



## GENERAL TERMS AND CONDITIONS OF SALE OF LGCE B.V.

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These general terms and conditions (the "Terms and Conditions") apply to all offers, quotations, sales, supplies and deliveries and/or agreements ("Relationships") and all related work and actions undertaken by LGCE B.V., with its registered office in Rotterdam (the "Seller"), issued or provided to and/or concluded with the other party concerned (the "Buyer").

These Terms and Conditions equally apply to all the above-mentioned Relationships in the event the Seller engages a subsidiary or group company or a third party for the execution of the Relationship; in such case the subsidiary or group company or the third party concerned shall equally be considered as the Seller for the application of these Terms and Conditions and such party can rely directly on the provisions in these Terms and Conditions in any and all dealings with the Buyer.

#### Article 1: Offer and acceptance

1.1. All quotations submitted by the Seller are without any obligation, unless they include a term for acceptance.

1.2. If a submitted quotation stipulates an offer free of obligation and this offer is accepted by the Buyer, the Seller may revoke the offer within three working days after the acceptance has been received.

1.3. Any order placed with the Seller by the Buyer in writing (also including by fax, by e-mail or by any other electronic means) shall be irrevocable.

#### Article 2: Pricing

2.1. Pricing is based on the prices applicable on the date of delivery. In the event of an increase in the price or prices quoted by the Seller, the Buyer may cancel (*ontbinden*) the sales contract within 14 days after written notification of the price increase. This right of cancellation (*recht van ontbinding*) does not apply in case of price increases arising due to raised (value added) tax, freight rates or customs tariffs.

2.2. Items that are invoiced on the basis of weight or volume are priced according to the weight or volume on dispatch.

#### Article 3: Delivery

3.1. Unless explicitly agreed otherwise in writing, delivery shall be made according to the Incoterms conditions as mentioned in our offer or on our order confirmation. In so far as the parties agree a delivery condition, this shall be subject to the most recent version of the Incoterms applicable at that moment.



3.2. Unless otherwise agreed in writing, delivery periods do not constitute strict deadlines. In the event delivery is not made in good time, the Seller must be given notice of default in writing, with the Seller being granted a reasonable term within which to remedy its non-fulfilment.

3.3. A delivery by the Seller agreed between the parties shall only take place if the agreed place of destination is accessible and negotiable by a 40-ton vehicle. If this is not the case, the items will be delivered using lighter vehicles, with any additional costs (such as loading and handling costs and wages) being for the Buyer's account.

3.4. The Buyer shall ensure that a properly functioning forklift truck with a minimum load capacity of 2,500 kg and a fork with a minimum length of 1.5 m is available at the agreed place of destination.

#### **Article 4: Force majeure**

4.1. The Seller shall not be liable in the event a shortcoming or breach (*tekortkoming*) is due to force majeure.

4.2. Force majeure is understood to mean, without prejudice to other interpretations or definitions of it in law and Court Case law in any event, every circumstance beyond the Seller's control that permanently or temporarily prevents or obstructs the performance of the agreement, such as *inter alia* war and threat of war, riot, full or partial mobilisation, industrial action, shortage of raw materials, delay or interruption in the supply of goods by suppliers, unforeseen circumstances affecting operations, transport difficulties, import and/or export restrictions, frost, fire, epidemics, (natural) disasters and other unforeseen obstacles or hindrances rendering the production or transportation of the goods entirely or partially impossible. The provisions in this article are also applicable in the event the circumstances concerned occur in relation to factories, suppliers or other traders from whom the Seller sources items or services.

4.3. In the event the Seller is prevented by force majeure as referred to above from performing the agreement, it may, without judicial intervention, at its discretion, either suspend the execution until the circumstance giving rise to force majeure ceases to exist or terminate (*ontbinden*) all or part of the agreement without judicial intervention, without being liable for compensation of any loss and/or damage in that regard.

#### **Article 5: Payment**

5.1. Payment must be made within 30 days of the invoice date, unless explicitly agreed otherwise in writing.

5.2. Any additional costs over and above the invoiced amount, such as the charges imposed by the bank on payment of the invoiced amount and the costs incurred in relation to the submission of shipping documents, for example, shall be for the Buyer's account.

5.3. The Buyer is not entitled to offset any amount, unless its counterclaim is acknowledged by the Seller or the validity of such claim can be easily established.



## **Article 6: Late payment**

6.1. In the event the term of payment is exceeded, the Buyer shall be in default by operation of law and the Seller shall be entitled in accordance with Section 6:119a of the Dutch Civil Code to charge statutory interest at the rate applicable in the Netherlands to commercial transactions.

