

General terms and conditions of sale of BIB Production & Packaging B.V.

1. **GENERAL**

- 1.1 In these terms and conditions, the following terms shall have the following meanings:
- BIB: BIB production & packaging B.V.;
 - Buyer: the (legal) person with whom BIB has concluded or wishes to conclude a contract;
 - Goods: all goods delivered or to be delivered by BIB, including but not limited to Bag on Valve aerosols;
 - Contract: The contract between BIB and the Buyer.
- 1.2 Deviations from these terms and conditions, or parts thereof, can only be agreed in writing.
- 1.3 If any clause in these terms and conditions proves to be void or is set aside in court, this does not affect the effect of the other clauses. BIB is then entitled to replace this clause by a clause which approaches its purport as closely as possible without being void or liable to be voided.
- 1.4 In the event of a textual difference in meaning between the various language versions of these terms and conditions, the Dutch text shall be binding.
- 1.5 These terms and conditions apply to all contracts between BIB and the buyer, and to all offers/quotations made by BIB. Once a contract has been concluded under the applicable general terms and conditions, these terms and conditions also apply in full to subsequent contracts.

2. **CONCLUSION OF THE AGREEMENT**

- 2.1 All offers made by BIB are non-binding, unless the offer explicitly states otherwise. If a quotation issued contains a non-binding offer, BIB has the right to withdraw the quotation within two working days of receipt of the acceptance.
- 2.2 Contracts are not concluded until after written acceptance by BIB, or as soon as BIB has started to execute the order placed by the Buyer.
- 2.3 BIB reserves the right to refuse the order in whole or in part in the following (non-exhaustive) cases:
- if Buyer fails to pay the invoices for previous deliveries (on time);
 - if the goods ordered are not in stock;
 - if the Goods ordered are not available;
 - the Buyer's creditworthiness deteriorates;
 - BIB has had to deduce from other circumstances that the Buyer will fail in the fulfilment of one or more obligations towards it;
 - if the information provided by the Buyer is incorrect or incomplete.
- 2.4 Any supplementary agreements or modifications made later, as well as undertakings, will only bind BIB if they are confirmed in writing by BIB.

3. **DELIVERY**

- 3.1 Unless agreed otherwise in writing, delivery of Goods from BIB to the Buyer shall always take place in accordance with the Incoterm Ex Works, hereinafter: 'EXW' (or: warehouse Roermond or Oss) as referred to in the Incoterms version 2020 of the International Chamber of Commerce (ICC). Unless otherwise agreed in writing, the transport costs for the carriage of Goods from delivery shall be borne by the Buyer.
- 3.2 The delivery and transfer of the risk of the Goods (loss, theft, damage, defects and damages) to the Buyer occurs by placing the Goods at the disposal of the Buyer or the first carrier from the BIB warehouse (location) in the Netherlands. If the Buyer places the Goods at BIB's disposal for further processing or completion, packaging or otherwise, these goods, insofar as BIB has not yet fulfilled its obligations in respect of these goods, remain entirely for the account and risk of the Buyer, except if the damage or destruction of these goods is attributable to a failure attributable to BIB.
- 3.4 The delivery times indicated by BIB are always approximate and are not deadlines.
- 3.5 BIB is entitled to make partial deliveries and to invoice the Buyer separately for each partial delivery. In case of cross-border deliveries, in deviation from article 73 section 2 and section 3 of the Vienna Sales Convention, each delivery is to be regarded as a separate contract.
- 3.6 Deliveries in excess or short of the agreed number of Goods shall be permitted at a rate of 10%. The excess or shortfall of the number delivered shall be charged or settled respectively.
- 3.7 In the event of a delay in delivery due to circumstances of any kind, the delivery period will be extended by the duration of the delay. BIB will

inform the Buyer in good time of any delay. A delay in delivery does not give the Buyer the right to terminate the contract in whole or in part, to suspend his obligations towards BIB, or to claim damages.

