

## GENERAL TERMS AND CONDITIONS OF SALE

of:  
**Hoogduin Verpakkingen B.V.**, having its registered office at Emmalaan 12 in Baarn, the Netherlands.  
Registered with the Chamber of Commerce and Industry for Gooi- en Eemland under number 31036751

### Article 1: Definitions

#### 1.1. These Conditions:

The General Terms and Conditions of Sale of Hoogduin Verpakkingen B.V.

#### 1.2. Hoogduin:

Hoogduin Verpakkingen B.V., a private limited liability company

#### 1.3. Counterparty:

Every natural person who or legal entity that has concluded or wishes to conclude one or more contracts with Hoogduin as well as his/her/its agent(s), authorised representative(s), successor(s) in title and/or beneficiary/beneficiaries.

#### 1.4. Manufacturer:

Every natural person who or legal entity that has concluded one or more contracts with Hoogduin for the supply of goods to Hoogduin for the benefit of third parties (including the Counterparty).

#### 1.5. Prices:

All prices in these Conditions are denominated in euros excluding VAT, unless they are explicitly quoted including VAT.

### Article 2: General provisions

2.1. These Conditions will apply to all offers, supplies and services (and any combination thereof) of Hoogduin and to all contracts concluded by Hoogduin in the broadest sense. Divergent provisions will form part of a contract only if they are explicitly agreed with Hoogduin in writing.

2.2. If any of the provisions of these Conditions is void, is declared void or turns out to be otherwise invalid in full or in part, the validity of the other provisions of these Conditions will remain unaffected.

2.3. The applicability of general terms and conditions owned and/or used by the Counterparty is explicitly excluded, unless expressly agreed otherwise in writing. In the event that the Counterparty refers to its own terms and conditions and declares those terms and conditions applicable, by accepting these Conditions of Hoogduin the parties will agree that Hoogduin will not be bound by the Counterparty's terms and conditions in question.

### Article 3: Offers

3.1. All price lists, brochures and other information provided with the offer have been compiled and are stated as accurately as possible. They will be binding on Hoogduin only if Hoogduin has explicitly confirmed to be bound by them in writing.

3.2. All brochures/price lists provided and/or enclosed with the offer and all samples, drawings, models, dimensions, measurements, quantities, weights, colours, materials, material structures and/or other information provided and/or offered and/or shown with the offer, all of the foregoing as provided by Hoogduin to the Counterparty, will explicitly remain the property of Hoogduin. Use of the aforementioned information other than within the framework of the relevant contract will be permitted only with Hoogduin's prior written consent.

3.3. Sending offers and/or documentation will not oblige Hoogduin to supply or accept orders.

3.4. Hoogduin reserves the right to refuse instructions or orders without giving reasons or to offer and/or supply them (in accordance with the relevant offer) on conditions other than those set out in these Conditions.

### Article 4: Conclusion of contracts

4.1. Without prejudice to any of the provisions below, a contract with Hoogduin will be concluded only if Hoogduin has confirmed the relevant order in writing.

4.2. Any subsequent additional agreements and/or amendments and (oral) arrangements and/or commitments by Hoogduin staff or by vendors, agents, representatives or other intermediaries will be binding on Hoogduin only if Hoogduin has confirmed them in writing.

4.3. Contracts will be concluded on the suspensive condition that the Counterparty is sufficiently creditworthy - solely at Hoogduin's discretion - to perform the financial obligations ensuing from those contracts.

### Article 5: Information provided by the Counterparty

5.1. Hoogduin will assume that samples, drawings, models shown and other information provided to it by the Counterparty are correct and adequate, without Hoogduin being under any obligation to conduct any further investigation in that respect. Any inaccuracies in the information or objects provided by the Counterparty and the consequences of those inaccuracies, if any, will be exclusively at the Counterparty's risk and expense.

