

## **GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF AOKE EUROPE BV**

### **Article 1 Definitions**

- 1.1 In this document, the following capitalized terms shall have the meaning set forth in this article:
- a) "**Agreement**": these General Terms and Conditions, together with the relevant quotations or order confirmations issued by or agreements entered into with AOKE;
  - b) "**AOKE**": AOKE Europe BV, a private limited liability company incorporated under the laws of the Netherlands and registered with the Commercial Register of the Chamber of Commerce under number 67271154, having its registered office at De Hanze 3, 6049 HZ Herten, the Netherlands;
  - c) "**Client**": any natural or legal person entering into an Agreement with AOKE;
  - d) "**General Terms and Conditions**": these general terms and conditions of sale and delivery of AOKE;
  - e) "**Goods**": the products, materials, spare parts, designs, tools, equipment, licences and all related documentation offered and supplied by AOKE;
  - f) "**Services**": the services and all related or resultant products, services and results to be delivered by AOKE.

### **Article 2 Applicability**

- 2.1 These General Terms and Conditions apply to all offers made by AOKE to the Client and/or Agreements entered into between AOKE and the Client, as well as the implementation thereof.
- 2.2 These General Terms and Conditions apply to the exclusion of any general (purchasing) conditions used by the Client. Deviating conditions or provisions are applicable only if and insofar as they have been separately and expressly agreed on in writing by AOKE and the Client.
- 2.3 Unless otherwise agreed in writing, a Client with whom an Agreement, to which these General Terms and Conditions apply, has been concluded, shall agree to the application of these General Terms and Conditions to all further Agreements.
- 2.4 AOKE shall at all times have the right to mend these General Terms and Conditions. The new general terms and conditions will take effect immediately from the time that the Client has been notified of these new general terms and conditions. From the time of notification, the new general terms and conditions will also apply to existing Agreements between AOKE and the Client.

### **Article 3 Offers, orders and Agreements**

- 3.1 All offers from AOKE shall be non-binding. Orders and the acceptance of offers by the Client shall be irrevocable.
- 3.2 AOKE shall only be bound if it has confirmed the order in writing, or has started its implementation.
- 3.3 Inaccuracies in the order confirmation from AOKE must be notified in writing to AOKE within two (2) days following the date of the order confirmation, in default of which the order confirmation shall be considered as correctly and completely reflecting the Agreement and the Client shall be bound thereby.

- 3.4 Verbal undertakings or agreements made by or with AOKE's personnel shall only be binding upon AOKE if confirmed in writing.
- 3.5 AOKE shall be entitled to engage one or more third part(y)(ies) for the implementation of the Agreement, at its sole discretion.
- 3.6 These General Terms and Conditions shall apply in full to any amendments to the Agreement.

#### **Article 4 Data**

- 4.1 The Client warrants the accuracy, completeness and reliability of the data and information provided to AOKE by the Client or on the Client's behalf. AOKE is not required to examine the accuracy, completeness or reliability of the data and information provided by the Client.
- 4.2 AOKE shall not be required to (further) implement the Agreement until the Client has issued all data and information requested by AOKE.
- 4.3 In the event that AOKE suffers direct or indirect damages as a result of the failure of the Client to provide the data and information in a timely manner and/or in accurate, complete and reliable form, the Client shall be required to fully compensate AOKE for such damages.
- 4.4 AOKE shall have the right to exercise its right of retention in relation to all data and information provided by the Client, until the Client has paid all of AOKE's due and payable claims in full.

