

## **GENERAL TERMS AND CONDITIONS LUBOX-HOLLAND B.V., AT PUTTE**

These general terms and conditions are applicable to all offers from and agreements with Lubox-Holland B.V., hereinafter also referred to as “Lubox”, and to all agreements that are the consequence of this.

These general terms and conditions are also expressly applicable to all offers and transactions which take place via electronic means, including the Internet (e-commerce) and related electronic systems.

By making requests, asking for quotations and by concluding an agreement with the seller Lubox, the prospective buyer or buyer accepts the applicability of these conditions.

### **Article 1 GENERAL.**

- a. In these General Sales Conditions, buyer is understood to be the prospective buyer, or buyer, or processor;
- b. By seller: Lubox as prospective seller or seller; Lubox is the user of these conditions;
- c. By third party is to be understood the buyer from the buyer from prospective seller or seller.

### **Article 2 OFFERS AND CONFIRMATIONS.**

- a. Every offer and quotation is without obligation and revocable, unless expressly agreed otherwise in writing;
- b. Purchase agreements, concluded through the mediation of representatives or intermediaries, only become valid after written confirmation by the seller, under the applicability of these general conditions, or in accordance with the provision listed under c. ;
- c. If the accuracy of the contents of a written sales confirmation is not contested in writing within 2 working days, the buyer is bound by it.
- d. For activities for which no quotation or confirmation of order is sent, due to their nature and scale, the invoice is also regarded as confirmation of order, which is also deemed to represent the agreement fully and accurately;
- e. If an offer does not lead to an agreement coming into being, Lubox is nevertheless entitled to charge the buyer for all costs which it has had to incur in order to be able to make the offer;
- f. If, after the agreement has come into being, new working drawings, construction calculations and suchlike have to be drawn up as a result of alterations to construction plans, drawings and suchlike which were communicated by the buyer, the costs for the seller deriving from this shall be borne entirely by the buyer.

### **Article 3 INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS.**

All industrial and intellectual property rights relating to offers made by the seller and to drawings, calculations, descriptions, models, brands, product specifications, designs, styling, software and suchlike supplied by the seller are reserved by the seller, are subject to the seller's copyright or design rights and remain at all times the property of the seller, even if expenses have been charged for them. By entering into an agreement with the seller, or by entering into an agreement with a buyer from the seller, the buyer

declares that he will refrain from any infringement on the industrial or intellectual property rights of the seller, even if no filing of these rights has taken place, and will strive to prevent or to terminate infringements by a buyer or buyers/counterparty/third party or parties. The buyer is not entitled to utilise the documents referred to or the data included therein or data made known to him in another way otherwise than within the framework of the implementation of the agreement. The costs involved in the creation of copies or extra print-outs of technical specifications, drawings and suchlike requested by the buyer are at the buyer's expense.

### **Article 4 PRICES.**

- a. Every sale on landings takes place under the express condition that the price (prices) is (are) based on the cost factors applicable at the time when the sale was concluded; these include: export duties in the region of origin, freight charges and insurance, unloading costs, import duties, fees, taxes.
- b. Any advantageous or disadvantageous differences at the time of shipping or arrival, or delivery, are credited to, or, as the case may be, charged to, the buyer.
- c. The seller is only bound by a price quotation if he has expressly and unambiguously indicated that this quotation is binding upon him, or, if and because the seller has confirmed an order at a certain price.

### **Article 5 CURRENCY.**

In the event of sale or delivery on landings, a revision of the exchange rates in one or more currencies – upon which the establishment or implementation of a transaction was based – shall give the seller the right to alter the price accordingly. If the price is increased as a consequence of the payment, the buyer has the right to cancel the order. The cancellation should then take place, in writing, within 5 working days after the seller has notified the buyer of the price increase.

### **Article 6 DELIVERY AND RISK.**

- a. In the event of delivery carriage paid, the goods are conveyed at the seller's expense and risk.
- b. In all other cases, the goods are conveyed at the buyer's expense and risk.
- c. War risk shall always be borne by the buyer.
- d. If it has been agreed that the goods shall be delivered directly upon landing from abroad, then the risk of them not being in good order – either quantitatively or qualitatively –, the risk of failure to deliver on time or non-arrival, as well as the risk of and during the landing are entirely at the buyer's expense. If the shipping agent or the person from whom and/or the person with whose mediation the goods purchased abroad were procured persists, wholly or partially, in defaulting on his obligations after a proper summons to do so, irrespective of the grounds or the reason, then the seller has the right to dissolve the agreement with the buyer, without the seller being liable to pay any damages in that event.
- e. In the event of delivery carriage paid, the seller is obliged to convey the goods to where the vehicle can reach over land that is (or has been made) properly accessible, or to the point that the vessel can reach over properly navigable water. Unless otherwise agreed, the buyer should ensure, in a timely manner,

that any required permissions, dispensations and licenses within the transport area are available. The buyer is obliged to take receipt of the goods at that place, and to unload them directly. If the buyer persists in being in default in this matter, then the costs arising from this shall be borne by him.

