

## **GENERAL TERMS AND CONDITIONS OF SALE, DELIVERY, AND PAYMENT OF FORESCO PACKAGING NETHERLANDS**

### **Article 1 General**

1. The following terms and conditions of sale, delivery, and payment (hereinafter: General Terms and Conditions) apply to and form an inseparable part of all agreements concerning the sale and delivery (including the provision of services) of, among other things, packaging and pallets (hereinafter: Products), in the broadest sense of the word, where one of the Dutch group companies of Foresco (Foresco Valkenswaard BV, Foresco Hasselt BV, Foresco Assen BV, Foresco Musselkanaal BV, Foresco Dongen BV, Foresco Pallet Recycling BV, Foresco Dongen Sort & Repair BV, Palletcentrale BV, Palletcentrale Productie B.V. Palletcentrale Noord-Holland BV, Palletcentrale Rotterdam BV, Vierhouten-Palletindustrie BV, De With Pallets, Tenfold Industrial Packaging B.V., Tenfold Industrial Packaging Breda (hereinafter: Seller) is a party.
2. Unless expressly agreed otherwise, the general terms and conditions of the counterparty (hereinafter: Buyer) of the Seller do not apply, not even alongside the General Terms and Conditions. Deviations from the General Terms and Conditions are only valid if explicitly recorded in writing and signed by both parties.

### **Article 2 Offers and Agreements**

1. All offers from the Seller, unless expressly stated otherwise, are entirely without obligation and revocable until the agreement is concluded. The offers from the Seller are, unless otherwise agreed, valid for 5 days starting from the offer date. Acceptance of the offer binds the Seller only if the relevant message reaches them before 24:00 on the last day.
2. Orders, including orders accepted by agents, representatives, travelers, and other intermediaries and/or resellers, bind the Seller only after these orders have been confirmed in writing by the Seller. Upon written confirmation of an order by the Seller, the content of the order confirmation is considered the content of the agreement.

### **Article 3 Product Properties**

The Buyer must specify any special requirements for the material or goods before the agreement is concluded in writing to the Seller. Unless special requirements for the material or goods are specified in the orders and accepted in writing by the Seller, the Buyer must accept the Seller's sorting. Regarding dimensions, the Seller always reserves small tolerances, provided these tolerances do not impair the normal use of the Products. Unless expressly stated otherwise, samples are only intended to indicate the sizes. Offers, insofar as they relate

to crate work and pallets, are based on a minimum purchase of 100 pieces of one size. For batches of 50 to 100 pieces, 5% extra is calculated on the agreed sale price with a minimum surcharge of €25 per order; for batches of 25 to 50 pieces, 10% extra on the agreed sale price with a minimum surcharge of €25 per order. For smaller batches than 25 pieces, a separate price quote is provided. Samples are calculated at double the offered price and not sent free of charge. The number of hours spent on making test pallets is charged. Special provisions that deviate from the conditions contained in this article are only binding if agreed in writing and apply only to orders to which they relate.

## Article 4 Delivery

1. All deliveries are made, unless otherwise agreed, 'ex works'. If delivery is not 'ex works' and no specific method of shipment is agreed, the Seller determines the method of shipment.
2. Delivery is deemed to have taken place:
  - a. if the goods are collected by or for the Buyer: by receipt of the goods or, if the Buyer fails to receive the goods on time, at the moment when this should have happened;
  - b. in the case of shipment through a carrier outside the case mentioned under a: by handing over the goods to the carrier;
  - c. in the case of shipment by a means of transport of the Seller: by delivery or offering thereof at the Buyer's house or warehouse or at the receiving address specified by the Buyer in writing in advance.
3. Unless otherwise agreed, transport costs are borne by the Buyer. The party (Buyer or Seller) responsible for transport will, whether or not through the involvement of a third party, ensure adequate insurance. The transport insurance will cover the amount of the sale price of the goods. Insurance is provided against normal transport risks, not against molestation or other extraordinary risks. Damage or loss must be reported by the Buyer to the carrier and the Seller within 24 hours of delivery and immediately confirmed in writing with clear substantiation, failing which any right to hold the Seller in default or suspend own obligations lapses.

## Article 5

All risks regarding the goods, including but not limited to damage and loss of the goods and any associated consequential damage, pass to the Buyer upon delivery of the goods.

Notwithstanding the provisions of the previous article, the Buyer is obliged to adequately insure the goods against fire, explosion, and water damage, as well as theft from the moment of delivery and for the duration of the retention of title under Article 11 of the General Terms and Conditions, and to provide the insurance policies to the Seller for inspection upon first request.

All claims of the Buyer against the insurer(s) of the goods under the aforementioned insurance policies will be transferred to the Seller upon first request.

