



GENERAL PURCHASING TERMS AND CONDITIONS

Vivan Trade Registered with the Chamber of Commerce under No. 80849970

1. APPLICABILITY

- 1.1 In these general purchasing terms and conditions the following terms are understood to mean: Vivan Trade Vivan Trade, with its registered office and principal place of business at Rozenstraat 28 ,1214BT Hilversum, the Netherlands, and with trade register No. 80849970 supplier any natural person or legal entity that delivers products to Vivan Trade in the broadest sense of the word; Agreement the agreement concluded between Vivan Trade and the Supplier; Products the items to be delivered to Vivan Trade by the supplier; terms and conditions these general purchasing terms and conditions;
- 1.2 These terms and conditions apply to all quotations and offers and requests thereto and to all orders and agreements with regard to the supplier's sale and delivery of products to Vivan Trade.
- 1.3 The applicability of any general terms and conditions (including general terms and conditions of sale) of the supplier is hereby explicitly excluded. The supplier may invoke any deviating and/or additional terms and conditions against Vivan Trade solely if and insofar as Vivan Trade has accepted them in writing. Such deviating and/or additional terms and conditions do not affect the applicability of the other provisions of these terms and conditions and apply solely to the agreement for which such deviating and/or additional terms and conditions have been expressly agreed in writing.
- 1.4 These terms and conditions also apply to third parties engaged by the supplier with regard to the delivery of products to Vivan Trade.

2. FORMATION, AMENDMENT AND PERFORMANCE OF AGREEMENTS

- 2.1 Agreements between Vivan Trade and the supplier are concluded once Vivan Trade sends a purchase order, signed by an employee who is authorised to do so, to the supplier.
- 2.2 Vivan Trade is at all times entitled to cancel an order.
- 2.3 The supplier will deliver the Products, or dispatch them for delivery, to the address indicated in the order or the subsequently agreed address. The ownership of and risk for the products will not be transferred to Vivan Trade until the time of delivery at the address indicated in the order or the subsequently agreed address.

- 2.4 Partial delivery of products may be made solely if this has been expressly agreed in writing. In that case, for the purposes of these terms and conditions delivery will also be taken to mean any partial delivery.
- 2.5 If and as soon as the supplier has any indication that the agreed delivery date/period will be exceeded or is likely to be exceeded, the supplier is obliged to notify Vivan Trade of this immediately and in writing.
- 2.6 If the supplier exceeds the agreed Product delivery date/period, the supplier will immediately be in default without any further demand or default notice being required. Vivan Trade will then be entitled to terminate the agreement, in whole or in part, without judicial intervention (and without prejudice to Vivan Trade's other rights under the applicable law) by means of a written statement and without being in any way liable to the supplier for any damage in that regard.
- 2.7 If Vivan Trade has signed for receipt, this pertains solely to receipt of the shipment and it does not entail confirmation or acknowledgement by Vivan Trade that the contents of that shipment are correct, complete or undamaged.
- 2.8 Vivan Trade will inspect the delivered products for visible defects within at most two (2) working days of delivery and will report any visible defects in good time. Any report that is made within a period of two (2) working days will in any event be considered to be in good time.

3. QUALITY

- 3.1 The products to be delivered will comply with the product specifications, descriptions (including technical descriptions), quality standards, results, performance and/or purposes that may reasonably be expected from the Products in question or that Vivan Trade has indicated to the Supplier.
- 3.2 To the extent possible, the supplier is obliged to subject the Products, before delivery to Vivan Trade and at the supplier's own expense, to a complete and thorough inspection based on the requirements referred to in clause 3.1.. Such an inspection is not to be interpreted as an acknowledgement of the reliability of the delivered products or products to be delivered, and it will not exempt the supplier from any liability in that regard.
- 3.3 The supplier is obliged to package the products properly and in such a way that, when transported in a normal manner, they will arrive at their destination in good condition.

4. PRICES AND PAYMENT

- 4.1 Unless otherwise agreed, the purchase price consists of the product prices and the costs of packaging, transport, and delivery at the location indicated by Vivan Trade.
- 4.2 Invoices from the supplier that Vivan Trade receives later than six (6) months after the Products are delivered will not be accepted.
- 4.3 Payment of the products will be made, after Vivan Trade has approved the products, within thirty (30) days of the invoice date, unless the parties have agreed otherwise.

- 4.4 Vivan Trade is entitled to suspend payment of any outstanding invoices if the supplier has failed to perform an agreement.
- 4.5 Vivan Trade is entitled to offset the amount owed to the Supplier against any claim Vivan Trade may have against the supplier, irrespective of the nature of such a claim.