- f. In the event of delivery carriage paid, the seller has the choice of the means of transport, unless otherwise agreed.
- g. The buyer is obliged to ensure good accessibility of the place where the goods should be unloaded. If the buyer persists in being in default in this matter, then the costs arising from this shall be borne by him.
- h. Unless otherwise agreed, the usual packaging shall not be taken back by the seller. Packaging that can be used more than once (euro pallets) will be taken back in accordance with the provision in Article 10 of these conditions.

#### **Article 7 DELIVERY TIMES AND CALL-OFF.**

- a. The delivery times are an approximation and will be approximated as accurately as possible by the seller, but they shall never count as a deadline.
- b. The seller reserves the right to exclude liability for all unforeseen circumstances, in view of the fact that many goods must be ordered by the seller from third parties – suppliers or producers.
- c. If an order accepted by the seller cannot be delivered because the seller's supplier cannot, or can no longer, supply (for whatsoever reason), then the seller can offer the buyer an alternative. If the buyer is unable to agree to the alternative offered, the seller has the right, without judicial intervention, to invoke dissolution of that part of the agreement which cannot (or can no longer) be implemented. The seller is not liable for non-delivery, or for incomplete delivery, of the order.
- d. The buyer has no right to any compensation for damages in the event of any overrun of the expected delivery period. The buyer is not entitled to cancel the order, nor to refuse receipt of and/or payment for the goods, in the event of overrun of the delivery period.
- e. If, in the case of delivery on call-off, no terms for the call-offs have been set, the seller has a right to payment 3 months after the order date.
- f. If within 3 months after the order date nothing, or not yet everything, has been called-off, the seller has the right to demand in writing that the buyer specify a term within which the total amount shall be called off; the buyer is obliged to comply with this demand within 5 working days. The term specified by the buyer after the demand may not exceed a period of 3 months.
- g. The buyer is obliged to respond to the above-mentioned demand, in default of which the seller, after the passing of a period of time equal to the longest time that the buyer would have been entitled to specify, is entitled to store the goods at the buyer's expense and risk, or to dissolve the sale without judicial intervention and, if so desired, to make a claim for damages from the buyer. The seller is entitled to similar rights if the buyer does not comply with the term which he (the buyer) has specified.

#### **Article 8 ACCEPTANCE AND COMPLAINTS.**

- a. If and in so far as nothing regarding the quality of the goods has been agreed in writing, the buyer can only make a claim regarding a quality in line with that which is normal and customary in the trade in the goods concerned.
- b. In the event of an offer or delivery in accordance with a sample, the sample serves only to establish the average quality and the structure, the appearance and the colour of the goods to be supplied.
- c. The check on the number of items involved in the delivery is the responsibility of the buyer. If no written complaint concerning the number of items delivered is made within 24 hours following receipt, then the quantities – specified on the consignment notes, delivery notes or similar documents – are held to be correct. In order to be valid, complaints regarding any defects or instances of damage must be noted on the delivery receipt by the buyer and be formally recorded, if possible.
- d. Even if the buyer reports to the seller, in a timely manner, that less has been delivered to him than is indicated on the documents mentioned above, then this does not give him the right to suspend payment.
- e. Complaints about quality or about deviations from the specifications should be submitted by the buyer to the seller as quickly as possible, but at the latest within 2 working days following receipt; after this term has elapsed, such complaints will no longer be accepted. The buyer no longer has a right of complaint if goods bought by him have been sawn or processed for him and/or by him, drying included.
- f. Complaints regarding opened or wholly or partially processed consignments will not be accepted.
- g. Complaints do not give the buyer any right to suspend his payment. Offsetting too is expressly excluded.
- h. If the complaint is well-founded, the seller shall replace the goods after receiving the originally-delivered goods as returns. If replacement of the goods is no longer possible, then the agreement shall be dissolved and the seller's obligation is converted to alternative compensation, in which the damages are set, at most, at the invoice value of that part of the originally-delivered goods which was the subject of the complaint. The seller is not obliged to make any further compensation for damages. Indirect damage and/or consequential damage will never be compensated for.
- i. In the event of unjust complaints or complaints not lodged in a timely manner, the seller is entitled to charge the buyer for all costs incurred.

