

# Oil on Spec BV

## general terms of delivery and sale

### I. Introduction:

These general terms and conditions of sale and delivery shall become an integral part of this contract. Any terms to the contrary or other limitations imposed on the purchaser's part shall be void without requiring any explicit objection thereto. There are no ancillary agreements beyond these terms. Any changes to these terms shall require the seller's written approval.

### II. Offer, orders:

Seller's offers shall be subject to change without notice concerning price, quantity, delivery periods and possibilities for delivery. Purchaser's orders shall be binding upon seller by a written or printed confirmation issued by the seller (which shall also include invoices or delivery notes).

### III. Delivery:

Deliveries shall always be made at confirmed prices, plus VAT as required by law. All deliveries will be made on the basis of the Incoterms 2000, source ICC. Purchaser shall be held to take delivery of the goods the moment that Seller delivers them to him or has them delivered, or the moment at which the goods are put at Purchaser's disposal under the agreement. If the Purchaser refuses to take delivery or fails to give the information or instructions necessary to the delivery, Seller shall be entitled to store the goods at Purchaser's risk and expenses. If the goods are serviced, Seller shall be entitled to charge possible service charges. Said service charges shall then be invoiced separately.

If in the framework of the execution of the agreement, Seller requires data to be given by the Purchaser, the term of delivery shall commence after the Purchaser has provided Seller with said data. Seller shall make every effort to deliver as promptly as possible. There are no fixed delivery periods. If Seller has given a term of delivery, it shall only be indicative. A given term of delivery shall therefore never constitute a term to be observed on penalty of forfeiture of rights. If a term is exceeded the Purchaser must give Seller notice of default in writing. Seller may also effect delivery in parts. Purchaser is not entitled to reject a partial delivery. There shall be no contract for delivery in the event that seller on its part is not supplied either correctly or in due time.

### IV. Shipment:

Seller reserves the right to choose the way and manner of shipping. Any extra costs caused by special requests of the Purchaser shall be borne by the same. The same applies to any increases in the freight rates, additional extra costs for redirection, warehousing costs, etc. occurring after the conclusion of the contract, unless freight paid has been agreed upon. The danger of destruction, loss or damage to the merchandise shall pass to Purchaser upon delivery or, in the event of collection by Purchaser, upon preparation for collection.

### V. Prices:

If Seller and Purchaser have agreed upon an administered price, Seller shall nevertheless be entitled to increase said price. Seller shall be allowed among others, to charge on price increases if changes in price have occurred between the moment the offer was made and the moment of execution of the agreement with respect to e.g., exchange rates, salaries and wages, raw material, semi-finished products, packing material, shipment costs, etc.. The prices given by Seller shall be exclusive of VAT and other government levies, as well as of the other expenses to be possibly made within the scope of the agreement, including shipment and administration costs unless stated otherwise.

### VI. VAT:

If the supply qualifies as an intra-community transaction as defined in table II a7 en a8 Wet op de omzetbelasting 1968, Purchaser will notify Seller, in writing and before the supply takes place, which VAT number he will use for each transaction and, in case transport is not arranged by or on behalf of Seller, that the goods will be transported by him or on his behalf to another EC member State. If, in the above described situation, Seller has sufficient confidence that it will receive required in time, and, therefore supply Buyer with 0% VAT, Buyer shall provide Seller as soon as possible with documents providing that the goods have been transported to another EC member state. Buyer is liable for any VAT and fines due by Seller: if the documents mentioned are not received by Seller in time; if the VAT number can not be verified with fiscal authorities, or if fiscal authorities can not validate the number at verification. The supply will then be deemed to be a national supply and VAT will be levied accordingly.