5. GUARANTEE

- 5.1 The supplier guarantees that the products and the corresponding documents comply with the agreement and the requirements referred to in clause 3.1. The supplier guarantees the correctness, completeness and reliability of the information and data provided by it or on its behalf.
- 5.2 The supplier guarantees that all the delivered products originate with the manufacturer, that they are not fake/counterfeit, and that they are intended for sale within the European Union and/or European Economic Area by or with the consent of the trademark owner or licensee.
- 5.3 The supplier guarantees that it is not acting in violation of other legislation or terms and conditions attached to the Products (or to the trading of the products) by third parties (including the manufacturer, the trademark owner and any preceding supplier(s)). The terms and conditions referred to in the preceding sentence include the terms and conditions regarding order processing in case of promotions, special prices and specific customers (or end customers).
- 5.4 The supplier guarantees that the sale and delivery of the products to be delivered by it and Vivan Trade's use of them (including their sale and resale), all in the broadest sense of the words, as well as any know-how, methods and systems employed by the supplier, do not infringe any third parties' intellectual property rights.
- 5.5 The supplier guarantees that all obligatory costs such as import and export duties, excise duties, private copying compensation and other types of compensation under intellectual property rights, as well as all other levies or taxes (including statutory levies or taxes) imposed for or in relation to the Products, have been paid by the supplier and any of its predecessors in the chain. The supplier indemnifies Vivan Trade and its customers (or future customers) against third-party claims arising from or related to the above, including but not limited to levies, additional tax assessments and penalties. If the supplier does not immediately comply with this obligation to indemnify, it will be in default without further notice of default.
- 5.6 Vivan Trade will notify the supplier in good time of any defects it has identified that were invisible or that it could not reasonably have been discovered during the inspection referred to in clause 2.7. Notifications made within a period of two (2) working days of the discovery of a defect will in any event be considered to be in good time.

6. LIABILITY AND INDEMNIFICATION

- 6.1 The supplier is liable, without limitation, for all damage, whether direct or indirect, incurred by Vivan Trade, its employees and/or its customers as a result of the delivery of the products by the supplier or of any other failure to perform the agreement on the part of the supplier, its staff or other parties engaged by the supplier for the performance of the agreement.

- 6.2 Notwithstanding the liability referred to in clause 6.1, the supplier indemnifies Vivan Trade against:
- (i) all liability for damage as provided in sections 6:185 to 6:193 of the Dutch Civil Code ("DCC"). This indemnification also applies to any claims under the amount of EUR 500.00 as referred to in section 6:190 DCC;
 - (ii) any claims by customers of Vivan Trade against Vivan Trade (or the consequences thereof) based on defective or damaged Products that have been delivered to Vivan Trade by the supplier and that have subsequently been passed on by Vivan Trade, and
 - (iii) all damage, loss and costs incurred by Vivan Trade as a result of the supplier acting in breach of the guarantees referred in clauses 5.1 to 5.5 inclusive.

7. TERMINATION

- 7.1 In addition to the other provisions of these terms and conditions, either party is entitled to terminate the agreement, in whole or in part, if;
- (i) the other party has failed to perform one or more of its obligations under these terms and conditions or under any agreement, or has failed to do so in time or in a proper manner, unless the failure to perform, given its special nature or insignificance, does not justify this termination and the associated consequences;
 - (ii) the other party has been granted a moratorium. Contrary to the above provisions, the supplier is not entitled to terminate the agreement in the event of a moratorium if Vivan Trade and its administrator offer an arrangement to the supplier under which the supplier's invoices for any product deliveries made during the moratorium are paid;
 - (iii) the other party files a winding-up petition, or winding-up petition is filed for it, or that party is declared bankrupt or insolvent;
 - (iv) the other party's business is being wound up, and/or
 - (v) the other party ceases its current business operations or a substantial part thereof.

8. GENERAL PROVISIONS: APPLICABLE LAW; COMPETENT COURT

- 8.1 The voidness or nullification of one or more of the provisions under these terms and conditions does not affect the validity of the other provisions. If a provision is or becomes void or is or has been nullified, the parties will use their best endeavours to replace it with a valid provision that corresponds as closely as possible with the void or nullified provision.
- 8.2 Vivan Trade reserves the right to amend these terms and conditions, after which the amended terms and conditions will apply to all quotations and offers and to any requests for quotations and offers,

orders and agreements to be entered into with the supplier after the amended terms and conditions have been sent to the supplier.

- 8.3 These terms and conditions have been drawn up in Dutch and may be translated into other languages. If textual and/or interpretational differences between those other languages arise, the Dutch version of these terms and conditions will at all times be decisive and binding.
- 8.4 Any and all obligations between Vivan Trade and the supplier, as well as these terms and conditions and all obligations arising from or related to them, will be governed solely by Dutch law, with the exception of the rules on the conflict of laws. The applicability of the United Nations Convention on contracts for the International sale of goods (the Vienna Sales Convention) is explicitly excluded.
- 8.5 All disputes arising from or related to these terms and conditions (including any disputes regarding the validity or applicability of these terms and conditions) and all obligations

arising from or related to them, will be submitted exclusively to the District Court of Midden Nederland, Utrecht location