

STANDARD TERMS AND CONDITIONS OF SALE OF WECОВI BV ZWOLLE

Article 1. General

1. 'Wecovi' means Wecovi B.V., listed with the Chamber of Commerce under no. 05050253, with its registered office in Zwolle, the Netherlands, user of these general terms and conditions of sale.
2. 'Conditions' means the general terms and conditions of sale of Wecovi.
3. 'Client' means the (potential) contractual party of Wecovi or a (legal) person acting on its behalf.
4. 'Agreement' means the agreement and/or further or subsequent agreements between Wecovi and the client.
5. 'Goods' means the corporeal objects to be delivered.

Article 2. Applicability

These general terms and conditions of sale apply to the formation, the content and the performance of all agreements entered into between the client and Wecovi. General terms and conditions of the client only apply if it is expressly agreed in writing that they apply to the agreement between the parties to the exclusion of the current general terms and conditions of sale.

Article 3. Offers and quotations

1. The submission of a quotation, estimate, cost estimate or similar notification whether or not included in an offer, does not oblige Wecovi to enter into an agreement with the client.
2. Offers by Wecovi are always subject to contract and can only be accepted without deviations. An offer is in any event deemed to have been rejected if it is not accepted within 1 month. Wecovi is at all times entitled to determine that the goods and objects it is to deliver will only be supplied in certain minimum quantities.

Article 4. Cancellation

The client is entitled to cancel an agreement before Wecovi has commenced the performance of the agreement provided it compensates the loss suffered by Wecovi as a result. This loss includes the losses and loss of profit suffered by Wecovi and in any event the costs already incurred by Wecovi in preparation including the reserved production capacity, purchased materials, scheduling of shifts and storage. Cancellations of granted orders only bind Wecovi after written acceptance.

Article 5. Prices

1. Unless otherwise agreed, the prices stated by Wecovi include import duties, excise and taxes but are exclusive of turnover tax (VAT) and other levies imposed by government and other costs to be charged pursuant to these conditions.
2. Increases in costs components, including raw materials, import duties, excise or other (governmental) taxes and/or levies, as well as price increases permitted or prescribed by government may be charged on by Wecovi, including after the date of the written order confirmation or formation of the agreement.
3. Wecovi reserves the right to charge the client administration costs and/or shipping costs and/or fuel surcharge separately, including after the formation of the agreement, which costs the client is obliged to pay Wecovi.
4. If no price has been agreed between the parties, but in a year preceding the agreement the parties entered into one or more agreements with equal or near-enough similar content, the price shall be calculated on the basis of the production methods and calculation rates used at the time.
5. If, outside the application of the provision in the preceding paragraph of this article, no price has been agreed between the parties, if a price is given by way of indication only or the agreed price may be changed pursuant to these conditions, the price or the change respectively shall be set at an amount considered reasonable in the sector.

Article 6. Payment

1. Unless otherwise agreed, the clients shall pay the amounts due pursuant to the agreement within 14 days from the invoice date without being able to rely on any discount, setoff or suspension. If payment is not made in time, the client is in default without any notice of default by Wecovi being required.
2. The day of payment is deemed to be the date upon which payment is credited to the account of Wecovi.
3. The client is at all times and irrespective of the agreed payment conditions, obliged on demand by Wecovi to provide security for the payment of the amounts to be paid to Wecovi pursuant to this agreement. The offered security shall be such that the claim together with any interest due on such and costs are properly covered and Wecovi has easy recourse against it.
4. If the client does not pay in time as referred to in paragraph 1 of this Article, it is in default by operation of law and shall, due to the delay and the payment of the amount due, from the invoice date on this sum pay Wecovi interest of 1.5% per month.
5. In the event of late payment as referred to in paragraph 1 of this Article, the client is, in addition to the due amount and the contractual interest due on such, or in the alternative, statutory interest, obliged to make a full payment of both the extrajudicial and the judicial collections costs, including the costs of lawyers, bailiffs and debt-collection agencies. The extrajudicial costs are set at a minimum of 15% of the principal sum with the interest, such with a minimum of Euro 150.
6. In the event Wecovi's invoice is not expressed in euros, Wecovi is entitled to demand payment in euros at the exchange rate applicable on the day on which the agreement was formed or the date of the invoice, such to Wecovi's discretion.

Article 7. Method of delivery and retention of title

1. The client is obliged to render its full collaboration to the delivery of the goods by Wecovi pursuant to the agreement. The client shall, also without any demand to this end, be in default if it does not on demand from Wecovi collect the goods to be delivered, or, if delivery to the client's address has been agreed, refuses to take receipt of the goods.
2. Every delivery of goods by Wecovi to the client takes place subject to the retention of title of such until the client has paid all that to which it is obliged pursuant to the agreement, including interest and costs.
3. As long as the ownership continues to rest with Wecovi, the client is obliged to keep the goods delivered subject to the retention of title carefully and as the recognisable property of Wecovi and it may not transfer the goods as security to third parties and/or encumber it with a security right.
4. If shipping of the goods to be delivered has been agreed, this takes place for the account of the client unless delivery carriage paid has been agreed. The client always carries the risk during transport. Acceptance of goods from Wecovi by the carrier is considered proof that they were in good external condition unless the contrary is apparent from a consignment note or the delivery receipt. Wecovi is not charged with the storage of the goods to be delivered unless this has been expressly agreed. If storage takes place, this takes place for the account and at the risk of the client.

