

**Van der Windt Verpakking BV: General conditions of sale,  
delivery and payment.**

**1) Applicability.**

These terms apply to all our tenders, order confirmations and trade agreements whereby we act as seller/contractor. The Dutch text of these conditions of sale is binding and no rights can be derived from translations. Supplementary conditions or conditions deviating from these conditions apply only when they have been confirmed by us in writing. General conditions of purchasers apply only if and insofar as they have been accepted by us in writing.

**2) Definitions**

If and when in these conditions there is mention of 'purchaser', also comprehended with this definition is the 'principal'.

If and when in these conditions there is mention of 'written' or 'in writing', also comprehended in it is a message sent by fax, even when it has not been signed due to the ( automatic ) way of sending.

**3) Tenders, conclusion of agreements, delivery period, delivery date and delivery on call.**

All our tenders are always wholly free of obligation. Agreements with us are concluded only after we have confirmed the order addressed to us in writing or when we have actually begun to carry out the order addressed to us. Verbal promises by and/or agreements with our employees bind us only after and insofar as we confirm these promises or agreements in writing. The delivery period commences if and after an order has been accepted by us in writing and after we have received all data and materials necessary for execution of the order from the purchaser. We state each delivery date in good faith to the best of our knowledge but the date is not binding. Delivery periods will be prolonged for such a period (with a maximum of three months) as we shall temporarily be unable to deliver due to exceptional circumstances such as unusually high absenteeism due to illness, strikes, sit-down strikes, lockouts, fire, technical malfunctions in our factory, traffic impediments, scarcity of raw materials, materials or labour, default by suppliers, from any cause whatsoever, mobilization, state of siege, state of war or war, internal civil commotions, import and export restrictions and other government measures or regulations and furthermore all circumstances on which we are not able to exercise influence even if these circumstances were foreseeable at the time of the conclusion of the agreement or at the time of obtaining the order. Exceeding of the period of delivery shall never entitle the purchaser to any kind of damages whatsoever, whatever the cause.

In case of delivery on call the purchaser will be deemed to have agreed that the delivery was effected on the date agreed on for the delivery, even if actual delivery did not take place on that date, and that from that moment on we will act as holder for the purchaser. We are entitled to charge the costs of storage in such a case.

If, with delivery on call, there is no agreement on another term, the maximum term of call is three months after completion or that much shorter as considered reasonable under the given circumstances. In case of delivery on call the purchaser is supposed to have agreed on the fact that the delivery took place on the time of call agreed upon. If the actual delivery did not take place at the time of call agreed upon, we act as the keeper for the purchaser. In such a case we are entitled to charge storage-costs.

#### **4) Force majeure.**

In these general conditions force majeure includes situations in which we are not able to fulfil our obligations in accordance with the agreements made, temporarily or at all, due to exceptional circumstances as referred to in clause 2 above, if these circumstances continue for longer than three months.

#### **5) Dissolution.**

If the execution of an agreement entered into by us is impossible due to exceptional circumstances as referred to in clause 2 above, we shall have the right to dissolve the agreement wholly or in part instead of fulfilling it. A purchaser who wants to assert his rights to fulfilment of obligations on the grounds of breach of contract on our part should always first give us the opportunity to invoke our right to dissolve by registered letter.

#### **6) Payment.**

All payments should be made at our office or to our postal giro account or our bank account, without deduction, discount or settlement. Payments to a representative or to (other) employees are not valid unless a receipt is supplied, signed by a member of the board of management or by an employee with power of attorney of our partnership. We are entitled to charge 2% (two percent) credit limitation surcharge on our invoices. Unless explicitly agreed otherwise, payment should be made within 14 days (fourteen days) from the date of invoice. If payment is made in time the credit limitation surcharge may be deducted from the invoice amount. If payment has not taken place within the stipulated period the purchaser will owe us interest of 1% (one percent) per month or the statutory interest if this is higher, without prior notice of default. In case of overdue payment the purchaser is obliged to give security for fulfilment of his obligations to us at our first request. If, in case of overdue payment, we are compelled to pass on a claim for collection to a third party, the purchaser is liable for all costs arising therefrom, whereby the extrajudicial collection costs - excluding costs related to the execution of an entitlement to enforcement which does not come under an order for costs of litigation - are set at 15% (fifteen percent) of the invoice amount with a minimum of EURO 100,=. All payments by or on behalf of the purchaser shall be made first in deduction of the interest and costs owed and only then in deduction of the principal sum. If the term of payment is exceeded we are entitled to suspend all unfilled orders until payment has taken place within a further term fixed by us. If payment is not made during this further term we shall be entitled to dissolve all current agreements without prejudice to our rights to damages.