#### **Article 5 Conformity**

- 5.1 All statements from AOKE concerning quantities, quality, performance and/or other property with regard to the Goods and Services are issued with the greatest possible care. However, AOKE cannot guarantee that no deviations will occur in that respect. These statements shall therefore apply by approximation and are non-binding. Upon taking receipt of the Goods or delivery of the Services, the Client is required to check conformity with the quantities, quality, performance and/or other characteristics stated by or agreed with AOKE.
- 5.2 AOKE shall not be bound by illustrations, descriptions, catalogues, brochures, advertising materials, price lists and information and offers appearing on the website.
- 5.3 Minor deviations in terms of colour, purity and quality shall under no circumstances give any ground for complaints, refusal to accept the delivery, dissolution of the Agreement or delays in payment of the price.
- 5.4 All technical requirements imposed by the Client in respect of the Goods to be delivered that deviate from the standard requirements, should be expressly stated by the Client upon the conclusion of the Agreement.
- 5.5 If a model, sample and/or example is displayed or issued by AOKE, this shall be considered as only having been displayed or issued by way of indication. The properties of the Goods to be delivered may deviate from the sample, model and/or example, unless AOKE has expressly stated that delivery will be made in conformity with the model, sample and/or example displayed or issued.
- 5.6 The Client is required to carefully examine all models, samples and/or examples provided by AOKE, whether or not upon the Client's request, for errors and defects and to return said models, samples and/or examples to AOKE either corrected with due urgency, or approved.
- 5.7 Models, samples and/or examples approved by the Client shall be binding for the implementation of the Agreement and shall serve as confirmation that previous work carried out on models, samples or examples was undertaken soundly and in the correct manner. Goods

delivered and work undertaken in conformity with the approved models, samples and/or examples shall therefore not give any ground for complaints.

- 5.8 The Client must confirm that the Goods and/or Services ordered or to be ordered by the Client satisfy all government regulations imposed thereon in the country of destination, and are generally suitable for the use intended by the Client. The use of the Goods and Services and compliance with government provisions shall be at the Client's risk.
- 5.9 The Client guarantees that the Goods and Services delivered by AOKE shall only be used for the purposes for which the Goods were intended, with due observance of and in accordance with the legislation and regulations applicable to the Client and its activities.
- 5.10 AOKE complies with all applicable EU, US, UN and national export control regulations prohibiting sale of certain goods and services to certain countries, individual companies and/or persons. Complying with these export control regulations can never cause default on the part of AOKE.
- 5.11 In the event the Client resells Goods and/or Services in any way to third parties, the Client is required to strictly comply with all export control regulations referred to in Article 5.10.

#### **Article 6 Prices**

- 6.1 Unless otherwise agreed in writing, the prices specified by AOKE or agreed with AOKE are Ex Works (Incoterms 2020) and excluding VAT and other government-imposed charges, but including packaging costs.
- 6.2 If AOKE accepts additional Services without a price having been specifically laid down in the Agreement for those Services, AOKE shall be entitled to charge a reasonable fee for those Services.
- 6.3 If, following the offer and/or the conclusion of an Agreement, factors which determine the cost price, including tax, duties, import charges, exchange rates, wages, prices of goods and/or services which may or may not be obtained by AOKE from third parties, change, AOKE shall be entitled to duly adjust the prices.
- 6.4 If, following the offer and/or the conclusion of an Agreement, exchange rate changes take place as a result of which the agreed prices in euros are higher, AOKE shall be entitled to charge this price increase to the Client.
- 6.5 If an order must be implemented in accordance with a design, drawing or other instructions from the Client, AOKE shall be entitled to charge a separate price to the Client for this Service.

#### **Article 7 Advice**

- 7.1 AOKE shall, to the best of its ability, strive to achieve the intended result with its advice and other information provision (including but not limited to calculations and drawings), but shall offer no guarantee whatsoever in that respect. All advice issued and other information provided by AOKE is therefore non-binding and shall only be issued by AOKE as non-binding information.
- 7.2 The advice issued and other information by AOKE is intended exclusively for the Client. Third parties may derive no rights from that advice or information.
- 7.3 Without prior written permission from AOKE, the Client is not permitted to make the content of advice and other information provided by AOKE public, or in any other way make it available to third parties.

