

## **GENERAL SALES AND DELIVERY CONDITIONS OF LABORI INTERNATIONAL B.V.**

### **1. DEFINITIONS**

1.1 In these general sales and delivery conditions the following terms have the following meaning:

- a) **Buyer**: the person who undertakes to purchase goods and/or services from Labori International B.V., as well as the person to whom Labori International B.V. addresses an offer;
- b) **General Sales Conditions**: these general sales and delivery conditions;
- c) **Labori**: Labori International B.V.

### **2. APPLICABILITY**

2.1 These General Sales Conditions apply to all offers submitted by Labori, and to all agreements between Labori on the one hand and the Buyer on the other hand.

2.2 The applicability of general terms and conditions of the Buyer is expressly rejected.

2.3 The fact that Labori at any moment does not rely on any of the General Sales Conditions, does not mean in any way that Labori waives the right to rely at a later time on any of the General Sales Conditions.

### **3. CONCLUSION AND MODIFICATION OF THE AGREEMENT**

3.1 Labori's offers will always be subject to contract and can always be revoked.

3.2 An order of the Buyer will be irrevocable. If Labori nevertheless agrees with the cancellation of the order, the Buyer will at least compensate the costs incurred by Labori.

3.3 Labori will confirm the order in writing (by post, fax or email), by telephone, or by executing the order.

3.4 A modification of or addition to the agreement will only be binding on Labori at the moment Labori has accepted this modification and/or addition in writing.

3.5 Labori may at all times unilaterally change these General Sales Conditions.

#### **4. PRICES**

- 4.1 A price quoted by Labori is subject to the reservation that Labori has the right to increase the quoted price by the extra costs arising for Labori through the rise of price-determining elements after the offer but before the conclusion of the agreement. Examples of price-determining elements are official market quotations of goods to be delivered or of raw materials for them, purchase, transport, and storage prices, packaging costs, wages, taxes and social contributions, insurance premiums, and suchlike.
- 4.2 Labori may charge the Buyer for costs attached to an obligation to take back and/or process packaging material.

#### **5. DELIVERY**

- 5.1 The rights and obligations in respect of delivery are governed by the Incoterms 2000 of the International Chamber of Commerce in Paris, insofar as not provided otherwise in these General Sales Conditions and/or in the agreement.
- 5.2 Unless otherwise agreed upon, deliveries are made ex warehouse. Government levies, including VAT, are separately charged at the rate applying to that delivery.
- 5.3 Delivery dates are no fatal dates, but target dates.
- 5.4 Labori has the right to carry out partial deliveries and also has the right to invoice such partial deliveries by means of a separate invoice. The Buyer is not allowed to suspend payment obligations if Labori decides to go over to carrying out partial deliveries.
- 5.5 Labori has the right to suspend a delivery or deliveries, if the Buyer has failed to comply with his obligations towards Labori for whatever reason or in respect of whatever agreement.

#### **6. PAYMENT**

- 6.1 Payment should be made in accordance with the payment conditions which have been confirmed on the invoice. Payment should in particular be made within the payment period mentioned on the invoice. If no payment period has been stated on the invoice, a period of 30 days after the invoice date will apply. The payment period is a fatal period.
- 6.2 The Buyer does not have the right to set off any claims he has on Labori against what he owes to Labori.
- 6.3 In case of late payment of the price, the Buyer will have to pay interest on the amount owed equal to the statutory commercial interest pursuant to Article 6:119a Dutch Civil Code plus two (2) per cent, merely because of exceeding the payment period, from the date of exceeding that period until the date of full payment.

- 6.4 Complaints about invoices should be reported to Labori in writing within five (5) work days after the invoice date. Submission of a complaint does not suspend the Buyer's payment obligation.
- 6.5 All judicial and extrajudicial costs incurred by Labori in connection with any failure of the Buyer in the performance of his obligations will be fully for the Buyer's account. The extrajudicial costs for the collection of any claim are set at 15% of that claim and will amount to at least € 250 per event.
- 6.6 In case an attachment (*beslag*) is made at the expense of the Buyer, if he is granted a moratorium or declared bankrupt, or in case the Buyer ceases or transfers his business in full or in part, everything owed by the Buyer to Labori will become immediately payable in full.

## **7. COMPLAINTS**

- 7.1 The Buyer should inspect the delivered goods immediately upon receipt for damage and check numbers on the basis of the packing list and consignment note.
- 7.2 Any damage and deviations in the product and/or number should be specified immediately on the consignment note and be reported by the Buyer in writing to Labori within five (5) work days after delivery.
- 7.3 If no damage or deviations in product and/or number have been specified on the consignment note, Labori reserves the right not to accept complaints.
- 7.4 In case of invisible defects (quality) complaints should be promptly reported in writing to Labori in conformity with Article 7:23, paragraph 1 Dutch Civil Code, and in any case within five (5) work days after the Buyer has discovered or in reason should have discovered such defects.
- 7.5 The Buyer is only entitled to a replacement when the defective good is returned, including a copy of the invoice of the good sold and a clear, written description of the complaint.
- 7.6 The Buyer is not entitled to any compensation if he returns the goods which are the subject of complaint without permission (in writing) from Labori.

## **8. RETENTION OF TITLE**

- 8.1 Labori retains the ownership of goods to be delivered until the Buyer has met his obligation(s) concerning:
- a) the consideration for all goods delivered or still to be delivered by Labori to the Buyer; and/or
  - b) the consideration for work also carried out or still to be carried out for the Buyer; and/or
  - c) claims because of failures in the performance of agreements with Labori.