### VII. Payments:

Payment must be made within 14 days from the date of invoice, in a way to be indicated by Seller and in the currency in which the goods were invoiced, without any postponement, setoff or reduction. Contestation of the amount of the invoices shall not suspend the fulfillment of the payment obligation. If Purchaser fails to fulfil his payment obligation within the term of 14 days, then Purchaser shall be in default by operation of law. In that event, Purchaser shall owe an interest of 1% per month, unless the statutory interest rate of article 6:119a Dutch Civil Code is higher, in which case the statutory interest rate of article 6:119a Dutch Civil Code shall apply. The interest on the amount due and payable shall be calculated as from the day the Purchaser is in default until the moment he has paid the amount in full. In case of overdue payment, all the Purchaser's payment obligations shall fall immediately due and payable, irrespective of whether the Seller has already invoiced in the matter. Seller's claims against Purchaser shall become due on demand in the event that Purchaser is wound up, attached, declared bankrupt, or if a suspension of payment is granted. Seller shall be entitled to have the payments made by the Purchaser go first of all to reduce the costs, subsequently to reduce the interest still due and finally to reduce the principal sum and the current interest. Seller shall have the right, without this leading Seller to be in default, to refuse an offer for payment, if the Purchaser designates a different sequence of attribution. Seller shall be entitled to refuse full payment of the principal sum, if said payment does not include the interest still due, the current interest and the costs. Seller has the possibility to charge a credit limitation surcharge of 2%. This surcharge will not be charged if payment is made within 30 days from the date of invoice. The Purchaser shall, on the Seller's demand, instantly provide adequate collateral security in the form required by the Seller for meeting his obligations, and to supplement such security if necessary for meeting all his obligations. As long as the Purchaser has not complied with such request, the Seller shall have the right to suspend the performance of his obligations. If in the case of overdue payment judicial or other action is taken for collection, the amount of the debt shall be increased, regardless of the interests already due and to fall due, by 10% of the principal amount to cover accounting costs as well as all judicial and extra-judicial costs (including the cost of legal assistance).

### VIII. Reservation of title:

Ownership in supplied goods shall only pass to Purchaser after complete payment of the outstanding sum. The delivered merchandise shall remain the Seller's property until such time. Purchaser is entitled to dispose over the reserved merchandise ordinary course of business as long as the same is not in default. Pledging or chattel mortgage are forbidden. Any receivables arising from reselling or any other legal reason concerning the reserved goods shall be fully assigned by Purchaser to Seller already at this point for security purposes. In the event of seizures of the reserved merchandise by third parties, Purchaser shall undertake to point out the Seller's ownership and to notify the same without delay. The reserved ownership shall extend to the products made from processing. If the reserved merchandise is processed together with other goods, mixed or joined with the same, Seller shall acquire co-ownership in the products thus made at a ratio of the invoice value of the reserved merchandise to the invoice value of the merchandise owned by third parties or the Purchaser. Seller shall be entitled to demand from Purchaser the return of the reserved merchandise without grant of any grace period and without rescinding the contract in the event that Purchaser is in default with his obligations towards the Seller. Taking back of the reserved merchandise shall only constitute a rescission of the contract if so declared expressly in writing by the Seller.

### IX. Force majeure, contractual hindrances:

Force majeure of any kind, loss of production, operational interruptions or stoppages of traffic, fire damage, flooding, lack of labour, power, raw and process materials, strikes, lockouts, obstructions in shipments, official decrees or other obstructions which delay, reduce or render unacceptable the production, dispatch, acceptance or consumption shall discharge Seller from the obligation for effecting deliveries or acceptance for the duration and the scope of the obstruction. If as a result of an obstruction the delivery and/or acceptance are exceeded by more than eight weeks, then both parties shall be entitled to rescind the contract. In the event of rescission, Purchaser shall not be entitled to make any claims for damages against Seller. The compensation of any expenses made by Purchaser (especially penalties to third parties) shall be excluded. In the event of partial or complete loss of sources of supply on the part of Seller, the same shall not be obliged to obtain supplies from other upstream suppliers. In this event the Seller shall be entitled to distribute the available quantities of merchandise under consideration of Seller's own needs.