## **Article 8 Delivery times and delivery**

- 8.1 The delivery times specified by and agreed with AOKE are approximate and shall not be considered as strict deadlines. AOKE shall not be obligated to pay any compensation as a result of the exceeding of any delivery period, nor shall the Client be entitled to suspend any obligations resulting from the Agreement.
- 8.2 The delivery time is based on the working conditions applicable at the moment of conclusion of the Agreement, and on the timely delivery of good and/or services obtained by AOKE from third parties. If, as a result of a change in working conditions and/or the late delivery of goods and/or services by third parties, a delay occurs, the delivery time shall be extended accordingly.
- 8.3 The delivery time will be extended by the duration of the delay occurring on the part of AOKE as a result of non-compliance by the Client with any obligation arising from the Agreement or cooperation demanded of the Client with regard to the implementation of the Agreement.
- 8.4 Delivery of the Goods takes place Ex Works (Incoterms 2020), but AOKE shall determine the manner in which and by whom transport will be carried out. If, at the request of the Client, AOKE organizes the transport of the Goods to the Client or has the transport organized, AOKE shall do so at the Client's risk and expense. The transfer of risk will remain Ex Works. If AOKE organizes the transport, the Client is required to take delivery of the Goods immediately following arrival at the destination.
- 8.5 If the Client fails to collect the Goods or have them collected or does not take delivery of the Goods on the agreed delivery date or within the agreed delivery period, AOKE shall be entitled to store the Goods at the Client's risk and expense, for as long as AOKE considers this desirable.
- 8.6 AOKE shall determine the manner in which the Services will be implemented and by which person(s), but will as far as possible take account of the wishes of the Client.
- 8.7 AOKE shall be entitled to implement an Agreement in parts and to demand payment for that part of the Agreement that is implemented.

## **Article 9 Force Majeure**

- 9.1 If AOKE is prevented from complying with the Agreement due to force majeure, AOKE shall be entitled to suspend implementation of the Agreement. In that case, the Client shall not be entitled to any compensation of damage, costs or interest.
- 9.2 Force majeure shall, among others, be taken to mean: extreme weather conditions, fire, flooding, accident, staff illness or strike, epidemic or pandemic and/or government measures adopted in the context thereof, business disruption, stagnation in transport, power failure, cyber terrorism or similar cyber attacks, security incidents, intentional or accidental corruption or loss of data, disrupting legal provisions, export restrictions, problems in production or transport of the Goods unforeseen by AOKE, late delivery of goods and/or services obtained by AOKE from third parties and other circumstances beyond the control of AOKE.
- 9.3 In the event of a force majeure situation, AOKE shall be entitled to terminate the non-implementable part of the Agreement by written notice. If the force majeure situation lasts longer than six (6) weeks, the Client shall also be entitled to terminate the non-implementable part of the Agreement by written notice.
- 9.4 If, at the start of the force majeure situation, AOKE has already partially fulfilled its obligations or is only able to partially fulfil its obligations, it shall be entitled to separately invoice all that which

has been delivered or the part to be delivered, and the Client shall be required to pay this invoice as if it related to a separate agreement.

#### **Article 10 Payment**

- 10.1 Unless otherwise agreed in writing, AOKE invoices delivery of the Goods and Services in advance. The invoices shall be paid within fourteen (14) days of the invoice date, in the currency specified on the invoice and exclusively in the manner indicated on the invoice.
- 10.2 AOKE shall at all times be entitled to demand full or partial advance payment and/or otherwise obtain security for payment.
- 10.3 AOKE is entitled to separately invoice partial deliveries.
- 10.4 The Client waives any right to suspension and set-off and shall require no right of retention to the Goods. AOKE is at all times entitled to set off any amounts it owes to the Client against that which the Client owes to OKE, whether or not already demandable.
- 10.5 If no timely payment is received, the Client owes to AOKE, without further notice of default being required, statutory commercial interest, calculated from the due date up to the date payment has been made in full, without prejudice to AOKE's right to demand full compensation.
- 10.6 All costs relating to the collection of payment shall be at the Client's expense. Extrajudicial collection costs shall be at least 15% of the amount to be collected, with a minimum of EUR 200.00.
- 10.7 The entire invoice amount shall be immediately and fully payable in the event of late payment of an agreed instalment on the due date, as well as if:
- a) the Client is declared bankrupt or a petition for bankruptcy is filed;
  - b) the Client is granted a provisional or provisional moratorium;
  - c) the Client is declared to be subject to the statutory debt management scheme;
  - d) the Client is wound up or terminated other than for the purposes of merger, acquisition or company reconstruction; or
  - e) any attachment is levied against the Client
- In the event that any of the above situations occurs, the Client shall be obligated to notify AOKE thereof forthwith.
- 10.8 Any payments made by the Client shall serve first to settle the costs payable, then to settle any interest payable and then to settle the longest outstanding invoices, even in the Client specifies that payment relates to a later invoice.

