

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF VESCOLUB BV

### **Article 1 - Applicability**

**1.1** In these general terms and conditions of sale and delivery, the term "VesCoLub," shall have the following meaning: VesCoLub BV, Pascalweg 4, 6101 WV in Echt, as well as its related companies. In these general terms and conditions of sale and delivery, "product" or "products" shall mean: products offered, sold and/or delivered by VesCoLub and other goods as well as the services offered by them. These terms and conditions apply to all offers and/or agreements made by VesCoLub to or entered with third parties (hereinafter "the Client") as well as to the execution thereof.

**1.2** These terms and conditions shall apply to the exclusion of any terms and conditions used by the Client.

**1.3** The Client can only invoke stipulations deviating from these terms and conditions if and insofar as these have been accepted by VesCoLub in writing.

### **Article 2 - Offers, contracts and agreements**

**2.1** All offers of VesCoLub are without obligation. Orders and acceptances of offers by the Client shall be deemed irrevocable.

**2.2** VesCoLub shall only be bound if it has confirmed acceptance of the offer in writing or if it has commenced execution. Moreover, VesCoLub shall only be bound as it has accepted.

**2.3** Any or alleged inaccuracies in the order confirmation must be notified to VesCoLub in writing within 2 working days after the date of the confirmation by the Client, failing which the order confirmation shall be deemed to accurately and completely reflect the agreement.

**2.4** Verbal promises or agreements by or with its staff shall not bind VesCoLub until and insofar as it has confirmed this in writing.

### **Article 3 - Conformity**

**3.1** All statements by VesCoLub of quantities and/or other indications relating to its products are made with the greatest possible care. However, VesCoLub cannot guarantee that there will be no deviations in this respect. The Client must check the conformity with the quantities and/or other indications stated by VesCoLub or agreed with VesCoLub upon receipt of the products. Statements made by VesCoLub regarding colours, weights, dimensions, etc. are only approximations and are without obligation.

**3.2** Images, descriptions, catalogues, advertising material and offers do not bind VesCoLub.

**3.3** The Client must ensure that the products to be ordered and/or ordered by him and the associated packaging, labelling and other information comply with all government regulations in the country of destination. The use of the products and their conformity with government regulations is at the risk of the Customer.

### **Article 4- Data and indemnity**

**4.1** The Client guarantees the correctness, completeness and reliability of the data and information provided to VesCoLub by or on behalf of the Client. VesCoLub is only obliged to [further] execute the order if the Client has provided all data and information required by VesCoLub. If data necessary for the execution of the agreement are not available to VesCoLub, or are not available on time or in accordance with the agreements, or if the Client fails to fulfil its obligations in any other way, VesCoLub is also entitled to charge the costs incurred as a result in accordance with its usual rates.

**4.2** If an order is to be executed according to designs, drawings or other instructions of the Client, VesCoLub shall charge the Client a separate price for this, unless agreed otherwise in writing.

**4.3** In the event of processing or processing of semi-finished products of VesCoLub by or on behalf of the Client, this shall take place with due observance of the intellectual property rights of VesCoLub and/or third parties. The Client is responsible for the fulfilment of this obligation by the third parties engaged by it. The Client shall indemnify VesCoLub against all claims of third parties arising from this treatment or processing and the consequences of the application of these treated or processed items.

**4.4** The Client shall furthermore indemnify VesCoLub as well as employees of VesCoLub against claims of third parties, including employees of VesCoLub, who suffer damage in connection with the execution of the agreement as a result of

**4.5** the acts or omissions of the Client, the inaccuracy or incompleteness of data or information provided by or on behalf of the Client and/or unsafe situations in its company or organization.

### **Article 5 - Processing of personal data**

**5.1** Insofar as Personal Data are processed in the context of the performance of the work, these Personal Data will be processed in a proper and careful manner and in accordance with the Data Protection Act and General Data Protection Regulation.

**5.2** Technical and organizational measures will be taken to protect the Personal Data against loss or any other form of unlawful processing, taking into account the state of the art and the nature of the processing.

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## Article 6 – Intellectual Properties

**6.1** All intellectual property rights with regard to the products and their designations, and with regard to everything VesCoLub develops, manufactures or provides, including packaging, advertising material and images, belong to VesCoLub.

**6.2** The Client is not permitted to remove or change any indication of trademarks, trade names or other intellectual property rights from the products. The Client shall only offer, sell and deliver the products under the brand name, logo and packaging that VesCoLub has assigned to the products.

## Article 7 – Prices

**7.1** Prices stated by VesCoLub or agreed upon with VesCoLub are inclusive of packaging costs, but exclusive of VAT, import and export duties, excise duties and other taxes or levies imposed or levied with regard to the products and their transport.

