

# Terms of sale, delivery and payment of B.V. Textiefabrieken H. van Puijenbroek, with its registered office at Parallelweg 6-06, 5051 HG Goirle (Netherlands), registered with the Dutch Chamber of Commerce (KvK) under number 18016742

Version 2023.01

## ARTICLE 1 DEFINITIONS AND APPLICABILITY

- 1.1 If the words below are written with initial capitals, whether in the singular or plural, they shall have the following meaning:
- > **Article:** A product or service that a Client buys from the Supplier;
  - > **Supplier:** B.V. Textiefabrieken H. van Puijenbroek and all its subsidiaries and group companies;
  - > **Terms of Delivery:** These terms of sale, delivery and payment of the Supplier;
  - > **Quotation:** An offer issued by the Supplier to the Client in connection with Articles and in whichever format and in any manner whatsoever;
  - > **Order:** An order that a Client places with the Supplier for the production and/or delivery of a specified number of Articles;
  - > **Agreement:** The total of all agreements that the Supplier makes with a Client, including the agreement, schedules, any later additional written agreements (project agreements) and all related (legal) acts;
  - > **Client:** A person or legal entity that receives a Quotation and/or buys Articles from the Supplier and/or with whom or which the Supplier enters into an Agreement.
- 1.2 Unless agreed expressly otherwise in writing, these Terms of Delivery shall apply to and form an integral part of all Quotations that the Supplier issues, all Orders that a Client has placed with the Supplier, all Agreements that the Supplier has entered into with a Client and all actual deliveries of Articles by the Supplier to a Client. The applicability of any general purchase conditions and/or other terms and conditions applied by a Client under whatever name is hereby expressly excluded.
- 1.3 By accepting a Quotation that the Supplier has issued and/or by placing an Order with the Supplier, a Client shall have accepted the applicability of the Terms of Delivery.
- 1.4 If the aforementioned Terms of Delivery apply to a Quotation, Order and/or Agreement, they shall also automatically apply to all new or ensuing Quotations, Orders and/or Agreements, unless expressly agreed otherwise in writing.

## ARTICLE 2 QUOTATION AND ORDER

- 2.1 All Quotations that the Supplier issues shall be free of obligation and not bind the Supplier. Unless agreed otherwise, Quotations shall lapse after 30 days.
- 2.2 Quotations shall be based on the information that a Client provides. A Client shall vouch for the correctness and completeness of the information provided.
- 2.3 The Supplier shall not be bound by obvious mistakes or errors in a Quotation.
- 2.4 A Client shall be able to accept a Quotation by placing an Order.
- 2.5 An Order shall bind the Supplier if the Supplier has confirmed it in writing or has started to fulfil the Order in question.
- 2.6 After placing an Order, the Client in question shall undertake to buy the Articles to which the Order relates. The aforementioned obligation shall continue to apply if the Agreement ends (early) between the time at which the Order is placed and actual delivery.
- 2.7 A Client shall only be able to make changes to or cancel an Order with the written consent of the Supplier. If the Supplier agrees to an amendment or cancellation, the Client in question shall be obliged to reimburse the Supplier for all losses and costs ensuing from the said amendment or cancellation.

## ARTICLE 3 PRICE, INVOICING AND PAYMENT

- 3.1 Unless agreed otherwise in writing, the Supplier shall always specify prices in euro and exclusive of VAT.
- 3.2 The Supplier shall have the right to adjust its prices at any time.
- 3.3 If changes to cost factors cause the cost price of the Supplier to increase by more than 5% after a Client places an Order, but before the said Order is filled, the Supplier shall have the right to pass on this cost price increase to the Client and the Client shall be able to choose to accept the increased price or to consider the Order as not having been placed, without any rights or obligations being created between the Supplier and the Client. The Supplier shall notify a Client of any price change within three days of the date on which it becomes aware of any such change and the Client shall make its decision known to the Supplier within three days of this date.
- 3.4 Unless agreed otherwise in writing, the payment term shall be 10 days after the relevant invoice date. The invoice and of all other amounts due from a Client under the Agreement shall be transferred to the account of the Supplier, stating the relevant debtor and invoice numbers, by the relevant due dates at the latest - without any suspension of or setoff against a claim that the Client has or believes

he/she/it has against the Supplier, with the exception of credit invoices issued by the Supplier.

- 3.5 The Supplier is to have received complaints about invoices within eight days of the invoice date. Complaints may not be submitted after this eight-day period.
- 3.6 If payment is not made on time (or in full), the Client in question shall be in default without any warning or notice of default being necessary. The Client shall be required to pay statutory commercial interest on the amount due with effect from the date of non-payment up to the date on which payment is made in full. The Client shall also be required to reimburse the Supplier for all extrajudicial collection costs incurred. Extrajudicial collection costs shall hereby be fixed at 15% of the amount due, subject to a minimum of € 150.00.
- 3.7 If a Client is in default, the Supplier shall have the right to suspend the obligations arising for it from the Agreement.
- 3.8 Payments received from a Client shall first be applied against the costs incurred, including judicial and extrajudicial costs, then deducted from the interest due and finally from the principal sum (with old claims taking precedence over new claims). The aforementioned shall apply regardless of the payment description a Client provides for a payment.

