

# GENERAL CONDITIONS TWEHA, the bonding people

## Clause 1 Notions

- 1.1. In these general conditions the terms below are used in the following meanings unless expressly indicated otherwise.  
User: TWEHA, the bonding people, represented by TWEHA CCS  
Contracting party: an opposite party of user.  
Agreement: the agreement towards purchase and sale.

## Clause 2 General

- 2.1. These conditions apply for every tender, offer and agreement between user and the contracting party, upon which user has declared these conditions applicable, as far as parties have not deviated from them explicitly and in writing.  
2.2. The present Terms and Conditions are also applicable to all agreements with the user, whereby third parties are engaged for or during the execution of the same. They also apply to third parties engaged by the user in the execution of the agreement.  
2.3. Possible deviations from these general conditions only apply if these have expressly been agreed in writing.  
2.4. The applicability of possible general conditions of the contracting party or of third parties is expressly rejected.  
2.5. If one or more provisions of these General Terms and Conditions are or become void in whole or in part, the applicability of the other provisions contained in these General Terms and Conditions shall not be affected thereby. The user and the contracting party should immediately hold discussions to agree on new provisions to replace the provisions that are or have become void, whereby, as far as possible, the aim and the scope of the original provisions will be adhered to.  
2.6. If between parties a situation should arise which has not been settled in these general conditions, then this situation should be judged in the spirit of these general conditions.

## Clause 3 Tenders and offers

- 3.1. All tenders are with no obligation, unless a term for acceptance has been mentioned in the tender.  
3.2. The offers made by user are with no obligation. They are valid during 30 days, unless indicated otherwise. User is only bound to the offers if the acceptance hereof is confirmed by the other party within 30 days, unless indicated otherwise.  
3.3. The prices of tenders and offers mentioned are exclusive of VAT and other levies by the government, as well as costs to be made within the framework of the agreement, among which mailing costs, administrative costs and costs for insurances and so on, unless indicated otherwise.  
3.4. If (whether or not on minor points) the acceptance deviates from the offer incorporated in the tender or offer, the user is not bound to it. Then the agreement is not effectuated in accordance with this deviating acceptance, unless user indicates otherwise.  
3.5. A multi-part price quotation will not bind the user to execute a part of the agreement at the corresponding part of the quoted price.  
3.6. Tenders and offers do not automatically apply for future orders.

## Clause 4 Price and price increase

- 4.1. On concluding the agreement parties may agree upon a fixed price.  
4.2. If no fixed (total) price is agreed, the price will be established on the basis of the actual quantity of items delivered, and the additional costs. The (total) price will in such case be calculated according to the conventional prices of the user, applicable for the period in which the items are supplied, unless a different price is agreed in writing.  
4.3. If user agrees upon a fixed price with the contracting party, then user is nevertheless at all times entitled to raise this price, without the contracting party in that case being authorized to dissolve the agreement for that reason, if the increase of the price arises from an authorization or obligation pursuant to the law or rule, or finds its cause in an increase in price of raw materials, wages and so on, or on other grounds which were not reasonably foreseeable at the time of concluding the agreement.  
4.4. If the increase in the price exceeds 10% and takes place within 3 months after the agreement is entered into, for reasons other than those mentioned in paragraph 3, only the contracting party that is entitled to make a claim on the basis of Part 6 of Chapter 3 of Book 6 of the Civil Code shall be entitled to terminate the agreement through a declaration in writing, unless the user is prepared to execute the agreement on the basis of the original agreement. Parties who are not entitled to make a claim on the basis of Part 6 of Chapter 3 of Book 6 of the Civil Code shall in such case not be entitled to terminate the agreement.

## Clause 5 Delivery

- 5.1. Delivery takes place at factory/warehouse of user, unless agreed otherwise.  
5.2. User is entitled to deliver at least 10% less than was agreed. Also in case of such a deviation user has fulfilled the agreement. The contracting party is consequently bound to accept such a deviation, and to pay the invoice based on the actual delivery.  
5.3. If delivery takes place on the basis of Incoterms, the Incoterms applying at the moment of conclusion of the agreement shall be applicable next to the conditions in question. If the provisions in the Incoterms deviate from what is included in the conditions in question, then the provisions in these conditions take precedence over the provisions in the Incoterms.  
5.4. The contracting party is obliged to buy the goods at the moment when the latter are put to his disposal.  
5.5. If the contracting party refuses the purchase, or fails to provide information or instructions that are necessary for the delivery, then user is entitled to store the goods at the expense and risk of the contracting party.  
5.6. If the goods are delivered user is entitled to charge the possible delivery costs. They will be then invoiced separately.  
5.7. If parties have agreed on a term for delivery, this is indicative. This consequently never concerns a fatal term. In case of exceeding this term the contracting party ought to give notice of default to user and to set user a new term for delivery.  
5.8. User is entitled to deliver the goods in parts. User is entitled to invoice the goods delivered in that way separately.

