

GENERAL TERMS AND CONDITIONS OF DAKA TRADING B.V.

1 General

1.1 These General Terms and Conditions are applicable to all offers from and/or agreements with Daka Trading B.V., hereafter referred to as TRADING. It is expressly agreed that deviating arrangements with resellers or personnel of TRADING, made in orders or letters, as well as the general terms and conditions of the purchaser, are only valid if and in so far as they have been accepted in writing by TRADING.

1.2 The offers and agreements also concern goods which have been manufactured by third parties and which are either sold through the intermediary of TRADING to the purchaser through third parties or are sold by TRADING directly to the purchaser.

2 Validity of offers

All offers are without engagement, unless expressly stipulated otherwise in the offer.

3 Creation of the agreement

3.1 Agreements are deemed as having been created at the time when they are accepted or confirmed in writing by TRADING.

3.2 Agreements are only deemed to have been created once TRADING has received all the necessary documentation and/or once credit insurance cover has been obtained and/or once confirmation has been received that a confirmed letter of credit has been received.

4 Prices

4.1 The prices of the products apply both within the Netherlands and abroad, excluding VAT and transport costs and including packaging. Unless otherwise agreed, they are stated in Euro's. If the latter is legally superseded by another currency, the prices of the products shall be stated in this currency, which may not yet exist.

4.2 TRADING itself organises transport, for which a separate invoice shall be sent to the purchaser, without prejudice to the applicable delivery conditions as stated in 5.1.

4.3 The prices are based on the factors determining the cost price, applicable at the time of creation of the agreement, including monetary relationships between domestic and foreign currencies, raw material prices, total amounts of wages, export subsidies, import duties, taxes and other levies.

4.4 If, as a result of circumstances, a change occurs in one or more of the factors listed in clause 4.3, TRADING has the right reasonably to adjust the prices.

5 Delivery

5.1 Unless otherwise agreed, deliveries are made ex-works TRADING. All delivery conditions apply in accordance with the Incoterms 1990.

5.2 The delivery term or the time of delivery shall be agreed in detail on the basis of the nature of the products. This shall be laid down in a separate agreement for each transaction. The delivery term commences at the time when the order is received by TRADING and accepted or confirmed in accordance with Article 3 and TRADING has received all the information required for fulfillment from the purchaser. It is expressly stipulated that, if the delivery times are exceeded, under no circumstances does the purchaser have the right to compensation and/or cancellation of the agreement.

5.3 In the event of long-term delivery arrangements, i.e. twelve months or longer, TRADING reserves the right to deviate up to a maximum of 10% from the ordered quantity of products, where the purchaser shall be obliged to pay the price for the quantity of products delivered.

5.4 Should TRADING find cause to do so, the quantity to be dispatched in any month during the term of the agreement may be limited to:
a. the average of the monthly quantities ordered by the purchaser over the preceding months of the agreement; or
b. the maximum quantity to which the agreement relates divided by the number of months of the contract period.

5.5 TRADING is not obliged to deliver any quantity for which the purchaser has not issued dispatch instructions.

5.6 TRADING reserves the right to deliver in parts, which can be invoiced individually.

6 Reservation of ownership

6.1 TRADING reserves ownership of all products delivered until all claims which TRADING has upon the purchaser have been paid in full.

6.2 Before ownership has been transferred to him, the purchaser is not entitled to transfer these goods, which may have been treated or processed, into the ownership of third parties or as non-possessory pledge. Nonetheless, the purchaser is authorised to resell the goods in the normal exercise of his business. However, the purchaser shall, at all times, cooperate to ensure that TRADING can execute its reservation of ownership.

7 Industrial ownership

7.1 TRADING expressly reserves all rights, which it has in the field of industrial and intellectual ownership in connection with the products delivered by it.

7.2 Subject to express written permission, the purchaser is not permitted wholly or partially to change the products delivered or to give them another brand name.

8 Quality and quantity

TRADING undertakes to deliver products, which meet the specifications of the purchase agreement, with respect both to quality and quantity, subject to the provisions of clauses 3 and 4 of Article 5.

9 Complaints and Guarantee

9.1 Any complaints relating to the quality and/or quantity of the products should be notified by the purchaser to TRADING immediately, in any case no later than 18 days from receipt of the products. Notification should be made either by telephone, followed by written confirmation, or in writing or by fax for it to be accepted.

Faults which can only be observed later should be notified to TRADING immediately, in any case within 30 days of observation. Failure to comply with the above results in the purchaser losing any claim with respect to TRADING regarding the aforementioned products.

9.2 If the purchaser complains, he is to consent to TRADING having an inspection of the products concerned carried out by an expert or an independent inspection body. If the complaint is declared justified by the expert, the costs of the inspection are borne by TRADING. If the complaint is declared unjustified, the costs are for the account of the purchaser.