5.2. The Counterparty will indemnify Hoogduin against claims brought at law and otherwise by third parties contending that Hoogduin has infringed any of their trademark rights, patent rights, trade name rights, design rights, copyrights or any other rights due to its use of the information, designs, materials, products, etc. provided to it by the Counterparty. If a third party objects to Hoogduin making deliveries to the Counterparty, without prejudice to the foregoing Hoogduin will be entitled at any rate not to make the delivery and/or to discontinue the delivery with immediate effect and to claim compensation for the costs incurred and damages from the Counterparty, without being under any obligation to pay damages to the Counterparty.

### Article 6: Prices

6.1. All quoted prices will be denominated in euros excluding VAT and excluding other levies and/or surcharges payable or to be imposed in accordance with the law.

6.2. Hoogduin will be entitled to change the agreed price at any time if it is required or authorised to do so pursuant to statutory provisions and/or the provisions of these Conditions, including with respect to import duties, turnover tax, pay increases, etc.

6.3. All prices will be exclusive of costs of transport and/or shipment, unless agreed otherwise in writing.

### Article 7: Amendments to these Conditions and price changes

7.1. All orders will be governed by these Conditions as applicable on the date of the order confirmation. Hoogduin reserves the right to amend these Conditions.

7.2. The Counterparty may not cancel orders on account of price increases due to an increase in the prices of raw materials.

7.3. All orders will be subject to the prices as applicable on the date of the order confirmation. Hoogduin reserves the right to change the prices to reflect an increase in the prices of raw materials and/or price increases passed on to it by third parties.

### Article 8: Delivery and delivery period

8.1. Unless agreed otherwise in writing, all goods will be delivered ex works/warehouse of the Manufacturer/supplier. The time of delivery will be the time at which the goods leave the works/warehouse of the Manufacturer/supplier, whereupon the risk of the goods passes to the Counterparty. The Manufacturer's/supplier's records will constitute complete and adequate proof of delivery of the goods.

8.2. If it has been agreed in writing that the delivery will take place at the place of destination, Hoogduin will determine the shipment and/or transport method. The costs of shipment/transport will be at the Counterparty's expense. Additional costs for fast freight service, express or partial delivery, if any, will also be for the Counterparty's expense, unless agreed otherwise in writing.

8.3. Special packaging at the Counterparty's instructions and boxes, crates and pallets will be charged to the Counterparty. Hoogduin reserves the right to deliver goods in packaging on loan. In that event, the Counterparty shall collect the packaging and manage it with due care. Hoogduin undertakes to take back packaging on loan, on condition that the quantity of empty packaging to be taken back meets a standard set in advance by Hoogduin. In the event of loss and/or damage, Hoogduin will be entitled to charge the lost and/or damaged packaging on loan. If the goods are not delivered in packaging on loan, the Counterparty shall arrange for removal and/or processing of the packaging.

8.4. The Counterparty shall inspect the delivered goods and/or the packaging immediately upon delivery for any shortages and damage. Claims, if any, shall be submitted to Hoogduin in writing within 8 (eight) days of delivery and must be received by Hoogduin within the aforesaid term, failing which claims in that respect will no longer be accepted by Hoogduin.

8.5. Hoogduin will be entitled to deliver goods in consignments (partial deliveries), which may be invoiced separately. In that event, the Counterparty shall make payment in accordance with the provisions of Article 16 of these Conditions.

8.6. Hoogduin does not intend time to be of the essence with respect to the delivery periods stated in offers, orders, further contracts or further commitments, unless agreed otherwise in writing. Late delivery by Hoogduin will never constitute breach of contract on its part.

8.7. Hoogduin shall observe delivery times to the extent possible but will never be liable for the consequences of exceeding delivery times. If Hoogduin exceeds a delivery time, it will not be obliged to pay any compensation or damages whatsoever. If a delivery time is exceeded, the Counterparty will not be entitled to cancel the contract or refuse to take delivery. If a delivery time is exceeded excessively, Hoogduin and the Counterparty will hold consultations.

8.8. If the Counterparty does not take delivery of goods within the delivery period or fails to observe the agreed standby period, Hoogduin will be entitled to invoice the goods and store them fully at the Counterparty's risk and expense. The storage costs will amount to at least EUR 5 (five) a day for each EUR 500 (five hundred) in invoice amount or a portion thereof.

