

## **Article 1 Definitions**

1

The following definitions will apply within these General Conditions:

- user: the user of these General Conditions – the private limited liability company Stockdie.com B.V., also trading as Stockdie.com;
- contracting party: whoever has accepted the validity of these General Conditions by signing a copy of them or in some other manner.

2

Where the term "goods" is used in these General Conditions, it is understood to include both property and also services to be supplied by the user.

3

Where there is a reference in these General Conditions or in an agreement concluded between the user and the contracting party to an internationally defined stipulation, any such stipulation must be understood within the context of the Incoterms 2010, published by the International Chamber of Commerce.

## **Article 2 Applicability**

1

Unless otherwise agreed in writing, these General Conditions shall apply to every agreement between the user and the contracting party.

2

The provisions contained in the previous paragraph shall also apply to agreements (including further or supplementary agreements) between the user and the contracting party where the application of these General Conditions is not (explicitly) invoked.

## **Article 3 Quotations**

1

All quotations, in whatever form they may appear, are issued without obligation upon the user unless they contain a time-limit for acceptance and are based on supply in normal circumstances and during normal working hours.

2

If a quotation that has been issued without obligation is accepted, the user shall be entitled to revoke the offer within two days after receiving the acceptance.

3

The user does not guarantee that the information provided on her Website is up to date, accurate or complete. The user accepts no liability whatever for loss, costs, compensation or lost earnings arising directly or indirectly from the use of the information of the Website by the contracting party.

4

Any images, catalogues, drawings or further information supplied by the user are subject to amendment without prior notice and shall not be binding upon the user.

5

Any images, catalogues, drawings or further information supplied by the user remain the property of the user at all times.

6

An agreement is only concluded when the user confirms the order issued by the contracting party in writing.

7

Arrangements with or commitments made by representatives or employees of the user are not binding upon the user unless the user confirms such arrangements or commitments in writing.

#### **Article 4 Nature and scope of the Agreement**

1

The user's confirmation of order and in its absence the quotation are binding in respect of the scope and nature of the agreement.

2

The agreement encompasses only the supply of those goods that have been explicitly agreed.

3

The user shall not be bound by any deviation from or addition to the scope and nature of the agreement as described in the confirmation of the order, or in its absence the user's quotation, unless this is explicitly agreed in writing between the parties. In the latter case, the user is entitled to adjust the agreed price, method and date for delivery as well as other elements of the agreement, in order to coincide with the agreed changes.

If any such addition or deviation results in a longer delivery period, the user shall not in any circumstances be liable for penalties and/or damages as a result of exceeding the time limit.

4

Without prejudice to the remaining provisions in these General Conditions, and except as otherwise specifically agreed in writing, the contracting party shall not derive any rights and/or claims against the user in respect of deviations of less than 10% from an agreed quantity or weight.

#### **Article 5 Price**

1

Unless otherwise explicitly agreed in writing between the user and the contracting party, prices issued by the user are based upon delivery from the factory, warehouse or other storage facility, excluding VAT, import duties or other taxes, duties or obligations and excluding the costs of loading, transportation and insurance, all of which costs shall be the financial responsibility of the contracting party.

The user shall not acknowledge any exemption from taxes or other levies unless the contracting party supplies the user with a proper certificate of exemption from the relevant tax.

2

The price or prices indicated in the quotation are based on factors determining cost on the date of the quotation.

If there are any changes in the prices of raw materials, other materials, equipment, energy, wages, national insurance, taxes and/or other factors determining cost, including the prices charged to the user by its supplier businesses, during the period between the date of the quotation and the date of delivery, then the user shall be entitled to amend the prices that have been offered or agreed accordingly.

3

Unless otherwise agreed in writing, the user's prices are indicated in euros.

4

If the price is set in a currency other than the euro, then the amount in euros corresponding to that price on the date of payment shall be no less than the price in euros would have been at the point when the agreement was concluded.

5

All goods ordered by or on behalf of the contracting party from the user and which the user has supplied and/or added in addition to the originally agreed quantities and/or types of materials to be processed, or else work in excess of that which was originally agreed, shall be charged as additional work.