## Clause 6 Payment

- 6.1. Payment should take place in advance, in a manner to be indicated by user in the currency in which was invoiced. Objections against the height of the invoice do not defer the obligation to pay.  
6.2. If the contracting party is in default in the payment within the term of payment, he is then legally in default. The contracting party then owes an interest of 1% (part of a month), unless the legal interest is higher, in which case the legal interest applies. The interest over the exigible amount will be charged from the moment that the contracting party is in default till the moment of payment of the full amount.  
6.3. In case of a winding-up, a (petition for) bankruptcy, a (petition for) suspension of payment of the contracting party, if this seizure has not been suspended within three months, or in case of another circumstance, as a result of which the contracting party can no longer freely have the disposal of his fortune, user is entitled to terminate the agreement immediately, or to annul the order or agreement, without user being bound in that case to payment of any compensation to the contracting party, and the claims of user are then payable on demand.  
6.4. User has the right to let the payments made serve in the first place to reduce the costs, then to reduce the vacant interest and finally to reduce the capital sum and the accrued interest.  
6.5. User may, without thereby being in default, refuse an offer to pay, if the contracting party indicates another order for the attribution.  
6.6. The user may refuse the full payment of the principal amount if the interest and costs due are not paid along with the same.

## Clause 7 Collection costs

- 7.1. If the contracting party is in default of observing the timely observance of his obligations, then all reasonable costs to receive payment out of court are at the account of the contracting party.  
7.2. The collection costs shall be 15% of the principal amount. The collection costs will always be charged in accordance with the calculation methods applicable in Dutch judicial practice in payment collection cases.  
7.3. If user has incurred higher or other costs, which were reasonable necessary, these costs also qualify for compensation by the contracting party.  
7.4. The contracting party also owes interest over the collection costs due.  
7.5. The possible judicial and execution costs are also at the expense of the contracting party.

## Clause 8 Research, claims

- 8.1. Complaints about the (amount of the) items delivered should be notified by the contracting party to the user in writing within eight days after discovery, but in no case later than 14 days after delivery of the goods. The contracting party is in such case also bound to have the delivered goods valued (or to have the same assessed) by an expert at the time of delivery or processing of the same, or if this can be shown to be impossible, as soon as possible. The notice of default concerning the same by the contracting party should contain an as detailed a description of the deficiency as possible so that the user can adequately respond to the same.  
8.2. If as a consequence of a complaint made within the required time as per the previous paragraph, the contracting party shall continue to be bound to accept and pay for the goods purchased. The contracting party is also not entitled to set-offs or suspension.  
8.3. If a complaint is valid, user will as yet supply or replace the goods, unless such has become demonstrably meaningless for the contracting party. The latter ought to be made known in writing by the contracting party and if necessary proved.  
8.4. If it has become no longer possible or meaningful to deliver or replace the goods, and this is attributable to user, and then user will only be responsible within the limits of clause 12.

## Clause 9 Premature cancellation

- 9.1. If parties have concluded an agreement for an indefinite period, then both parties may at all time prematurely terminate the agreement.  
9.2. If the agreement is prematurely terminated by the contracting party, user has a right to compensation because of the losses caused thereby and to be made acceptable, unless facts and circumstances are at the basis of the termination, which are not attributable to user. Besides, the contracting party is then bound to payment of the invoices concerning the goods delivered up to that moment. Orders already placed continue to exist. If user has already purchased goods with reference to an order placed by the contracting party, then the contracting party is bound to purchase or compensation, of which the height is equal to the loss of gross turnover on the part of user, arising from the premature cancellation by the contracting party.