- 3.8 The Buyer shall be obliged to take delivery of the Goods at the moment when they are delivered to him or at the moment when they are made available to him in accordance with the Agreement. If the Buyer has not taken delivery at the agreed time or agreed place, or fails to provide information or instructions necessary for delivery, Goods will be stored at the risk of the Buyer. In such case BIB shall be entitled to charge both the agreed costs and all additional costs (including in any case storage costs) to the Buyer at the time the Goods are delivered or made available to the Buyer.

4. **PRICES**

- 4.1 All prices used by BIB, including the purchase price for the Goods, the transport costs and costs in connection with the import and export of the Goods and other levies imposed by the authorities are in Euros exclusive of VAT, unless explicitly agreed otherwise.
- 4.2 The price offered applies only to the specific order and the quantities offered therein.
- 4.3 BIB has the right to increase prices with, on the day the contract is concluded, not yet known levies or increases of levies, such as excise duties and taxes, even if this occurs as a result of foreseeable circumstances. These levies are to be paid by the Buyer as part of the price. BIB is not liable for damages to the Buyer in the event of a change.
- 4.4 BIB is entitled to increase prices by increases occurring prior to the day of delivery, such as: purchase prices/factory prices of suppliers, wages, labour costs, freight, materials, social security charges, foreign exchange settlements and transport costs. Deviations from the agreed price up to 5% of the price shall be considered reasonable, unless the Buyer demonstrates that this cannot reasonably be required of it.

5. **PAYMENT**

- 5.1 A payment term of 30 days after the invoice date shall apply between the parties, unless otherwise agreed in writing. This payment term is a deadline. If this term is exceeded, the Buyer shall be in default immediately, without a demand for payment or notice of default being required.
- 5.2 The Buyer is not permitted to suspend payment of the invoices. All payments shall also be made without any deduction or set-off.
- 5.3 From the moment of default as referred to in this article, the Buyer shall be in default:
- interest of 1.5% per month on the total outstanding amount. A part of a calendar month shall be deemed an entire calendar month;
 - the extrajudicial collection costs amount to at least 15% of the unpaid amount, with an absolute minimum of € 500,00;
 - Buyer shall owe all judicial costs to be incurred by BIB in order to secure compliance with the Buyer's obligations. These include in any case all costs incurred by its legal counsel, in deviation from the flat-rate compensation system provided by law. The judicial costs include the costs of a bankruptcy petition, by way of collection.
- 5.4 All claims of BIB are immediately due and payable and the Buyer is immediately in default in the following cases (this list is not exhaustive):
- The Buyer does not fulfil, does not fulfil in time or does not fulfil properly any of the obligations arising from any contract with BIB, a contract connected therewith, before or after;
 - Buyer has used a Good in violation of the applicable rights of use or restrictions on use and/or has violated any intellectual property rights relating to the Good;
 - Buyer has applied for or intends to apply for or is in suspension of payments;
 - a petition for bankruptcy is filed by Buyer or against Buyer, Buyer or a third party intends to file a petition for bankruptcy of Buyer or in case Buyer is declared bankrupt;
 - there are other reasonable doubts on the part of BIB regarding the Buyer's ability to pay, as a result of which the Buyer cannot meet his obligations, this at BIB's discretion;