## **Article 6 Delivery period and time**

1

The delivery period commences at the last of the following times:

- a. the date of completion of the agreement;
- b. the date when the user receives the documents, data, permits, specifications, drawings, technical data and approvals required for performance of the agreement and any other material and suchlike required for production, completion or delivery;
- c. the date when the user receives any advance payment due by the contracting party in accordance with the agreement.

2

Delivery dates indicated will never be regarded as fatal deadlines, unless otherwise specifically agreed. In the event of late delivery, the user must therefore be issued with a default notice.

3

If delivery is obstructed in full or in part by force majeure, the user shall be entitled to suspend delivery or else to dissolve the agreement, so far as not yet implemented, either in full or in part, and to claim payment in relation to that part of the agreement that has been performed, all without the user being obliged to pay any compensation to the contracting party.

4

If delivery is delayed for some reason other than that specified in the preceding paragraph, which is not attributable to the user, then the user shall issue an invoice for the agreed price/prices and the contracting party must pay these as if delivery had been on time.

5

If, as a result of a delay such as specified in the two preceding paragraphs, the user is obliged to take goods back or store them, it shall be entitled, without prejudice to the provisions in the following paragraphs of this Article, to charge the contracting party an amount equivalent to 2% of the price of those goods per month.

6

If the goods have not been collected by the contracting party after the delivery period has expired, these will be held available for the contracting party, stored at its risk and expense, but the user shall also be entitled in such circumstances to dissolve the agreement by means of a written statement and claim full compensation or to raise court action for release from its obligations.

7

If there has been an agreement to supply stock items and these have not been collected by the contracting party after the expiry of the delivery period, the user shall be entitled to designate the goods intended for delivery, in which case, after informing the contracting party, the user shall only be obliged to supply those goods, without prejudice to its power to supply other goods that correspond with the obligation and also without prejudice to the provisions in the previous paragraph.

## **Article 7 Force majeure**

Where the term "force majeure" is used in these General Conditions, it is understood to include all circumstances independent of the will of the user – even if they were predictable at the time when the agreement was concluded – which temporarily or permanently obstruct fulfilment of the agreement and also, for the avoidance of doubt, war, threat of war, civil war, civil unrest, cessation of work, lock-out of employees, difficulties with transportation, fire and/or serious disruptions to the businesses of the user or its supplier(s).

## **Article 8 Delivery and acceptance**

1

Unless otherwise agreed in writing, delivery of goods will be ex-warehouse, in which case the goods will be deemed to have been delivered by the user and accepted by the contracting party as soon as the

goods are tendered to the contracting party and/or as soon as the goods have been loaded for transportation.

2

If the agreement is for goods supplied carriage paid, the goods will be deemed to have been delivered by the user and accepted by the contracting party as soon as the goods have been consigned to the delivery address indicated by the contracting party.

3

In the case of the supply of services, these will be deemed to have been supplied and accepted by the contracting party as soon as the work has been completed and the user's personnel have departed.

#### **Article 9      Transfer of risk**

The contracting party shall bear financial responsibility and risk in respect of the goods to be delivered from the point of delivery as defined in the previous Article.

#### **Article 10     Transport**

1

Unless otherwise agreed in writing, the user shall determine the method of transportation, expedition, packaging etcetera and the user shall not incur any liability in respect thereof.

2

Unless otherwise agreed in writing, transportation shall be at the risk and expense of the contracting party, even where the carrier has explicitly specified that all transportation documents must state that all damage resulting from the transportation is at the risk and expense of the sender.

#### **Article 11     Retention of title**

1

The user retains title to all goods supplied by it to the contracting party until the purchase price for those goods has been paid in full.

2

If the user undertakes work in the context of the agreement concluded with the contracting party, for the benefit of the contracting party and payable by the contracting party, the retention of title shall also apply until the contracting party has fully settled this claim on the part of the user.

3

The retention of title also applies in relation to claims that the user may acquire against the contracting party for any failure by the contracting party to perform one or more of its obligations in favour of the user.