6.2. The Buyer will furthermore be liable for all reasonably necessary costs incurred in obtaining payment or settlement otherwise out of court. In the event a claim is passed on to a lawyer for collection, the costs due by the Buyer will be at least equal to the amounts calculated in accordance with the Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*).

## **Article 7: Complaints**

7.1. The Buyer is obliged to inspect the delivered or supplied items, or have them inspected, immediately on receipt in order to check whether they conform to the agreement. The Buyer must report any visible defects in writing, stating the details, to the Seller within 14 days of receipt of the items. Defects which cannot reasonably be discovered within the aforementioned term shall be reported to the Seller in writing, stating the details, immediately after they are discovered by the Buyer, and in any event within no more than 6 months after delivery of the items concerned. The Buyer cannot claim that the delivered items fail to conform to the agreement if it does not report the defects to the Seller within the terms referred to in this article.

7.2. Items may only be returned with the Seller's explicit consent in writing.

7.3. Complaints must be made in writing, stating the order details, batch number and invoice and waybill numbers.

7.4. In case of complaints that are held to be well-founded, which have been submitted properly and in good time, the Seller is obliged, at its discretion, to:

- a. supply the missing item or items;
- b. grant a price discount;
- c. repair the delivered items;
- d. replace the delivered items; or
- e. refund the purchase price in exchange for return of the delivered items.

7.5. The Seller will take the Buyer's interests and the nature of the complaint into account when deciding between the alternatives referred to in article 7.5 under a to e, inclusive. The Seller will inform the Buyer in writing of its decision in this regard within 14 days after the Seller has established the validity of the complaint, and will then meet its obligations within a reasonable term. If the Seller fails to decide between the alternatives referred to under article 7.5 within the aforementioned term, the Buyer shall be entitled to choose between the alternatives referred to above.

## **Article 8: Instructions, regulations, advice**

8.1. The Seller may issue the Buyer with written instructions, standards and approval regulations for the storage, processing or modification, use or application of the items to be delivered or the items that have been delivered or supplied. In so far as the Buyer resells the supplied or delivered items, whether or not after processing or modification, it



will make the aforementioned instructions, standards and approval regulations, to the extent applicable, available to its customers.

8.2. The Seller is not liable for any loss and/or damage sustained by the Buyer or its customers due to any failure to follow, or to follow correctly, the instructions, standards and approval regulations, as referred to in the preceding paragraph, issued by the Seller. Nor is the Seller liable in the event the Buyer fails to comply with the applicable government regulations.

8.3. Advice and recommendations issued by the Seller as referred to in article 8.1 of these Terms and Conditions are merely of an advisory nature and are provided by the Seller to the best of its knowledge and insight in accordance with good professional practice. Under no circumstances is the Buyer released from its obligation to examine itself the advice and recommendations in terms of their soundness and suitability for the applications intended by it.

## **Article 9: Liability**

9.1. The Seller's liability under the sales contract, including liability for a failure to deliver or a failure to deliver in good time or defects affecting the delivered item or items, is limited to the net invoice value of the items concerned. If the Seller has insurance cover for the respective liability, the Seller's liability is, by way of derogation from the foregoing, limited to the amount paid out by the insurer in the case in question. The Seller is not liable for any loss and/or damage for which the Buyer is insured.

9.2. The Seller's limitation of liability referred to in article 9.1 also applies in the event the Seller is held liable by the Buyer on any other ground than under the sales contract.

9.3. The Seller shall never be liable for any indirect loss or damage, including *inter alia* loss of profit, consequential loss or damage, loss of (anticipated) savings and loss due to business interruption.

9.4. The transmission of messages to the Seller by electronic means - including by means of EDI, where the Seller and the Buyer have not concluded a specific written agreement in that regard - shall be for the Buyer's risk. The Seller is neither responsible nor liable for the non-transmission or non-receipt of a message sent in this manner, as well as for the incomplete or incorrect transmission or receipt of such message, which in all cases will constitute the correct statement by the Buyer in the manner in which it was received.

9.5. The above limitations of liability shall not apply in case of wilful misconduct or gross negligence committed by any director (*bestuurder*) or manager (*leidinggevende*) of the Seller.

9.6. The Buyer indemnifies the Seller against any and all claims by third parties, including employees or subordinates of the Seller as well as the Buyer, with respect to the delivered or supplied items and/or services.

