

# GENERAL TERMS AND CONDITIONS OF DELIVERY AND PAYMENT

## of the private limited company **Plasticum Tilburg BV**

### Article 1

#### Applicability.

1. These general terms and conditions apply to all our offers and to all contracts we enter into, whatever they may be called. These terms and conditions also specifically apply to contracts in which we undertake to supply goods to our purchasers.
2. For the purposes of these terms and conditions, a "purchaser" is defined as any natural or juristic person who has a contractual relationship with us, by virtue of a sales contract or other type of agreement entered into with us, and any natural or juristic person who wishes to enter into a sales contract or other type of agreement with us. A "purchaser" is also specifically defined as the party on whose instructions and at whose expense goods are supplied.
3. The provisions in these general terms and conditions may only and exclusively be departed from in the event that and in so far as this is expressly agreed in writing.
4. In the event that the purchaser also refers to (his own) general terms and conditions, the purchaser's terms and conditions are not applicable. This will only differ if and in so far as the applicability of the purchaser's terms and conditions have been expressly accepted by us in writing and in so far as the purchaser's terms and conditions do not conflict with the provisions in our general terms and conditions. Should the purchaser's terms and conditions conflict with the provisions in our general terms and conditions, therefore, only the provisions of our general terms and conditions shall apply. A stipulation to the contrary in the purchaser's terms and conditions does not affect the foregoing.
5. For the purposes of these general terms and conditions, the term "supply (of goods)" shall also be deemed to include the provision of services and the performance of work of any kind whatsoever. Where the term "purchaser" is used in these general terms and conditions, it is also deemed to include "principal".

### Article 2

#### Quotations.

1. All our quotations should be regarded as invitations to the potential purchaser to make an offer and will be based on any designs, drawings, models, data, etc. supplied with the request and/or the order. They are therefore not binding upon us in any way, unless there is an express and unambiguous provision to the contrary (in writing) in the quotation itself. The order given to us is regarded as an offer and is not deemed to have been accepted by us until we have confirmed this in writing (the order confirmation).
  2. Designs, drawings, models, samples, descriptions, illustrations, lists of sizes etc. and any annexes and documents relating to our quotations form part of the quotations we submit, specifically in respect of the provisions of the previous clause. All such remain our property and must be returned to us at our request and may not be copied and/or released to third parties without our express written permission. We also reserve any and all intellectual and industrial property rights that may exist.
  3. The purchaser guarantees the designs, drawings, models, data, etcetera supplied by him or on his behalf. We are not obliged to check them for accuracy. If goods are produced in accordance with the designs, etcetera supplied to us by, or on behalf of, the purchaser, the purchaser guarantees that neither producing nor supplying the goods will infringe on any right whatsoever belonging to third parties. The purchaser indemnifies us from all claims by third parties in this respect.
- In the event that a third party claims any right and consequently objects to the production or supply of the goods, we are entitled to halt the production and/or delivery and to claim compensation from the principal for the expenses incurred, without prejudice to any of our further rights and claims.
- We are entitled to sell and supply the goods, produced in accordance with designs, etcetera, made or developed wholly or partly by us, whether in cooperation with the purchaser or not, to third parties. Matrices, moulds, auxiliary tools, etcetera manufactured by us or in accordance with our instructions and/or wholly or partly made in accordance with our instructions for which the purchaser has paid the agreed expenses, will become the purchaser's property at the time of actual delivery by us, as stipulated hereafter.
- We will not have to deliver these matrices, moulds, auxiliary tools, etcetera to the purchaser prior to such time as they are no longer used in the production process on behalf of the purchaser and no later than a maximum of two years after delivery of the last order placed with us by the purchaser for goods produced with these matrices, etc. on the condition that the purchaser has fulfilled any and all obligations under the agreement with us and has requested us in writing to supply these matrices, etc.
- In the event that the purchaser does not request delivery of the matrices, etc. in writing within a period of three years after delivery by us of the last order, our obligation to deliver will cease to exist and we will be entitled to destroy the matrices, etc. one month after having notified the purchaser of our intention to do so, without this resulting in having to pay any damages to the purchaser.

In the event that we have to manufacture matrices, etc., we shall not be compelled to commence manufacture until the purchaser has paid us the agreed contribution towards the cost of manufacture. Similarly, we shall not be obliged to commence making alterations, improvements and/or repairs to matrices, etc. until the (estimated) costs payable by the purchaser have been paid to us. In the event that no price was explicitly agreed for the work, the purchaser will pay us a reasonable sum for the expenses we made upon our first request.