4

Until title to the goods supplied has been transferred to the contracting party, the contracting party may not pledge those goods or grant any rights over them to any third party, except as specified in the following paragraph of this Article.

5

The contracting party is permitted to sell and transfer goods, which have been delivered and are still subject to the retention of title, to third parties in the context of its normal commercial operations. In the case of credit sales, the contracting party is obliged to stipulate a retention of title vis-à-vis its purchasers, based upon the provisions in this Article.

6

The contracting party undertakes not to assign or pledge any claims it acquires against its purchasers to any third parties without prior written permission from the user. The contracting party also undertakes to pledge any such claims to the user as soon as the user indicates its wish that this should be done, in the manner specified in Article 3:239 of the Dutch Civil Code, as further security for all claims by the user against the contracting party of any nature whatsoever.

7

The contracting party is obliged to look after goods that are subject to a retention of title with due care and attention and as the recognisable property of the user.

8

The contracting party is obliged to insure the goods for the duration of the retention of title against damage by fire, explosion and water and also against theft, and to exhibit the relevant insurance policies to the user when first asked to do so.

All claims available to the contracting party against the insurers of the goods under the said insurance policies shall be pledged to the user as soon as the user indicates its wish that this should happen, in the manner indicated in Article 3:239 of the Dutch Civil Code, as further security for all claims by the user against the contracting party of any nature whatsoever.

9

If the contracting party fails to satisfy its obligation to make payment to the user, or if the user has good reason to believe that it may fail to satisfy this obligation, the user shall be entitled to recover any goods that have been supplied and are subject to the retention of title. Once the goods have been recovered, the contracting party will be credited for their market value, which will in no circumstances be any higher than the original purchase price, less the costs incurred for recovering them.

#### **Article 12      Transfer of rights and obligations**

The contracting party is not entitled to transfer its rights and obligations under the agreement, either in full or in part, to third parties without prior written permission from the user.

#### **Article 13      Payment**

1

Unless otherwise agreed in writing and without prejudice to the provisions in the subsequent paragraphs of this Article, payment of the agreed price shall be made in advance for every delivery or partial delivery to the user.

2

Unless otherwise agreed in writing, the price in relation to agreements worth more than € 10,000 shall be due in two instalments, meaning that 50% must be paid when the order is confirmed and 50% on delivery.

3

All payments must be made without discount and/or offset, by the agreed method.

The contracting party is never entitled to suspend payments or offset them against (alleged) claims against the user, for whatever reason.

4

If the user has allowed payment of the principal sum or any part thereof by instalments, in respect of certain goods supplied or to be supplied, the VAT on the total amount of the payment will be due with the first instalment, unless otherwise agreed in writing.

5

The expenses payable by the user, if these are prepaid by the contracting party, shall be offset against payment of the final instalment.

6

The user is entitled at any time to demand sufficient security from the contracting party for the fulfilment of all or part of the contracting party's payment obligations, before making delivery or proceeding with delivery.

7

The user is entitled to suspend further deliveries if the contracting party is in default with fulfilment of its payment obligations or fails to fulfil its obligation to provide security or in some other way fails to fulfil any of its obligations towards the user, even where a fixed delivery date has been agreed, all without prejudice

to the user's right to dissolve the agreement in such circumstances and/or claim full compensation and also without prejudice to any other rights available to the user in such circumstances.

8

Unless there is a specific agreement to the contrary, all payments, however they may be described, by the contracting party shall be applied in the first instance towards reducing the expenses, thereafter towards reducing any interest and finally towards reducing the principal sum of the outstanding invoice; where multiple invoices remain unpaid, the payment shall in the first instance be applied towards reducing the principal sum of the oldest outstanding invoice.

9

If the contracting party fails to make payment within the agreed period, it shall be in default by operation of law and, without the requirement for any notice of default, shall be due interest to the user equivalent to statutory interest plus 2% on the outstanding amount from the due date.

10

If the contracting party enters default pursuant to the provisions in paragraph 9 of this Article, all outstanding claims by the user against the contracting party shall become immediately due and payable.

11

Unless otherwise agreed in writing, all payments to user shall be made by a bank transfer. All costs associated with the bank transfer shall be the responsibility of the contracting party.

