

## General Terms and Conditions of Sale and Delivery of HeboVanDijk B.V.

### 1. APPLICATION

- 1.1. These conditions apply to every offer and every agreement between HeboVanDijk B.V., hereinafter called HeboVanDijk, and a customer, hereinafter called the Purchaser. The parties exclude the application of general conditions of the Purchaser.
- 1.2. Deviations from these terms and conditions are only valid if and insofar as expressly agreed in writing by the parties.
- 1.3. The invalidity of one or more provisions of these terms and conditions does not affect the validity of the other provisions. The parties hereby agree to replace each invalid provision by a new provision, which is not invalid and as far as possible has the same purpose and regulates the same as the invalid provision. The provisions of this paragraph apply mutatis mutandis to the partial invalidity of a provision.

### 2. OFFERS

- 2.1. The offers of HeboVanDijk are without obligation, unless otherwise indicated therein.

### 3. PRICE AND PAYMENT

- 3.1. All prices are exclusive of turnover tax (VAT) and, unless otherwise agreed, exclusive of the costs of transport, insurance, etc..
- 3.2. HeboVanDijk may pass on price increases resulting from changes in its cost price at any time. If the price increase exceeds 5%, the Purchaser has the right to dissolve the agreement.
- 3.3. The full purchase price must be paid by the Purchaser and must be received by HeboVanDijk within the agreed term or on the agreed date. The Purchaser may not apply any discount or setoff unless agreed in advance.
- 3.4. In the absence of full payment within the agreed term or date, the Purchaser is in default and the payment is immediately due and payable in full. From the moment the default commences until full payment is made, the Purchaser owes interest on the amount due and payable, equal to the statutory interest rate plus 2% on an annual basis.
- 3.5. In the event of default of payment, HeboVanDijk is entitled, at its own discretion, to suspend deliveries in whole or in part, to deliver against prepayment or cash on delivery, or to dissolve the agreement.
- 3.6. Upon request, the Purchaser is obliged to immediately (within twenty-four hours) provide an irrevocable bank guarantee for all that he owes HeboVanDijk, whether or not due and payable.

### 4. DELIVERY TIME/DATE OF DELIVERY

- 4.1. An agreed delivery time or date is a target time or target date. An agreed delivery time commences on the date on which HeboVanDijk has confirmed the order.
- 4.2. If the agreed delivery time or date is exceeded, HeboVanDijk is never obliged to pay compensation.

- 4.3. In the case referred to under 4.2., The Purchaser is entitled to terminate the agreement, but only after he has given HeboVanDijk written notice of default and has granted HeboVanDijk a term of at least four weeks to perform.

## **5. RISK**

- 5.1. The risk for the goods passes to the Purchaser from the moment of delivery.
- 5.2. The goods will be delivered carriage paid and exclusive of rights (Incoterms 2000), unless otherwise agreed in writing between the parties.
- 5.3. HeboVanDijk is entitled to make part-deliveries and to invoice accordingly.
- 5.4. In the event of non-prompt acceptance, HeboVanDijk is not obliged to store the goods. If HeboVanDijk nonetheless does store the goods for the Purchaser, this shall be done as a service, entirely at the Purchaser's risk and all the costs thereof shall be for the account of the Purchaser.
- 5.5. HeboVanDijk is entitled to deliver a maximum of 10% more or less than the quantity ordered.

## **6. DEFECTS AND COMPLAINTS**

- 6.1. The Purchaser should check the purchased goods, or have them checked, on receipt or as soon as possible thereafter. He should moreover examine whether the delivered goods comply with the agreement, namely:
- whether the correct goods have been supplied;
  - whether the correct quantity has been supplied;
  - whether the goods comply with any agreed specifications or the requirements that may be set for normal use and/or commercial purposes.
- 6.2. In the event of visible defects or shortcomings, the Purchaser should notify HeboVanDijk of them in writing within fourteen days after receipt of the goods.
- 6.3. Non-visible defects must be reported by the Purchaser to HeboVanDijk in writing within fourteen days after they have been discovered or could reasonably have been discovered, but at the latest within six months after the date of receipt of the goods.
- 6.4. HeboVanDijk is not liable for visible defects in goods that are no longer in the same condition as at the time of delivery. Nor is HeboVanDijk liable for minor deviations in quality, size, color, design or repeat length, weight and finish, not even when sold on sample.
- 6.5. HeboVanDijk does not accept returns for which it has not given express written consent.
- 6.6. With regard to the delivered goods, HeboVanDijk, irrespective of whether there is any question of its liability under the agreement or by law, shall have no obligation other than, and such at its own discretion:
- the repair of the delivered goods free of charge;
  - to take back (in full or in part) the delivered goods and to deliver free of charge a sufficient quantity of goods which comply with the terms of the agreement;
  - to take back (in full or in part) the delivered goods and to terminate (in full or in part) the agreement, without the Purchaser being entitled to damages;
  - the payment of an amount which, however, shall never exceed the contractual price, referred to in 3.1. of the delivered goods.