#### **Article 9 RETURNS.**

- a. Returns will not be accepted without prior written permission from the seller.
- b. Wholly or partially processed goods, damaged goods and packed goods whose packaging is lacking or has been damaged can never be returned.
- c. The return of delivered goods takes place at the buyer's expense and risk and is only allowed after written permission from the seller, under the conditions to be set by the seller.

**Article 10 PACKING.**

- a. Packaging that can be used more than once (euro pallets) will be charged for as quickly as possible, (whether or not) by means of (collective) invoice.
- b. For packaging which is returned at the buyer's expense, if such has been expressly agreed and the packaging has been sent back to the seller in good order, the seller will send the buyer a credit note as soon as possible after receipt of the packaging.
- c. In derogation from what has been laid down in the preceding paragraphs, the seller does not owe the buyer any reimbursement for packaging that is returned in a damaged condition; the same applies to packaging which was not invoiced for or delivered by the seller.
- d. If the value of the credit note amounts to more than the buyer still owes the seller at the time of receipt of that note, that excess amount shall be paid by the seller to the buyer within one month after the credit note date.

**Article 11 LIABILITY.**

- a. All liability for damage on the part of the seller is excluded, except for such direct damage that is the consequence of its gross negligence or malicious intent.
- b. The seller shall never be liable for damage to or defects of specific materials, components and structures which – possibly in derogation of the regulations in force – were expressly ordered by or on behalf of the buyer or which were made available by the buyer. The seller shall likewise never be liable for deviations in the details provided by clients concerning numbers and dimensions.
- c. In no case shall the seller be liable for indirect damage, damages and interests, including loss of profits and so-called consequential damage, which has arisen for the buyer and/or third parties as a direct or indirect consequence of defects, or in any other way whatsoever. All liability for this damage is at all times excluded.
- d. In the event of liability on the part of the seller, this is restricted to a reasonable compensation for the damage suffered, with a maximum of the agreed price (invoice value) for the (partial) delivery concerned.
- e. Every instance of damage must be reported to the seller, in writing and by registered mail, within 5 days following discovery, in default of which all rights to compensation lapse. All claims to compensation for damages will lapse upon the expiry of twelve months following the commencement of the day of reporting, if they have not become the subject of legal proceedings (including arbitration) within this period.
- f. All recommendations, specifications and instructions for use given by the seller are to the best of the seller's knowledge, but are entirely non-binding, without this incurring any liability for the seller.
- g. In no case is the seller liable for claims to compensation for damage suffered by third parties, on any grounds whatsoever. The buyer indemnifies the seller against all claims by third parties for compensation for damages in respect of goods supplied by the seller, irrespective of the cause of the

damage or the point in time at which the damage was suffered.

- h. Any warranties from the producer shall be fully transferred to the buyer on a one on one basis; the buyer's claims are likewise restricted hereby.
- i. The seller is not liable for any incorrect application or processing of materials supplied by the buyer or by third parties.
- j. The buyer himself is responsible for the dimensions and quantities which he has specified. In relation to the dimensions specified by the buyer concerning the wood products to be delivered, the deviation tolerances customary within the trade sector will apply, unless such tolerances have been excluded in writing in advance.
- k. Recourse to the preceding paragraphs of this article is assigned to all persons working for the seller, and likewise to any auxiliary personnel hired in by the seller, just as if they themselves were party to the agreement concluded between the seller and the buyer.

**Article 12 OBLIGATIONS OF THE BUYER.**

- a. The buyer is obliged, both prior to and during the implementation of the agreement, to provide the seller with all relevant information, documentation and materials which are reasonably necessary for the proper implementation of the agreement.
- b. The buyer shall guarantee that the design provided by the buyer to the seller complies in all respects with all relevant applicable requirements.
- c. The buyer gives a warranty to the seller that no infringement is being made on the copyright or industrial intellectual property rights of third parties, and the buyer completely indemnifies the seller, in judicial and other matters, against all consequences, both financial and other, which may possibly arise from duplication or reproduction

