate invoice for the part already delivered or the part that can be delivered and the Buyer will be obliged to pay this invoice as if it pertained to a separate agreement.

#### **Article 8 Shortcomings and complaints**

- 8.1 In the event of any shortcomings in the products, Wepa Nederland will repair or replace the products in question or apply a reasonable price reduction, at the exclusive discretion of Wepa Nederland. This warranty will apply for six months following the delivery.
- 8.2 This warranty will not cover any shortcomings occurring in or (partially) as a result of any failure to observe the instructions in the manual by the Buyer's staff, negligent or inexperienced use, damage, changes made or work performed by third parties or by the Buyer without Wepa Nederland's prior written consent or use other than that for which the products are normally intended.
- 8.3 Nor will the warranty cover any minor deviations in quantities, colours, purity, performance, dimensions and/or other specifications regarding the products, which are normal within the industry and come within the tolerances that are considered permissible.
- 8.4 Any defects in or damage to the products rented out or made available by Wepa Nederland resulting from – *inter alia* – the non-observance of the instructions in the manual, negligent or inexperienced use, damage, or changes made or work performed by third parties or the Buyer without Wepa Nederland's prior written consent will be for the Buyer's account.
- 8.5 Immediately after its receipt of the products, the Buyer should carefully inspect the products supplied, rented or lent, absent which its rights to lodge a complaint and/or claim replacement will lapse. Any complaints regarding the quantity of the goods supplied and/or visible damage should be entered in the bill of lading or consignment note upon delivery, absent which the bill of lading or the consignment note will form binding evidence against the Buyer.
- 8.6 The Buyer should lodge a complaint within five working days of the shortcoming occurring. Absent a timely complaint, any claims against Wepa Nederland will lapse.
- 8.7 If the Buyer lodges a complaint, it will be obliged to offer Wepa Nederland the opportunity to have the products inspected in order to verify the shortcoming. The Buyer will be obliged to keep the goods regarding which it has lodged a complaint at Wepa Nederland's disposal, absent which all rights to lodge a complaint or claim repairs and/or replacement will lapse.
- 8.8 Return shipments to Wepa Nederland, for whatever reason, may be effected only following a written authorisation and shipment and/or other instructions from Wepa Nederland. The products will at all times remain at the Buyer's expense and risk.
- 8.9 Any defects in a part of products delivered will not entitle the Buyer to reject or refuse the entire shipment of products supplied.
- 8.10 The Buyer should notify Wepa Nederland in writing of any inaccuracies in Wepa Nederland's invoices within ten days of the invoice date, absent which the Buyer will be presumed to have approved the invoice.



- 8.11 Complaints will not suspend the Buyer's payment obligations.
- 8.12 After a shortcoming in a product has been discovered, the Buyer will be obliged to take all measures to prevent or limit such damage, possibly including the immediate discontinuation of its use of and trade in same.

#### **Article 9 Retention of title**

- 9.1 Wepa Nederland will retain the title to the products supplied and to be supplied until its claims relating to the products supplied and to be supplied have been fully paid by the Buyer, including any claims based on any failure to perform one or more agreements.
- 9.2 If the Buyer has failed to perform its obligations, Wepa Nederland will be entitled to recover the products that belong to it from the place at which they are kept, at the Buyer's expense.
- 9.3 The Buyer will not be entitled to pledge or transfer the ownership of products for which it has not yet effected payment. The Buyer will be obliged to keep any products supplied subject to the retention of title with due care and recognisable as Wepa Nederland's property.
- 9.4 Any item rented or lent by Wepa Nederland will at all times remain Wepa Nederland's property. The Buyer may not sell, pledge or rent the item rent or lent to it, or to make it available to third parties in any other way. If this obligation is breached by the Buyer or its staff, the Buyer will forfeit to Wepa Nederland a penalty EUR 5, 000 per breach payable to Wepa Nederland, without prejudice to Wepa Nederland's right to compensation for the damage caused by the breach and without prejudice to its right to demand specific performance of the relevant obligation.

