

## **GENERAL (SALES) CONDITIONS**

of:  
**HD packaging B.V.**, with its registered office in Baarn in Hermesweg 18.  
Registered with the Chamber of Commerce under number 31036751.

### **Article 1: Definitions**

#### **1.1. These Conditions:**

The HD packaging B.V. General Terms and Conditions of Sale

#### **1.2. HD packaging:**

The private company "HD packaging B.V."

#### **1.3. Other Party:**

Any (legal) person who has concluded one or more agreements with HD packaging, respectively wishes to conclude an agreement and in addition to it, its agent(s), representative(s), legal successor(s) and/or heir(s).

#### **1.4. Manufacturer:**

Any (legal) person who has concluded one or more agreements with HD packaging on the delivery of goods to HD packaging for third parties (including the Other Party).

#### **1.5. Prices:**

All prices mentioned in these conditions are in euros excluding VAT, unless the prices expressly mentioned they include sales tax.

### **Article 2: General**

**2.1.** These terms and conditions apply to all HD packaging's offers, deliveries and services (or a combination thereof) and all agreements concluded by HD packaging in the broadest sense of the word. Any derogation shall only form part of a contract if this derogation was expressly agreed with HD packaging.

**2.2.** If any provision of these terms should be void, entirely or in part, destroyed or otherwise appears to be invalid, this shall not affect the validity of the remaining provisions of these terms. The provisions that are not legally binding or cannot be applied by law, will be replaced by provisions that most closely match the intent of the provisions to be replaced, on which the parties shall enter into mutual consultation.

**2.3.** The applicability of its own or other terms and conditions applied by the other party is expressly excluded unless otherwise expressly agreed in writing. In case the Other Party refers to its own terms and conditions and declare the conditions applicable, then the parties agree that HD packaging shall not be bound by the Other Party's terms through the acceptance of these HD packaging terms.

### **Article 3: Special offers**

**3.1.** All price lists, brochures and other information supplied with the special offer, were composed/specified as accurate as possible. These are only binding for HD packaging if expressly confirmed in writing by HD packaging.

**3.2.** All brochures/price lists provided and/or sent with the offer and all accompanying provided and/or offered and/or featured samples, drawings, models, sizes, dimensions, quantities, weights, colours, materials, material structures and/or other data, provided by HD packaging to the Other Party, expressly remain the property of HD packaging. The use of the aforementioned data, other than in the context of the relevant agreement, shall only be permitted with HD packaging's written consent.

**3.3.** Sending of special offers and/or documentation doesn't oblige HD packaging to supply or accept the order.

**3.4.** HD packaging reserves the right to refuse orders or assignments without giving any reasons, or to supply and/or offer (accordingly) based on other conditions than mentioned in these Conditions.

### **Article 4: Establishment of agreements**

**4.1.** Subject to what is stated hereinafter, the agreement with HD packaging shall only come into effect once HD packaging has confirmed an order in writing.

**4.2.** Any additional agreements and/or changes made later as well as (verbal) agreements and/or commitments by HD packaging staff or salesmen, agents, representatives or other intermediaries, shall only be binding on HD packaging if these have been confirmed by HD packaging in writing.

**4.3.** Each agreement is entered into under the suspensive condition that the Other Party proves to be creditworthy enough – purely at the discretion of HD packaging – for the financial execution of that agreement.

**Article 5: Data provided by the Other Party**

- 5.1.** HD packaging assumes that samples, drawings, presented models and other data provided by the Other Party to HD packaging, are accurate and adequate, without HD packaging being required to conduct any further research in this area. Any irregularities in the data or matters supplied by the Other Party, as well as the consequences of any irregularities, are exclusively for the account and risk of the Other Party.
- 5.2.** The Other Party indemnifies HD packaging against claims in and out of court of any third party claiming that HD packaging violated a trademark, patent, trade name, model, copyright or any other right of such third party, as a result of use by HD packaging of data, designs, materials, products, etc. supplied by the Other Party to HD packaging. If a third party object to the supply by HD packaging to the Other Party, HD packaging, without prejudice to the foregoing, shall be entitled not to perform the delivery and/or to discontinue this immediately and to claim compensation for the costs incurred and to claim damages from the Other Party, without HD packaging being obliged to pay any compensation towards the Other Party.