We may be held liable for loss of or damage to the matrices, etc. only in the event that the loss or damage is caused by intent, gross negligence or extremely inexperienced handling on our part. In such cases we shall be obliged to repair the matrices, etc. or replace them with new ones, at our discretion. We will not be bound to any further obligation in this respect or to pay damages. We will insure the matrices, etc. in our possession against loss or damage, irrespective of the cause.

4. In the event that the order to which our quotation relates has not been placed with us within three months of the date on which we submitted our quotation, we may charge the purchaser for the costs we incurred in submitting the quotation. In this case the purchaser should return the quotation with the related designs, drawings, models, etc. upon our first request.

### Article 3

#### Existence of a contract.

1. A contract with us does not come into existence until we have accepted in writing an order placed with us. A contract is deemed to exist at the moment when we send order confirmation.

2. A purchaser is bound by his order, in whatever form it is given to us, for a period of seven days after the date stated on the order or (if the order in question was placed verbally) after the order was given. A statement by the purchaser that he wishes to cancel or change his order, made during this seven-day period, can therefore not prevent contract based on the (original) order from coming into existence, if we accept/confirm the order within this seven-day period.
3. The order confirmation we send to the purchaser is deemed to present the contents of the contract that has been entered into fully and accurately. The purchaser is deemed to have approved and accepted the contents of our order confirmation unless he notifies us in writing that he cannot accept the contents within seven days of the date our order confirmation.
4. Any additional arrangements and/or agreements made by our employees, or made on our behalf by other persons who act as representatives, are only binding upon us if these arrangements and/or agreements are confirmed in writing by a company official or company officers who are authorized to represent us.

### Article 4

#### Prices.

1. Our prices exclude VAT, and - unless there is express agreement in writing to the contrary - exclude packaging and transport costs.
2. The prices stated in quotations, contracts and order confirmations are based on cost factors that apply at the time the contract comes into existence; these factors include rates of exchange, manufacturers' prices, the price of raw materials and manufacturing supplies, wages and transport costs, insurance premiums, taxes, import duties and other levies imposed by the government.
3. We reserve the right, in the event that there is an increase in one or more of the cost factors after the date on which the contract came into existence but before the delivery date, to pass this increase on to the purchaser. We are also entitled in this case to cancel the contract wholly or in part without intervention of the Court. The purchaser also has this latter right, however only in event that, within three months of the date on which the contract was entered into, take the position that changes in the costs have led to an increase in the price referred to in the order confirmation. If the purchaser wishes to exercise this right, he must notify us of the cancellation by registered letter within five days of receiving the relevant notification from us.

### Article 5

#### Supply and delivery terms.

1. The delivery times quoted by us commence on the day on which the contract comes into existence, provided that all the information we need to carry out the order is in possession. The delivery times quoted by us shall never be regarded as deadlines unless there is express agreement to the contrary in the individual contract. In the event of late delivery we must therefore be held in default in writing. In the event that - contrary to the above - a penalty for overrunning the delivery time has been expressly agreed in the individual contract, said penalty is not payable if overrunning of the delivery time is the consequence of one of the instances of force majeure referred to in article 11 of these general terms and conditions.
2. Unless there is a stipulation to the contrary in the order confirmation, goods are delivered 'ex works'. The goods travel at the purchasers' risk and expense.
3. In the event that a departure from the stipulations in article 2 has been agreed upon, we will ship the goods by what we judge to be the most appropriate means, using forwarders chosen by us.
4. If a purchaser requests that goods are delivered in a way other than the usual way, we may charge the purchaser for the costs incurred as a result.
5. As soon as the goods for delivery have left our works in the manner indicated in clause above, the risk relating to these goods passes to the purchaser. In the event that delivery takes place according to clause 3 above, the risk related to these goods passes to the purchaser at the moment the goods arrive at their destination.
6. If the delivery is made in parts, we are entitled to regard each delivery as a separate transaction.
7. The purchaser has a duty to take delivery of the purchased goods within the agreed period.

If he fails to do so we are entitled - at our discretion - on the grounds of the provision, of article 6:60 of the Dutch Civil Code to ask the competent Court to release us from the obligation of delivering the contracted goods, or to demand without prior notification of default payment of the purchase price of the part that has not been taken delivery of. If the purchaser fails to fulfil his payment obligation, we are entitled to declare the contract rescinded without the intervention of the Court.

In the event that the purchaser remains in default as referred to above and fails to take delivery of the purchased goods within the agreed time and we demand payment of purchase price, the goods are deemed to have been delivered and we will store goods at the purchaser's expense and risk, against reimbursement of all the costs that arise as a consequence.