#### **Article 10 Payment**

- 10.1 Unless the parties have agreed otherwise in writing, Wepa Nederland's invoices should be paid within 30 days of the invoice date in the currency indicated in the invoice.
- 10.2 Wepa Nederland will be entitled at all times to demand full or partial advance payment and/or to otherwise demand security for the payment.
- 10.3 If payment is not received on time, the Buyer will owe Wepa Nederland, without any further notice of default being required, interest on the invoice amount at a monthly rate of 1%, calculated from the due date until the payment date.
- 10.4 All costs related to collection will be for the Buyer's account. The extra-judicial collection costs will amount to at least 15% of the amount to be collected, subject to a minimum of EUR 250.
- 10.5 The Buyer waives any rights to set-off of reciprocally outstanding amounts. Wepa Nederland will be authorised at all times to set off any amounts it owes the Buyer against amounts owed to Wepa Nederland by the Buyer and/or enterprises affiliated with the Buyer, irrespective of whether such amounts have become exigible.
- 10.6 The entire invoice amount will become immediately and fully due and payable upon the non-timely payment of an agreed instalment on the due date, as well as if the Buyer has been declared bankrupt, if it has applied for a – provisional or other – suspension of payments, if the statutory debt rescheduling arrangement [*wettelijke schuldsaneringsregeling*, or *WSNP*] has been declared applicable to it and/or if any attachment is levied on the Buyer's property and/or claims. In the event of one of the situations described above, the Buyer will be obliged to so notify Wepa Nederland forthwith and Wepa Nederland will be entitled to suspend its obligations and/or dissolve the agreement/agreements.
- 10.7 Any payments made by the Buyer will first be used to cover any outstanding costs, then to settle any interest due and the to cover the oldest exigible invoices, even if the Buyer states that the payment pertains to a later invoice.
- 10.8 If a bonus has been agreed, such will not be exigible until payment has been effected for all products supplied to which the bonus pertained and the Buyer has performed all its other obligations as well. Wepa Nederland will be entitled to deduct any amounts payable by the Buyer to Wepa Nederland from the bonus.

#### **Article 11 Cancellation**

- 11.1 The Buyer may not cancel an order after it has been placed. If the Buyer nevertheless cancels all or part of an order placed, it will be obliged to compensate Wepa Nederland for all costs reasonably incurred for purposes of the performance of the order, any work performed by Wepa Nederland and any loss of profits incurred by Wepa Nederland, plus VAT.



## **Article 12 Liability**

- 12.1 Apart from the provisions of Article 8, the Buyer will have no claims vis-à-vis Wepa Nederland based on defects in or related to any products or other items supplied, rented or lent by Wepa Nederland.
- 12.2 Under no circumstance will Wepa Nederland be liable for indirect damage, including personal injury or property damage [*persoons- en zaakschade*], non-material damage, lost income, damage caused by interruptions of operations or any other form of consequential damage [*gevolgschade*], whatever its cause, except in the event of gross negligence or an intentional act or omission on Wepa Nederland's part.
- 12.3 Damage to products caused by damage to or destruction of the packaging materials will be for the Buyer's account and risk.
- 12.4 Any advice, recommendations and information provided by Wepa Nederland will be without obligation and will not be subject to any guarantees. Wepa Nederland will not be liable for any direct or indirect damage ensuing from the provision of information and/or advice.
- 12.5 In all cases in which Wepa Nederland is obliged to pay damages, these will never exceed the invoice value of the goods supplied as a result of or in connection with which the damage was caused, subject to a maximum of EUR 10,000. If the damage is covered by Wepa Nederland's business liability insurance policy, the damages will furthermore never exceed the actual amount paid out by the insurer in the relevant case.
- 12.6 Any claims against Wepa Nederland, unless Wepa Nederland has acknowledged same in writing, will lapse pursuant to the mere expiry of 12 months following the arising of the claim.
- 12.7 The Buyer will indemnify Wepa Nederland, its employees and any auxiliary persons engaged by it for purposes of the performance of the agreement against any claims of third parties, including claims based on product liability, in connection with Wepa Nederland's performance of the agreement, irrespective of the cause, as well as against any costs ensuing from such claims for Wepa Nederland.

## **Article 13 Representation**

- 13.1 If the Buyer is acting on behalf of one or more other parties, it will be liable vis-à-vis Wepa Nederland as if it were the Buyer itself, without prejudice to such other parties' liability.

## **Article 14 Final provisions**

- 14.1 The nullity or annulability of any provision of these Terms and Conditions or of any agreements to which these Terms and Conditions apply will not affect the other provisions. Wepa Nederland and the Buyer will be obliged to replace any null or nullified provisions by valid provisions the purport of which is as similar as possible to that of the null or nullified provisions.
- 14.2 All agreements concluded by Wepa Nederland will be governed exclusively by Dutch law.
- 14.3 Any applicability of international conventions on the sale of movable goods which the parties can declare inapplicable is hereby expressly excluded. More particularly, the applicability of the United Nations Convention on Contracts for the International Sale of Goods 1980 (CISG 1980) is hereby expressly excluded.
- 14.4 The place of performance will be presumed to be the location where Wepa Nederland has its registered office.
- 14.5 Any disputes between Wepa Nederland and the Buyer will be settled exclusively by the competent Dutch judge of the court district where Wepa Nederland has its registered office, unless another Dutch court has subject-matter competence. In derogation from the preceding provision, Wepa Nederland may submit a dispute to the courts in the district where the Buyer is established.
- 14.6 The Dutch text will be decisive for purposes of the interpretation of these General Terms and Conditions.