#### **7) Retention of title and reservation**

Goods supplied by us, as well as goods supplied at an earlier date, remain our inalienable property until the purchaser has made full payment to us of all claims we have or will have on him/her, including interest and costs including any payment or indemnification due to failure to fulfil the agreement concerned. The purchaser does not have the right to alienate the goods supplied by us in whatever way except in the framework of the normal exercise of his/her profession or business.

Purchaser does not have the right to encumber the goods supplied by us in any way. Purchaser entitles us in advance to enter all places where our goods are kept, for the purpose of exercising our property rights, as the occasion may arise.

#### **8) Warranty purchaser**

The purchaser guarantees us to be entitled to have all designs, pictures and texts, delivered by - or on behalf of the purchaser, multiplied and to use them and safeguards us from all claims by third parties resulting from trade descriptions acts and copyrights concerning these designs, pictures and texts.

### **9) Attributable shortcoming.**

If the purchaser fails imputably in fulfilling his obligations to us, as well as in the event of bankruptcy, suspension of payment or winding-up of his firm, we shall be entitled to suspend the execution of the agreement or to dissolve it wholly or partially at our discretion, without notice of default being required and without judicial intervention being required, without any liability on our part to indemnification and without prejudice to our right to full indemnification by the purchaser. The purchaser undertakes to give security for fulfilment in the fulfilment of his obligations.

### **10) Transport.**

Transport costs shall be borne by the purchaser, unless delivery carriage paid has been agreed to. From the moment on which the sold goods or a part of them are being loaded for delivery the purchaser bears the risk for all direct or consequential damage and loss that might be caused to or on account of these goods at the expense of the purchaser or third parties.

### **11) Prices.**

We have the right to raise the price agreed on at the acceptance of the order, with due observance of any relevant statutory prescriptions existing, if prices of raw materials, auxiliary materials, prices of parts we buy from third parties, wages, salaries, social security costs, taxes, rights or dues, transport and suchlike rise after the date of conclusion of the agreement, also when such rises result from changes in exchange rates and also in the event of the introduction of new duties or taxes, or rises in existing duties or taxes adopted by the government.

For quantities of products ordered, deviations in delivery of up to 10% (ten percent) from the quantity ordered shall be considered as regular. In case of surplus delivery within the 10% limit set above we are entitled to charge the surplus to purchaser's account.

### **12) Complaints, limitation of liability.**

Verification of the quantity of the goods delivered by us rests with the purchaser. To be valid, complaints should be submitted to us by registered letter within 8 (eight) days from receipt of the goods. Complaints on account of defects, deviations from the specifications stated or externally visible damage, to be valid, should also be marked by the purchaser on the receipt.

We are not liable for deviations which are normal in the industry under which the article in question falls or for minor technical or unavoidable deviations concerning the quality, colour, measurements, thickness, weight and such. In affixing codes, including the EAN code, to the packing, we accept no liability whatsoever regarding the serviceability nor for the consequences of illegibility or misreading of such codes by the appropriate apparatus.

The purchaser shall not have the right to refuse to accept the goods bought or to return them, unless we have agreed to this in writing. In case the purchaser is of the opinion that the goods delivered by us are not in accordance with what we sold to him, he should notify us immediately and give us the opportunity to view the goods delivered. Processed goods are held to have been approved. In all cases in which delivery is not carriage paid, the purchaser has the right to inspect the goods before shipment, at his expense, on condition that he notifies us of his intention to do so in time. Complaints do not entitle the purchaser to suspend payments he owes. If the complaint is justified we shall, at our discretion, either pay a reasonable amount of damages not exceeding the invoice amount of the goods delivered to which the complaint relates, or replace the goods delivered free of charge taking back the goods delivered in first instance. We are not liable for further indemnification or for damages for consequential events. In respect of complaints each partial delivery is regarded as a separate sale.

Except for deviating stipulations in these conditions we can not be held responsible for direct or indirect damage sustained by the purchaser and / or her clients due to us not meeting our obligations, unless this is the result of our deliberate actions or our fault.

**13) Disputes.**

Internal Dutch law shall apply to all our tenders, order confirmations and agreements. Insofar as deviation from the statutory rules of competence is permitted, the competent court in the district of Groningen shall have jurisdiction over all disputes that might arise between ourselves and purchaser, unless we should prefer to submit the dispute to the court within whose jurisdiction the purchaser has his domicile.

**14) General provisions.**

These general conditions do not preclude the exercise of our statutory rights.

Honselersdijk, 15 february 2002

For:  
Van der Windt Verpakking BV

J.A. Voetman