9.3 If a complaint is found to be justified in the light of the arrangements made, TRADING is obliged either to replace the goods about which the complaint was made or wholly or partially to discharge the purchaser from the obligation to pay the invoice value of the goods, as it shall choose. In such cases, the purchaser does not have the authorisation to demand cancellation or annulment of the agreement nor to suspend fulfillment of its obligations with respect to TRADING.

9.4 TRADING guarantees that, at the time of delivery, the products delivered satisfy the legal safety and inspection requirements of the country of origin and/or the country to which they are being exported.

9.5 All guarantee claims lapse if the products are not stored and/or used in accordance with the regulations enclosed with the products.

9.6 Complaints do not postpone the payment obligations of the purchaser unless the purchaser has the express written permission of TRADING in this respect.

9.7 The products can only be returned with the express written permission of TRADING, at the latter's expense and risk.

10 Liability

10.1 TRADING is never obliged to compensate the purchaser for any damage, including any direct or indirect damage, however caused and of whatever nature. The liability of TRADING as a result of legal liability with respect to third parties as a result of the defectiveness of its products is always limited to a maximum of the net invoice value of the products delivered or a percentage thereof.

10.2 The purchaser is obliged to notify TRADING in writing within three working days of any claims from third parties. The liability position shall be further dealt with in close consultation between the purchaser and TRADING, where no recognition of liability nor allocation of any compensation to a third party shall take place by the purchaser until agreement has been reached on this matter between the purchaser and TRADING.

11 Payment

11.1 The method of payment shall be agreed between TRADING and the purchaser. Unless agreed otherwise, payment is to be made net within 30 days of the invoice date at a Dutch bank in the Netherlands. The purchaser is not entitled to any discount or compensation.

11.2 If and as soon as the purchaser cannot fulfil his obligations resulting from the agreement or from these conditions, without prejudice to the rights further due to TRADING as a result of the law or this agreement, he is deemed lawfully in default and the purchaser shall owe interest from the time he becomes in default, 1% per month, while TRADING reserves the right wholly or partially to dissolve the agreement. All costs as a result of the failure of the purchaser to pay on time are for the account of the purchaser. These costs amount to at least 15% of the principal amount and are immediately payable, without legal intervention, purely as a result of the fact that TRADING is taking measures against the purchaser.

11.3 All costs, both judicial and extrajudicial, including the fees of the third parties recruited by TRADING for collection, incurred by TRADING as a result of the failure of the purchaser to pay on time, are for the account of the purchaser.

12 Information, advice and standards made available

Information relating to the processing and application of the products, technical advice and any other data are made available by TRADING to the best of its knowledge. TRADING accepts no liability of any kind for the data it provides. A reference to standards serves only to describe products and thus provides no guarantee obligation with respect to the purchaser.

13 Force majeure

13.1 In the event of an obstacle to fulfillment of the agreement as a result of *force majeure*, the party in the situation of *force majeure* is entitled, without legal intervention, either to suspend fulfillment of the agreement or wholly or partially to dissolve the agreement without being obliged to make any compensation. Immediately after the occurrence of the situation of *force majeure*, the party in the situation of *force majeure* is duty to inform the other party.

13.2 *Force majeure* is understood to mean any circumstance which the party in the situation of *force majeure* could not reasonably be expected to take into consideration and as a consequence of which the normal fulfillment of the agreement cannot reasonably be demanded by the other party and which is also not for the account or risk of the party involved. *Force majeure* is in any case understood to mean general or partial disruption, restriction or strike irrespective of how caused, by TRADING or by those from whom TRADING acquires the products, raw materials or auxiliary materials to be delivered; the promulgation of regulations which limit, hinder or prevent the production, delivery or transport of the products; mobilisation; war; hostilities; rebellion, strike; lock-out; workers' conspiracy; transport difficulties or lack of transport; shipwreck; loss, damage or defectiveness of means of transport.

14 applicable law and competent court

14.1 Dutch law applies exclusively to these general terms and conditions and to all agreements based on them entered into by TRADING.

14.2 The United Nations Convention on Contracts for the International Sale of Goods, CISG 1980 also applies to these general terms and conditions and to all agreements based on them entered into by TRADING.

14.3 All disputes between the parties arising through the use of these general terms and conditions and/or agreements based on them shall be settled by the court of 's-Hertogenbosch. TRADING exclusively reserves the right to bring a dispute before the Dutch Arbitration Institute in Rotterdam, in accordance with the Rules of the aforementioned institute.

15 Original language

If these general terms and conditions are also provided in a language other than Dutch, in the event of doubt the Dutch-language version of these conditions shall be decisive under all circumstances.

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