



GBS INTERNATIONAL B.V.

General Terms and Conditions of Sale, Delivery and Payment

April 2020

Article 1 – Definitions

- 1.1 GBS International's General Terms and Conditions of Sale, Delivery and Payment (**Conditions**) apply to all offers by and agreements with GBS International B.V. and its legal successors, as well as to associated companies (together: **GBS INT**), relating to any delivery of products (**Products**) by GBS INT to the party to which or whom the Products are addressed (**Customer**).
- 1.2 The applicability of any general terms and conditions of Customer is explicitly rejected. Any stipulation that deviates from these Conditions, unless approved in writing by the board of directors of GBS INT, shall be deemed null and void.

Article 2 – Offer

- 2.1 All offers, including verbal offers or other declarations made by GBS INT, its (sales) representatives, employees and/or other subordinates are completely free of obligation and do not oblige GBS INT in any way to conclude an agreement with the Customer.

Article 3 – Agreement

- 3.1 An agreement, including any changes and/or additions thereto, shall not be binding unless agreed upon in writing, and until such moment in time, the obligations of the parties will be determined on the basis of the Confirmation sent by GBS INT to the Customer.
- 3.2 An agreement only commits GBS INT when the contract is duly signed by the board of directors of GBS INT and the Customer or on the date of dispatch by GBS INT of the written order confirmation/proforma invoice (**Confirmation**) duly signed by its board of directors. Unless confirmed in writing by the board of directors of GBS INT, promises made by and arrangements with subordinates of GBS INT shall not bind GBS INT.
- 3.3 Unless agreed otherwise in an agreement as defined in article 3.2, notices, information, statements and samples made by GBS INT and/or supplied to the Customer, irrespective of the nature or form of such, shall only provide an indication and shall never bind GBS INT.
- 3.4 Marginal deviations from the agreement by GBS INT in line with customary practice shall be permitted.
- 3.5 Any unilateral cancellation from the side of the Customer shall be null and void, except and to the extent that GBS INT agrees to such cancellation in writing.

Article 4 – Price

- 4.1 Unless otherwise agreed in writing, the price stated and/or agreed upon by GBS INT shall be exclusive of taxes and all other levies (**Price**).
- 4.2 GBS INT shall have the right to increase the Price in the event of an increase in price of Products, raw materials or parts to be obtained from third parties, wages, national insurance contributions, freight, insurance premiums or other cost price factors.
- 4.3 If the Price is (partly) based on restitution of levies and/or subsidies and these are not restituted, GBS INT shall be entitled to adjust the Price accordingly.

Article 5 – Terms and conditions of delivery

- 5.1 Delivery shall be deemed to be made at the moment and the place where the Products are held by GBS INT or a third party and have been identified for shipment to the Customer, unless explicitly agreed otherwise (**Delivery**). In the event that an Incoterm is included in the Confirmation, this Incoterm shall be interpreted in accordance with the most recent issued edition of the ICC Incoterms at the time of conclusion of the agreement. In case of conflict between the ICC Incoterms and these Conditions, the latter shall prevail.
- 5.2 The delivery period shall be based on all known circumstances at the time of conclusion of the agreement and depends on the timely receipt of materials and products needed by GBS INT for the execution of the agreement.
- 5.3 Unless explicitly agreed otherwise, the delivery date is not a guaranteed set date.
- 5.4 If GBS INT exceeds the agreed delivery date, the Customer shall only have the right to dissolve the agreement or rely on any other remedy in law if GBS INT is in default, has been notified thereof and has had a minimum period of 15 calendar days to remedy such default. Any refund will be without any compensation or interest.
- 5.5 Products offered/sold by GBS INT on a T1 custom status for sales outside the European Economic Area (**EEA**) only, are not in free circulation (i.e. on a T2 custom status) within the EEA and trademark rights might not be exhausted for sales within the EEA. It is the sole responsibility of the Customer to verify whether the trademark rights of the trademark owner(s) are exhausted in the market(s) where the Customer (intends to) offer or sell the goods, and to respect the laws and regulations in force within the EEA in respect to any trademark rights of the respective trademark owner(s). In this regard, the Customer guarantees that the Products, where sold and delivered under customs bond (T1 status/duties unpaid), will keep that status with the competent customs authority, also when sold by the Customer. The Customer will indemnify GBS INT against any adverse consequence for GBS INT because of any loss of that status, including but not limited to any duty, levy, tax, penalty, or interest becoming due, or claimed to be due, towards any customs authority for any cause, including theft or loss of such Products.

Article 6 – Transportation

- 6.1 The transportation, including unloading, is at the expense and risk of the Customer and shall take place in a manner as determined by GBS INT, using GBS INT's means of transportation. Unless agreed otherwise in writing, the Customer shall provide all securities necessary for the documents needed to transport the Products to their destination.
- 6.2 If circumstances beyond the control of GBS INT prevent the Products from being transported respectively delivered at the agreed place or the Customer fails to take delivery of the Products, GBS INT shall have the right to either repossess the Products or have the Products stored at the expense and risk of the Customer. Any costs of return shipment and storage shall be payable by the Customer without prejudice to the obligation of the Customer to fulfill its obligations to GBS INT as if delivery has duly taken place.

