

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

SECTION 1: GENERAL PROVISIONS

1.1 Definitions

In these general terms and conditions of sale and delivery ("General Conditions") the definitions set out below have the following meaning:

- I.1.1 **General Conditions:** the current general terms and conditions of sale and delivery;
- I.1.2 **Lanko:** the private limited company Lanko-International B.V., and/or a company affiliated with Lanko-International B.V.;
- I.1.3 **Customer:** every party submitting an Order to Lanko and/or with whom Lanko enters into an Agreement;
- I.1.4 **Quotation/Offer:** every offer by Lanko directed to a third party regarding the delivery of Products and/or Services;
- I.1.5 **Order:** each order relating to the delivery of Products and/or Services placed with Lanko by the Customer;
- I.1.6 **Agreement:** each agreement entered into between Lanko and the Customer relating to (the delivery of) Products and/or Services;
- I.1.7 **Parties:** Lanko and the Customer jointly;
- I.1.8 **Products:** all products delivered by Lanko to the Customer;
- I.1.9

1.2 Applicability

- I.2.1 These General Conditions apply to all Agreements, Orders and Quotations unless the Parties have expressly agreed otherwise in writing. In these General Conditions, the term "in writing" includes any form of electronic communication (e-mail for example).
- I.2.2 These General Conditions apply to the exclusion of any (general) conditions in use by the Customer, unless expressly agreed otherwise. The provisions in the Agreement and in these General Conditions cannot be departed from except with the express written consent between the Parties.
- I.2.3 The Customer cannot derive any rights for future agreements from any departures from these General Conditions agreed between the Parties.
- I.2.4 Lanko rejects the applicability of all (general) conditions in use by the Customer, also in the event the Customer in the first instance refers to the general conditions it applies.

1.3 Quotations/Offers

- I.3.1 All Quotations and Offers by Lanko are without obligation and non-binding for Lanko. No rights whatsoever may be derived from the Quotation or Offer if the Product to which the Quotation or Offer relates is in the meantime no longer available.
- I.3.2 Lanko cannot be held to its Quotations or Offers if the Customer could reasonably understand that the Quotations or Offers, or a part thereof, includes an obvious mistake or clerical error.
- I.3.3 An Agreement is formed the moment an Order is accepted in writing by Lanko.
- I.3.4 If the acceptance deviates (whether or not on minor points) from the offer included in the Quotation or the Offer, Lanko is not bound to this. The Agreement is then not formed in accordance with this deviating acceptance, unless Lanko indicates otherwise.
- I.3.5 Verbal agreements, even if they relate to changes or cancellations of an Order, do not bind Lanko until after, and insofar as, these have been confirmed by Lanko in writing.

1.4 Prices

- I.4.1 The prices referred to in a Quotation or Offer are exclusive of: VAT, other government levies, any costs to be incurred in the context of the agreement and shipping and administration costs, unless otherwise indicated.
- I.4.2 If, after the submission of a Quotation and/or the placement of an Order and/or the formation of an Agreement, one or more cost factors undergo an increase - even if this occurs as a result of foreseeable circumstances - Lanko is entitled to increase the agreed price accordingly.