**Article 6: Prices**

- 6.1.** All prices quoted are in euro excluding VAT and excluding other legally imposed levies and/or surcharges to be imposed.
- 6.2.** Changes to the agreed price to which HD packaging are entitled to or held to, under provisions laid down by law and/or pursuant to the provisions of these terms and conditions, such as in relation to import duties, sales tax, wage increases, etc. is allowed at any time.
- 6.3.** All prices are exclusive of the costs of transport and/or shipment, unless otherwise agreed in writing.

**Article 7: Changes to these Conditions and/or prices**

- 7.1.** These conditions are in force in all contracts, supplies, services and/or agreements, as in force on the day of the order confirmation. HD packaging reserves the right to change these Terms and Conditions.
- 7.2.** A rise in prices as a result of a rise in raw material prices shall never serve as a reason for cancellation of the contract or agreement by the Other Party.
- 7.3.** The prices that apply with all contracts, supplies and/or agreements are those in force on the day of the order confirmation. HD packaging reserves the right to change prices if it is the result of a rise in raw material prices and/or price rises charged by third parties to HD packaging.

**Article 8: Delivery and delivery time**

- 8.1.** Unless agreed otherwise in writing, the delivery of all goods shall be ex business/warehouse of the Manufacturer/supplier. The time of delivery is the time when the goods leave the business/warehouse of the Manufacturer/supplier, after which the risk of the goods become that of the Other Party. The administration of the Manufacturer/supplier shall be considered complete and conclusive proof that delivery of the goods has taken place.
- 8.2.** If it was agreed in writing that delivery shall be made at the place of destination, the method of dispatch and/or transport shall be determined by HD packaging. The costs of postage/transport are borne by the Other Party. Any additional charges for speed orders, express or partial deliveries are also borne by the Other Party, unless otherwise agreed in writing.
- 8.3.** Special packaging(s) on the Other Party's orders, as well as boxes, crates and pallets are charged to the other party. HD packaging reserves the right to deliver the goods in loan (packaging). The Other Party shall in that case have the obligation to collect this loan packaging and manage this as a good custodian. HD packaging is committed to take back this loan packaging, on condition that the amount of empty packaging to be returned must comply with a standard to be determined in advance by HD packaging. If packaging is lost and/or damaged, HD packaging has the right to charge for the lost and/or damaged loan packaging. If the delivery is not done in loan packaging, the Other Party shall arrange for removal and/or processing of the packaging.
- 8.4.** The other party is obliged to immediately check the delivered goods and/or the packaging upon delivery on possible deficiencies and damage. Any claims must be submitted to HD packaging in writing within 8 (eight) days after delivery, to be received by HD packaging within the said period, failing which the relevant claims will no longer be processed by HD packaging.
- 8.5.** HD packaging shall be entitled to deliver the goods in parts (partial deliveries), which may be invoiced separately. The Other Party is then obliged to pay in accordance with the provisions of article 16 of these Terms and Conditions.

- 8.6.** The delivery terms issued by HD packaging with the offer, order, further agreement or further commitment are not fixed and final, unless expressly agreed otherwise in writing. Late delivery by HD packaging shall never lead to default by HD packaging.
- 8.7.** HD packaging is required to observe the delivery time as much as possible, yet will never be liable for the consequences if this is exceeded. HD packaging shall not be obliged to (damage) compensation of any kind in case of exception. Exception does not give the Other Party the right to cancel the agreement or to refuse collection. In case of any excessive delay, HD packaging and the Other Party will consult with each other.
- 8.8.** When the goods are not purchased within the delivery period or the agreed call-out time has not been respected by the Other Party, HD packaging shall be entitled to invoice the goods in question while the goods will be stored fully accountable to and at the risk of the Other Party. The cost of storage for each € 500.00 (five hundred) amounts to an invoice value or part thereof, of at least € 5.00 (five) per day.
- 8.9.** In case of large orders (exceeding € 25,000.00) HD packaging is entitled to ask for a deposit from the Other Party of € 10,000.00, which deposit should in that case be paid immediately by the Other Party to HD packaging. Orders that are placed within a period of 2 (two) weeks shall in the context of this article be considered as one order.