**7.2** Prices quoted by VesCoLub are in Euros, excluding transport costs and are valid for delivery ex warehouse.

**7.3** VesCoLub is entitled to charge a surcharge for order and administration costs for orders below a size determined by VesCoLub in accordance with the applicable regulations at the time VesCoLub entered into the agreement.

**7.4** With regard to products not yet delivered, VesCoLub reserves the right to change sales prices, discounts and/or sales conditions in the prices, discounts and/or sales conditions applicable on the day of delivery. In that case, the Client has the right to dissolve the agreement, insofar not already actually executed, by means of a registered letter sent to VesCoLub within 8 days after the announcement of the change, unless the change is to his advantage.

**7.5** If VesCoLub has taken on further work and/or services without explicitly agreeing on a price in writing, it shall be entitled to charge the Client the actual costs and/or VesCoLub's usual rates.

**7.6** If, after the offer and/or the conclusion of an agreement, cost price determining factors, including taxes, excise duties, import duties, exchange rates, wages, the prices of goods and/or services (whether or not involved by VesCoLub from third parties) change, VesCoLub is entitled to adjust the prices accordingly.

## Article 8 - Delivery time, delivery and packaging

**8.1** Stated delivery times are approximate and can never be regarded as fatal. Exceeding the delivery time does not oblige VesCoLub to pay any compensation and does not give the Client the right not to fulfil or to suspend his obligations ensuing from the agreement. However, the Client is entitled to dissolve the agreement if and insofar as VesCoLub has not executed the order within a term set by the Client that is at least equal to the initially stated or agreed delivery time. In that case, VesCoLub shall not owe any compensation.

**8.2** The delivery time is based on the working conditions applicable at the time of the conclusion of the agreement and on timely delivery of the items required by VesCoLub for the fulfilment of the agreement. If a delay occurs as a result of a change in working conditions and/or the late delivery of items required by VesCoLub, the delivery time will be extended as far as necessary.

**8.3** The delivery time will be extended by the duration of the delay which arises on the part of VesCoLub as a result of the Client's failure to fulfil any obligation arising from the agreement or to request cooperation from him with regard to the execution of the agreement.

**8.4** The delivery of the products takes place at the moment that the products are segregated on behalf of the Client. The products are at the risk and expense of the Client from delivery, even if ownership has not yet been transferred.

**8.5** VesCoLub determines the way in which and by whom the products are transported, unless agreed otherwise in writing. The transport takes place at the Client's risk. The Client is obliged to take receipt of the products immediately upon arrival at the place of destination. The Client shall ensure that there are sufficient loading and unloading facilities and that the products are unloaded quickly.

**8.6** Loading and unloading as well as loading, re-packing and packing is at the expense and risk of the Client, even if VesCoLub assists the Client in this.

**8.7** If the Client does not take receipt of the products or does not come to collect them or have them collected, they will be stored at the expense and risk of the Client for as long as VesCoLub deems this desirable and/or necessary. In this case, as well as in case of any other (attributable) failure on the part of the Client, VesCoLub will at all times be authorized, at VesCoLub's discretion, either to demand compliance with the agreement or to dissolve the agreement (extrajudicially), all this without prejudice to VesCoLub's rights to compensation for the damage suffered and the loss of profit, including the costs of storage.

**8.8** VesCoLub is not obliged to comply with a request of the Client for re-delivery or after-delivery. If VesCoLub nevertheless does so, the costs related thereto shall be for Client's account.

**8.9** VesCoLub is authorized to execute an agreement in parts and to claim payment of that part of the agreement that has been executed.

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**8.10** VesCoLub determines the way in which the products are packaged. The Client shall be obliged to return packaging on loan, including pallets, stillages (for the purpose of glass), or other materials that are intended to guarantee good shipping and packaging materials other than cardboard and other protective strips etc., empty and in undamaged condition within 14 days. If the Client fails to comply with his obligations with regard to packaging, all costs arising from this shall be at his expense. Such costs include the costs arising from late return and the costs of replacement, repair or cleaning.

**8.11** If the Client does not return any loaned packing within the term stated therein after a reminder, VesCoLub shall be entitled to replace it and charge the costs thereof, provided VesCoLub has announced these steps in its reminder.

#### **Article 9 - Force majeure**

**9.1** Force majeure is understood to include: extreme weather conditions, fire, water nuisance, accident, illness or strike of personnel, lack of raw materials, business interruption, stagnation in transport, disturbing legal provisions, problems unforeseen by VesCoLub in the production or transport of the products and the untimely delivery of goods or services by third parties engaged by VesCoLub.

**9.2** If VesCoLub is prevented from fulfilling the agreement due to force majeure, it is entitled to suspend the execution of the agreement. In that case, the Client is not entitled to compensation of damage, costs or interest.