## Clause 10 Deferment and dissolution

- 10.1. User is entitled to defer the observance of his obligations or to dissolve the agreement if:  
- the contracting party does not fully observe the obligations resulting from the agreement;  
- after concluding the agreement circumstances that have come to the knowledge of user give good grounds to fear that the contracting party will only partly or not properly observe the obligations arising from the agreement.  
- on concluding the agreement security was requested for complying with his obligations arising from the agreement, and this security is not given or is insufficient. As soon as security has been provided, the power to defer ends.  
If on account of delay on the part of the contracting party it cannot be expected of the user that he will observe the conditions originally agreed, user is authorized to dissolve the agreement. In that case user is not held to any form of compensation to the contracting party.  
10.2. User is further authorized to dissolve the agreement without compensation if circumstances occur which are of such a nature that observance of the agreement are impossible, or can no longer be required of him according to criteria of reasonableness and fairness, or if otherwise circumstances occur that are of such nature that unaltered maintenance of the agreement may not reasonably be expected of user.  
10.3. If the agreement is dissolved the claims of user towards that contracting party are payable on demand. If user defers the observance of the obligations, he retains his claims according to the law, agreement and these general conditions.  
10.4. User always retains the right to claim compensation.

## Article 11. Guarantee

- 11.1. The items to be delivered by user should satisfy the reasonable requirements and standards that may be applied to the same as applicable to normal use in Belgium.  
11.2. The provisions contained in paragraph 1 of the present article shall apply to the use of products of the user within The Netherlands. In case of use or processing outside The Netherlands, the contracting party should itself verify whether the use or the processing of the items to be delivered is suitable for use there, and whether the same meet the conditions that are placed on the same at such place. The user gives no guarantee for the same unless expressly agreed otherwise.  
11.3. The contracting party is bound to fully indemnify the user if the user is called on to pay damage compensation by whatever name known, that may arise or arise out of the use of the products outside The Netherlands.  
11.4. The guarantee mentioned in paragraph 1 of the present article shall apply for a period of 12 months after delivery, unless the nature of the goods delivered requires otherwise, or the parties agree otherwise.  
11.5. For items or services that are manufactured or respectively provided by third parties under orders from the user, the guarantee period shall be the same as the guarantee period that is given by such

third parties. If at any time, it happens that a guarantee given by third party is not fulfilled at all or only partially, this shall never lead to a further guarantee claim of the contracting party against the user, other than the claim that otherwise arises in his favour under the present General Terms and Conditions.

- 11.6. After the expiry of the guarantee period, the user is not bound to carry out restoration, replacements, repairs or restitution. If the user still wishes to carry out the same, he shall have the right to charge the contracting party for all the costs incurred in this connection, including administration, despatch and callout costs.
- 11.7. All guarantees shall lapse if a fault occurs as a consequence of or arising from use after passing of tenability date, improper or injudicious use, storage or maintenance by the contracting party and/or by third parties, or if the contracting party or third parties, without the written permission of the user, make or have already made changes to the same, or has attempted to do the same.
- 11.8. The contracting party shall also not be entitled to any claim to guarantee if the deficiency arises due to or as a consequence of circumstances over which the user has no control, including weather conditions (such as the rains, temperatures, etc.).
- 11.9. A number of products of the user are suitable for use on natural products. Natural products may be affected by influences from outside, such as those named in Article 11.8. In particular, for this reason, the user always recommends that its products should first be tried out on a small scale, and only commence large scale use after the results of the same are checked.

#### Clause 12 Responsibility

- 12.1. If user should be responsible, then this responsibility is limited to what has been settled in this stipulation.
- 12.2. User is not responsible for damage, of whatever nature, because he departed from incorrect and / or incomplete data furnished by or on behalf of the contracting party.
- 12.3. If user should be responsible for any damage, the responsibility of user is at any rate restricted to a maximum of twice the invoice value of the order, at least that part of the order the responsibility refers to.
- 12.4. The responsibility of user is at any rate always limited to the amount of the payment of his insurer as the occasion arises.
- 12.5. User is never responsible for indirect damage, including consequential damage, loss of profit, missed savings resulting from industrial stagnation.
- 12.6. Direct damage exclusively means:
  - the reasonable costs for the establishment of the cause and the scope of the damage, as far as the establishment refers to damage in the sense of these conditions;
  - the possible reasonable costs made to have the faulty performance of user conform to the agreement, as far as the latter can be attributed to user;
  - reasonable costs, made to avoid or restrict damage, as far as the contracting party proves that these costs have led to restriction of direct damage as meant in these general conditions.
- 12.7. The restriction of the responsibility included in this clause do not apply if the damage is attributed to intention or gross negligence of user or his subordinates.