Article 7 – Risk and transfer of property

- 7.1 The Customer shall bear the risk of any and all direct and indirect damage that may

be caused to the Products, including packaging thereof, from Delivery onwards.

- 7.2 GBS INT shall retain ownership of all delivered Products until any debts payable by the Customer regarding Products delivered as well as regarding any failure in the performance of Customer's obligations are satisfied, and GBS INT shall be entitled to repossess any Products delivered under retention of title without prior notice of default if the Customer fails in the performance of his obligations. In this case, the agreement shall be dissolved wholly or for a proportionate part without any judicial intervention and without prejudice to the right of GBS INT to claim compensation of damage and costs. The Customer shall be credited with the Price, reduced with damage suffered and costs incurred by GBS INT.

Article 8 – Payment and settlement

- 8.1 The Price shall be due and payable at the time of dispatch of the Confirmation, unless explicitly agreed otherwise in writing. If payment of the Price has not taken place at the date of receipt of the Confirmation by the Customer, the Customer shall be in default by operation of law without any prior notice of default being required and shall owe the statutory commercial interest on the amount due and payable from this date, without prejudice to any other rights of GBS INT.
- 8.2 Any costs made by GBS INT regarding non- fulfilment, overdue or insufficient fulfilment of Customer's obligations, including extrajudicial collection costs and costs of legal assistance, shall be due and payable by the Customer.
- 8.3 The Customer may not transfer or encumber any of its rights in relation to the agreement with GBS INT.

Article 9 – Return shipments

- 9.1 Without GBS INT's prior written consent, the Customer is not permitted to return any Products delivered by GBS INT. Any return shipments take place at the risk and the expense of the Customer.

Article 10 – Complaints and liability

- 10.1 Complaints regarding relevant directly observable defects at inspection of the Products shall be made in writing within 24 hours after the moment the Customer received the Products in its possession and inspected (or could have inspected them) visually. Complaints regarding other defects shall be made in writing within 24 hours after their disclosure, however ultimately within two (2) weeks of delivery. If Customer does not complain in writing and within 24 hours, respectively two (2) weeks, his claim will be null and void. Any complaint shall include a complete description of the alleged defects.
- 10.2 GBS INT's liability shall be limited to fulfilment of its obligations under the agreement with the Customer and shall never pertain to business damage, consequential damage or any other indirect damage, including but not limited to any taxes, duties or excise becoming due.
- 10.3 GBS INT shall not be liable for direct or indirect damage resulting from the infringement of any rights of third parties, except in the case of gross negligence or intent.

Article 11– Force majeure

- 11.1 The term force majeure in these Conditions shall mean any circumstance beyond GBS INT’s and/or its suppliers’ control, whether or not foreseeable at the time of conclusion of the agreement, which temporarily or permanently prevents fulfilment of its obligation under the agreement concluded between GBS INT and the Customer.
- 11.2 In the event of impediment to the performance of the agreement because of force majeure, GBS INT shall have the right to either suspend its obligations under the agreement for a maximum of three (3) months or to wholly or partially dissolve the agreement, without an obligation for GBS INT to pay any form of compensation and without any judicial intervention.

Article 12 – Confidentiality

- 12.1 The Customer agrees that any commercial, strategic, technical data and/or other information in connection with the agreement including samples or other tangible materials (**GBS INT Confidential Information**) that is disclosed to or otherwise comes into possession of the Customer, is to be treated as confidential. The Customer agrees that GBS INT Confidential Information will be maintained strictly confidential and will not be disclosed to third parties.
- 12.2 The requirement to maintain information confidential shall not apply to GBS INT Confidential Information that:
- is generally available;
 - was in the possession of the Customer prior to the time it was acquired in connection with the agreement; and
 - is required by law to be divulged on a non-confidential basis, provided that the Customer notifies GBS INT before any such disclosure.

Article 13 – Disputes and applicable law

- 13.1 Any and all disputes shall in the first instance be submitted to the District court of Amsterdam. To secure the necessary recognition and enforcement of any claim awarded against a Customer domiciled in a jurisdiction that does not allow for the recognition and enforcement of a Dutch court judgement, GBS INT may opt for arbitration. In this case such claims shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (**NAI**).
- 13.2 In the event of arbitration, the arbitral tribunal shall be composed of one arbitrator, unless the principal amount of the claim exceeds (the counter value of) EUR 1 million, in which case there shall be three arbitrators. The tribunal shall be chaired by an active or retired judge of a Dutch court. The arbitral tribunal shall be appointed according to the list procedure in force with the NAI. The place of arbitration shall be Amsterdam. The proceedings shall be conducted in the English language. Consolidation of the arbitral proceedings with other arbitral proceedings, as provided for in Article 1046 of the Dutch Code of Civil Procedure and Article 39 of the Arbitration Rules of the Netherlands Arbitration Institute, is excluded.
- 13.3 The agreement, as well as any and all further agreements arising or resulting from or in connection with said agreement, shall be governed by and construed in accordance with the laws of the European part of the Kingdom of the Netherlands.

Heerhugowaard, April 2020