#### **Article 9: Risk during transport**

Transfer of risk of the goods that are covered by the agreement and these Conditions - in accordance with the provisions of article 8.1 of these Conditions – shall take place at the time of delivery ex company/warehouse of the Manufacturer/supplier. From that moment on, the risk is therefore that of the Other Party. The administration of the Manufacturer is considered complete and conclusive proof. Loss, breakage, theft or other damage during transport are not at the risk of HD packaging and are therefore not reimbursed by HD packaging.

#### **Article 10: Quantities ordered**

Deviations up to 10% (ten percent) of the ordered quantity are permissible unless expressly agreed otherwise in writing. The Other Party is obliged to accept the excess and to settle with less.

#### **Article 11: Intellectual property rights and property rights.**

- 11.1.** Unless otherwise agreed in writing, all intellectual property rights arising from the order – including patent law, model rights and copyright – belong to HD packaging. To the extent that such a right can only be obtained by filing or registration, only HD packaging shall be authorized to do so. If necessary, the Other Party shall grant its full cooperation in this context.
- 11.2.** Mould costs charged to the Other Party are the costs for the manufacture of moulds and tools required for the proper execution of the agreement. These moulds and tools remain property of HD packaging at all times. If a mould is not used by the Other Party for 15 months, HD packaging shall be allowed to use the mould for the benefit of other customers.

#### **Article 12: Guarantee**

- 12.1.** HD packaging guarantees the quality of the delivered goods to the Other Party, except as provided for in paragraph 2 of this article and subject to the other provisions of these Terms and Conditions and without prejudice to these Terms and Conditions. This also includes meeting the specifications and/or instructions for use, if it was included.
- 12.2.** The quality guarantee referred to in paragraph 1 of this article shall not apply if:
- The Other Party is in default towards HD packaging;
  - There is a minor customary and/or technically unavoidable deviation in quality, size, design, weight, dimensions, material or material structure;
  - The delivered goods were exposed to abnormal conditions, such as, for example, external violence, overload or other causes beyond HD packaging's control;
  - The inferiority is the result of poor maintenance and/or storage by the Other Party or natural wear and tear;
  - The Other Party itself or third parties carried out repairs and/or modifications on/to the goods supplied by HD packaging;
  - The deadline for complaints, as referred to in article 13 of these Terms and Conditions, has been exceeded;
  - Failure to comply with the requirements included in the specification or instructions for use of the goods in question.

#### **Article 13: Complaints**

- 13.1.** Complaints concerning visible defects must be reported to HD packaging in writing within 8 (eight) days after delivery and must have been received by HD packaging within the said period. After the expiry of this deadline,

the Other Party shall be deemed to have approved and accepted the delivery, respectively the invoices. In that case, complaints shall no longer be considered by HD packaging.

- 13.2.** The Other party shall never have the right to return the goods, unless HD packaging has expressly agreed to this, in writing, in advance. If the Other Party nevertheless return the goods, contrary to the previous stipulation, these goods, in so far as they have not been rejected by HD packaging, shall be kept at the disposal of the Other Party accountable to and at the risk of the Other Party, without deriving any recognition of the correctness of any claim by the Other Party, including any warranty claim.
- 13.3.** If the delivered goods show material or workmanship faults, HD packaging will, depending on the Other Party's choice, take care of replacement or compensation without being held to any further obligation or compensation. In no event shall a complaint give rise to dissolution of the contract. The right to complain also doesn't give any automatic right to a new delivery and/or cancellation.

