

GENERAL TERMS AND CONDITIONS OF SALE CONTINED BV

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0.0 Applicability

- 0.0 These General Terms and Conditions of Sale shall apply to all offers and quotations from Contined BV and to (the formation of) all agreements concluded with Contined BV.
- 1.0 If at any time one of the below-mentioned provisions should be declared not applicable or contrary to law or contrary to any other mandatory regulations, only the provision concerned shall no longer apply between the parties and the remaining Conditions shall preserve their full effect.
- 2.0 Variations to these General Conditions of Sale shall only be possible if and insofar as Contined BV has expressly agreed such variations in writing.
- 3.0 Insofar as these Conditions of Sale conflict with a third party's general conditions the former shall prevail, unless and insofar as Contined BV has each time expressly agreed to the third party's conditions in writing and has confirmed when these conditions will have a supplementary effect. In long-term relations with third parties Contined BV shall not be required each time to exclude or otherwise contradict the third party's general conditions.

1.0 Formation

- 1.1 All offers and quotations from Contined BV shall be without obligation and shall be binding on Contined BV only after Contined BV has provided written confirmation of an order, or Contined BV carries out the order.
- 1.2 The content of the order confirmation shall be binding on the parties insofar as the provisions within these Conditions do not expressly state otherwise and insofar as the parties concerned have not expressly agreed otherwise in writing.
- 1.3 All agreements shall on the part of Contined BV be concluded subject to the condition that the other party, exclusively at the discretion of Contined BV, is found to be sufficiently creditworthy.
- 1.4 Contined BV shall at all times be entitled to suspend the performance of an agreement it has concluded and to demand that the other party provide sufficient security to meet its payment obligations towards Contined BV.

2.0 Prices

- 2.1 The prices stated in the order confirmation shall be binding on the parties subject to the risk provided for in Article 2.2.
- 2.2 The agreed prices and conditions shall only be binding if they have been confirmed in writing by Contined BV in the form of an order confirmation or a contract.
- Contined BV shall be entitled, even if already confirmed in writing, to alter prices as a result of unforeseen circumstances or force majeure, which shall include but shall not be limited to oil crises, extreme price increases, strike action, weather influences, natural disasters and war or conflict situations. The other party shall in that event be entitled to cancel the Agreement relating to the item concerned.

3.0 Delivery

- 3.1 The delivery times are given to the best knowledge and ability and shall as far as possible be respected. They shall however be estimates and shall not be binding upon Contined BV. Contined BV shall never be liable for any damage whatsoever suffered by the other party as a result of the indicated delivery period being exceeded.
- 3.2 A delivery period shall in any case be suspended and extended by the period during which Contined BV is not in a position to meet its delivery commitments due to force majeure.
- 3.3 Force majeure as used in the previous Article shall be understood to mean circumstances under which Contined BV cannot reasonably be expected to meet its delivery commitments. These circumstances shall include but shall not be limited to strike action, strike action on the part of the suppliers used by Contined BV and all other problems involving suppliers used by Contined BV which prevent delivery to Contined BV and subsequent delivery to the other party.
- 3.4 Unless agreed otherwise delivery shall be made EXW (ex-works). All risks shall pass to the other party upon delivery.
- 3.5 Different delivery conditions must be expressly agreed in writing and shall be interpreted in accordance with the meaning attached to them in the current version of Incoterms.
- 3.6 Any defects or damage to the delivered goods, packaging or wrapping, which is noticed by the other party at the time of delivery must be noted by the other party on the transportation document and in the absence of any such notification the other party shall be deemed to have accepted delivery. In that case complaints on that account shall not be accepted.

4.0 Weight and quantity

- 4.1 Measurements and weights, such as those given on the delivery or consignment note issued by or on behalf of Contined BV shall determine the quantity delivered. Any discrepancy in this information that comes to the attention of the other party must be noted at the time of delivery on the document in question. In the absence of any such notification, delivery shall be deemed to have been accepted and complaints shall not be accepted.

