

## **1. Applicability**

1.1 These general terms and conditions are applicable to all offers, requests and proposals as also to each and every agreement concerning the delivery of goods and the supply of services of the private company with limited liability Kooistra.com B.V., having its registered office in (8938 AT) Leeuwarden at the Apolloweg 2, hereinafter referred to as: "Kooistra". Stipulations deviating from these general terms and conditions are only valid if they have expressly been approved by Kooistra in writing. 1.2 The applicability of general and/or other (purchasing) terms and conditions of the other party is expressly rejected by Kooistra, unless these terms and conditions or one or more provisions thereof have expressly been accepted by Kooistra in writing. 1.3 The other party with whom an agreement has once been concluded on the basis of these terms and conditions accepts the applicability of these terms and conditions to later agreements.

## **2. Conclusion**

2.1 The presentation of an offer by Kooistra is subject to contract and shall not commit the same to deliver the relevant goods. If not indicated otherwise in the offer, it shall not be valid for more than fourteen (14) days. Offers from stock are always made subject to prior sales. 2.2 The agreement is deemed to have been concluded when Kooistra confirmed the contract to the other party in writing or when Kooistra started the actual implementation of the same, such within four weeks after the order has been placed. Agreements concluded by commercial agents, commercial travellers and/or other intermediaries shall only have binding effect on Kooistra after these agreements have been confirmed in writing by the board of directors of Kooistra or if Kooistra started the implementation of the same. 2.3 Changes with regard to the agreement shall only take effect after they have been stipulated in writing by and between Kooistra and the other party.

## **3. Delivery, risk and reservation of title**

3.1 The specification of the delivery time is always approximate and is not deemed to be a fatal deadline, unless expressly stipulated otherwise in writing. 3.2 Unless expressly stipulated otherwise in writing, the warehouses of Kooistra are qualified as the location of delivery. 3.3 The liability and the risk in relation to the goods to be delivered by Kooistra transfer to the other party at the time of delivery of said goods to the other party. 3.4 The goods delivered by Kooistra remain the property of Kooistra until the other party has complied with all of the following obligations on account of any agreement concluded with Kooistra:

the consideration for the good or goods delivered or to be delivered;

the consideration for activities carried out or to be carried out for the benefit of the other party by (or on behalf of) Kooistra in pursuance of the concluded agreement;

the possible claim on account of non-compliance by the other party with the agreement concluded with Kooistra.

3.5 Kooistra is authorised to recover the delivered goods if the other party fails to comply with its obligations on account of the written agreement concluded by and between Kooistra and the other party and/or with the obligations laid down in these general terms and conditions. In addition Kooistra shall also be authorised to recover the goods delivered by the same as from the moment that it shall, in pursuance of article 10 of these general terms and conditions, be authorised to dissolve the agreement concluded by and between Kooistra and the other party. 3.6 The other party is held to forthwith, and in any case within two days following the corresponding demand of Kooistra, give Kooistra the opportunity to enforce its right of recovery and the other party is held to actively lend its cooperation to the enforcement of the right of recovery by Kooistra. To this end the other party must take all measures that are required for the effective enforcement of the right of recovery including granting Kooistra access to areas belonging to the same or to third parties where the goods delivered by Kooistra are located. 3.7 If after the set-off with the value of the goods recovered by Kooistra a claim of Kooistra vis-à-vis the other party still remains, which residual claim shall be determined on the basis of the administration of Kooistra, then the other party is held to on demand of Kooistra lend its cooperation to the preparation of an indebtedness in a notarial deed within seven (7) days after the corresponding demand of Kooistra. 3.8 If the other party does not comply with its obligations pursuant to

article 3.4 and article 3.5 of these general terms and conditions then it forfeits an immediately claimable penalty to Kooistra of € 5,000.00 per day as from the moment that the other party still fails to comply with said obligations. 3.9 The following provisions are applicable to deliveries to other countries in and outside of Europe: 3.10 Kooistra reserves the title of the goods delivered by the same until all claims that Kooistra has or shall have, on any legal basis whatsoever, in relation to the relevant business commitment have been paid in full. 3.11 Kooistra permits the other party to resell in a revocable manner within the framework of its usual business operations. The other party hereby already transfers any and all claims with ancillary rights in relation to the resell to Kooistra. The transfer of these claims serves as security for any and all rights as intended in article 3.5.1. The other party can collect the transferred claims, to the extent that Kooistra did not revoke said authorisation. 3.12 The collection authority expires, without expressly having been revoked, if the other party discontinues the payments. On demand of Kooistra the other party must irrevocably inform Kooistra in writing to whom the goods were resold and what claims the other party has consequently obtained vis-à-vis the buyer. The other party must at its own expense prepare legalised deeds for the benefit of Kooistra from which it becomes apparent that the claims are transferred to Kooistra. 3.13 The other party is not allowed to in any other way whatsoever dispose of goods that were delivered under reservation of title or that are otherwise owned by Kooistra or with regard to the claims that were transferred to Kooistra. A right of pledge or other limitations of rights with regard to the goods that belong, either partly or fully, to Kooistra, must forthwith be communicated to Kooistra by the other party. 3.14 Kooistra shall at all times be entitled to claim restitution of the goods belonging to the same if the other party fails to effectuate the payments or if its financial position deteriorates essentially. If Kooistra intends to rely on this right then, without prejudice to other mandatory statutory provisions, there shall only be question of dissolution of the agreement if Kooistra expressly declares the same. 3.15 If the value of the securities issued for the benefit of Kooistra exceed the claims vis-à-vis the other party by, in total, more than 20% then Kooistra shall on demand of the other party release securities and such as the discretion of Kooistra. 3.16 To the extent required and in derogation from article 17.1, German law (with the exclusion of the Vienna Sales Convention) is applicable to the reservation of title, and the relevant legal acts.