**X. Warranty and damages:** Seller shall guarantee that the goods to be delivered shall meet the usual requirements and standards that can be set for and made upon them and that they shall be free of any defect whatsoever. Seller is free to supply products or raw materials from different suppliers. The guarantee shall equally apply if the goods to be delivered are destined for use abroad and if the Purchaser explicitly informed Seller of this use in writing the moment the agreement was entered into. The guarantee shall be valid for a period of three months following delivery. If the good to be delivered does not comply with said guarantee, Seller shall, at his discretion, replace or see to the repair of the good, within a reasonable period of time following receipt thereof, or, if the good cannot be returned in reason, following notification of the defect by the Purchaser. In the event the good is replaced, the Purchaser shall already now undertake to return the replaced good to Seller and to transfer ownership to Seller. The guarantee mentioned

for this purpose shall not apply when the defect originated as the result of injudicious or improper use or when the

Purchaser or third parties have introduced changes or tried to introduce changes to the good without Seller's consent in writing or if they have used it for purposes for which the good was not intended or if the good has been mixed with other goods. If the guarantee given by Seller concerns a good produced by a third party, the guarantee shall be limited to the guarantee given by the producer of the good.

### XI. Liability:

Purchaser is obliged to lodge any complaints concerning defects immediately in writing, but not later than within a period of five days after the delivery of the goods by stating the defect and by dispatching documents, samples and packing slips, and by stating the invoice number and the batch number. In the case of hidden defects it is required to lodge the written complaint not later than eight days after the delivery of the goods to the exclusion of the right to complain otherwise. Without such notification within the specified time of five respectively eight days all possible entitlement to indemnity shall cease. The Purchaser undertakes to record all samples he has drawn and, if not forwarded in accordance with the Seller's instructions, to store them (or have them stored) in appropriate places to be determined by the Seller. In case these samples have not been kept in accordance with the Seller's instructions and in appropriate places, all possible entitlement to indemnity shall cease. If Purchaser files his complaint in due time, he shall still be held to take delivery and effect payment of the goods purchased. If Purchaser wishes to return defect goods, he shall do so following prior consent in writing from Seller. Claims for damages by the Purchaser, claims for compensation from consequential harm caused by a defect or from breach of contractual ancillary obligations by Seller shall be excluded in the event of slight negligence of the Seller or the persons acting on his behalf. If the goods delivered by Seller are defective, Seller's liability to the Purchaser shall be limited to the arrangements made in the present terms and conditions under "Guarantee": If the good to be delivered does not comply with said guarantee, Seller shall, at his discretion, replace or see to the repair of the good, within a reasonable period of time following receipt thereof, or, if the good cannot be returned in reason, following notification of the defect by the Purchaser. In the event the good is replaced, the Purchaser shall already now undertake to return the replaced good to Seller and to transfer ownership to Seller.

If Seller is liable for direct damage, then said liability shall be limited to a maximum of twice the amount of the statement of expenses, at any rate that part of the agreement to which the liability relates, at any rate to a maximum of € 20,000.-. Seller's liability shall at all times be limited to the invoice value of the delivered goods. Direct damage shall be understood to be exclusively: the reasonable costs incurred to establish the cause and the volume of the damage, in so far said establishment relates to damage in the sense of the present terms and conditions; the reasonable costs possibly incurred to have Seller's faulty performance meet the conditions of the agreement, unless such faulty performance cannot be attributed to Seller; the reasonable costs incurred to prevent or limit the damage, in so far Purchaser demonstrates that said costs have led to the limitation of direct damage as meant in the present general terms. Seller shall never be liable for indirect damage, including consequential damage, loss of profit, lost savings and damage due to business stagnation. Liability for damage to property which was caused by a defective product shall be excluded. The limitations of liability for direct damage contained in the present terms and conditions shall not apply if the damage is due to intentional act or omission or gross negligence on the part of Seller or his subordinates. Application, use and processing of the purchased merchandise shall exclusively be in the Purchaser's sphere of responsibility. Advice as to the applications as provided by Seller in words and in writing shall only apply

as non-binding information, which shall also apply with respect to any third-party industrial property rights, and shall not discharge Purchaser from making his own examinations of the products concerning their suitability for the intended processes and purposes. Application, use and processing of the products occur outside of Seller's sphere of control and are therefore the sole responsibility of the Purchaser.

### XII. Judicial and extra judicial costs:

If the Purchaser fails to fulfil his obligations (in due time) or defaults on them, then all reasonable costs incurred to have all extrajudicial costs and debts paid shall be borne by the Purchaser. If the Purchaser remains in default of payment within the set time period, he forfeits a immediately payable fine of 15% on the amount due at that moment. This with a minimum of € 250. If Seller demonstrates that he has incurred higher expenses, which were necessary in reason, said expenses shall also qualify for reimbursement. The reasonable judicial and execution costs possibly incurred shall equally be borne by Purchaser. Purchaser shall owe interest over the made collection chases.