If no term for taking delivery has been agreed, we are entitled to take the steps referred to in this article if the purchaser has not taken delivery of the goods within one month of his being invited by us to do so.

### Article 6

#### Complaints by the purchaser.

1. In respect of the information we provide about sizes, colour fastness, weight, etc. in our quotations, or in items that form a part of our quotations by virtue of the provisions of article 2 clause 2, the purchaser must make allowance for the usual tolerances and minor changes in the goods we supply. More specifically, this applies to departures from the contracted quantity; here, too, the purchaser must make allowance for the usual tolerances. The goods supplied by us may therefore depart from the description in the order if and in so far as said departure relates to minor differences in size, quantity differences and insignificant changes.
2. Complaints by the purchaser, related to observable defects, must be brought to our notice by the purchaser within 7 days after delivery or within 7 days after the invoice date, in the event that the goods could not be or were not delivered to the

purchaser. Complaints must be made by registered letter, containing a clear and accurate description of the defect and quoting the invoice on which the goods in question were billed. The purchaser should carry out a careful and timely inspection.

3. Defects that could not be observed at the time of delivery and could not become apparent in the course of a careful and timely inspection, must be brought to our notice by the purchaser within 7 days after they have become apparent as stipulated in clause 2.

4. Any right of claim the purchaser may have against us in relation to defects in goods supplied by us lapses in the event that:

a. the defects are not brought to our notice within the periods and/or not in the manner stipulated in clause 2 or 3 above;

b. the purchaser does not cooperate or does not cooperate sufficiently with us in respect of an investigation into whether there are grounds for the complaints;

c. the purchaser has not handled, treated, used, stored or maintained the goods in the right way, or he has used or treated the goods in circumstances or for purposes other than those foreseen by us;

d. the guarantee period in the individual contract has expired or, if no such period has been agreed, the complaints are only made after a period of twelve months has elapsed since delivery.

#### **Article 7**

##### **Liability.**

1. Only in the event that guarantee obligations in respect of goods supplied by us have not been assumed by third parties (such as manufacturers) may the purchaser make claims under guarantee or otherwise against us. In that case our liability is limited to defects that are a consequence of manufacturing errors and flaws in materials.

2. In the event of a complaint, if the validity of the grounds for the complaint in relation to the quality is established by us and if at the same time liability as referred to in clause 1 above exists for us, we are solely bound - at our discretion - to:

a. rectify the defects (free of charge);

b. supply replacement goods or parts following the return of the defective goods or parts;

c. refund the purchase price received or credit the purchaser for the invoice sent to him, with the rescission of the contract in question without the intervention of the Court, all such in so far as the purchase price, the invoice and the contract relate to the defective goods supplied;

d. indemnify the purchaser in a manner other than those referred to heretofore in consultation with the purchaser.

3. If the purchaser has carried out repairs and/or changes to the goods or has caused repairs and/or changes to be carried out without our prior express written permission, all guarantee obligations on our part lapse.

4. Subject to any obligations we may have pursuant to the foregoing, we are never liable to pay any sort of compensation to the purchaser and others, unless there has been wilful intent or culpability on our part (to be demonstrated by legal means by those holding us liable).

We are specifically never liable for consequential loss or damage, direct or indirect damage, however described - including loss of profits and losses caused by plant idleness - sustained by the principal, his subordinates and people put to work by or through him or third parties, because of the total or partial (re-)delivery of goods, late or unsatisfactory delivery, or failure to deliver the goods or because of the goods themselves.

5. The purchaser is not entitled to return goods in respect of which no well-founded complaint exists. Should goods nonetheless be returned without valid reason, all the costs relating to the return will be borne by the purchaser. In that case we are at liberty to store the goods with a third party at the purchaser's expense and risk.

6. The purchaser has a duty to indemnify us against all claims that third parties might institute against us in respect of the performance of the contract, in so far as the law does not prevent the damages and costs arising out of these claims from being paid by the purchaser.

#### **Article 8.**

##### **Reservation of title and security.**

1. Goods supplied by us remain our property until the moment of full payment of all that the purchaser owes us in respect of, in connection with or arising out of goods supplied by us.

Should we deem it necessary, we are entitled to require the purchaser to put up security for the fulfilment of his commitments.

2. The purchaser is not entitled to pledge goods that have not been paid for, to establish a lien without title on them or to establish any other commercial or personal right on them in favour of a third party.

3. Without prejudice to the foregoing provisions of this article, the purchaser is permitted to sell the goods to third parties, but only in the course of the normal conduct of his business. In this case the purchaser has a duty to transfer to us immediately the money received or, if the goods were not sold for cash, to transfer to us immediately the accounts receivable.