**9.3** If VesCoLub has already partially fulfilled its obligations when the force majeure situation occurs or can only partially fulfil its obligations, it shall be entitled to separately invoice the part already delivered and/or the part deliverable and the Client shall be obliged to pay this invoice as if it were a separate agreement.

#### **Article 10 - Warranty and complaints**

**10.1** VesCoLub guarantees the soundness of the products delivered by VesCoLub in accordance to what the Client may reasonably expect pursuant to the agreement. If, nevertheless, defects occur in the products delivered by VesCoLub as a result of manufacturing and/or material faults, VesCoLub will replace the products concerned in whole or in part or apply a reasonable price reduction, all this at the discretion and exclusive discretion of VesCoLub. This guarantee is valid for 6 months after delivery, unless explicitly agreed otherwise in writing.

**10.2** Defects that occur in or (partly) as a result of the guarantee are in any case not covered by the guarantee:

- normal wear and tear;
- failure by (staff of) the Client to observe instructions or regulations with regard to use and/or storage;
- injudicious maintenance or use by the Client;
- the application of any government regulation regarding the nature or quality of applied materials;
- items provided by the Client to VesCoLub for the processing or execution of an order or used in consultation with the Client;
- raw materials obtained by VesCoLub from third parties, insofar as these third parties have not provided VesCoLub with a guarantee;
- the improper use/processing of the products by the Client, unless VesCoLub explicitly states a certain method of processing in its documentation, brochures etc. or has allowed this in writing without any reservation.

**10.3** Immediately upon receipt by or on behalf of the Principal, the Principal must carefully inspect the delivered products or have them inspected, on pain of forfeiture of any right to complain and/or guarantee. Any complaint regarding the quantity of products delivered must be noted immediately on the waybill or delivery note, failing which the quantities stated on the waybill or delivery note will constitute compelling evidence against the Client.

**10.4** Claims under the guarantee must be reported to VesCoLub by registered letter within 8 days after a defect has occurred. In the absence of a timely complaint, any claim against VesCoLub expires.

**10.5** If the Client complains, he shall be obliged to give VesCoLub the opportunity to inspect the products (or have them inspected) in order to establish the shortcoming. The Client is obliged to keep the products complained about at VesCoLub's disposal, under penalty of forfeiting any right to complain and/or guarantee.

**10.6** Returning of sold products to VesCoLub, for whatever reason, can only take place after prior written authorization and shipping and/or other instructions from VesCoLub. The transport and all related costs are at the expense of the Client. The products remain for the account and risk of the Client at all times. VesCoLub shall reimburse the transport costs if it is established that there is an attributable shortcoming on the part of VesCoLub. Requests for returns that date from 30 days after the invoice date will not be accepted.

**10.7** Any defects relating to part of the products delivered do not entitle the Client to reject or refuse the entire batch of products delivered.

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**10.8** Any right to guarantee or claim expires if the products have been transported, handled, used, processed or stored improperly or in violation of instructions given by or on behalf of VesCoLub or if the usual measures/regulations have not been observed, as well as if the Client fails to fulfil any obligation towards VesCoLub arising from the underlying agreement, or fails to do so properly or on time.

**10.9** Complaints do not suspend the payment obligations of the Client.

**10.10** After detection of a shortcoming in a product or service, the Client is obliged to do all that which prevents or limits damage, explicitly including any immediate cessation of use, processing, processing and/or trading.

#### **Article 11 - Retention of title**

**11.1** VesCoLub retains ownership of the products delivered and to be delivered until its claims with regard to the products delivered and to be delivered have been paid in full by the Client, including claims due to failure to fulfil one or more agreements.

**11.2** If the Client fails to fulfil its obligations, VesCoLub shall be entitled to recover the products belonging to it (or have them recovered) from the place where they are located, at the expense of the Client.

**11.3** The Client is not entitled to pledge the products not yet paid for or to transfer ownership thereof other than in the context of normal business operations.

**11.4** The Client is obliged to keep the products delivered under retention of title with due care and as recognizable property of VesCoLub.

**11.5** The Client shall not have any right of retention with regard to the products delivered by VesCoLub.

#### **Article 12 - Right of pledge**

**12.1** VesCoLub has a right of pledge and a right of retention on all goods, documents and monies VesCoLub has or will have in its possession for whatever reason, for all claims it has or may have on the Client. VesCoLub has a right of pledge and a right of retention towards anyone who demands delivery of the items, documents and/or funds.

**12.2** VesCoLub can also exercise the rights referred to in 12.1 for what the Client still owes VesCoLub in connection with previous and/or already executed orders.

#### **Article 13 - Payment**

**13.1** Unless otherwise agreed upon in writing, payment of VesCoLub's invoices shall take place within 30 days after the date of invoice, in the currency stated on the invoice and exclusively in the manner indicated on the invoice. VesCoLub has the right at all times to claim full or partial payment in advance and/or otherwise obtain security for payment.