### XIII. Suspension and Dissolution:

1. Seller shall be authorised to suspend the fulfilment of the obligations under the agreement or to dissolve the agreement, in the event that: Purchaser does not fulfil or does not fully fulfil his obligations resulting from the agreement. After the agreement has been concluded, Seller learns of circumstances giving good ground to fear that the Purchaser will not fulfil his obligations. If good ground exists to fear that the Purchaser will only partially or improperly fulfil his obligations, suspension shall only be allowed in so far the shortcoming justifies such action.; The Seller ends up in a situation in which fulfillment of the order cannot reasonably be demanded from it.; The Purchaser requests the suspension of payments or if such is granted, if a petition for bankruptcy of the other party is submitted or if the other party is declared. The Purchaser alienates his enterprise or loses the direct control over it; Purchaser was asked to furnish security to guarantee the fulfilment of his obligations resulting from the agreement when the contract was concluded and that this security is not provided or insufficient. As soon as security is furnished, the authorisation to suspend shall lapse, unless said fulfillment has been unreasonably delayed because of it. 2. Seller shall furthermore be authorised to dissolve the agreement (have the agreement dissolved) prematurely, without intervention of a court of justice, if: Purchaser is late with regard to payment or is, in some other way, imputably in default with regard to the fulfilment of its obligations, including obligations of previous agreements; If circumstances arise of such a nature that fulfillment of the obligations becomes impossible or can no longer be demanded in accordance with the requirements of reasonableness and fairness. 3. Seller will be authorised to dissolve the contract with immediate effect and to reclaim goods which are the property of the Seller which may be in the possession of the Purchaser. 4. If the agreement is dissolved, the Seller's claims against the Purchaser shall be forthwith due and payable. The Purchaser is obliged to indemnify the Seller the costs associated with the termination of the agreement if Purchaser suspends fulfillment of his obligations, he shall retain his rights under the law and the agreement. 5.

Seller is not liable for any loss suffered by the Purchaser which may result from the action of, or on order to, the Seller, as a result of the shortcomings of the Purchaser.

### XIV. Other rights and duties:

Purchaser may only market goods in packaging as provided for by Seller by enclosing the labelling as required by the law or the authorities, the accompanying documents and information for consumers. Purchaser must observe all labelling and packaging regulations as demanded by the law and otherwise. Seller is not obligated to take back sold goods or to compensate Purchaser if the same was prohibited by the authorities from placing on the market the acquired goods with respect to quantity, time or in any other manner. If the return of the merchandise is demanded by the authorities, then Purchaser shall be obliged to return the goods in the original packaging without the addition of any other materials, preparations or finished goods at the Purchaser's expense. In the event that Purchaser obtains knowledge about any property of the merchandise that was not known to the same beforehand, then Purchaser shall notify Seller thereof without delay. Advertising for the Seller's goods may only occur in agreement with the statutory regulations and under observance of the relevant regulations. Purchaser shall be liable to Seller for any damage (especially pecuniary damage) caused by failure to observe such regulations.

### XV. Trademarks:

It is not permitted to offer or supply substitute products instead of the Seller's products by making reference to such products or to bring in connection in the price lists and other business documents the Seller's product designations (irrespective of whether they are protected or not) with the term "substitute" or to compare the same with the designations of substitute products.

### XVI. Place of jurisdiction; effectiveness clause:

Place of jurisdiction for both parties is Rotterdam, Netherlands. The Seller is entitled however to also assert his claims at the Purchaser's place of jurisdiction. Dutch law shall apply. Terms customary in the trade shall be defined according to the respectively valid Incoterms. In the event that individual clauses of these terms of delivery and sale should be entirely or partly invalid, then this shall not affect the validity of the remainder of the clauses or the other parts of such clauses. An ineffective provision shall be regarded as being replaced by such a provision which comes as close as possible to the economic purpose of the ineffective clause and is effective.

### Oil on Spec BV

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