#### Clause 13 Indications for user

- 13.1. User may hand out indications concerning the application, the processing and the use of his products. User may modify his indications.
- 13.2. The products delivered by the contracting party and/or third parties may be used exclusively for the purpose for which the products are destined.
- 13.3. The use by the contracting party and/or third parties ought to take place, always with observance of the indications imposed, including the technical specifications and so on. The products are exclusively destined for use and processing by professionals.
- 13.4. The contracting party is always obliged investigate or to have investigated whether the indications of user, also included the technical specifications, in view of among other things the local current regulations, or weather and/or other circumstances, can be applied. If this is not the case or could be, the contracting party should ascertain that the sale and/or the processing is possible and in accordance with the regulations of the authorities or otherwise.
- 13.5. If, on the basis of the previous paragraph or on the basis of other circumstances, the contracting party comes to the conclusion that the sale or the processing is not in accordance with regulations given by the authorities or otherwise, or for another reason not justified or could be, he should then refrain from the sale and the processing thereof. If, in spite of that, the contracting party proceeds to sale and processing, the user is then in no way responsible for the direct or indirect results thereof, nor is he bound to compensation of the damage, which is directly or indirectly suffered by user and/or third parties.
- 13.6. If the contracting party resells the products supplied to third parties or has them processed by third parties, the contracting party is then bound to conclusively instruct these third parties in accordance with the possible instructions given to him by user, including the technical specifications, and the available knowledge of the contracting party himself. In case contracting party fails to do so, the user can then never be responsible for the direct or indirect damage that may arise from that.
- 13.7. The contracting party ought to refrain from placing at the disposal of or selling products delivered by user to consumers or non-professional third parties, except as far as such should occur as sample or model. In the event of a violation of what is stipulated here, the contracting party is liable for damages as against user. If from this putting at the disposal of or sale direct or indirect damage should arise, user is then by no means responsible for this damage.
- 13.8. The contracting party shall wholly indemnify user both in and out of court for possible claims of third parties, who suffer damage, which is the result of the non-observance of stipulations, included in this clause by the contracting party or his subordinates, or which are otherwise accountable to the contracting party.

#### Clause 14 Use of the products

- 14.1. The contracting party is always bound to (independently) investigate whether, taking into account the locally applicable specifications and (safety) standards or weather or other conditions, the products of the user can be used for the purpose for which the contracting party intends to use the same, and/or whether these can also be used and can be used in the country where they are intended to be used.
- 14.2. The fact that the products cannot or may not be used in a particular country or in a particular region due to the applicable local or national rules and regulations, weather or other conditions, or if such use is not reasonable due to these or other circumstances, shall never be a ground for the contracting party to terminate or annul the agreement. The products may also not be returned to the user for these reasons, nor will this constitute a valid reason for suspending or setting-off the payment obligation of the contracting party. User is not liable in any manner whatsoever to pay compensation whatsoever in any of the cases, including costs incurred by either the contracting party or by third parties.

#### Article 15 Resale and automatic applicability of agreement

- 15.1. If the contracting party sells the items delivered by the user to third parties (resale), the contracting party is entitled to declare the conditions that apply between the user and the contracting party, and which may have an effect on the relationship between the contracting party and the repurchaser, to be fully applicable to the relationship of the contracting party with the re-purchaser. In this connection, the contracting party shall follow the method prescribed by the law for declaring the applicability as above.
- 15.2. The contracting party is always bound to indemnify the user and a third party who may be involved with the contracting party under an agreement, if a re-purchaser makes a claim against the user or the third party.
- 15.3. Repurchaser of the contracting party within the meaning of this article shall mean both consumers as well as non-consumers.
- 15.4. If the contracting party, for any reason whatsoever, is in default of fulfilling the provisions contained in paragraph 1 or 2 of this article, the damage arising under the same, and the costs no matter by what term known, shall be entirely at the account and risk of the contracting party.

#### Article 16 Indemnity

- 16.1. The contracting party shall ensure that no rights of third parties are vested in any information and items that he may provide to the user. The contracting party shall fully indemnify the user for the same.
- 16.2. If a third party makes a claim against the user on this account, the contracting party is bound to provide the user with both judicial as well as extra-judicial assistants, and to immediately do everything that may be expected of him in such case. If the contracting party remains in default in taking adequate measures, the user shall be entitled to take such measures himself, without the need for a notice of default to the contracting party. All the costs and damage incurred by the user and third parties in this connection shall be fully at the account and risk of the contracting party.