SECTION 2: SPECIFIC PROVISIONS FOR DELIVERY

II. Delivery of Products/performance of Services

- II.1.1 The delivery period is based on the circumstances in force at the time of the entering into of the Agreement. If, through no fault of Lanko, delays occur, the delivery period is, insofar as required, extended. Stated delivery periods are approximate only and are never to be viewed as strict deadlines whereby Lanko aims to realise the stated delivery periods as far as possible. Exceeding a delivery period does not entitle the Customer to compensation or suspension of its payment obligations. The Customer is also not entitled to terminate the Agreement as a result.
- II.1.2 In a situation where a Customer is and remains in default of any obligation towards Lanko, Lanko is entitled to suspend the obligations resting on it to deliver Products and/or perform Services until the Customer does perform its obligations towards Lanko.
- II.1.3 Lanko is at all times entitled - before commencing or continuing the delivery of Products or performing the Services - to request security to the satisfaction of Lanko from the Customer for the performance of the payment obligation(s) resting on the Customer in the form of a bank guarantee or another form of security requested by Lanko. The Customer is then obliged to provide the security demanded by Lanko within 14 days after a request to this end from Lanko. If the Customer does not comply with this request, Lanko is entitled, without any further notice of default and/or judicial intervention being required, to terminate the Agreement without any obligation to pay compensation, without prejudice to all the other rights Lanko might have in that event.
- II.1.4 If and insofar as the delivery of Products does not take place all at once but in parts, every (part) delivery is considered to be a separate delivery and Lanko has the option to invoice the Customer separately for each (part) delivery.
- II.1.5 Products are delivered in the manner and at the moment as determined in the Agreement. The costs of delivery are separately recorded in the Agreement.
- II.1.6 If the Customer refuses to render its cooperation to the manner of delivery set out in the Agreement, the Products are nevertheless for the account and at the risk of the Customer from the moment of delivery set out in the Agreement. The Customer is then given the opportunity by Lanko to collect the Products from Lanko at the latest within 2 months after the moment of delivery set out in the Agreement for the Customer's own account and opportunity.
- II.1.7 If a Customer is based outside the Netherlands, the Customer itself is responsible for the actual export of the Products from the Netherlands, irrespective of the manner in which the delivery of the Products occurs and irrespective of who carries out the actual delivery. The Customer indemnifies Lanko against all possible (extra) costs which will be associated with such and which are not factored into the Agreement. The Customer indemnifies Lanko against all possible (tax or other) claims by third parties in respect of the export of the Products from the Netherlands.

II.2 Retention of title

- II.2.1 Notwithstanding the provisions in article 5.6 of these General Conditions, Lanko reserves the ownership of the Products delivered or to be delivered to the Customer until the Customer has fulfilled all its obligations towards Lanko which arise from the Agreement entered into in the context of the purchase of the Products (or from similar Agreements), and has fulfilled all Lanko's claims towards the Customers due to failures in the performance of such Agreement(s).
- II.2.2 As long as Lanko is the owner of the Products the Customer is not permitted, in any manner whatsoever, to dispose and/or encumber these Products and/or remove them from its control, wholly or in part, directly or indirectly.
- II.2.3 In addition to the provisions in II.5.3 of these General Conditions, the Customer is obliged on demand to this end by Lanko (whether or not in advance) establish a non-possessory pledge on the Products delivered or to be delivered by Lanko to the Customer, as security for all existing and future claims of Lanko against the Customer, on whatever basis.
- II.2.4 If the Customer does not fulfil its obligations towards Lanko which arise from the Agreement entered into in the context of the purchase of Products (or from similar Agreements), or fails in any other claim Lanko has towards the Customer in the performance of such Agreements, Lanko is entitled to terminate the Agreement without any further notice of default being required and to revendicate the already delivered Products, such without prejudice to all rights Lanko has in connection with the non-performance, late performance of incomplete performance of the obligations of the Customer. The costs associated with the revendication or repossession will be charged to the Customer. If third parties exercise rights in respect of the delivered Products, the Customer must immediately take all the required measures to protect the ownership rights of Lanko.
- II.2.5 In addition to article II.2, the relationships under property law of the goods intended for export subject to a retention of title are governed by the country of destination if and insofar as these have more beneficial effects for Lanko under property law than the retention of title set out in article 31.1 to 13.3 incl. (such as the extended retention of title under German law for example).
- II.2.6 For delivery to other parties in Germany, the extended retention of title as referred to below in II.3 and further, applies.

II.3 Retention of title (Verlängerter und erweiterter Eigentumsvorbehalt)

- II.3.1 In addition to article II.2, an extended retention of title applies to the Customer based in Germany.
- II.3.2 All delivered and still to be delivered goods remain exclusively the property of Lanko until all claims Lanko has, or will acquire, on the Customer have been paid in full.
- II.3.3 If the Customer forms a new good from, or partly from, the goods which are subject to a retention of title in favour of Lanko referred to in paragraph 1, this is a good which the Customer forms for itself and Lanko also acquires the ownership to this new good and the Customer acts in such formation on instruction of Lanko and the newly-formed good is kept for Lanko. The Customer only becomes the owner at the time the retention of title lapses through all Lanko's claims having been paid.
- II.3.4 The Customer is not permitted to rely on any retention of title as regards storage costs and to offset these costs with the performances due to Lanko.

