

# GENERAL CONDITIONS OF VIC INTERNATIONAL B.V. FOR THE SUPPLY OF PRODUCTS

Oosterhout NB, The Netherlands, February 2015

## ❖ Preamble

1. Interpretation of these conditions:

“seller” means VIC International B.V., whose registered office is at Koopvaardijweg 19 (4906 CV), Oosterhout NB, The Netherlands or any of its subsidiaries;

“product” means the object(s) including designs and services to be supplied by seller.

2. Whenever these conditions use the terms written or in writing, this shall mean by document signed by the parties, or by letter, fax, e-mail and by such other means as are agreed by the parties.

## ❖ Article 1. General

1. These general conditions shall apply to all offers made by seller.

2. Offers made by seller are without engagement and are subject to a written order confirmation by seller.

3. When these conditions apply to a specific contract, modifications of or deviations from them must be agreed in writing.

## ❖ Article 2. Product information

All information and data contained in general product documentation and price lists, whether in electronic or any other form, are binding only to the extent that they are by reference expressly included in the contract.

## ❖ Article 3. Delivery time

1. If the parties, instead of specifying a date for delivery, have specified a period of time on the expiry of which the delivery shall take place, such period shall start to run as soon as the contract is entered into, and seller has confirmed the order in writing, and the payments due at the formation of the contract have been received by seller, and the buyer has provided all the requested specifications and all other preconditions as mentioned in the contract have been fulfilled.

2. If delay in delivery is caused by:

- changes in specifications of the product requested by the buyer;

- delays caused by an act or omission on the part of the buyer, including suspension under articles 5 and 11;

- any of the circumstances in article 9 (force majeure);

the time for delivery shall be extended by a period which is reasonable having regard to all the circumstances in the case. This provision applies regardless of the whether the reason for the delay occurs within or after the agreed delivery time.

3. The time for delivery is to be regarded as an estimate time only and the time for delivery shall not be of the essence. In case of delay in delivery in excess of a reasonable period, the buyer may in writing demand from seller delivery within a reasonable period that shall not be less than two weeks. If seller does not deliver within such final period, the buyer may by notice in writing, terminate the contract. The buyer will in that case be entitled to compensation for the loss he has suffered as a result of seller's delay, up to a maximum of 15 percent of that part of the purchase price which is attributable to the part of the product in respect of which the contract is terminated.

4. The termination and limited damages under clause 3.3 are the only remedies available to the buyer in case of delay on the part of the seller. All other claims against seller based on such delay will be excluded, except where the seller has been guilty of gross negligence. In these conditions gross negligence shall mean an act or omission implying either a failure to pay due regard to serious consequences which a conscientious seller would normally foresee as likely to ensue, or a deliberate disregard of the consequences of such act or omission.

5. If the buyer anticipates that he will be unable to accept delivery of the product at the time of delivery, he shall forthwith notify the seller in writing thereof, stating the reason and if possible the time when he will be able to accept delivery. If the buyer fails to accept the delivery at the time of delivery, he shall nevertheless pay any part of the purchase price which becomes due on delivery, as if delivery had taken place. In that event, the seller shall arrange storage at the risk and expense of the buyer. The seller shall also, if the buyer so requires, insure the product at the expense of the buyer.

6. The seller may by notice in writing require the buyer to accept delivery of the product within a reasonable period. If, for any reason for which the seller is not responsible, the buyer fails to accept delivery of the product within such period, the seller may by notice in writing terminate the contract in whole or in part. The seller shall then be entitled to compensation for the loss he has suffered by reason of the buyer's default.

## ❖ Article 4. Delivery passing of risk

1. Any agreed trade term shall be deemed to be defined in accordance with the INCOTERMS in force at the time of the contract. If no trade term is specifically agreed, the delivery shall be Ex Works.

2. If, in the case of delivery Ex Works, the seller, at request of the buyer, undertakes to send the product to its destination, the risk will pass not later than when the product is handed over to the first carrier.

3. Partial shipments shall be permitted unless otherwise agreed.

## ❖ Article 5. Payment

1. Unless otherwise agreed, the purchase price shall be paid with one third at the formation of the contract and one third when the seller notifies the buyer that the product is ready for delivery. Final payment shall be made when the product is delivered. Payments shall be made within 30 days of the date of the invoice.

2. Whatever the means of payment used, payment shall not be deemed to have been effected before the seller's account has been fully and irrevocably credited.

3. If the buyer fails to pay by the stipulated date, the seller shall be entitled to interest from the day on which payment was due. The rate of interest shall be as agreed between the parties. If the parties fail to agree on the rate of interest, it shall be rate as mentioned in article 6:199a of the Dutch Civil Code.

4. In case of late payment the seller may, after having notified the buyer in writing, suspend his performance of the contract until he receives payment.

5. If the buyer has not paid the amount due within three months the seller shall be entitled to terminate the contract by notice in writing to the buyer and to claim compensation for the loss he has incurred. The compensation shall not exceed the agreed purchase price.

## ❖ Article 6. Retention of title

The product shall remain the property of the seller until paid for in full to the extent that such retention of title is valid under the applicable law. The buyer shall at the request of the seller assist him in taking any measures necessary to protect the seller's title to the product in the country concerned. The retention of title shall not affect the passing of risk under article 4.