#### **Article 11 Reservation of ownership**

- 11.1 AOKE reserves ownership of the Goods delivered and to be delivered, until all payments relating to the Goods delivered and to be delivered, have been paid in full.
- 11.2 If the Client is in default of complying with its obligations, AOKE shall be entitled to retrieve the Goods belonging to AOKE or to have those Goods retrieved from the location where they are held, at the Client's expense.
- 11.3 The Client is not entitled to pledge or transfer ownership of the Goods not yet paid for. The Client is required to store the Goods delivered subject to retention of title with the necessary care, and recognizably as the property of AOKE.

#### **Article 12 Defect and complaints**

- 12.1 AOKE warrants the sound nature of the delivered Goods and Services in accordance with the reasonable expectations of the Client on the basis of the Agreement. If defects occur in the Goods or Services delivered by AOKE, AOKE shall repair these defects (or have them repaired), offer a reasonable price reduction or redeliver the Good or Service in question, all entirely at AOKE's sole discretion.
- 12.2 Any warranties shall only be issued by AOKE in separate documentation and subject to the conditions described in this separate documentation. It is not possible to derive the existence of any warranty from these General Terms and Conditions.
- 12.3 In as much as any warranty referred to in Article 12.2 is issued, any defects occurring in or (partly) as a consequence of the following shall not be covered by the warranty:
- normal wear and tear;
  - use for any other purpose than the intended purpose;
  - inexpert storage, maintenance or use by the Client or a third party;
  - assembly, installation and/or repair by the Client or a third party, without prior written permission from AOKE;
  - the application of any government regulation in respect of the nature or quality of the materials employed;
  - tailor-made Goods, produced and delivered on the basis of designs, drawings or other instructions from the Client;
  - goods issued to AOKE by the Client for processing or implementation of an order;
  - raw and other materials obtained by AOKE from third parties, in as much as these parties have issued no warranty to AOKE;
  - the processing of the Goods by the Client or third parties, unless AOKE has specified or permitted a specific processing method in its documentation, brochures, etc. in writing, without any reservations;
  - vandalism, influence of the weather or other external causes.
- 12.4 Any processing of the Goods delivered by AOKE shall be at the Client's own risk. The Client indemnifies AOKE against all claims from third parties arising from any processing of the Goods delivered by AOKE.
- 12.5 Minor deviations may not be qualified as defects and must be accepted by the Client. Deviations which, taking account of all circumstances, can reasonably have no or only a minor influence on the user value of the Goods shall at all times be considered as being minor deviations.
- 12.6 Any right to warranty or complaint shall expire if the Goods are transported, handled, used, processed or stored inexpertly by or on behalf of the Client or in contravention of any instructions issued by or on behalf of AOKE, or if the normal measures/regulations have not been complied with, or if the Client fails, fails properly or fails in good time to comply with any obligations arising out of the Agreement for the Client in respect of AOKE.
- 12.7 Immediately following receipt, the Client must inspect the delivered Goods and Services, in default of which any right to complaint, replacement and/or warranty shall expire. Any complaint relating to the quantity of Goods delivered and/or transport damage must be recorded on the waybill or delivery note in default of which the quantity recorded on the waybill or delivery note shall provide compelling evidence against the Client.