#### **4. Obligation to provide information**

4.1 On demand of Kooistra the other party is held to inform Kooistra of its correct VAT registration number as also of the name that the other party is registered under with the relevant tax authorities.

#### **5. Prices**

5.1 Unless indicated otherwise the prices are based on the level of the purchase prices, wages, labour costs, social insurance and official contributions, freight, insurance premiums and other costs applicable at the time of the offer respectively the date of the order. 5.2 In case of an increase of one or more of the cost price factors Kooistra shall be authorised to increase the order prices accordingly, all in consideration of the relevant existing statutory provisions, however with the understanding that the already known future price increases must be specified when concluding the agreement

#### **6. Security**

6.1 Prior to the delivery or continuation of the delivery or compliance with the agreement Kooistra shall be authorised to demand sufficient security, at the discretion of the same, for compliance with the payment obligation by the other party.

#### **7. Complaints**

7.1 The other party must inspect (have inspected) the goods delivered and the activities performed by Kooistra upon delivery or completion or as soon as possible (and at the latest within 24 hours thereafter). In this respect the other party must verify as to whether the delivered goods comply with the agreement, i.e.: - whether or not the correct goods were delivered; - whether or not the delivered goods comply in terms of quantity (e.g. number and volume) with the agreement; - whether or not the delivered goods comply with the agreed quality requirements, at least, should these not specifically have been agreed on, with the requirements that can be imposed on normal use and/or normal purposes. 7.2 If defects are detected

then the other party must report this to Kooistra in writing by registered post or email within eight (8) working days after the delivery or installation. 7.3 If the complaints are deemed to be justified, at the discretion of Kooistra, then Kooistra can either remedy the defect or repay the net invoice amount. 7.4 Complaints about invoices must also be submitted in writing and such within eight (8) days after the date of despatch of the invoices. 7.5 The submission of a complaint shall not release the other party from its obligations by virtue of the agreement concluded with Kooistra.

## **8. Warranty**

8.1 Kooistra only warrants that the goods delivered by the same dispose of the characteristics that are required for normal use as also of the characteristics that are required for any special use, which special use has expressly been stipulated by Kooistra and the other party in writing in the agreement. 8.2 Should a complaint not be submitted within the time limit as intended in article 7.2 in the manner outlined in article 7.1 then the warranty provided by Kooistra in article 8.1 shall expire.

## **9. Liability**

9.1 Failing, late and/or improper delivery as well as improper operation of the delivered goods shall not entitle the other party to compensation and/or dissolution. 9.2 Without prejudice to the other rights allocated to the same, Kooistra shall, if it is prevented from implementing the agreement or from implementing the agreement in a timely fashion due to force majeure, be entitled to suspend the implementation of the agreement or to partly or fully dissolve the agreement, such at the discretion of Kooistra, without Kooistra being liable to pay any compensation whatsoever. 9.3 There shall be question of force majeure on the part of Kooistra if Kooistra is, inter alia, prevented from complying with its obligations on account of the sale and purchase agreement due to war, threat of war, civil war, riots, insurrection, molestation, fire, water damage, flooding, industrial action, lock-out, sit-in, import and export restrictions, official measures, defects of machines, failure in the power supply, all at the company of Kooistra and at third parties from whom Kooistra must partly or fully purchase the required materials or raw materials, as also in case of storage or transport whether or not in-house and in addition by all other causes beyond the control or risk of Kooistra. 9.4 Liability of Kooistra for indirect damages, including consequential damages, lost profit, lost savings and damages due to operational stagnations, is excluded. 9.5 The total liability of Kooistra on account of an imputable failure to comply with an agreement concluded with the other party is limited to compensation for direct damages up to a maximum of € 5,000.00. 9.6 The liability of Kooistra on account of an imputable failure to comply with an agreement only occurs if the other party has forthwith given Kooistra proper written notice of default, granting Kooistra a reasonable time limit in order to remedy the default, and Kooistra still imputably fails to comply with its obligations after said time limit. The notice of default must contain a description of the failures that is as detailed as possible in order to enable Kooistra to react to the same adequately. 9.7 The other party indemnifies Kooistra against any and all claims of third parties in connection with the goods delivered by Kooistra.