## **Article 6**

1. Unless otherwise agreed, delivery periods are approximate and not enforceable nor to be regarded as a fatal term.
2. If the Buyer owes an advance payment or must provide the necessary information, instructions, and/or materials for execution, the delivery period does not commence until the payment has been fully received or the information, instructions, and/or materials have been fully provided.
3. An agreement cannot be dissolved by the Buyer due to exceeding the delivery period unless the Seller also does not or does not fully execute the agreement within a reasonable period specified in writing by the Buyer after the delivery period has expired. Dissolution is only permitted insofar as the Buyer cannot reasonably be expected to maintain the agreement.
4. Exceeding a delivery period does not count as a default attributable to the Seller if the default is due to a circumstance beyond the Seller's control, whether foreseeable or not; such circumstances include, but are not limited to: war or similar situations, mobilization, riots, state of siege, sabotage, boycott, strike or lockout, occupation, blockade, reduction of production or shortage of raw materials, business disruptions, illness of the Seller or their staff, failure of suppliers and/or carriers, government measures (including foreign governments) such as transport, import, export, or production bans, natural disasters, bad weather, lightning strikes, fire, explosion, leakage of hazardous substances or gases; the Seller then has the right to extend all or some delivery periods by the duration of the hindrance or to cancel or dissolve the agreement, insofar as not executed, without being obliged to compensate any damage to the Buyer.

## **Article 7 Obligation to Take Delivery**

1. The Buyer has an obligation to take delivery.
2. If the Buyer, without being entitled to do so against the Seller, has not taken delivery of the purchased goods within the agreed call-off period within the predetermined time, or if the Buyer, when no specific delivery period has been set, has not taken delivery of the purchased goods within three months after the sale date, the Seller has the right to cancel or dissolve the non-taken orders (as well as all other ongoing orders or parts thereof, unless the Seller has no reasonable grounds for doing so) without being obliged to pay any compensation, without prejudice to the Seller's right to claim compensation

from the Buyer, being the sale value of the purchased goods plus a surcharge for storage of goods. This compensation also includes the positive contract interest.

#### **Article 8 Deficiencies**

1. Notwithstanding the provisions of the last sentence of Article 4, the Buyer is obliged to immediately report any deficiencies in writing to the Seller, failing which the right to invoke deficiencies that could reasonably have been discovered through careful inspection lapses; minor and commercially acceptable or reasonably unavoidable deviations in dimensions due to differences in, for example, wood thickness and by stretching and shrinking do not constitute a deficiency. The Seller will remedy this deficiency free of charge by – at the Seller's choice – repair and/or replacement as much as possible in accordance with the order. However, the Seller is also entitled – at the Seller's choice – to proceed to complete or partial dissolution or refund of the purchase price excluding VAT and other government levies instead of complete or partial remedy.
2. Deficiencies in the delivered goods do not constitute grounds for dissolution of the relevant agreement unless it concerns deficiencies as referred to in paragraph 1 and the Seller, after being put in default in writing, fails to remedy the deficiencies acceptably. In that case, the Buyer is entitled to dissolve the agreement if and insofar as the Buyer cannot reasonably be expected to maintain the relevant agreement.
3. Returns that are not preceded or accompanied by a written notification as referred to in paragraph 1 are not permitted.
4. The costs of unjustified and/or not accompanied by a written notification as referred to in paragraph 1 returns are borne by the Buyer. The Seller can store goods returned by the Buyer or not taken by the Buyer with themselves or with third parties at the Buyer's expense and risk.

#### **Article 9 Prices and Payments**

The Seller is entitled to pass on increases in costs incurred by them in connection with the delivery after the sale date and before the delivery date (such as increases in VAT or other government levies, purchase prices, wages, transport costs, insurance premiums, as well as cost increases due to government measures that cannot be regarded as normal business risks).

#### **Article 10**

1. The Seller is entitled to make partial deliveries and send partial invoices. Set-off by the Buyer with a counterclaim is only permitted insofar as the counterclaim is expressly acknowledged by the Seller or irrevocably established in court.
2. Unless otherwise agreed and without prejudice to the right to demand advance payment, payment is made within 30 days of the invoice date.

3. If the Buyer does not pay the invoice amount owed by them on time, the Buyer is in default without the need for a notice of default or reminder and owes interest of 2% of the net invoice amount or – if higher – the statutory commercial interest for each month (30 days) or part thereof, starting from the due date of the invoice amount.
4. If payments remain outstanding even after a reminder within a specified further period, the Seller is entitled to dissolve the agreement in whole or in part by means of a written declaration, without prejudice to their right to compensation.
5. All costs, both extrajudicial and judicial, including the costs of legal assistance, incurred by the Seller in collecting what the Buyer owes the Seller or in enforcing other rights of the Seller, are borne by the Buyer. The extrajudicial costs (including a reasonable fee for time spent by the Seller or their staff) amount to at least €250.
6. What the Buyer owes the Seller under the agreement becomes fully due immediately in the event of: suspension of payment or bankruptcy of the Buyer or application for it, decision of the Buyer to wholly or partially cease or transfer the business, seizure under the Buyer, non-timely payment by the Buyer. In the first three (3) cases, the Seller is entitled to terminate all agreements with the Buyer immediately if the Buyer does not provide appropriate security for all that the Buyer owes the Seller and will owe within eight calendar days after a request to that effect.