#### **Article 14      Extrajudicial and judicial expenses**

The contracting party shall be financially responsible for all judicial and extrajudicial costs incurred by the user in connection with the collection of claims against the contracting party. The extrajudicial costs shall be calculated in proportion to the principal sum to be claimed or else in proportion to the value of the consideration that must otherwise be required of the contracting party, in the manner indicated below, subject to the proviso that these shall amount to no less than €150 and also subject to the proviso that the user shall be entitled at any time to claim the actual extrajudicial costs incurred by it insofar as these exceed the amount calculated in the following manner. The extrajudicial costs shall be calculated on the principal sum to be claimed or else on the value of the consideration that must otherwise be required of the contracting party, as follows:

on the first € 6,500.00	: 15 %
on the excess up to € 13,000.00	: 10 %
on the excess up to € 32,500.00	: 8 %
on the excess up to € 130,000.00	: 5 %
on the excess up to € 130,000.00	: 3 %

#### **Article 15      Guarantee and complaints**

1

The user does not issue any guarantee in relation to the goods sold and/or services supplied, nor in relation to material, nor in relation to assembly and/or construction defects. If the contracting party is in a position to make a claim under the guarantee issued by the originating factory, the user shall, if desired, support the contracting party in such claim, provided that the contracting party has issued its complaint in good time, as specified in paragraphs 2 and 3 of this Article.

2

The provisions in Article 7:17 of the Dutch Civil Code are explicitly excluded. The contracting party shall not be entitled to make any claim against the user to the effect that the goods do not possess the properties that would be required for normal use thereof and whose existence it had no reason to doubt.

3

Complaints in relation to defects that are not externally apparent must be made in writing within eight days after their discovery, up to a maximum of two months after delivery, both of which time limits are deemed to be essential deadlines.

4

Complaints in relation to the level of invoices issued by the user must be made in writing within eight days after the date of the invoice, which time limit is deemed to be an essential deadline.

5

In the case of complaints considered to be justified by the user, the limit of the user's obligation shall be replacement of any unsound item that has been supplied or, at the option of the user, rectification of any unsound item that has been supplied within a reasonable period.

6

In the event of replacement or repayment, any use made of the item supplied in the meantime shall be taken into account.

7

Unless otherwise specifically agreed in writing, compliance with the user's obligations contained in this Article shall only apply in the Netherlands.

8

The user's obligations specified in this Article shall only apply if the contracting party has complied with all of its obligations towards the user. In addition, the user shall not be obliged to make any payment, howsoever described, if the goods it has supplied have been used or processed in the meantime, if the contracting party has not strictly observed the recommendations of the user and the manufacturer's and/or the supplier's conditions for assembly and use, or if third parties have made any changes to the goods supplied by the user without prior written permission from the user.

9

The provisions in the foregoing paragraph only apply in relation to items and/or raw materials supplied by the user but acquired by it from third parties, to the extent that these items and/or raw materials were subject to a guarantee issued by the supplier to the user.

10

Except in cases of intent or gross negligence on the part of the executive board or managerial employees of the user, compliance by the user with the obligations specified in this Article shall be the only compensation. The user is not obliged to pay any other compensation of any kind.

#### **Article 16 (European) directives and standards**

1

In the case of the sale and supply of second-hand or used items, whether or not these have been overhauled, the user does not warrant that these items shall satisfy the provisions of the then current relevant (European) directives and/or CE standards and/or ATEC standards and/or any other relevant directives and/or standards at the time of the sale or at the time of supply.

#### **Article 17 Returned goods**

1

Returned goods shall only be accepted by the user after prior written permission has been issued, and provided that these are sent carriage paid.

2

The acceptance of any returned goods does not automatically imply approval by the user.

#### **Article 18 Liability**

1

Subject to the provisions in Article 15 of these General Conditions, the user shall never be liable for any damage whatsoever except in cases of intent or gross negligence on the part of the user's executive board or managerial employees.

2

Without prejudice to the provisions in the previous paragraph, all liability on the part of the user for commercial loss or other indirect loss is explicitly excluded.