#### Clause 17 Passing down of risk

- 17.1. On delivery of one or more objects by user the risk of loss or damage of the objects to be delivered passes down to the contracting party at the moment upon which these goods are legally and/or actually delivered and by doing so into the power of the contracting party or of a third party indicated by the contracting party.

#### Clause 18 Force Majeure

- 18.1. Parties are not bound to the observance of any obligation, if they are hindered in doing so as a result of a circumstance that is attributable to fault, and neither by virtue of the law, legal acts or according to accepted standards comes to their account.
- 18.2. Next to what is understood in the law and jurisprudence in these general conditions force majeure is understood to mean all causes coming from outside, whether foreseen or not, upon which user cannot exercise any influence, but through which user is not able to meet his obligations. Strikes and illness in the company are included.
- 18.3. User also has the right to refer to force majeure if the circumstance that hinders (further) observance sets in after user should have had to observe his obligation.
- 18.4. During the period that force majeure lasts parties may defer the obligations in the agreement. If this period lasts longer than two months, each of the parties is entitled to dissolve the agreement, without the obligation towards compensation for damage to the other party.
- 18.5. As far as at the time of the beginning of force majeure the user has in the meantime partly observed his obligations in the agreement, or will be able to observe them, user is entitled to separately invoice the part observed, and the part to be observed, respectively.

#### Clause 19 Retention of title

- 19.1. Goods delivered by user remain the property of user until the contracting party has complied with all the obligations towards user.
- 19.2. Goods delivered by user, which by virtue of stipulations under 1 of this clause fall under retention of title, may only be resold within the framework of a normal business operation and never be used as currency.
- 19.3. The contracting party is not authorized to process, to mix, to pledge neither to encumber the goods falling under retention of title.
- 19.4. The contracting party is bound to store and keep the goods supplied under retention of title separated from the own property, and to make such known to third parties until the moment that the contracting party has fully met the obligations towards user.
- 19.5. If third parties attach the goods delivered under retention of title, or would wish to establish rights on them, then the contracting party is obliged to point out the retention of title to these third parties and to inform user as soon as may reasonably be expected.
- 19.6. The contracting party undertakes to ensure the goods delivered under retention of title and to keep them ensured against fire, damage by explosion and water, as well as against theft and to make the policy of this insurance available for inspection to user at first request.

#### Clause 20 Intellectual, industrial property and copyrights

- 20.1. Without prejudice for that matter to what has been stipulated in these general conditions user reserves the rights and powers due to him on the basis of Copyright and other intellectual and industrial laws and rules.
- 20.2. User has the right to apply the increased knowledge acquired through the execution of an agreement and all she does in relation to the agreement, insofar as no confidential information is brought to the knowledge of third parties.

#### Clause 21 Samples, reports, promotion material etc.

- 21.1. All documents supplied by user such as reports, advices, designs, sketches, drawings, software, samples, promotion material etc. are exclusively destined for use by the contracting party, and without previous permission of user may not be multiplied, made public, given to third parties or brought to the knowledge of third parties, unless it arises otherwise from the nature of the documents supplied or the agreement.
- 21.2. If a sample, extract, report, sketch or model to shown or handed over to the contracting party, it shall be deemed only to have been provided by way of indication, unless expressly agreed that the result of the agreement shall be identical to the same. Promotional material or guidelines for use provided by or behalf of the user shall always be indicative in nature. In other words, no rights or defenses may be claimed on the basis of the same. No claim will also lie against the user due to a reference to or working on the basis of the same.

#### Clause 22 Disputes

- 22.1. The judge in the place where user has his registered office at the time the dispute rises, has exclusive jurisdiction to take cognizance of disputes, also if the goods are completely or partly delivered abroad and the contracting party has his business abroad or lives abroad, unless it imperatively arises from the law and regulations.
- 22.2. Parties will first appeal to the judge after they have made every endeavor to settle the matter by mutual consultation.

#### Clause 23 Applicable law

- 23.1. Dutch law is exclusively applicable to each agreement between user and the contracting party and the legal relations between parties arising from the agreement, also if the goods are entirely or partly delivered abroad and/or the contracting party has his business broad or lives there.
- 23.2. The applicability of the Vienna Sales Convention is explicitly excluded.

#### Clause 24 Modification, explanation and location of the conditions

- 24.1. In case of explanation of the contents and tenor of these general conditions, the Dutch version thereof will always have precedence.
- 24.2. These conditions are filed at the office of the Chamber of Commerce Belgium.
- 24.3. The latest filed version casu quo the version as it applied at the time of conclusion of the agreement.