9.7. The provisions in article 8.2 shall apply fully.



## **Article 10: Retention of title**

10.1 The delivered items shall not become the property of the Buyer until it has settled all amounts and claims that might accrue to or be vested in the Seller under all (earlier or subsequent) sales contracts with the Buyer and/or pursuant to any services or work performed or to be performed by the Seller.

10.2. The Buyer shall keep and store the items supplied or delivered subject to retention of title with the necessary care, separately and as recognisably the Seller's property. The Buyer shall take out and retain adequate insurance cover for the items delivered or supplied subject to retention of title against the risk of fire, theft and any other loss and/or damage, and shall produce the policy for this insurance at the Seller's request.

10.3. The Buyer is obliged, within reasonable limits, to cooperate in all measures which the Seller wishes to take to protect the delivered items and/or its right of ownership of such items.

10.4. The Buyer shall notify the Seller immediately in writing in the event any third party attaches the items that have been delivered subject to the retention of title or wishes to establish or enforce rights in respect of such items.

10.5. For as long as the delivered items are subject to the retention of title, the Buyer is solely permitted to undertake its own modification or processing of or to resell delivered items in the ordinary course of its business. The Buyer may not pledge the items subject to the retention of title, nor may it otherwise encumber such items. After modification or processing of the aforementioned items, the Seller shall become the (joint) owner of the items wholly or partly created in this manner and the Buyer will automatically hold such items on the Seller's behalf.

10.6. In the event the Seller notwithstanding the third sentence of article 10.5 of these Terms and Conditions does not acquire ownership of the items created by the Buyer, the Buyer will on first demand by the Seller lend any assistance required for the creation of a pledge, non-possessory or otherwise, (where applicable, jointly accruing to other entitled parties) on the items concerned for the benefit of the Seller.

10.7. If the Buyer fails to meet its payment obligations, or fails to meet them in good time, or if there is a reasonable fear that this will happen, the Seller may remove, or have removed, from the Buyer or any third party holding the item on the Buyer's behalf any delivered items that are subject to the retention of title referred to in paragraph 1 above, the items referred to in paragraph 4 above as well as any items referred to in paragraph 5 above that are encumbered by a non-possessory pledge. The Buyer is obliged to render all assistance in this regard, subject to a penalty of 10% of the amount owed by it to the Seller, with a minimum of €250, for every day or part of a day that the Buyer fails to perform this obligation.

## **Article 11: Marks**

11.1. In the event the delivered or supplied items have an identification mark or trademark, the Buyer may only use such mark in connection with products manufactured therefrom by the Buyer with the express consent in writing of the owner of that mark.



## **Article 12: Default on the part of the Buyer**

12.1. In the event the Buyer is in default and/or the Seller has good reason to fear that the Buyer will not meet its payment obligations, or not meet them in good time, the Seller may, without being liable for any compensation and without prejudice to all further rights accruing to or vested in it:

- a. demand payment in advance or the provision of security;
- b. suspend entirely or partly the execution of all (earlier or subsequent) sales contracts (concerned);
- c. revoke any agreed payment terms, whether or not in other agreements, as a result of which all (remaining) outstanding debts will become immediately due and payable; and
- d. suspend its obligations under other agreements with the Buyer.

12.2. The Seller will only be entitled to implement the above measures in so far as the (feared) shortcoming or breach on the part of the Buyer justifies such measures.

## **Article 13: Packaging**

13.1. Returnable, or loaned, packaging must be returned in satisfactory condition and without product residues carriage paid not more than 6 months after delivery. If the packaging is not returned within the specified period or is returned in damaged condition and/or with product residues, the costs of replacement or repair and/or cleaning and disposal will be charged to the Buyer.

13.2. The Buyer is responsible for ensuring that any transport equipment, material and packaging provided or utilised by it meets the legal requirements as well as the standards for safe and proper transport. The Seller may refuse to load or fill equipment, material and packaging provided by the Buyer if such equipment, material or packaging does not meet the aforementioned requirements and standards. In case of such refusal, the Seller is not liable for the consequences arising from any ensuing delay.

## **Article 14: Applicable law and competent court**

14.1. All Relationships that are subject to these Terms and Conditions shall be governed by and construed solely in accordance with Dutch law, to the exclusion of conventions and uniform laws on the international sale of goods.

14.2. The Dutch courts are authorised to hear any dispute arising from the Relationships that are subject to these Terms and Conditions. Any such dispute will be exclusively decided by the competent court in Rotterdam.