5.0 Complaints

- 5.1 Statements made by or on behalf of Contined BV concerning the quality, composition, processing in the broadest sense, possible uses, instructions for use and properties and the like of the products shall be based on best knowledge and experience; they shall include no guarantees and shall only be general and without obligation; Contined BV shall in no way or on any grounds be liable for any damage whatsoever, including damage to third parties, in connection with information supplied or the use or interpretation of that information by the other party.
- 5.2 The other party must make any complaint about the quality, quantity or weight of delivered goods in writing to Contined BV not later than within 10 working days of delivery of the goods; the other party shall be responsible for ensuring that the written complaint reaches Contined BV. Unless agreed otherwise in writing the 10-working-day period shall apply fully, including in the event that the other party considers a longer period to be necessary to carry out quality checks.
- 5.3 If within 10 working days of the date of delivery the delivered goods are processed, repacked, mixed, transported or stored elsewhere the right to submit complaints shall be forfeited.
- 5.4 Complaints about the quality of the goods must be formulated clearly in the usual technical terms and must include the invoice number and batch number etc. The other party must supply any information requested by Contined BV and must cooperate in any way that is necessary in order for the complaint to be properly investigated and dealt with. If required to do so, the other party must also allow Contined BV or a representative to inspect the goods on its site or at its premises and must also cooperate fully in the testing of the delivered goods.
- 5.5 If the other party does not comply with the conditions set out in Article 5.4 its complaint shall be invalidated and it shall be deemed to have accepted the delivered goods.
- 5.6 The other party must make any complaint about invoices sent by Contined BV in writing to Contined BV within 5 working days of the invoice date; the other party shall be responsible for ensuring that the written complaint reaches Contined BV. In the absence of any such written complaint the other party shall forfeit its right to complain and shall be deemed to have accepted the invoice.
- 5.7 Complaints about the quality, quantity or weight of the delivered goods or the invoice shall never release the other party from its obligation to pay. The other party shall not be entitled in the event of a complaint to suspend, offset or reduce payment.

6.0 Advice

- 6.1 At the other party's request Contined BV shall give advice to that party about the choice of products and/or the use thereof. The other party should as far as possible make the request in writing, clearly indicating any information relevant to the request for advice.

- 6.2 Advice shall at all times refer exclusively to a specific situation and may never be interpreted, applied, used or cited as general advice. Contined BV shall give advice to the best of its knowledge and experience.
- 6.3 Irrespective of who initiated the advice or how the advice was given Contined BV shall accept no liability for any damage whatsoever which is a consequence of advice given by or on behalf of Contined BV except in the event of intent or gross negligence on the part of the management of Contined BV.

7.0 Retention of title

- 7.1 All goods delivered by Contined BV shall remain the property of Contined BV until the other party has completely fulfilled its payment obligations to Contined BV, including any payment(s) due in settlement of other/earlier/later agreements and including any interest and costs due.
- 7.2 In the event that the other party fails to fulfil any obligation in connection with an agreement concluded with Contined BV, the latter shall reserve the right to take back the goods belonging to it in accordance with Article 7.1 without any notice, proof of default or judicial intervention.
- 7.3 The other party shall be prohibited from transferring title to, pledging or otherwise passing on to third parties as security, any goods which under Article 7.1 and the retention of title provision described therein have remained the property of Contined BV. and in the event of any such action the other party shall be liable to an immediately payable penalty of **€ 50,000**.
- 7.4 If the goods delivered by Contined BV are destined for export the property law consequences of a retention of title shall be governed by the law of the destination state if that law in respect of a retention of title is more favourable to Contined BV; if not, retention of title and its property law consequences shall be governed by Netherlands law.

8.0 Payment

- 8.1 All sums payable must be credited within 14 days of the invoice date in euro to the bank or giro account of Contined BV without any discount or adjustment for costs or otherwise.
- 8.2 Payment shall be deemed to have been made from the time that the sum due is credited to the bank or giro account of Contined BV.
- 8.3 Contrary to the provisions in Article 8.1 Contined BV shall at all times reserve the right to demand cash payment or cash on delivery for any delivery or part delivery or to in any way whatsoever demand sufficient proof of certainty of payment.
- 8.4 If an amount due is not paid on time the other party shall be liable to pay, without further proof of default or notice being required, interest at the rate of 1% per month starting from the due date until payment in full is made.
- 8.5 In the event of late payment the defaulting party shall also be liable to pay Contined BV compensation for all extrajudicial collection costs, calculated in accordance with the guidelines set out in the Rapport Voorwerk II (report by Netherlands Association of the Judiciary) or another criterion which may in due course replace that report, but in any case the defaulting party shall be liable for a minimum payment of €150.