8.9. With respect to large orders (exceeding EUR 25,000), Hoogduin will be entitled to ask the Counterparty for an advance payment of EUR 10,000, which in that event shall be paid to Hoogduin by the Counterparty immediately. In the context of this Article, orders placed within a period of 2 (two) weeks will be regarded as one order.

### Article 9: Risk during transport

The risk of the goods governed by the contract and these Conditions will pass - in accordance with the provisions of Article 8.1 of these Conditions - at the time of delivery ex works/warehouse of the Manufacturer/supplier. Consequently, the risk will be carried by the Counterparty as from that time. The Manufacturer's records will constitute complete and adequate proof. Loss, breakage, theft or other damage during transport will not be at Hoogduin's risk and will therefore not be compensated by Hoogduin.

### Article 10: Ordered quantities

Deviations up to 10% (ten percent) from the ordered quantity are permissible, unless expressly agreed otherwise in writing. The Counterparty shall take delivery of any surplus and accept any deficit.

### Article 11: Intellectual property rights and ownership rights

11.1. Unless agreed otherwise in writing, all intellectual property rights ensuing from the order - including patent rights, design rights and copyrights - will be vested in Hoogduin. Insofar as such rights can be acquired only by means of an application for registration or registration, Hoogduin will be exclusively authorised to file the application for registration.

11.2. Mould costs charged to the Counterparty comprise the costs of manufacturing moulds and equipment necessary for a proper performance of the contract. The aforesaid moulds and equipment will at all times remain the property of Hoogduin.

## Article 12: Warranty

**12.1.** Without prejudice to the provisions of Article 12.2 and with due observance of the other provisions of these Conditions and without detracting from these Conditions, Hoogduin warrants vis-à-vis the Counterparty the sound condition of the delivered goods. The warranty also covers compliance with the specification and/or directions for use, if shipped with the goods.

**12.2.** The warranty of soundness set out in Article 12.1 above will not apply if:

- a. the Counterparty is in default vis-à-vis Hoogduin;
- b. there are minor variations in quality, measurements, pattern, weight, dimensions, material or material structure that are customary in the business and/or technically unavoidable;
- c. the delivered goods have been exposed to abnormal circumstances, e.g. external force, overloading or other causes beyond Hoogduin's control;
- d. the unsoundness was caused by poor maintenance and/or storage on the part of the Counterparty or normal wear and tear;
- e. the goods delivered by Hoogduin have been repaired and/or processed by the Counterparty or third parties;
- f. the term for submitting claims as set out in Article 13 of these Conditions has been exceeded; and/or
- g. the instructions set out in the specification or directions for use of the relevant goods have not been observed.

## Article 13: Claims

**13.1.** Claims with respect to visible defects shall be submitted to Hoogduin in writing within 8 (eight) days of delivery and must be received by Hoogduin within the aforesaid term. After the expiry of the aforesaid term, the Counterparty will be deemed to approve the delivered goods and accept the invoices. If that is the case, Hoogduin will no longer accept any claims.

**13.2.** The Counterparty will never be entitled to return goods, unless Hoogduin has explicitly granted its prior permission for return shipments. If the Counterparty nevertheless returns goods contrary to the foregoing, the goods will be refused by Hoogduin or, if not refused, be kept at the Counterparty's disposal at the Counterparty's risk and expense, without creating any acknowledgement of the correctness of any claim submitted by the Counterparty, including claims under the warranty.

**13.3.** If the delivered goods show defects in the material or manufacturing defects, Hoogduin shall arrange for replacement or compensation, at the Counterparty's discretion, without being under any further obligation or liability to pay damages. Claims will in no event create a right to dissolve the contract. In addition, the right to submit claims will not automatically create a right to new deliveries or suspension.