#### **Article 14: Liability**

- 14.1.** HD packaging is, in case of late, incorrect or unacceptable delivery or defects of or to the delivered goods and/or packaging, in no way liable for the resulting damage, except to the extent that it involves gross negligence or wilful misconduct on the side of HD packaging or its manager(s). The planned limitation of HD packaging's liability also extends to HD packaging's employees and the assistants and/or manufacturers appointed by HD packaging.
- 14.2.** For all goods supplied by HD packaging, HD packaging's contractual and non-contractual liability shall be limited to an amount that may be recovered from the Manufacturer in the context of an attributable shortcoming. If and to the extent that no recovery on the Manufacturer is possible, for whatever reason, HD packaging's liability shall be limited to at most the amount that HD packaging charged the Other Party for these faulty goods. HD packaging shall not be liable for the indirect or consequential damages suffered by the Other Party, customers of HD packaging and/or other third parties, including, but not limited to, commercial losses, losses due to delays, lost profits or lost revenue.
- 14.3.** If and to the extent that the previous paragraphs of this article were excluded in the specific case and HD packaging may therefore, for other reasons or grounds, be liable for losses suffered and/or to be suffered by the Other Party or third parties, HD packaging shall at all times, at most, be liable up to an amount of € 10,000.00 in total.
- 14.4.** In any event, any claim by the Other Party or third parties on the basis of which HD packaging can be held liable for the Other Party or third parties and/or still to be suffered damage, including a possible product liability of HD packaging, shall become statute-barred after 3 (three) years have elapsed, counted from the day following that on which the injured party became aware of or should have become aware of the damage, the defect and the identity of the manufacturer.

#### **Article 15: Indemnification**

The Other Party indemnifies HD packaging against all claims by third parties in respect of goods and/or packaging supplied to the Other Party by HD packaging, whereby the third parties have suffered or may still suffer damage, regardless of the cause or time of the occurrence.

#### **Article 16: Payment, (collection) costs and interest**

- 16.1.** All invoices must be paid within 14 (fourteen) days from the invoice date, without discount or set-off, unless expressly agreed otherwise in writing.
- 16.2.** If the Other Party, being a commercially active (legal) entity, doesn't pay within 14 (fourteen) days after the invoice date, the Other Party shall be in default by law, without further notice of default being required, and the statutory commercial interest on the outstanding amount established in accordance with article 6:119a of the Dutch Civil Code shall become payable from the 15<sup>th</sup> day after the invoice date.
- 16.3.** In the event of an agreement/contract with/by a consumer, HD packaging will send a reminder/notice of default with default payment and allow the client 14 days to still pay the amount due, with the notice that collection costs will become due after that.  
In the event of an agreement/contract with/by a consumer, he shall owe the statutory interest rate in accordance with article 6:119 Civil Code on the outstanding amount, payable from the 15<sup>th</sup> day after the invoice date.
- 16.4.** The extrajudicial costs, linked to the collection of an unpaid (or incompletely) paid invoice shall be borne by the Other Party. This amounts to 10% of the principal amount, with a minimum of € 40.00, unless the law prescribes a lower percentage/amount, in which case these costs will be calculated in accordance with the law.



- 16.5.** Payments made by the Other Party shall first be used for settlement of all interest and costs and then be deducted from payable invoices which have been outstanding the longest, even if the Other Party states that payment relates to a later invoice or the Other Party insists that he should receive a discount. A request for compensation or set-off by the Other Party of or with the invoices of HD packaging is excluded.
- 16.6.** HD packaging reserves the right to deliver COD and is entitled to charge the other party additional costs for delivering COD. HD packaging reserves the right in that case to also insist that the unpaid invoices be paid with this COD delivery.

#### **Article 17: Consequences of failure of the Other Party**

Without prejudice to the provisions of article 16 of these Terms and Conditions, HD packaging can, in case of default by the Other Party, invoke all the applicable legal consequences and all of HD packaging's claims on the Other Party shall be due and payable immediately. The Other Party shall be deemed to be in default if the Other Party doesn't, doesn't properly or doesn't comply in time with any obligation arising from these Terms and Conditions and/or the agreement, as well as in case of (imminent) bankruptcy, suspension of payment, shut-down or liquidation of its business.