3

Without prejudice to the provisions in the previous paragraphs, in the event of any liability on the part of the user, any obligation incumbent upon it to pay compensation shall always be restricted to a maximum of the amount that will be paid out in the relevant case under the user's liability insurance policy.

4

Without prejudice to the provisions in the previous paragraphs, all of the contracting party's rights to make a claim against the user shall expire one year after the damage arises or commences.

#### **Article 19 Indemnification**

Except in cases of intent and/or gross negligence on the part of the user's executive board or managerial employees, the contracting party is obliged to indemnify the user against all costs, damages and interest that the user might become liable to pay as the direct or indirect consequence of legal actions filed against the user by third parties in relation to or as a consequence of the performance of the agreement. The contracting party is bound in terms of the agreement to comply with any call by the user for such indemnification.

#### **Article 20**

The contracting party indemnifies the user against all costs, expenses or losses resulting from the infringement of patents, intellectual property rights and/or trademarks arising from the implementation of a design, specifications or instructions originating from the contracting party.

The contracting party shall immediately notify the user of any action of threatened action based on such an alleged infringement and, if desired, the contracting party shall afford the user an opportunity to conjoin in any action or defence against any associated third party claims.

#### **Article 21 Evidence of financial records**

Unless evidence to the contrary is produced, the data contained in the financial records of the user shall be conclusive in relation to the agreement.

#### **Article 22 Suspension and dissolution**

1

Without prejudice to any provisions regarding suspension and dissolution contained in the previous Articles, the user shall be entitled to suspend the agreement for a maximum of six months or to dissolve the agreement insofar as not yet implemented, without prejudice to the user's right to receive payment for any damage or loss of profit it has sustained, with no requirement to issue a notice of default or for judicial intervention, in the following circumstances: where the contracting party fails to comply with any provision in the agreement concluded between the contracting party and the user, or to do so on time or properly; where there are serious doubts as to whether the contracting party can satisfy its obligations under the said agreement; in the event of bankruptcy, moratorium on payments, administration, cessation or liquidation affecting the contracting party; or on full or partial transfer or pledge (including covert pledge) of the contracting party's business or a significant proportion of its commercial assets or commercial claims.

2

In the event of dissolution of the agreement as specified in the previous paragraph, the contractually agreed price due to the user shall become immediately payable, under deduction of any payments already made and of any costs yet to be incurred by the user.

3

In the situation specified in paragraph 1, all outstanding claims by the user against the contracting party at that point shall become immediately payable in full.



**Article 23 Dutch text is binding**

In cases where these General Conditions have been or shall be translated into foreign language versions, the Dutch text shall be binding in the event of any deviation from the Dutch text or in the event of any difference of opinion regarding the interpretation of any provision.

**Article 24 Repair clause in respect of nullity**

1

If any provision from these general terms and conditions or from the underlying agreement should be wholly or partly void and/or invalid and/or unenforceable as a result of any statutory provision or regulation, court judgment or otherwise, then this will have no effect whatsoever on the validity of all other provisions in these general terms and conditions or the underlying agreement.

2

If any provision in these general terms and conditions or the underlying agreement should not be valid for a reason referred to in the preceding paragraph, but would be valid if it had a more limited scope or intention, then such provision will – firstly – automatically apply with the most far-reaching or most extensively more limited scope or intention with which or within which it is valid.

3

Without prejudice to the provisions in paragraph 2 above, the parties may, at their discretion, consult one another with the aim of agreeing new provisions that will replace the void or nullified provisions, with every possible attempt being made to ensure they are as close as possible to the object and purport of the void or nullified provisions.

**Article 25 Disputes / applicable law**

1

Dutch law applies to all agreements that are fully or partially subject to these General Conditions.

2

The application of the UN Convention on the Sale of Goods dated 11 April 1980 (Treaties Series 1981, 184 and 186, 61) is hereby explicitly excluded.

3

All disputes shall be submitted in the first instance, to the exclusion of any other court, to the competent District Court in the court district of 's-Hertogenbosch, the Netherlands, without prejudice to the user's right to summons the contracting party before the competent court in terms of the general rules of law.