Article 8. Intellectual property

Wecovi reserves all the intellectual property rights in respect of the sold goods. All images, models, samples etc provided by Wecovi may not be copied or multiplied without its express written consent nor made available to third parties and must be returned on demand.

Article 9. Delivery times

1. A delivery time stated by Wecovi is, unless expressly agreed in writing that it concerns a deadline, indicative only and only commences after the order has been confirmed by Wecovi in writing. Wecovi is, including in the event of an agreed deadline, only in default after it has been issued with a notice of default by the client.
2. The binding of Wecovi to an agreed deadline for delivery lapses if the client requires changes in the specification of the work, unless the minor importance of the change or the minor delay does not reasonably require Wecovi to change of the initially scheduled, time-based, use of the production capacity.
3. During the performance of the agreement by Wecovi, the client obliged to do all that which is reasonably required or desirable to allow a timely delivery by Wecovi, such in particular the immediate answering of queries of Wecovi and the prevention of defective supplies.
4. The delivery time is suspended in the event of the failure by the client to adhere to the provisions in this Article and if and as long as the client is in default of the payment of any claim pursuant to previous deliveries and/or amounts due to relating to the relevant delivery. In that event Wecovi is, without prejudice to the rights vested in Wecovi pursuant to the law, entitled to suspend the performance of the agreement until such time the client has remedied the default. Wecovi shall subsequently, insofar as possible, perform the agreement within a reasonable term.
5. The delivery term is also suspended in the event of force majeure at Wecovi and/or its supplier/manufacturer. In that event Wecovi is entitled to extend the delivery times for the duration of the force majeure situation, or is entitled to have the agreement terminated by means of a written notification to the client, without Wecovi being liable towards the client to pay any compensation. There is force majeure in the event of: impediment due to war, threat of war, civil war, riot, government measures, delays due to supply of raw materials, consumables, merchandise or packaging material, fire, flood, frost and other business interruptions such as strikes, factory sit-in or similar actions, shortage of labour (and) excessive sickness of personnel and transport disruptions. Force majeure includes in addition all circumstances outside the control or action of Wecovi, as a result of which performance of the agreement in time cannot reasonably be demanded, irrespective of whether or not these circumstances were foreseeable at the time the agreement was entered into.

Article 10. Delivery and risk

1. The goods are delivered at the moment they are at the free disposal of the client and Wecovi has taken receipt of the usual documents. From the moment the goods are at the free disposal of the client and/or are located on the site/in the buildings of the client, the risk of full or partial destruction, damage, theft etc of these goods is for the account of the client.
2. Wecovi may deliver the goods in consignments. In that event Wecovi is entitled to submit separate invoices and the client is obliged to pay these invoices as if they were invoices relating to separate agreements.

Article 11. Returns

1. Return shipments without the prior approval from Wecovi are not permitted. If they nevertheless occur, all costs related to the shipment are for the account of the client and Wecovi is in that event free to store the products for the account and at the risk of the client (at third parties) or even keep them at their disposal.
2. Return shipments which have not been accepted, do not in any way release the client from its payment obligations.
3. Return shipments for which Wecovi has granted its consent are only accepted if they are in their original and undamaged packaging.
4. Return shipment of products produced for the client under private label are never accepted.
5. In respect of the actual costs of, or relating to, the return shipments and the measures taken by Wecovi arising as a result, a specified statement from Wecovi is binding on the client subject to proof to the contrary.
6. Return shipments are shipped for the account of the client unless they occur as a result of an error by Wecovi.
7. Return shipments always travel at the risk of the client.