- 12.8 The Client must report any complaints about Goods, Services and/or the implementation of the Agreement to AOKE by registered letter within eight (8) days after the Client has discovered the defect or should reasonably have discovered it, in default of which any liability of AOKE shall expire.
- 12.9 If the Client complains, it is required to offer AOKE the opportunity to carry out an inspection and identify the defect. The Client is required to keep the Goods about which a complaint has been issued available for AOKE, in default of which any right to compliance, repair, dissolution and/or compensation (for damage) shall expire.
- 12.10 The Client is only entitled to return delivered Goods to AOKE following prior written authorisation and transport and/or other instructions from AOKE. The Goods shall at all times remain at the Client's risk and expense. The transport and all related costs shall be at the Client's expense. AOKE shall reimburse the transport costs if it is determined that there was an attributable shortcoming on the part of AOKE.
- 12.11 Any defects relating to part of the delivered Goods shall not give the Client any right to reject or refuse the entire batch of delivered Goods.
- 12.12 The Client shall inform AOKE in writing of any inaccuracies in the invoices from AOKE within five (5) days following the invoice date, in default of which the Client will be considered as having approved the invoice.
- 12.13 Complaints shall not suspend the payment obligations of the Client.
- 12.14 Following the observation of a defect in a Good or Service, the Client is required to take all possible measures to prevent or limit damage, including possible immediate cessation of use, processing and trading of the Good or Service.

### **Article 13 Liability and indemnification**

- 13.1 Beyond the provisions of Article 12.1, the Client shall have no claim whatsoever against AOKE for defects or with regard to the Goods and/or Services provided by AOKE. As a consequence, AOKE is not liable for direct or indirect losses, including business losses, intangible losses, lost income, stagnation losses, harm to reputation and any other consequential damages, due to whatever cause, except in the case of intent or wilful recklessness on the part of AOKE.
- 13.2 AOKE shall not be liable as intended hereinabove for actions by its employees or other persons within its control, including (gross) negligence or deliberate intent on the part of these persons.
- 13.3 AOKE shall not be liable for losses of whatever nature caused by or after the Client has processed the Goods following delivery, has transferred them to third parties or has had them processed or delivered to a third party, or has used or passed on the Goods other than for their intended use.
- 13.4 AOKE shall not be liable for any losses if delivery of Goods and/or Services is not possible as a consequence of export restrictions, embargoes, etc.
- 13.5 AOKE shall not be liable for the advice or recommendations issued by AOKE to the Client, unless this advice or recommendations are explicitly part of a specific Service. In the event of a specific Service, the liability restrictions as appearing in this Article 13 shall apply. The Client shall indemnify AOKE against all claims from third parties in connection with advice or recommendations issued by AOKE.
- 13.6 AOKE shall not be liable for (the consequences of) non-conformities, errors or defects that remain unnoticed in the models, samples and/or examples approved or corrected by the Client.

- 13.7 AOKE shall not be liable for the infringement of patents, licences and/or other intellectual property rights of third parties through the use of information issued by or on behalf of the Client. AOKE shall also not be liable for damage to or loss of raw materials, semi-manufactured goods, models and/or other goods supplied by the Client.
- 13.8 The Client shall indemnify AOKE, its employees and third parties engaged by AOKE for the implementation of the Agreement, against any claim from third parties, including claims based on product liability in connection with the implementation of the agreement by AOKE, irrespective of the cause, and against any resultant costs for AOKE.
- 13.9 Damage to Goods caused by damage or destruction of packaging of the Goods shall be at the Client's risk and expense.
- 13.10 In all cases in which AOKE is required to pay compensation, this shall never exceed the invoice amount for the Goods and/or Services delivered as a result of or in connection with which the damage was caused. If the damage is covered by the business liability insurance of AOKE, the compensation shall furthermore never exceed the amount actually paid out by the insurer in the case in question.
- 13.11 Any claim against AOKE, unless recognized by AOKE, shall lapse through the simple passage of twelve (12) months following the occurrence of the claim.
- 13.12 The Client shall indemnify AOKE and its employees against all claims (also including administrative and/or criminal fines) from third parties, including employees of AOKE, who suffer damage in connection with the implementation of the Agreement as a result of the actions or failure to act by the Client and/or the inaccuracy or incompleteness of information or data issued by or on behalf of the Client.

#### **Article 14 Cancellation**

- 14.1 Once placed, the Client may not cancel an order. If the Client nonetheless fully or partially cancels a placed order, the Client shall be required to reimburse AOKE for all costs reasonably incurred in relation to the implementation of that order, the work of AOKE and the loss of profit suffered by AOKE.