**Article 13 QUALITY.**

- a. The seller undertakes to supply the buyer with those goods in accordance with the description, quality and quantity as are further described in the quotation and/or agreement.
- b. The seller does not warrant that the goods will be suitable for the purpose for which the buyer wishes to use them, not even if this purpose has been made known to the seller, unless this has been agreed in writing.
- c. Unless it is expressly stipulated otherwise at the time of the sale, that quality shall be delivered which corresponds with what is normal and customary in the trade sector, and, as regards measurement, number and trade items, the normal business practices are to be regarded as having been agreed.
- d. Delivery on the basis of inspection by the management shall only apply if this has been stipulated in writing by the buyer and accepted in writing by the seller. The inspection should take place within two working days following receipt of the delivered goods.
- e. The buyer may request inspection before proceeding to despatching or processing – including drying –

of the goods. The inspection should take place within two working days after the buyer has announced his desire to carry this out.

#### **Article 14 FORCE MAJEURE.**

- a. Circumstances beyond the control and power of the seller, which are of such a nature that fulfilment or further fulfilment of the agreement cannot be expected of the seller, such as icy conditions, unusual weather conditions, strikes, governmental measures, delay in the importation, import or export bans or impediments, war, mobilisation, transport obstructions, including lack of or withdrawal of means of transport, and all other circumstances which obstruct fulfilment of the agreement to a serious degree, shall be deemed to constitute force majeure.
- b. In the event of force majeure, the seller is entitled to choose either to extend the delivery term by a period equal to the duration of the obstruction or, at most, by a period of 6 months, or to dissolve the agreement, in so far as this becomes affected by the obstruction.
- c. If the buyer urges the seller to do so, in writing, the seller is obliged to state his choice within 5 working days.
- d. In the event of dissolution of the agreement, the seller is entitled to invoice the buyer for the performance of the agreement which the seller had already fulfilled before the occurrence of the force majeure. Parties are not entitled to any form of compensation for damages.

#### **Article 15 RETENTION OF TITLE AND SECURITY; RIGHT OF COMPLAINT.**

- a. The seller retains the title to all goods which it has delivered until all his claims on the buyer as regards all agreements (relating to the supply of goods and the performance of activities), as well as claims arising from non-fulfilment of obligations or wrongful acts, have been paid.
- b. As long as the title to the goods has not passed to the buyer, the buyer may not pledge these goods, transfer the title or assign any other right regarding them to third parties, subject to the provisions in the following paragraph.
- c. The buyer is permitted to sell and to deliver to third parties the goods delivered under retention of title within the framework of his normal business operations. The buyer is obliged to store the goods delivered under retention of title with due care and in such a way that they are recognisable as the seller's property. In the event of sale and/or delivery by the buyer to third parties within the framework of exercising his normal business activities, as well as in the event of violation of one of the above-mentioned stipulations, then the purchase price, irrespective of any other stipulation, will be payable in full with immediate effect. In addition, in the event of sale to third parties the buyer is obliged to stipulate a similar retention of title as set out in these conditions. At the moment of transfer to a third party, the seller obtains a non-possessory pledge on the claim(s) of the buyer on the third party, with the right to inform the third party of this and, if so desired, to claim and to receive payment from that third party.
- d. The buyer is obliged to promptly provide the seller, upon first request, with cooperation and

information which is requested by the seller for the purpose of implementing its pledges in order to make possible the repossession of its properties or payment on the grounds of its pledge, on pain of an immediately-payable fine of € 1,000.00 for each day that the buyer remains in default of this. As a corollary of this, if the seller makes use of his retention of title, he shall be given access to the goods he has supplied.

The buyer irrevocably empowers the seller to exercise his right of repossession.

- e. If the goods delivered are processed, adapted or mixed, the seller immediately acquires the right of co-ownership of the good/goods in which the delivered goods have been incorporated, such to a value equal to that of the delivered goods.
- f. The above mentioned provisions included under a to e are without prejudice to all other rights accruing to the seller.
- g. Pursuant to Article 7:39 *et seq.* BW (Dutch Civil Code), the seller has the right of recovery and on the grounds thereof can, in the event of non-payment of the purchase price, invoke dissolution of the agreement in writing and recover the goods from the buyer or his successor in title. The seller retains the right to compensation for damages and interest as a consequence of non-fulfilment of obligations by the buyer.