4. If as a result of treatment or processing by the purchaser our title to the goods supplied by us has been lost, the purchaser has a duty immediately to establish a lien without title in our favour on the goods that have been produced after the treatment or processing.

5. We are always entitled to take possession of goods that are in the keeping of the purchaser (or of third parties) but to which we have title as soon as we may reasonably

assume that there is a real risk that the purchaser will not fulfil his obligations.

The foregoing does not affect the rights that we enjoy under common law: specifically we reserve the right, after taking possession of the goods, to claim damages from the purchaser.

6. The purchaser has a duty to insure goods that have not been paid for against fire and theft and to produce the relevant insurance policy at our request.

#### **Article 9**

##### **Trademark**

We are entitled to mark and/or code the goods to be delivered.

#### **Article 10**

##### **Payment.**

1. Payment must be made in Dutch currency, without any deduction or discount, in cash at the place where we have our registered office or by transfer to a bank or giro account nominated by us, in both cases immediately after delivery of the goods concerned, or at least within no more than fourteen days after the invoice date, all such unless there has been express written agreement to the contrary.

In the case of payment by bank or giro, the date on which our bank or giro account is credited counts as the date of payment.

2. If the purchaser does not make payment (in full) on time, he is in default without there being any need for a specific notification of default. In this case we are entitled, if and in so far as there is a sufficient connection with the purchaser's non-compliance, to suspend the fulfilment of all our commitments to the purchaser, without prejudice to all the rights we enjoy under common law. We are also entitled to demand cash payment in advance of the delivery of goods or a guarantee of prompt payment for all deliveries still to be made. We are further entitled in this case to rescind the contract without the intervention of the Court, upon which the purchaser has a duty to return the goods that have been delivered or a duty to reverse what we have performed in some other way, without prejudice to our right to compensation.

3. Should the purchaser remain in default in respect of prompt payment, he is liable to pay us, without any further notification being required on our part, from the date on which payment was due until the date on which full payment is made, interest equal to the statutory interest rate plus 4% per year, calculated over the outstanding amount, which interest is immediately payable without further notification of default.

The purchaser is furthermore bound to pay to us the extrajudicial costs relating to the collection of the debt(s); these costs are set at 10% of the principal (including VAT), without prejudice to our right to make out a case for higher costs.

Moreover, all adverse consequences of losses on exchange rates or otherwise arising out of late payment or non-payment will be borne by the purchaser, even if the purchaser, acting in accordance with the regulations that exist in his own country, has fulfilled his payment obligations on time but circumstances or measures beyond his control have meant that the transfer has taken place in a way disadvantageous to us.

4. In accordance with article 6:44 of the Dutch Civil Code, payments will first be offset against the costs referred to in clause 3. thereafter against the arrears of interest, and lastly against the principal and the current interest.

5. In the event that a significant worsening of the purchaser's financial position occurs after the contract comes into existence but before the delivery of the goods, we are entitled to discontinue wholly or in part further fulfilment of the contract, or to demand a change in the terms and conditions of payment.

#### **Article 11**

##### **Force majeure**

Force majeure is defined as any circumstance beyond our control of a nature such that fulfilment of the contract cannot reasonably be demanded of us (a nonattributable shortcoming in performance). Force majeure is deemed to include:

war, disturbances and hostilities of any kind whatsoever, blockade, boycott, natural disasters, epidemics, lack of raw materials, obstruction and interruption of transport, breakdowns in our factory, import and export restrictions or bans, impediments caused by measures, laws or orders laid down by international, national or regional (government) authorities. If as a result of force majeure we are unable to meet our obligation to deliver or cannot do so satisfactorily or on time, we are entitled, at our discretion, to consider the contract or that part of it that has not been fulfilled as rescinded or to suspend it for a specified or indefinite period. In the event of force majeure, the purchaser cannot claim compensation from us.

#### **Article 12**

##### **Applicable law.**

The quotations we submit and all the contracts we enter into are governed exclusively by and interpreted according to the law of the Netherlands, excluding the Weens Koopverdrag (Vienna Treaty on Commerce and Trade).

#### **Article 13**

##### **Settlement of disputes.**

All disputes of any nature whatsoever related to or arising out of contracts we have entered into or deliveries we have made will be heard by the competent Court in Breda unless, within one month of our having invoked this stipulation, the purchaser lets it be known in writing that he chooses to have the dispute heard by the competent Court in accordance with the law. We reserve the right to put the matter before the Court that has competence on the grounds of the common law.