## Article 14: Liability

**14.1.** In the event of late, incorrect or faulty delivery or defects in the delivered goods and/or packaging, Hoogduin will not be liable in any way for the ensuing damage, except insofar as such damage is caused by an intentional act or omission or wilful recklessness on the part of Hoogduin or its manager or managers. The limitation of Hoogduin's liability set out in this Article will also cover Hoogduin's employees and agents and/or Manufacturers engaged by Hoogduin.

**14.2.** Hoogduin's contractual and non-contractual liability for all goods delivered by it will be limited to the amount that can be recovered from the Manufacturer on account of breach of contract. If and insofar as no recovery is possible from the relevant Manufacturer for whatever reason, Hoogduin's liability will be limited to the amount that Hoogduin has charged to the relevant Counterparty for the faulty goods in question. Hoogduin will not be liable for any indirect or consequential damage incurred by the Counterparty, customers of Hoogduin and/or other third parties, including without limitation trading losses, losses due to delays, lost profits or lost turnover.

**14.3.** If and insofar as Articles 14.1 and 14.2 do not apply in a certain case and, consequently, Hoogduin may nevertheless be liable for any other reason or on any other ground for damage incurred or to be incurred by the Counterparty or third parties, Hoogduin's total liability will in no event exceed EUR 10,000.

**14.4.** Claims submitted by the Counterparty or third parties on the basis of which Hoogduin can be held liable for damage incurred or to be incurred by the relevant Counterparty or third parties, also including any product liability on the part of Hoogduin, will at any rate be barred after a period of 3 (three) years commencing on the day following the day on which the aggrieved party became aware or should have become aware of the damage, the defect and the identity of the manufacturer.

## Article 15: Indemnity

The Counterparty will indemnify Hoogduin against any and all claims brought by third parties with respect to goods and/or packaging supplied to it by Hoogduin as a result of which those third parties may have incurred or may incur damage, regardless of the cause of the damage or the time at which it occurred.

## Article 16: Payment

**16.1.** All invoices shall be paid within 14 (fourteen) days of the invoice date without reduction or set-off, unless agreed otherwise in writing.

**16.2.** If the Counterparty fails to make payment within 14 (fourteen) days of the invoice date, it will be in default by operation of law without any further notice of default being required and will owe default interest on the outstanding amount of 1% (one percent) per month or portion of a month, to be calculated from the 15th day after the invoice date.

**16.3.** The extrajudicial costs of collecting invoices not paid or partially paid will be at the Counterparty's expense. They will be calculated in conformity with the collection rates recommended by the Netherlands Bar Association [Nederlandse Orde van Advocaten], with a minimum of EUR 250 per invoice.

**16.4.** Payments made by the Counterparty will first be applied to settle all interest payable and costs and subsequently those due and payable invoices that have been outstanding for the longest period, even though the Counterparty has stated that the payment relates to subsequent invoices or has stated that it should receive a reduction. It will be impossible for the Counterparty to invoke compensation of or set-off against Hoogduin's invoices.

**16.5.** Hoogduin reserves the rights to send COO and will be entitled to charge the additional costs of doing so to the Counterparty. In that event, Hoogduin also reserves the right to claim payment of any outstanding invoices upon the delivery COO.

## Article 17: Consequences of improper performance by the Counterparty

Without prejudice to the provisions of Article 16 of these Conditions, in the event that the Counterparty is in default Hoogduin can invoke all legal consequences attached thereto under applicable law and all Hoogduin's claims against the Counterparty will become fully due and payable immediately. The Counterparty will be deemed to be in default if it fails to perform any obligation ensuing from these Conditions and/or the relevant contract or fails to do so properly or on time and if it goes or threatens to go bankrupt, is granted a suspension of payments, closes down its business or winds up its company.

## Article 18: Force majeure

**18.1.** 'Force majeure' includes in any event circumstances beyond the control of the parties (Hoogduin and the Counterparty) and/or unforeseeable circumstances as a consequence of which Hoogduin can no longer be required in reasonableness to perform the contract.