## **7. LIABILITY**

- 7.1. Irrespective of the grounds of its liability, in the event of non-performance, non-timely performance or improper performance, HeboVanDijk shall only be liable for direct loss and never for loss of profit or indirect loss. The liability of HeboVanDijk is limited to no more than the contractual price, referred to in 3.1, of goods for which HeboVanDijk is liable.
- 7.2. HeboVanDijk shall in no case be liable for damage or loss resulting from:
- natural wear or inexpert or incorrect treatment;
  - use for a purpose other than that for which the goods have been developed and/or sold;
  - infringement of the rights of third parties, including intellectual property rights.
- 7.3. The Purchaser indemnifies HeboVanDijk against claims by third parties in connection with the agreement and/or the performance thereof.

## **8. FORCE MAJEURE**

- 8.1. If the proper fulfilment by HeboVanDijk as a result of one or more circumstances, which are not for the account of HeboVanDijk, including the circumstances mentioned in the following paragraph, is wholly or partially impossible, either temporarily or permanently, HeboVanDijk has the right to dissolve the agreement.
- 8.2. Circumstances that are in any case not for the account of HeboVanDijk are: behaviour, except for deliberate acts or gross negligence, of persons of whom HeboVanDijk makes use in the execution of the obligation; strikes, lockouts, disease, import, export and/or transit prohibitions, transport problems, non-fulfilment of obligations by suppliers, disruptions in production, natural and/or nuclear disasters and war and/or threat of war.

## **9. RETENTION OF TITLE**

- 9.1. All goods delivered and to be delivered remain the property of HeboVanDijk until the Purchaser has met all the obligations mentioned below resulting from all the purchase agreements concluded with HeboVanDijk:
- the quid pro quo with regard to the actual goods which have been delivered or are to be delivered;
  - the quid pro quo with regard to any services which may have been rendered or may be rendered by HeboVanDijk under the terms of the purchase agreement(s);
  - any claims by reason of non-compliance by the Purchaser with one or more purchase agreements.
- 9.2. Goods which fall under the retention of title of HeboVanDijk may only be resold by the Purchaser in the context of his normal business activities..
- 9.3. The Purchaser undertakes, at HeboVanDijk's first request, to pledge to HeboVanDijk, in the manner determined by law, the claims he obtains against his customers in the resale of goods delivered by HeboVanDijk subject to retention of title.
- 9.4. The Purchaser is obliged to keep the goods delivered by HeboVanDijk under retention of title with due care as recognizable property of HeboVanDijk.
- 9.5. If the Purchaser fails to fulfill his obligations or there is reasonable fear that he will not do so, then HeboVanDijk is entitled to remove (or have removed) the goods it has delivered under retention of title. The Purchaser is required to give HeboVanDijk every assistance with this. HeboVanDijk will credit the Purchaser for the goods removed using this right for the market value of those goods on the day they were removed.

## **10. DEFAULT**

- 10.1. The Purchaser shall be in default in the event of non, late or improper performance of any of his obligations, as well as in the event of seizure of the Purchaser, his insolvency or (filing of a petition for) his suspension of payments or bankruptcy.
- 10.2. Without prejudice to the provisions of 3.4 and 3.5, HeboVanDijk has the right to dissolve the agreement immediately in case of default. HeboVanDijk may attach conditions to its willingness not to dissolve the agreement immediately. By dissolution, the obligations of the Purchaser will be immediately due and payable.
- 10.3. In the event of default, HeboVanDijk may claim reimbursement of its loss from the Purchaser, including loss of profit.
- 10.4. If HeboVanDijk, in the event of default, takes extrajudicial measures to enforce its rights, the costs thereof shall be at the expense of the Purchaser. These costs shall not be less than 15% of the total amount to be claimed by HeboVanDijk.

## **11. APPLICABLE LAW AND COMPETENT COURT**

- 11.1. The agreement, its execution and the interpretation of these terms and conditions shall be governed by Dutch law.
- 11.2. All disputes related to the agreement and / or the execution thereof, should be submitted to the competent court, without prejudice to the right of HeboVanDijk to submit the dispute to another competent court.

These terms and conditions have been filed with the Chamber of Commerce in 's-Hertogenbosch under number 16021292.

**NL** *Deze voorwaarden zijn ook in het Nederlands en Duits op aanvraag verkrijgbaar en zullen op eerste verzoek direct worden toegezonden.*

**E** *These conditions are also available in Dutch and German at our offices and will be sent immediately to you on request.*

**D** *Diese Bedingungen sind auf Wunsch auch auf Niederländisch und Deutsch zu haben und werden Ihnen auf Anfrage sofort zugeschickt.*