## ARTICLE 4 DELIVERY

- 4.1 Unless agreed otherwise, the risk of Articles shall pass to the Client in question as of the time at which they are delivered to the place specified in the Agreement.
- 4.2 If a Client refuses to take delivery of Articles, they shall be deemed to have been delivered at the time at which they were presented to the Client. The Client shall be required to pay the Supplier the price of the Articles delivered at that time and also compensation for the loss sustained and any extra costs ensuing from the refusal of the Client to take delivery of the Articles in question.
- 4.3 The Supplier shall be entitled to make partial deliveries and to invoice each partial delivery separately.
- 4.4 Within four days of the date on which Articles were delivered to a Client, the Client in question shall inspect the said Articles for defects and to see whether the quality and quantity thereof are as agreed and also complain in writing if defects are observed.
- 4.5 If a Client immediately observes differences in the number of Articles delivered and/or if defects and damage are immediately evident in a consignment that a Client has received, the Client in question shall record the said differences and/or defects and damage on the consignment note. If a Client fails to do this, its right of complaint shall lapse.
- 4.6 If a complaint relates to part of a delivery, this shall not give the Client in question the right to refuse or reject the delivery as a whole.
- 4.7 The delivery dates and times specified by the Supplier shall be indicative.
- 4.8 A Client shall give the Supplier written notice of default in the event of late delivery. The Supplier shall not be deemed to be in default if a Client fails to do this.
- 4.9 Except where an intentional act or gross negligence is the case on the part of the Supplier, the Client in question shall not be entitled to compensation in the event of late delivery or to suspend delivery or payment.

## ARTICLE 5 GUARANTEES

- 5.1 The Supplier shall guarantee that Articles are in compliance with all relevant applicable requirements set out in legislation and/or other government regulations applicable when an Order was placed.
- 5.2 The Supplier shall guarantee that Articles can be used for the purpose for which the Supplier produced them for a period of one year after the date on which they are delivered. The guarantee shall not cover defects in Articles that have arisen from normal wear and tear, incorrect or careless use and/or due to damage caused by circumstances over which the Supplier has no control, including adaptations by the Client in question, or by end users or third parties, the influence of sun and light and/or damage that happens during storage or transport by the Client and/or the end users. A Client shall not be able to invoke this guarantee provision until he/she/it has met all the obligations arising for him/her/it from the Agreement.
- 5.3 A Client alone shall be able to claim the guarantees provided by the Supplier.
- 5.4 If a Client demonstrates the presence of unacceptable defects, damage, failings and/or other imperfections in Articles, the Supplier shall, at its discretion, proceed to either repair and/or replace the said Articles free of charge against the return of the Articles that were found to be inadequate, or credit the Client for the value of the Articles delivered by the Supplier and qualified as inadequate.

## ARTICLE 6 CONFIDENTIAL INFORMATION

- 6.1 The parties shall agree not to use confidential information that they have provided, or shall provide, each other with in the context of the Agreement for any other purpose than that for which it was provided. The parties shall undertake not to

notify third parties of any information of this nature in any way whatsoever, unless they are required by law to disclose the information in question. This article shall continue to apply even after the Agreement is terminated.

#### ARTICLE 7 INTELLECTUAL PROPERTY

- 7.1 The intellectual property rights to Articles, including but not limited to the models and technical drawings of and patterns for Articles, are and shall continue to be the property of the Supplier.
- 7.2 Unless agreed otherwise in writing, the Supplier shall retain the intellectual property rights to Articles it develops or produces for the Client during the term of the Agreement, whether or not together with others, and in which intellectual property rights are or could be vested, even if the Client pays the development costs in question.
- 7.3 A Client shall indemnify the Supplier against all claims from third parties with regard to designs, images, drawings, measures, models and suchlike that the Supplier has used and/or applied at the request of the Client in question, regardless of whether the Client provided the Supplier with any of the aforementioned.

#### ARTICLE 8 LIABILITY

- 8.1 If a party fails imputably in its performance of the obligations arising for him/her/it from the Agreement, he/she/it shall be liable to compensate the other party for all losses sustained or to be sustained by the said other party as a result.
- 8.2 If the Supplier imputably fails to perform the Agreement, its total liability shall be limited, per event, whereby an event or a series of events shall be deemed to be one event, to the payment of compensation for the direct loss up to a maximum of the amount of the net invoice value of the delivery in question, or, if this amount is higher, the amount of the payment the insurer makes to the Supplier.
- 8.3 The term "direct loss" shall solely be understood to mean:
- > the reasonable costs incurred to bring defective performance by the Supplier in compliance with the Agreement;
  - > the reasonable costs incurred to determine the cause and extent of the loss, insofar as the said determination pertains to direct loss within the meaning of this article;
  - > the reasonable costs incurred to prevent or limit loss, insofar as a Client demonstrates that the said costs have resulted in the limitation of direct loss within the meaning of this article.
- 8.4 Liability for loss other than the types of loss referred to in Paragraphs 2 and 3 of this article, such as consequential and/or indirect loss like business interruption and loss of profits, losses, lost savings, loss or damage caused by agents, damage caused to the goods of third parties, shall be excluded.
- 8.5 The aforementioned limitation of liability shall lapse:
- > if an intentional act or gross negligence is the case on the part of the Supplier;
  - > if claims for compensation are lodged due to death or physical injury.
- In all cases, the maximum liability of the Supplier shall be limited to the amount actually paid out under the liability insurance taken out by the Supplier or the amount for which cover is provided in the said liability insurance policy, including the excess applicable for the Supplier.
- 8.6 All rights of action against the Supplier shall lapse one year after the day following the day on which the Client became aware of the loss or damage and of the Supplier as the liable party.