- 8.2 The Buyer is not allowed to dispose of goods which are still Labori's property in any other way than is fitting in the normal course of his profession or business; this does not include the use of such goods for providing security to third parties.
- 8.3 When the Buyer fails to fulfil in full any obligation as mentioned in 8.1 (a) – (c), Labori will be entitled on its own authority to take back (or let others take back) goods still belonging to Labori, without Labori being obliged to pay any compensation. The Buyer is obliged to render all desired cooperation in this and irrevocably authorises Labori to enter (or let others enter) spaces in use by and for the Buyer. All costs for taking back goods are for the Buyer's account.

## **9. PASSING OF RISK**

- 9.1 Damage to or total or partial loss of goods to be delivered will be for the Buyer's risk from the moment of arrival of those goods at the place of delivery in conformity with Article 5.2.
- 9.2 If Labori offers to deliver goods to the Buyer, but the Buyer fails to take delivery of those goods for reasons not to be attributed to Labori, damage to or total or partial loss of those goods will also be for the Buyer's risk from the moment the offer to deliver is made.

## **10. DISSOLUTION (*ONTBINDING*) AND SUSPENSION (*OPSCHORTING*)**

- 10.1 Labori is entitled to suspend the performance of all its obligations under the agreement until all amounts owed by the Buyer to Labori have been paid in full.
- 10.2 The Buyer is only allowed to dissolve the agreement because a delivery period has been exceeded which can be attributed to Labori and which causes Labori to be in default (*verzuim*) after notice of default has been given, insofar as the agreement has not yet been performed and it can in reason not be required of the Buyer to maintain the part of the agreement which has not yet been performed.
- 10.3 If the Buyer fails to perform any obligation under the agreement, or fails to perform such obligation properly or in time, as well as in case the Buyer is declared bankrupt, granted a moratorium, placed under guardianship, or his business is closed or liquidated, Labori is entitled at its discretion, without any obligation to pay compensation and without prejudice to its further rights, to dissolve the agreement in part or in whole, or to suspend the further performance of the agreement.

## **11. FORCE MAJEURE (*OVERMACHT*)**

- 11.1 A breach of contract cannot be attributed to Labori or the Buyer as the party in breach, if the party in breach cannot be blamed for the breach and is neither accountable for it by law, by a legal act or according to generally accepted standards.

- 11.2 War or a situation resembling war, revolt, sabotage, fire, stroke of lightning, explosion, discharge of hazardous substances or gases, failure in the energy supply, serious operational failure, sickness absence on an unusual scale, strike action, factory sit-in, blockade, boycott, shortage of raw materials, obstruction of transport, government measures including import, export, transit, production or delivery bans, as well as the failure by a third party engaged by Labori to perform or to perform in time, including a supplier, constitute in any case instances of force majeure.
- 11.3 The party in breach which finds that it is in a situation of force majeure will as soon as possible inform the other party of this in writing.
- 11.4 Without prejudice to any further rights of the parties, force majeure allows either party to dissolve the agreement for the part which has not yet been performed after the situation of force majeure has lasted for two (2) months, without the parties being obliged to pay any compensation to each other.

## **12. LIABILITY FOR DAMAGE**

- 12.1 Labori will only be liable for damage which is due to Labori's intent or gross negligence.
- 12.2 Labori will in no case be liable for indirect damage suffered by the Buyer. The following is in any case considered as indirect damage: all damage suffered by third parties, loss of income and reputation damage.
- 12.3 The other party the Buyer will indemnify Labori against claims from third parties for compensation, for whatever reason, as a consequence of the goods delivered by the other party the Buyer to those third parties.
- 12.4 Labori's liability for compensation is in any case limited to:
- a) the amount which Labori's insurers pay in respect of the damage; or
  - b) if the insurers do not pay or the damage is not covered by the insurance: at most one time the net invoice value of the delivery in question; or
  - c) if several instances of damage are the consequence of the same cause or the same group of causes and the insurers do not pay or the damage is not covered by the insurance: at most € 10,000 in total.
- 12.5 An instance of damage should be reported in writing to Labori without delay, but in any case within five (5) work days after discovery, and all cooperation should be rendered to Labori in any investigation into the nature, extent and cause of the damage.
- 12.6 Any rights of action and defences, based on facts which would justify the assertion that the delivered goods do not conform to the agreement, become prescribed by one (1) year after the notification in accordance with the

preceding paragraph has been made, at any rate by one (1) year after the moment the notification should have been made in conformity with the preceding paragraph.

- 12.7 Labori stipulates all statutory and contractual defences which it can invoke to contest its liability towards the Buyer, also for the benefit of subordinates, the non-subordinates for whose conduct Labori would be liable under the law and for the benefit of Labori's suppliers.

### **13. VALIDITY**

- 13.1 The voidness of any provision of the General Sales Conditions does not affect the validity of the other provisions of the General Sales Conditions.

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

- 14.1 The agreement, also as regards its conclusion, is governed by the laws of the Netherlands, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (1980) ("Vienna Sales Convention").
- 14.2 The Court in Breda, the Netherlands, will exclusively hear all disputes on or in connection with the agreement, also as regards its conclusion.

### **15. FILING AND ENTRY INTO FORCE**

- 15.1 These General Sales Conditions have been filed with the Chamber of Commerce in Southwest Netherlands under number 37049982 on 9 December 2009 and will enter into force from this date.

### **16. INTERPRETATION**

- 16.1 These General Sales Conditions are a translation of the original Dutch text. For purposes of interpreting these General Sales Conditions, the Dutch text prevails.