9.0 Liability and indemnity

- 9.1 Contined BV shall not be liable for any direct or indirect damage whatsoever suffered by the other party as a result of Contined BV not properly performing the Agreement unless that damage is due to the intent or gross negligence of the management of Contined BV.
- 9.2 The other party shall indemnify Contined BV and its staff against any third party claims whatsoever for compensation in respect of demonstrable damage or which the third parties may have suffered as a result of, or in connection with, (the use of) goods delivered by Contined BV to the other party. The other party shall indemnify Contined BV and its staff in particular against any claim based on, or arising from, the product liability regulation as stipulated in the Dutch Civil Code Book 6 Part 3 Title 3.
- 9.3 The other party must as soon as Contined BV indicates do all that is necessary to ensure correct indemnity as stated in Article 9.2 and must do so at its own expense; if the other party fails to do this Contined BV shall do all that is necessary and this shall be at the expense of the other party. The other party must at the first demand from Contined BV compensate the third party for any amount which Contined BV would have had to pay the third party if the other party had not indemnified Contined BV.
- 9.4 Before, and within the framework of, sale agreements concluded with Contined BV the other party should possess sufficient liability insurance which offers cover against all financial risks of third party claims as laid down in Article 9.2. When requested by Contined BV, the other party should provide satisfactory proof of such insurance.
- 9.5 If on the grounds of any legal arrangements and/or contrary to the provisions under Articles 9.1 to 9.4 inclusive Contined BV is nonetheless considered to be liable, damage compensation shall at all times be limited to the single net invoice value for the delivery or the item from which the damage arose.

10.0 Termination/cancellation

- 10.1 Contined BV shall reserve the right to terminate and to cancel with written notification the Agreement concluded with the other party without notice and with effect from a time chosen by Contined BV in the event that:
- a. the other party acts contrary to one of the provisions of these Conditions of Sale;
 - b. if the other party, despite a specific request from Contined BV, fails to provide on time and properly sufficient security for the fulfilment of its financial obligations;
 - c. the other party (repeatedly) acts contrary to agreements concluded with Contined BV;
 - d. the other party (continuously) fails to fulfil (on time) its financial obligations;
 - e. the other party has a bankruptcy petition presented against it;
 - f. the other party applies for a suspension of payments;
 - g. a sequestration order or other prejudgment measures are imposed upon the other party;
 - h. the other party transfers a significant part of its business to third parties or significant control of the business is transferred from the other party to third parties;
 - i. the other party acts in such a way that Contined BV cannot reasonably be expected to perform or continue the Agreement;
- 10.2 Contined BV shall never be liable for any damage whatsoever arising from its termination of the Agreement as described in this Article.

11.0 Confidentiality

- 11.1 The other party must maintain the confidentiality of all information which becomes or is made available to it or which is developed within the framework of orders, deliveries or other agreements with Contined BV except for what is strictly necessary in order to carry out the order or delivery or to perform another agreement.
- 11.2 The other party shall at all times be prohibited from using this information for its own use or for use by third parties.

12.0 Disputes

- 12.1 Netherlands law shall govern all agreements concluded with Contined BV except in the situation outlined in Article 7.4.
- 12.2 Any dispute whatsoever arising from agreements concluded with Contined BV shall at the discretion of Contined BV be brought before one of the following:
- a. either the civil judge of the Arnhem district court which has exclusive jurisdiction over the dispute;
 - b. or the Netherlands Arbitration Institute in Rotterdam which will deal with the dispute in accordance with its regulations.
- 12.3 The provisions contained within Article 12.2 shall not affect the authority of parties to appeal to the judge in interlocutory proceedings in respect of urgent matters nor their authority to adopt prejudgment measures.
- 12.4 The LUVI (1964 Hague Sales Convention) and the CISG (1980 Vienna Sales Convention) shall not apply to agreements concluded with Contined BV.

13.0 Binding nature of Conditions of sale

- 13.1 For ease of use these Conditions shall be made available in Dutch, English, German and French. For the purposes of interpreting these Conditions, the Dutch text shall be binding.