#### **Article 11**

1. When the Seller has reasonable grounds to fear that the Buyer will not or will not fully comply with an agreement, the Seller is entitled to demand advance payment, cash payment, and/or security before proceeding with delivery or further delivery; if the Buyer fails to do so, the Seller has fulfilled their delivery obligation by offering the goods to the Buyer against simultaneous payment.
2. The ownership of delivered goods remains with the Seller until the Buyer has paid all that they owe the Seller under or in connection with deliveries; the Seller is entitled to repossess goods belonging to them in the event of any non-timely payment.
3. The Buyer is not entitled to pledge or provide any other security right in the broadest sense of the word to third parties for the goods delivered by the Seller that are not yet their property. The Buyer is not entitled to transfer ownership of goods that are not yet their property to third parties other than through normal processing according to their destination. If the goods are seized while they are still under the retention of title in the Seller's ownership, the Buyer must immediately notify the Seller.
4. The Buyer is obliged, in the event that ownership is transferred to third parties, to pledge their claims which they have or will acquire against those third parties to the Seller upon first request and to provide all necessary cooperation.

#### **Article 12**

1. If the Seller is instructed to package machines or other objects, the Buyer must provide all necessary information and/or instructions regarding packaging and transport in writing in advance (for example, regarding volume, weight, nature, and value of the goods; any special sensitivity of the goods, whether or not in connection with the type and method of packaging or transport; the method of transport of the goods, etc.).
2. The Seller will, within reasonable limits, make every effort to carry out the packaging based on the provided information and/or instructions. The Seller is not liable for damage that could have been prevented if the Buyer had provided more or better information and/or instructions.
3. Notwithstanding the provisions of the previous sentence, the Seller is only liable for damage – provided the Buyer proves that this damage is the immediate result of a serious shortcoming of the Seller – to the machine(s) or object(s) themselves. Except for the provisions of the previous two sentences, Article 13 applies accordingly.

### **Article 13 Limitation of Liability**

1. Notwithstanding the other provisions of these General Terms and Conditions, the following applies to damage arising from or in connection with deliveries and/or services by or on behalf of the Seller to or on behalf of the Buyer – in the broadest sense of the word – for which the Seller can be held legally liable – insofar as mandatory legal provisions do not provide otherwise:
  - a. The Seller can only be obliged to compensate any damage if it is reported in writing by the Buyer to the Seller within 14 calendar days and this notification is made within six months after the goods are handed over and/or the services are provided.
  - b. The Seller is not obliged to pay any compensation if the total damage of the Buyer within a period of 12 calendar months does not exceed €500.
  - c. Only that damage is eligible for compensation for which the Buyer has irrefutably proven that it is the result of a circumstance or event for which the Seller can be held legally liable.
  - d. Damage, insofar as consisting of lost profit or reduced yield, is not eligible for compensation under any circumstances.
  - e. Other damage than referred to under d. is compensated up to a maximum of the net invoice value (being the gross invoice value minus VAT and any other government levies) of the delivery or service with which the damage is related.
  - f. The compensation mentioned under e. applies to all damage cases together arising from a delivery or service with which the damage is related.

- g. Paid customer stocks on the premises or under the supervision of the Seller are outside our liability and are not insured against loss, theft, and other forms of depreciation or total loss (e.g., in case of fire).
2. The Buyer indemnifies the Seller against claims from third parties, regardless of the basis, who claim to have suffered damage due to a matter and/or service that the Seller has delivered or provided to or on behalf of the Buyer, unless the Buyer proves that the Seller is liable to the Buyer for that damage and has to compensate it to the Buyer.
3. The Seller can never be liable for more than the insured amount in case of transport damage as stated in Article 4.3 of the General Terms and Conditions.

**Article 14**

1. Only Dutch law applies to agreements and any other legal relationships between the Seller and the Buyer. The parties explicitly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) (Vienna Sales Convention).
2. If any provision of these General Terms and Conditions or of the agreements concluded by the Seller is deemed by the competent court to be inapplicable or contrary to public order or law, only the relevant provision will be considered as not written, and the parties will replace it with one or more provisions that closely match the conflicting provision(s) without themselves conflicting with public order or law, and these General Terms and Conditions will otherwise remain fully in force.