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- f) an application for the Debt Rescheduling (Natural Persons) Act has been submitted by the Buyer or is declared applicable to the Buyer or any form of debt rescheduling is proposed;
- g) a third party levies a seizure (conservatory or executory) on the Buyer;
- h) if Buyer is dissolved and liquidated;
- i) after discontinuation or transfer of the business by the Buyer;
- j) collateral provided has been nullified or reduced in value.
- 5.5 In the event of default and in the cases (a up to and including j), but not limited to, BIB is entitled to suspend the delivery of (as well as the production or processing of) Goods destined for delivery, without prejudice to BIB's right to demand simultaneous advance payment or proper (additional) security for the claims of the Good(s) to be delivered, such at BIB's discretion. If the Buyer has provided no security or insufficient security, BIB shall be entitled to dissolve the contract wholly or in part, and the Buyer shall then be liable to pay compensation for the loss which BIB suffers as a result. Such damages in case of full or partial dissolution of the contract are now for then fixed at an immediately payable penalty of 20% of the invoice amount relating to the dissolution, without prejudice to BIB's right to claim further damages as well as compensation for recourse costs.
- 5.6 After the Buyer has as yet complied with his obligations and/or provided sufficient security, BIB shall have at its disposal the delivery period which, taking into account the possibilities then existing in the business of BIB and/or of BIB's suppliers, is necessary for delivery of the Goods.
- 5.7 Payments made by the Buyer shall first be applied to settle the costs owed, then the interest and then the longest outstanding invoices. This is irrespective of the notice/indication of payment given by the Buyer.
- 6. RETENTION OF TITLE**
- 6.1 Sale and delivery shall take place under extended retention of title. Ownership of the Goods sold, delivered and to be delivered, including those already paid, is reserved until all claims - including interest and costs - of BIB against the Buyer on the basis of the Agreements have been settled. As long as the ownership of the delivered Goods has not passed to the Buyer, the Buyer cannot and may not pledge the Goods, transfer their ownership or grant third parties any other security right over them for debts, loans or other financial arrangements.
- 6.2 The buyer is obliged:
- a) to store the Goods with due care, in a dry environment and as the recognisable property of BIB, and to keep them properly insured and insured against fire, explosion and water damage as well as against theft. The buyer is held to make the policy of the aforementioned insurance and the proofs of payment of the premium thereof available to BIB for inspection on demand. In the event of a breach of this provision, the purchase price will become immediately due and payable in full;
- b) to inform BIB immediately if third parties claim rights in respect of the Goods delivered by BIB to the Buyer, in the event that BIB still has any amount to claim from the Buyer on account of the delivery of these Goods. In that case, BIB is entitled to immediately take possession of the Goods in question. In such case, the Buyer is liable for all costs which this entails. BIB is obliged not to redeliver these Goods until BIB has been paid in full or adequate security has been given in respect of its claim(s), at BIB's discretion;
- c) to pledge newly formed Goods to BIB if BIB cannot invoke its retention of title because Goods have been mixed up or deformed.
- 6.3 BIB is entitled, if the Buyer is late with payment or if there is a well-founded reason to assume that the Buyer will not pay or will pay late or is experiencing or is likely to experience payment difficulties, to seize its property or have it seized and to sell it to third parties.
- 6.4 In the event that BIB claims ownership of Goods subject to retention of title pursuant to clause 6.1, the Buyer now unconditionally and irrevocably authorises BIB, or third parties to be designated by BIB, to enter all those places where BIB's property is located and to repossess those Goods if the Buyer remains in default.