## ❖ Article 7. Liability for defects

1. Pursuant to the provisions in this article, the seller shall remedy any defect or nonconformity, hereinafter termed as defect(s), resulting from faulty design, materials or workmanship.

2. The seller's liability is limited to defects that appear within a period of three months from delivery. If daily use of the product exceeds the use as agreed upon, this period shall be reduced proportionally.

3. The buyer shall without undue delay notify the seller in writing of any defect which appears. Such notice shall under no circumstance be given later than two weeks after the expiry of the period given in article 7.2.

4. The notice shall contain a description of the defect. If the buyer fails to notify the seller in writing of a defect within the time limits set forth in the in article 7.3, he loses the right to have the defect remedied. Where the defect is such that it may cause damage, the buyer shall

immediately inform the seller in writing. The buyer shall bear the risk of damage resulting from his failure to notify accordingly.

5. On receipt of the notice under article 7.3 the seller shall remedy the defect without undue delay and at his own cost as stipulated in this article.

6. If the supplier has given such notice as mentioned in article 7.3 and no defect is found for which the seller is liable, the seller shall be entitled to compensation for the costs he has incurred as a result of the notice.

7. Unless otherwise agreed, necessary transport of the product to and from the seller in connection with the remedying of defects for which the seller is liable shall be at the risk and expense of the seller. The buyer shall follow the seller's instructions regarding such transport.

8. If, within a reasonable time, the seller does not fulfil his obligations under article 7.5, the buyer may, by notice in writing, fix a final time for completion of the seller's obligations. If the seller fails to fulfil his obligations within such final time the purchaser may himself undertake or employ a third party to undertake necessary remedial work at the risk and expense of the seller. Where successful remedial works have been undertaken by the buyer or a third party, reimbursement by the seller of reasonable costs incurred by the buyer shall be in full settlement of the seller's liabilities for the said defect.

9. When the defect has not been successfully remedied, as stipulated under clause 7.8:

a) the buyer is entitled to a reduction of the purchase price in proportion to the reduced value of the product, provided that under no circumstance the shall such reduction exceed 15 per cent of the purchase price;

or b) where the defect is so substantial as to significantly deprive the buyer of the benefit of the contract, the buyer may terminate the contract by notice in writing to the seller. The purchaser is then entitled to compensation for the loss he suffered up to a maximum of 15 per cent of the purchase price.

10. The seller is not liable for defects arising out of specifications stipulated by the buyer.

11. The seller is liable only for defects which appear under the conditions of operation provided for in the contract and under proper use of the product. The seller's liability does not cover defects which are caused by faulty maintenance, incorrect erection or faulty repair by the purchaser, or by alterations carried out without the seller's consent in writing.

12. Notwithstanding the articles 7.1-7.11, the seller shall not be liable for defects for more than one year from the beginning of the period given in article 7.2.

13. Save as stipulated in articles 7.1-7.12, the seller shall not be liable for defects. This applies to any loss the defect may cause including loss of production, loss of profit and other indirect loss. This limitation of the seller's liability shall not apply if he has been guilty of gross negligence as defined in article 3.4.

## ❖ Article 8. Allocation of liability for damage caused by the product

1. The seller shall not be liable for any damage to property caused by the product after it has been delivered and whilst it is in the possession of the buyer, nor shall the seller be liable for any damage to products manufactured by the buyer, or to products of which the buyers products form a part.

2. If the seller incurs liability towards any third party for such damage to property as described in article 8.1, the buyer shall indemnify, defend and hold the seller harmless.

3. If a claim for damage as described in this article is lodged by a third party against the seller of the buyer, the latter party forthwith inform the other thereof in writing.

4. The limitation of seller's liability in article 8.1 shall not apply when seller has been guilty of gross negligence as defined in article 3.4.

## ❖ Article 9. Force majeure

1. Either party shall be entitled to suspend performance of his obligations under the contract to the extent that such performance is impeded or made unreasonably onerous by any circumstance beyond the control of parties such as industrial disputes, fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power and defects or delays in deliveries by sub-contractors.

2. The party claiming to be affected by force majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance. If force majeure prevents the buyer from fulfilling his obligations, he shall compensate the seller for expenses incurred in securing and protecting the product.

3. Regardless of what might otherwise follow from these conditions, either party shall be entitled to terminate the contract in writing to the other party if performance of the contract is suspended under article 9.1 for more than three months.

## ❖ Article 10. Indirect losses, liability

Save as otherwise stated in these conditions, there shall be no liability of the seller towards the buyer for loss of production, loss of profit, loss of use, loss of contracts of for any other consequential or indirect loss whatsoever.

## ❖ Article 11. Anticipated non-performance

Notwithstanding the other provisions in these conditions, each party shall be entitled to suspend the performance of his obligations under the contract, where it is clear from the circumstances that the other party will not be able to perform his obligations. A party suspending his performance shall forthwith notify the other party thereof in writing.

## ❖ Article 12. Disputes and applicable law

1. The contract shall be governed by Dutch law.

2. All disputes arising out of or in connection with the contract shall be submitted to exclusive jurisdiction of the district court of Breda, The Netherlands.