#### **Article 18: Force majeure**

- 18.1.** "Force majeure" in any case means: any circumstance unforeseeable and/or not under the control of the parties (HD packaging and the Other Party), ensuring HD packaging can no longer reasonably be expected to carry out the performance of the contract.
- 18.2.** Under force majeure situations is in any case understood: strikes and excessive absenteeism of staff, transportation difficulties, fire, Government measures, including at least import and export prohibitions, quotas and commercial disruptions at HD packaging and/or the Manufacturer and/or other suppliers of HD packaging, as well as shortcomings of the Manufacturer and/or other suppliers of HD packaging, as a result of which HD packaging cannot fulfil its obligations to the Other Party (any more). In the event of a force majeure situation, the Other Party has no right to compensation.
- 18.3.** Should a situation of force majeure arise, HD packaging shall be entitled to suspend the execution of the agreement, or permanently dissolve the relevant agreement. The Other Party will be consulted to this end.

#### **HD packaging shall be entitled to demand payment for the performance already done in the implementation of the relevant agreement, prior to the occurrence of the force majeure causing circumstances.**

- 18.5.** HD packaging shall also be entitled to invoke force majeure if the circumstance which led to the force majeure, occurs after its performance should have been rendered.

#### **Article 19: Retention of ownership**

- 19.1.** All packaging supplied to the Other Party by and/or on behalf of HD packaging and/or goods made available remain the property of HD packaging until the purchase price thereof, as well as any costs, have been paid in full, this in accordance with the provisions of article 16 of these Terms and Conditions.
- 19.2.** If HD packaging carries out activities under the agreement for the benefit of the Other Party, to be compensated by the Other Party, the retention of ownership applies until the Other Party has fulfilled all its obligations to HD packaging.
- 19.3.** The Other Party shall insure the goods against fire, water and explosion damages as well as theft for the duration of the retained ownership and make the policies available for inspection upon HD packaging's first demand.
- 19.4.** In the case of sale on credit to the Other Party, the Other Party shall be required to negotiate a similar reservation of title with its customers, as long as ownership of the delivered goods hasn't passed on to the Other Party, under penalty of a fine payable to HD packaging of € 25,000.00 per delivery or partial delivery and without prejudice to HD packaging's right to claim full compensation from the Other Party.
- 19.5.** HD packaging shall at all times have access to the goods delivered under retention of title, to the extent the Other Party is able to provide access to HD packaging.
- 19.6.** If the Other Party fails in the performance of its payment obligation(s) towards HD packaging or HD packaging has good reason to fear that the Other Party will fail in the fulfilment of the obligation(s), HD packaging shall be entitled to temporary or definitely take the delivered goods subject to retention of title in its possession, at the expense of the Other Party, depending on HD packaging's choice. The Other Party authorises HD packaging now

already to then access the site and/or the plot where the goods are located, in order to take possession of such goods.

**Article 20: Bank guarantee or Letter of credit**

If the Other Party fails in the performance of its payment obligation(s) towards HD packaging or HD packaging has good reason to fear that the Other party will fail in the fulfilment of the obligation(s), the Other Party shall be required, once HD packaging made its desire known, to immediately provide HD packaging with a bank guarantee and/or letter of credit as security for the performance of its payment obligation(s) towards HD packaging.

**Article 21: Corresponding application of these Terms and Conditions**

These Terms and Conditions shall also apply to supplies by HD packaging at the request of third parties. HD packaging reserves the right not to supply before the third party has signed for approval.

**Article 22: Awareness clause**

These Terms and Conditions shall also apply to all future offers, supplies, services (or a combination thereof) and agreements, therefore the Other Party cannot rely on ignorance of these Terms and Conditions with future agreements in which HD packaging do not expressly refer to these Conditions.

**Article 23: Applicable law and jurisdiction of the court**

**23.1.** Only Dutch law applies to all agreements entered into under these Terms and Conditions. The Dutch text of the Terms and Conditions are binding and shall prevail over the translation thereof.

**23.2.** Any disputes will be submitted to the competent judge of the District Court of Middle-Netherlands.

These conditions are registered with the Chamber of Commerce under number 31036751.

Baarn, September 2014

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