- 6.5 BIB shall be granted access to the Goods delivered by it under penalty of an immediately due and payable fine of € 10,000.00, to be increased by a penalty of € 1,000.00 per day for as long as the 'breach' continues, such up to a maximum of € 30,000.00 without the need for BIB to give the Purchaser notice of default and without prejudice to BIB's right to claim full compensation in addition.
- 6.6 If and insofar as the country of destination of the Goods offers more far-reaching possibilities in respect of the retention of title, these more far-reaching possibilities shall apply.
- 6.7 In addition to the foregoing, BIB expressly reserves a right of retention in respect of all products of the Buyer in respect of which BIB acts as holder until the Buyer has completely fulfilled his obligations on any account whatsoever towards BIB or has provided security otherwise.
- 7. COMPLAINT REPORT**
- 7.1 The quantities as stated on transport tickets or similar documents are deemed to be correct if no complaint is made immediately after delivery or provision.
- 7.2 On delivery of the Goods, the Buyer has the obligation to examine whether the Goods conform to the Agreement, both as regards external characteristics and functionally. Notifications of complaints about Goods must be notified in writing to BIB by the Buyer within 5 working days after receipt, on pain of forfeiture of all rights and claims. The notification of complaint must contain an accurate description of the nature, extent and grounds of the complaint and furthermore the article number, the order number, a copy of the packing note as well as the batch serial code of the batch delivered. A sample of the Goods showing the defects, preferably completed with digital photographs, must be delivered to BIB at the same time as the notice of complaint. Complaints that relate to deviations which could not reasonably have been detected on receipt (hidden defects) are to be reported in the same way as described in clause 7.2, within 5 working days after the Buyer has detected a defect. BIB cannot be held liable for a hidden defect reported later than 1 year (365 days) after delivery by the Buyer.
- 7.3 Any complaint about an invoice must be made in writing within 8 days of the invoice date on pain of forfeiture of all rights and claims, failing which the invoice shall be deemed correct and undisputed.
- 7.4 Data and images in the catalogues and on the website of BIB only give an impression of the Good and are not binding for BIB.
- 7.5 BIB is entitled to investigate the merits of a complaint or to call in an expert to investigate the merits of a complaint, all at BIB's discretion.
- 7.6 BIB will determine whether a complaint is well-founded. If a complaint is well-founded, BIB will remove the complaints in respect of the Goods by replacing or crediting the invoiced Good, at BIB's discretion.
- 7.7 BIB will only take back Goods after it has given its prior written consent. The purchaser must return the Goods himself in proper packaging. Only in the case of a well-founded complaint are the costs of return for BIB. If the Buyer returns the Goods without BIB's prior written consent and/or if the Buyer returns the Goods without complying with BIB's return instructions, all costs associated with the return will be for the account of the Buyer. In such case, BIB shall be free to store or cause to be stored the Goods for the account and risk of the Purchaser.
- 7.8 Legal claims by the purchaser on account of non-conformity, deviations in weight or numbers must be brought before a court authorised under these terms and conditions no later than twelve months after notification of complaint, on pain of forfeiture of all rights and claims, unless rights under applicable treaties, laws and regulations have lapsed earlier.
- 8. LIABILITY**
- 8.1 BIB is not liable for losses suffered by the Buyer except and insofar as the Buyer can prove wilful intent, gross negligence and/or deliberate recklessness on the part of the management or the executive officers belonging to BIB.
- 8.2 Damages shall in any case include damages for dissolution, damages for breach of statutory duty, damages for tort and claims for unjust enrichment.
- 8.3 BIB is in no case liable for pure financial loss, physical injury or death, loss of profit, lost turnover, missed savings, impairment of goodwill or similar losses however arising, labour costs, standstill damage and damage through business stagnation, interest costs, irrespective of how