Article 12. Complaints

1. The client is obliged with due speed after delivery to examine whether Wecovi has performed the agreement properly and is in addition obliged to notify Wecovi immediately in writing if it becomes aware of the contrary. The client must carry out the aforementioned examination and the relevant notification within 14 days at the latest from delivery.
2. The client is not entitled to complain on the basis of the fact that the goods delivered by Wecovi do not possess the characteristics required for the intended use, unless the client before or during the entering into of the agreement notified Wecovi in writing that the goods had to possess such characteristics and Wecovi guaranteed these characteristics in writing.
3. After expiry of the term referred to in paragraph 1, Wecovi no longer has to accept complaints and the client is deemed to have approved and accepted the delivery.
4. Wecovi is always entitled to substitute a new proper performance for an earlier defective performance unless the default is not repairable.
5. The performance of the agreement is deemed to be sound if the client has failed to carry out the examination or notification as referred to in paragraph 1 of this Article on time.
6. If the term of 14 days referred to in the first paragraph of this Article in accordance to the standards of reasonableness and fairness would, for a careful and conscientious client, be considered unacceptably short, this term shall be extended to at the latest the first moment on which the examination or notification of Wecovi respectively, is reasonably possible for the client.
7. The performance by Wecovi is in any event deemed to be sound between the parties if the client has taken the delivery, or part of the delivery into use or has treated or processed it, delivered it to third parties or had it given into use, had it treated or processed or delivered to third parties respectively unless the client has observed the provisions in the first paragraph of this Article.
8. If a complaint is considered justified by Wecovi, the goods must be returned to Wecovi and Wecovi has the choice between monetary compensation which in no event shall exceed the value of the delivered goods or to make a replacement delivery. Any other form is expressly excluded.

Article 13. Ownership means of production

All goods produced by Wecovi such as means of production, semifinished products and auxiliary materials remain the property of Wecovi even if they have been included as a separate item in the quotation, offer or on the invoice. Wecovi is not obliged to hand these items over to the client. Wecovi is also not obliged to keep these items for the client.

Article 14. Liability

1. Where it concerns products carrying the Wecoline brand name or Wecovi Service or other Wecovi brand names, the client is obliged to trade all goods in the retail packaging delivered and put on the market by Wecovi in the original Wecovi packaging without making any amendments/changes. The client is in addition not entitled to use, trade or put on the market the packaging originating from or via Wecovi other than with the original content as delivered to the client. On breach of the provisions of this paragraph, the client shall pay an immediately due and payable fine of € 2,000 for every breach, in addition to the obligation to compensate Wecovi for any loss it has suffered as a result.
2. Wecovi's liability pursuant to the agreement with the client is limited to such an amount as in accordance with the standards of reasonableness and fairness is in proportion to the agreed price, with a maximum of € 10,000.
3. Wecovi is not liable for loss of whatever nature which arises because or after the client has taken the produced goods into use, treated or processed them, delivered to third parties after delivery or had them taken into use, treated or processed or delivered to third parties respectively.
4. Wecovi is also not liable for loss in the form of loss of turnover or reduced goodwill in the company or the profession of the client.
5. Wecovi is never liable towards the client for, and the latter is obliged to indemnify Wecovi in all respects against, claims from third parties for costs, loss and interest arisen as a result of acts or omissions by persons employed by Wecovi or by goods which are the property of Wecovi or which it uses or goods shipped and/or sold by Wecovi.

Article 15. Guarantee

1. In principle, Wecovi exclusively grants a three-months guarantee on new goods calculated from delivery with due observance of the other provisions.
2. The guarantee includes repair or replacement of the good but is never greater than the guarantee granted to Wecovi by its supplier. Wecovi chooses between repair or replacement at its exclusive discretion.
3. The goods taken back by Wecovi under the guarantee become the property of Wecovi.
4. A reliance on the guarantee shall, with due observance of article 14, only be honoured if the good has been used in accordance with the purpose for which it was intended.
5. The guarantee does not apply if:
 - a. the client, or someone on behalf of the client, has made adjustments without Wecovi's consent;
 - b. there are faults and/or defects as a result of incompetent or careless use or acts;
 - c. there is normal wear and tear.

Article 16. Numbers, sizes, weights and other data

1. Minor departures in respect of the delivered quantity, stated sizes, weights, numbers, colours and other similar data are not deemed to be failures.
2. Business practice determines whether there are minor departures.

Article 17. Termination

In cases of force majeure as set out in these general terms and conditions of sale, Wecovi is entitled to terminate the agreement, as well as in the event of bankruptcy or a moratorium of the client or if the client fails in the performance of its obligations towards Wecovi, in which cases the client is in default by operation of law, in which event Wecovi may terminate the agreement by means of a written notification to the client.

Article 18: Confidentiality and prohibition of disclosure

1. The client shall keep the existence, nature and content of the agreement as well as any other business information confidential and not disclose anything in this respect without the written consent of Wecovi.
2. On breach of the provisions in paragraph 1 of this Article, the client shall pay Wecovi an immediately due and payable fine of € 5,000 for every breach. The amount of the fine is immediately paid by the client after the aforementioned finding and notification of such to the client.

Article 19. Other

If any provision in these conditions is legally invalid or void, this shall not affect the legal validity of the other provisions included in these conditions. In that event, the conditions shall be interpreted as if the legally invalid or void provision forms no part of these conditions.

Article 20. Limitation period

All actions against Wecovi become statute-barred through the expiry of one year from the date of the performance of the agreement.

Article 21. Applicable law and competent Court

1. Insofar as required, the agreement is deemed to have been entered into within the Netherlands and exclusively Dutch law governs all matters and disputes arising from such.
2. The District Court Zwolle has exclusive jurisdiction to hear all disputes and/or claims relating to the agreement.