**13.2** VesCoLub is entitled to invoice partial deliveries separately.

**13.3** If payment is not received on time, the Client shall owe interest of 1% per month on the invoice amount, calculated from the due date up to and including the day of payment, without further notice of default, whereby part of a month shall be considered a full month.

**13.4** All costs relating to collection, including, among other things, extrajudicial collection costs and pre-procedural costs, shall be borne by the Client. The extrajudicial collection costs amount to at least 15% of the amount to be collected, with a minimum of € 150,-.

**13.5** The Principal waives any right to set off amounts owed from one side to the other. VesCoLub shall at all times be entitled to set off all that it owes to the Client against what the Client and/or affiliated companies owes VesCoLub, whether or not due and payable, subject to conditions or time limits.

**13.6** The entire invoice amount is immediately due and payable in full in the event of late payment of an agreed instalment on the due date, as well as in the event that the Client is declared bankrupt, applies for (provisional) suspension of payments, is declared subject to the statutory debt rescheduling scheme or has been placed under guardianship, if any attachment is levied on the goods and/or claims of the Client, if the Client dies, goes into liquidation or is dissolved. If one of the aforementioned situations occurs, the Client is obliged to inform VesCoLub of this immediately.

**13.7** Payments made by the Client shall first be applied to settle the costs owed, then to settle the interest due and finally to settle the longest outstanding due and payable invoices, even if the Client states that the payment relates to a later invoice.

#### **Article 14 - Cancellation and compensation**

The Client may not cancel an order given. If the Client nevertheless fully or partially cancels an order given, it shall be obliged to compensate VesCoLub for all costs reasonably incurred with a view to the execution of this order, the work of VesCoLub and the loss of profit by VesCoLub, increased by VAT.

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## Article 15 – Liability

- 15.1** Apart from the provisions in article 10, the Client shall not have any claim against VesCoLub due to defects in or with regard to the products delivered by VesCoLub. VesCoLub is therefore not liable for direct and/or indirect damage, **15.2** including personal and property damage, immaterial damage, consequential damage (business and/or stagnation damage) and any other damage, caused by whatever cause, except in case of gross negligence or intent on its part. **15.3** VesCoLub is also not liable in the sense referred to above for actions of its employees or other persons that fall within its sphere of risk, including (gross) negligence or intent of these persons. **15.4** VesCoLub is not liable for violation of patents, licenses and/or other rights of third parties by using data provided by or on behalf of the Client. VesCoLub is also not liable for damage or loss of raw materials, semi-finished products, models and/or other items made available by the Client. **15.5** Damage to products caused by damage or destruction of packaging is at the expense and risk of the Client. **15.6** If VesCoLub, based on facts and/or circumstances known to VesCoLub at that moment, proceeds to exercise a right of suspension or dissolution, while afterwards it is irrevocably established that the exercise of this right was wrongful, VesCoLub shall not be liable and shall not be obliged to make any compensation for damages, except in case of intent or gross negligence on its part. **15.7** In all cases where VesCoLub is obliged to pay damages, these will never be higher than, at VesCoLub's choice, either the invoice value of the delivered products and/or services through which or in connection with which damage has been caused or, if the damage is covered by VesCoLub's liability insurance, the amount actually paid out by the insurer. **15.8** Any claim against VesCoLub, except those acknowledged by VesCoLub, expires by the mere lapse of 12 months after the claim arose. **15.9** The Client indemnifies VesCoLub, its employees and auxiliary persons engaged by VesCoLub for the execution of the agreement against any claims by third parties, including claims based on product liability, in connection with the execution by VesCoLub of the agreement, regardless of the cause, as well as against the resulting costs for VesCoLub.

## Article 16 – Representation

If the Client acts on behalf of one or more others, he shall, without prejudice to the liability of those others, be liable towards VesCoLub as if he were the Client himself.

## Article 17 - Final provisions

- 17.1** The nullity or voidability of any provision of these terms and conditions or of agreements to which these terms and conditions apply shall not affect the validity of the remaining provisions. VesCoLub and the Client are obliged to replace provisions that are null and void or nullified by valid provisions with as much as possible the same purport as the null and void or nullified provision. **17.2** All disputes between VesCoLub and the Client shall in the first instance exclusively be judged by the NL-Roermond District Court, all this without prejudice to the mandatory jurisdiction of another Dutch court and unless VesCoLub prefers a otherwise competent court when ignoring this article. **17.3** All agreements concluded by VesCoLub are exclusively governed by Dutch law. **17.4** The effect of any international convention on the sale of movable tangible property the effect of which may be excluded between the parties shall not apply and is hereby expressly excluded. In particular, the applicability of the Vienna Convention on the International Sale of Goods 1980 is expressly excluded.

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