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- these losses are named (direct, indirect, consequential).
- 8.4 BIB is not liable for:
- a) Items not specified in the agreement;
 - b) Defects which arise because the goods are kept during transport (even if this is carried out for the account of BIB) or at the buyer or third parties under incorrect conditions, such as incorrect temperature (correct temperature is between 5 and 35 degrees), moisture, humidity and rain;
 - c) Damage caused by storing the items beyond the indicated use-by date;
 - d) Damage caused by a harmful or faulty product that was made available by the Buyer for further processing by BIB.
 - e) Losses arising from incorrect instructions for use in respect of a product made available by the Buyer or third parties for further processing by BIB;
 - f) Damage caused by incorrect advice regarding the use of the Goods given by or on behalf of BIB.
- 8.5 The cumulative liability, based on any legal ground(s), is explicitly limited in its totality to the amount determined by BIB:
- a) replacing or repairing Goods to which the complaints relate;
 - b) up to the amount paid out by the insurance in the relevant case, increased by BIB's own risk. If for any reason whatsoever no payment is made under the insurance, the liability for damages is explicitly limited to 15% of the invoice value of the Goods to which the damages relate. BIB's liability for damages is at all times limited to a maximum of € 25,000.00. Any further liability of BIB is expressly excluded. BIB is entitled to have the damage assessed by an expert to be designated by it.
- 8.6 The period within which BIB can be held liable for compensation of loss is in all cases and on pain of forfeiture of rights limited to a period of one month after the loss-causing event occurred. All claims for damages will lapse twelve months after the commencement of the day on which the liability was incurred, if they are not brought before a court within this period.
- 8.7 The Buyer indemnifies BIB for any liability, or consequences of liability, beyond those to which BIB is bound in accordance with Clause 8, including claims of third parties. The Buyer must cover or insure this higher risk himself.
- 9. OVERVIEW**
- 9.1 Force majeure within the meaning of this article shall be equivalent to force majeure within the meaning of Section 6:75 of the Dutch Civil Code. Force majeure comprises in any case, but not exclusively: strike, absence of personnel due to illness, transport difficulties, insufficient supply/scarcity of products/raw materials, piracy, boycott, blockade, flooding, fire, war, vandalism, terrorism, government measures, import and export bans, shipping delays, business interruptions at suppliers or BIB, breach of contract by suppliers, defects in machinery, failure to deliver, including those of materials to be processed or used and those of gas, water and electricity and all causes outside BIB over which BIB has no influence or materials to be used and of gas, water and electricity and all external causes beyond BIB's control. This list is not exhaustive.
- 9.2 During and after force majeure, the delivery and other obligations of BIB will be suspended. If the period of force majeure lasts longer than three months and after notification by BIB, both BIB and the Buyer are entitled to dissolve the contract or to terminate it in some other way, without the parties becoming liable for damages.
- 9.3 If upon the occurrence of the force majeure BIB has already partially fulfilled its obligations or can only partially fulfil its obligations, BIB is entitled to separately invoice the part already delivered or the deliverable part and the Buyer is bound to pay this invoice as if it concerned a separate agreement.
- 10. INDUSTRIAL/INTELLECTUAL PROPERTY**
- If no arrangement has been made regarding the acquisition of rights of industrial and intellectual property on results resulting from the execution of an order, BIB explicitly reserves the right to patent as well as all other rights of industrial and intellectual property.
- 11. TERMINATION OF AGREEMENT: CANCELLATION AND DISSOLUTION**
- 11.1 Unless otherwise agreed in writing, the agreements are to be regarded as separate agreements and no long-term agreement is to be concluded that needs to be terminated.
- 11.2 If and insofar as the Buyer can prove in writing that this is a continuing performance contract, the following shall apply unless otherwise agreed: the contract can always be cancelled in writing with due observance of a three-month period of notice (to be calculated from the last working day of the month) without any obligation to pay compensation arising in this case.
- 11.3 In the unlikely event of any failure on the part of BIB, the Buyer is not authorised to dissolve or terminate the contract in whole or in part. This does not apply in the event of force majeure, in which case the provisions of Article 9 apply.
- 11.4 In case the Buyer is in default (Article 5), BIB is entitled:
- a) to dissolve the relevant Agreement(s) in its entirety or to the extent that the obligations under the Agreement have been partially performed;
 - b) current Agreements in respect of which the Buyer is not in default, in full, or in so far as the obligations arising from the Agreement have been partially fulfilled, in part.
- 11.5 Insofar as BIB has fulfilled the contract wholly or partially, the dissolution referred to in sub-paragraphs a) and b) of the preceding paragraph shall not affect the exercise of the rights by virtue of the retention of title as referred to in Article 6.
- 11.6 Unless otherwise agreed in writing, cancellation or (premature) complete as well as partial dissolution/termination on the part of the Buyer is excluded.
- 12. RECALL OF CASES**
- 12.1 If for any reason BIB deems it necessary to make a product recall, the Purchaser is obliged under penalty of forfeiture of an immediately due and payable penalty to cooperate with all measures which BIB deems necessary to limit losses.
- 12.2 If the recall is carried out because of a harmful or faulty product which was made available by the Buyer for further processing by BIB, the Buyer will bear all the costs of the recall, including BIB's costs.
- 12.3 If the Purchaser remains in default of compliance with the obligations under this clause, the Purchaser shall owe an immediately payable penalty of € 1,000,000.00, to be increased by a penalty of € 100,000.00 per day for as long as the 'breach' continues, without prejudice to BIB's right to full compensation.
- 13. COMPETENT COURT AND APPLICABLE LAW**
- 13.1 The Agreements between the parties are governed by Dutch law.
- 13.2 All disputes related to and/or arising from the concluded Agreement will be settled by the District Court of Limburg, location Roermond, unless Dutch mandatory provisions dictate otherwise.
- 13.3 Notwithstanding clause 13.2, BIS is entitled to have disputes which may arise from the present contract or from further contracts which may result from it adjudicated by another court which is competent according to Dutch law, European regulations or international treaties.

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