## **10. Dissolution**

Kooistra is authorised, without prejudice to its right to compensation for costs, damages and/or interest, to fully or partly dissolve the agreement with immediate effect, without any notice of default or judicial intervention being required, if:

the other party is granted suspension of payment;

a winding-up petition is filed in respect of the other party;

the other party passes away or is placed under guardianship;

the other party proceeds with a discontinuation, liquidation or transfer of its business or proceeds with an amendment of the corporate objectives of its business;

an attachment is imposed on all or a part of the assets of the other party;

the other party does not comply with any obligation on account of this agreement or the law;

the other party fails to pay an invoice amount or a party thereof within the relevant payment term;

the other party, after a corresponding justified request of Kooistra, fails to voluntarily proceed with the release of the goods delivered to the other party by Kooistra and still owned by Kooistra.

## **11. Right to suspend**

If and as long as the other party does not comply with any obligation on account of the agreement concluded with Kooistra or an agreement that originates from the same, or improperly or late, then Kooistra shall be entitled to suspend compliance with its obligations on account of this agreement.

## **12. Payment**

12.1 Unless stipulated otherwise, payment must, at the discretion of Kooistra, be effectuated either net cash on delivery or by means of a transfer or remittance into a bank or giro account designated by Kooistra within fourteen (14) days after the date of the invoice, without discount or compensation. 12.2 Kooistra shall at all times be authorised to rely on its set-off right. 12.3 The other party is not allowed to set off any claim vis-à-vis Kooistra, on account of any legal relationship whatsoever, against the claims of Kooistra vis-à-vis the other party.

## **13. Interest and costs**

13.1 If payment did not take place within the time limit as intended in article 12 then the other party shall be in default and Kooistra shall be entitled to charge interest at 2%, in addition to the applicable statutory commercial interest, on the claimable amount to the other party. 13.2 All judicial and extrajudicial costs to be incurred shall be at the expense of the other party. The extrajudicial collection costs amount to at least 15%, 20% for deliveries abroad, of the principal amount payable by the other party, with a minimum of € 125.00.

## **14. Cancellation**

14.1 If a contract accepted by Kooistra is cancelled by the other party then Kooistra shall, provided that said cancellation is accepted by Kooistra, be entitled to charge a fixed compensation of 30% of the invoice amount plus the possible costs and damages that Kooistra incurs due to the cancellation, including costs charged to Kooistra by suppliers. 14.2 Kooistra does not accept any liability whatsoever for recovery claims of the other party, in particular of distributors or of other resellers of the products of Kooistra, on any account whatsoever and, more in particular, on account of product liability. 14.3 The other party indemnifies Kooistra against any and all recovery claims of its resellers of products of Kooistra on any account whatsoever and, more in particular, on account of product liability.

## **15. Personal data**

15.1 Kooistra shall comply with the statutory regulations with regard to the protection of personal data as established in the Dutch Personal Data Protection Act. Should the other party wish to inspect, correct or delete its personal data then the other party can contact Kooistra for this purpose. Kooistra shall provide the other party with the requested information and, if so desired by the other party, adjust the data about the other party. 15.2 The data supplied by the other party are used by Kooistra for the processing of the agreement. The data are included in a file.

## **16. Evidence**

16.1 The administrative data of Kooistra are decisive for the determination of the scope of the payment obligations of the other party, barring evidence to the contrary to be furnished by the other party. 16.2 Barring evidence to the contrary, the quantities, dimensions and weights as indicated on the invoice or the consignment note are applicable between Kooistra and the other party. 16.3 If a letter is sent or a notification is made to the other party by Kooistra pursuant to an agreement concluded with Kooistra then the

proposed legal consequence shall take effect upon postal delivery, even if the letter or the notification is not received or has not been taken receipt of by the recipient.

**17. Applicable law and disputes**

17.1 Dutch law is, to the extent that these general terms and conditions do not determine otherwise, applicable to all offers, transactions and agreements concluded with the other party by Kooistra. The applicability of the Vienna Sales Convention is excluded. 17.2 Any and all disputes related to and/or deriving from these general terms and conditions and/or the agreements to which these general terms and conditions are applicable shall in general be settled by the competent court in Leeuwarden, however Kooistra reserves the right to bring possible disputes to the cognisance of the competent court in the district where the other party holds its registered office. 17.3 In case of discrepancies between the Dutch text of these general terms and conditions and the translations thereof into other languages the Dutch text shall prevail.