#### **Article 16 PAYMENT.**

- a. Each item may, at the seller's option, be invoiced for to the buyer, increased by a credit control surcharge of 2% of the invoice amount. This surcharge is not due if payment is made within 30 days following invoice date.
- b. If no payment has taken place within 30 days following invoice date, then the buyer is in default, without any notice of default being required. In that case, the buyer shall owe the surcharge referred to under sub-paragraph a, at a rate of 2%.
- c. If payment has not taken place within 30 days following invoice date, then the buyer owes interest. The interest rate is 1.5% per month. This interest shall be calculated over the period elapsing between thirty days following the invoice date and the date of receipt of the purchase price by the seller. The interest is due without notice of default by the seller being required. The seller is entitled to book the received payments primarily against the interest due and costs, before proceeding to book the payments against the principal sum owing. If the buyer is in arrears with respect to (a part of) the payments, the entire sum owed by the buyer to the seller becomes immediately due and payable: this applies also to those invoices which, at that moment, have not yet become due.
- d. The buyer who has not paid what he owes in a timely manner is obliged to reimburse the seller for all costs incurred in collecting the claim, including the extra-judicial costs, judicial and arbitration costs and any enforcement costs. The extra-judicial costs are set at 15% of the amount owing, but, in accordance with the Besluit Normering Incassokosten (Dutch Extrajudicial Collection Costs Regulation Decree), with a minimum of € 150.00 per case.
- e. If the buyer is in default with the payment to the seller, the seller has the right to suspend the

further implementation of the agreement and all agreements connected with it until payment has been effected – while payment in cash may be demanded for the further deliveries.

- f. Should the seller, before or during the implementation of a sales agreement, receive clear indications concerning insufficient or reduced credit-worthiness on the part of the buyer, then the seller has the right not to deliver or not to make further deliveries, unless, at the seller's own option and to his satisfaction, the buyer has provided security for the payment of the purchase price, irrespective of whether this should take place in cash, or if some term after the delivery has been set. In the latter case, the seller may likewise demand further security, on pain of the purchase price of the materials already delivered becoming immediately due and payable, and cessation or suspension of any further deliveries.
- g. If the buyer is in default as regards payment and the seller therefore recovers the goods delivered, making use of the retention of title as referred to in Article 15, then the costs involved in this are at the buyer's expense.
- h. If an agreement has been entered into with several buyers, each buyer will be severally liable for the entirety as regards the payment of the invoices.

#### **Article 17 BUYER'S FAILURE TO FULFIL ONE OR MORE OF ITS OBLIGATIONS.**

If the buyer does not fulfil his obligations within 3 working days after having received notice of being in default from the seller, the buyer is in default and the seller is entitled to suspend that part of the agreement which has not yet been implemented or, at the seller's option, to dissolve the agreement immediately and without judicial intervention, without prejudice to any right of the seller to complete compensation for damages.

#### **Article 18 DISSOLUTION.**

- a. The sales agreement can be dissolved by the seller, without judicial intervention, by means of a written statement, if the buyer is declared bankrupt, requests temporary suspension of payment or if the court grants a request from the seller, a natural person, for the application of statutory debt restructuring (WSNP), or if the buyer loses the power to dispose of his capital, or parts thereof, as a result of seizure, receivership or in some other way, unless the receiver or administrator recognises the obligations deriving from this sales agreement as estate debt.
- b. Dissolution of the agreement, in whole or in part, takes place by means of a written declaration from the entitled entity. Before the buyer sends a written cancellation statement to the seller, the buyer should provide the seller with written notice of being in default and allow the seller a reasonable term in order to still fulfil his obligations or to remedy the deficiencies, which deficiencies the buyer should report precisely in writing.
- c. If the seller agrees to dissolution of the agreement, without there being any question of default on the seller's side, then the seller always has the right to compensation for all financial losses, such as expenses incurred, loss of profit and reasonable costs incurred in the determination of damage and liability. In the event of partial dissolution, the buyer can make no claim for reversal of the services

already provided by the seller and the seller has full benefit of the right to payment for the services already provided by the seller.

#### **Article 19 APPLICABLE LAW/DISPUTES.**

- a. All agreements entered into with the seller, as well as these general conditions, shall be governed by Dutch law.
- b. All disputes shall, with exclusion of the ordinary courts, be settled by arbitration in accordance with the Arbitration Regulations of the Vereniging Van Nederlandse Houtondernemingen (Netherlands Timber Trade Association – VVNH), as they apply at the time of submitting the dispute.
- c. In urgent matters, each of the parties has the right to ask for provisional relief from the Provisional Relief Judge in the Court of Zeeland – West-Brabant, in the location Breda.

#### **Article 20 ENTRY INTO FORCE**

These general conditions are valid commencing on 1 September 2016 and are applicable from 1 September 2016.