#### **Article 15 Intellectual Property**

- 15.1 All copyrights, design rights, trademark rights, patent rights, portrait rights, rights to non-original writings, domain name rights, trade secrets and other intellectual property and semi-intellectual property rights (hereinafter: "**Intellectual Property**") in relation to the Goods and Services provided, including the design, preparatory materials, recipes, packaging and designations thereof, and in relation to anything AOKE develops, designs, manufactures or provides, are vested in and held exclusively by AOKE or its supplier. More specifically, AOKE is the sole owner of and sole party entitled to the Intellectual Property that may arise as a result of the development of Goods and/or Services for the Client, even if the relevant work is listed as a separate item in the offer or invoice.
- 15.2 In respect of the Intellectual Property, the Client only receives a non-exclusive, non-transferable, non-pledgeable and non-sublicensable right of use, limited to what is necessary to use the Goods and the result of the Services for the agreed purpose, and only for itself. Unless otherwise agreed in writing, the Client shall not be permitted to reproduce, convert or otherwise process content, materials or parts of Goods or Services.



- 15.3 The Client shall not infringe any Intellectual Property.
- 15.4 In as far as necessary and in as far as the Intellectual Property does not already accrue to AOKE on the basis of the law and/or the Agreement, the Client hereby transfers (whether or not in advance) all Intellectual Property to AOKE free of charge and hereby delivers it to AOKE, or (if a transfer in advance is not legally possible) the Client shall transfer and deliver the Intellectual Property to AOKE free of charge, immediately after they have arisen. The Client will provide AOKE with all requested cooperation and hereby grants AOKE an irrevocable and unconditional power of attorney to fulfil all formalities necessary to have the Intellectual Property registered on AOKE's behalf, including but not limited to the signing of all forms, deeds and agreements, without AOKE incurring any costs in connection therewith.
- 15.5 In as far as Intellectual Property may be obtained by filing or registration, AOKE shall be exclusively authorized for that purpose.
- 15.6 In the event of a dispute between AOKE and the Client relating to the Intellectual Property, AOKE shall be presumed to be the rightful owner, subject to proof to the contrary by the Client.
- 15.7 Goods to be delivered or supplied by AOKE according to its design, or a substantial part thereof, even if or in as far as they are not subject to copyright or other legal protection for AOKE, may not be reproduced in the context of any production process without AOKE's prior written permission.
- 15.8 By issuing an order for the multiplication or reproduction of an item protected by Intellectual Property, the Client hereby declares that no infringement will be made of the intellectual property of third parties. The Client indemnifies AOKE for all costs and damages which may arise from any such infringement.

#### **Article 16 Personal data protection**

- 16.1 In collecting and (further) processing personal data in the framework of the Agreement, AOKE will comply with its obligations under the General Data Protection Regulation (GDPR), the GDPR Implementation Act and, from the moment it comes into force, the ePrivacy Regulation and all related legislation and regulations.
- 16.2 If AOKE believes that it should be regarded as processor in the meaning of the GDPR, the Client shall, at AOKE's first request and in addition to the provisions of this Article, enter into and sign a written data processing agreement with AOKE, in accordance with the template to be supplied by AOKE.
- 16.3 The Client indemnifies AOKE against all claims from third parties (including in any event data subjects and government authorities), (financial) administrative sanctions and costs (including costs of legal representation) relating to these claims resulting from a violation by the Client of any statutory regulation relating to the processing of personal data.

#### **Article 17 Miscellaneous**

- 17.1 The nullity or voidability of any provision of these General Terms and Conditions or of any Agreement to which these General Terms and Conditions apply, will not affect the validity of the other provisions. AOKE and the Client are required to replace any provisions that are null and void with provisions that are valid, and which as far as possible reflect the intention of the null or void provision.

**Article 18 Applicable law and jurisdiction**

- 18.1 The Agreement(s) between AOKE and the Client are subject to Dutch law.
- 18.2 The place of implementation of all orders shall be considered as being the place of establishment of AOKE.
- 18.3 All disputes and controversies between AOKE and the Client shall be exclusively submitted to the competent judge of the District Court Limburg, location Roermond (the Netherlands).

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