#### ARTICLE 9 FORCE MAJEURE

- 9.1 If a party invokes force majeure, he/she/it shall do so in writing as soon as possible after the force majeure situation in question arises. When asked to do so, the party invoking force majeure shall provide the other party with proof of the force majeure situation.
- 9.2 If a party invokes force majeure with good reason, he/she/it shall not be obliged to fulfil any of the obligations arising for him/her/it towards the other party under the Agreement. If a force majeure situation lasts more than two months, each of the parties shall be entitled to terminate all or part of the Agreement by recorded signed-for delivery, without the parties being obliged to pay any compensation to each other.
- In this situation, the Client shall immediately pay the Supplier for all that which the Supplier has already performed and also for all Orders that are in production.
- 9.3 The parties shall understand the term 'force majeure' to include: war, revolution, terrorist acts, civil commotion, natural disasters, fire, an excessive increase in demand, an excessive increase in the price of raw materials, weather conditions, flooding, transport restrictions, strikes, a lack of staff, government measures, including import and export measures, failure in the supply or availability of raw materials, packaging materials, energy or the material required, or as a result of defects or damage to machines or computers, as well as a failure or failures on the part of one or more suppliers.

#### ARTICLE 10 EARLY TERMINATION

- 10.1 The parties shall be able to terminate all or part of the Agreement extrajudicially, without notice being required, in the following situations:
- > The bankruptcy or liquidation of the other party, or if the other party is granted a moratorium;
  - > Non-compliance with a provision of the Agreement after the party in question was notified of this non-compliance by registered letter and given the opportunity to fulfil his/her/its obligations within 30 days.
- 10.2 Besides terminating the Agreement, the parties shall have the right, in the situations referred to in Paragraph 1, to suspend all or some of the obligations arising from the Agreement.
- 10.3 The rights set out in Paragraphs 1 and 2 shall not affect the right the terminating party has to claim compensation or damages and to seek an order in court that the other party shall fulfil all the obligations arising for him/her/it from the Agreement.

#### ARTICLE 11 MISCELLANEOUS

- 11.1 Retention of title  
All Articles delivered shall continue to be the property of the Supplier until a Client has paid the corresponding invoices and also any other claim, as referred to in Article 3:92(2) of the Dutch Civil Code (*Burgerlijk Wetboek*). However, a Client shall have the right to resell Articles in the context of its normal business operations, unless the Supplier has notified the Client in writing that the Articles in question are to be made available to the Supplier immediately.
- 11.2 Further security  
If the Supplier believes there is reason to do so, it shall be entitled to require a Client to provide proper security, additional or otherwise, for the fulfilment of the (financial) obligations arising for him/her/it from the Agreement. If the security required is not provided, the Supplier shall have the right to suspend or terminate the Agreement merely by giving written notice thereof to the Client, without being required to compensate the Client for any costs or losses incurred as a result.
- 11.3 Validity  
If any provision of the Agreement is null and void or is nullified, the other provisions of the Agreement shall remain in full force and the parties shall enter into consultation with each other to agree on a new provision to replace the original provision. The content of the new provision shall be as close as possible to the original provision.
- 11.4 Transfer of rights and obligations  
The Client shall not be able to transfer all or some of the rights and obligations arising for him/her/it from the Agreement to a third party or to provide them as security in any way. The aforementioned shall not apply if rights and/or obligations are to be transferred to a company that qualifies as a group company as referred to in Article 2:24b of the Dutch Civil Code.
- 11.5 Forfeiture of rights  
The failure of a party to exercise any right or bring an action shall not constitute its relinquishment of the said right or action.
- 11.6 Amendments  
The parties shall only be able to agree on amendments to the Agreement in writing.
- 11.7 Translations  
In the event of inconsistencies between the various translations of the Terms of Delivery, the text of the Dutch version shall prevail.

#### ARTICLE 12 APPLICABLE LAW

- 12.1 Dutch law shall apply to the Agreement, provided the applicability of the Vienna Sales Convention is excluded.
- 12.2 Any disputes that arise in connection with the Agreement, including disputes about the existence and validity thereof, shall solely be submitted to the competent court, being the court of Zeeland – West Brabant, location Breda (Netherlands).