**18.2.** Situations of force majeure include in any event industrial action and excessive sickness absence among staff, transport difficulties, fire, government measures, including in any event import and export bans, quota systems and operational breakdowns at Hoogduin and/or the Manufacturer and/or other suppliers of Hoogduin, and failures of the Manufacturer and/or other suppliers of Hoogduin due to which Hoogduin cannot or can no longer fulfil its obligations vis-à-vis the Counterparty. In the event of force majeure, the Counterparty will not be entitled to damages.

**18.3.** In the event of force majeure, Hoogduin will be entitled to suspend the performance of the relevant contract or to dissolve the relevant contract definitively. Hoogduin will hold consultations with the Counterparty to that end.

**18.4.** Hoogduin will be entitled to demand payment of the performances delivered in the execution of the relevant contract before the situation of force majeure first occurred.

**18.5.** Hoogduin will also be entitled to invoke force majeure if the circumstances giving rise to force majeure occur after its performance should have been delivered.

## Article 19: Retention of title

**19.1.** Hoogduin will retain ownership of all goods supplied to the Counterparty by it and/or on its behalf until the purchase price of the goods, increased by costs, if any, has been paid in full, with due observance of the provisions of Article 16 of these Conditions.

**19.2.** If Hoogduin performs work for the Counterparty within the framework of the contract that is payable by the Counterparty, the retained ownership will apply until the Counterparty has fulfilled all its obligations vis-à-vis Hoogduin.

**19.3.** The Counterparty shall insure the goods against damage caused by fire, water and explosions and against theft for the duration of the retained ownership and shall submit the relevant insurance policies to Hoogduin for inspection at the latter's first request.

**19.4.** In the event of credit sale to the Counterparty, the Counterparty shall stipulate with its customers a retention of title identical to the one set out in this Article as long as the ownership of the delivered goods has not yet passed to the Counterparty, on pain of a penalty payable to Hoogduin of EUR 25,000 for each delivery or partial delivery, without prejudice to Hoogduin's right to claim full damages instead of that penalty.

**19.5.** Hoogduin will at all times have access to the goods delivered subject to retention of title insofar as the Counterparty is in a position to provide Hoogduin access.

**19.6.** If the Counterparty fails to fulfil its payment obligation or obligations vis-à-vis Hoogduin or if Hoogduin has good grounds for fearing that the Counterparty will fail to fulfil that obligation or those obligations, Hoogduin will be entitled to take possession of the goods delivered subject to retention of title temporarily or permanently, at its discretion, at the Counterparty's expense. In the event that this situation arises, the Counterparty hereby authorises Hoogduin to enter the site and/or premises where the goods are located in order to take possession of those goods.

## Article 20: Bank guarantee or letter of credit

If the Counterparty fails to fulfil its payment obligation or obligations vis-à-vis Hoogduin or if Hoogduin has good grounds for fearing that the Counterparty will fail to fulfil that obligation or those obligations, the Counterparty shall immediately issue or cause the issue to Hoogduin of a bank guarantee and/or letter of credit at Hoogduin's first request as security for the fulfilment of its payment obligation or obligations vis-à-vis Hoogduin.

## Article 21: Application of these Conditions by analogy

These Conditions will also apply to deliveries made by Hoogduin at the request of third parties. Hoogduin reserves the right not to make those deliveries until the third party in question has signed for approval.

## Article 22: Familiarity clause

These Conditions will also apply to all future offers, supplies, services (and any combination thereof) and contracts; consequently, the Counterparty cannot invoke unfamiliarity with these Conditions in the context of future contracts in which Hoogduin has not included an explicit reference to these Conditions.

## Article 23: Applicable law

**23.1.** All contracts concluded under these Conditions will be governed exclusively by Dutch law.

**23.2.** The Dutch text of these Conditions will be binding and will prevail over any translations thereof.

## Article 24: Competent court

All disputes in respect of which a choice of forum is permitted will be submitted exclusively to the competent court in Utrecht, the Netherlands.

Baarn, 10 July 2006

These Conditions have been filed with the Chamber of Commerce and Industry for Gooi- en Eemland in Amersfoort, the Netherlands, under number 31036751.

\* \* \* \* \*