- II.3.5** When the goods subject to a retention of title in favour of Lanko referred to in paragraph 1 are sold and transferred to third parties by the Customer in the context of normal business operations, the retention of title also stretches to cover the new goods formed from the delivered goods until such time the Customer has complied with all its obligations towards Lanko, whereby the reselling of the goods to third parties will be accompanied by the prior assignment of the claims which the Customer will acquire on this third party pursuant to the resell to Lanko.
- II.3.6** In the event of delay in payment or justified misgivings in respect of the solvency or creditworthiness of the Customer, Lanko is entitled to collect its claims and take back the delivered goods subject to retention of title.

II.4 Intellectual and industrial property

- II.4.1** The Customer is expressly forbidden to reproduce, disclose or exploit Products in which intellectual property rights of Lanko are vested, or to reproduce, disclose or exploit Products in which intellectual property rights are vested in respect of the use, of which use Lanko has acquired user rights.
- II.4.2** The Customer is not permitted to hand the Products referred to in the first paragraph to third parties without the prior written consent of Lanko other than for obtaining an expert assessment of the performance of the Work by Lanko. In that event, the Customer will impose its obligations pursuant to this article on the third party it has engaged.
- II.4.3** The Customer is not permitted to remove or change any copyright, brand, trade name or other intellectual and industrial property indication markings. This includes markings in respect of the confidential character and confidentiality of such.

II.5 Payment

- II.5.1** Payment by the Customer to Lanko of the due amounts must, without the Customer being entitled to any deduction, discount or settlement, be made within 14 days from the invoice date unless otherwise agreed (in writing), in the currency stated on the invoice and exclusively in the manner as indicated on the invoice. The day of payment is the day of the transfer of the due amount into the account of Lanko. Lanko is at all times entitled to claim full or partial advance payment and/or otherwise obtain security for payment as referred to in II.5.3 of these General Conditions.
- II.5.2** If a payment discount has been agreed in writing between Lanko and the Customer, this will lapse if and as soon as the Customer exceeds the term(s) set out in II.7.1 of these General Conditions. The amount equal to the discount payment so lapsed, must as yet be paid within 30 days after the date on which the payment term expired in the manner as indicated in the Agreement.
- II.5.3** If the Customer has not paid within the term referred to in II.7.1, the Customer is in default by operation of law and Lanko is entitled from that moment onwards, to invoice the statutory (commercial) interest ex article 6:119a Dutch Civil Code plus 10 percent of the invoice amount.
- II.5.4** If the Customer does not pay within the term referred to in paragraph 1, the Customer is obliged to pay all the judicial and extra-judicial (collection) costs incurred by Lanko. The payment of the incurred costs is however not restricted to any cost order made by the Court.
- II.5.5** In the event of late payment by the Customer within the term referred to in II.7.1, the Customer is in default by operation of law and Lanko is entitled to terminate the Agreement without any further notice of default and/or judicial intervention being required (without being liable to pay any form of compensation to the Customer), such without prejudice to any other rights Lanko might have. In addition, in that event all claims in the name of the Customer entered into records of Lanko become immediately due and payable and the Customer owes Lanko from that moment onwards the statutory (commercial) interest ex article 6:119a Dutch Civil Code plus 10 percent of the invoice amount. In that event, the Customer is obliged to pay all judicial and extra-judicial (collection) costs incurred by Lanko. The payment of the incurred costs is however not restricted to any cost order made by the Court.
- II.5.6** In addition to the provisions in II.5.3 of these General Conditions, Lanko is at all times entitled before each delivery of Products and/or Services, to demand cash payment of the invoice amount of the relevant Products or Services.
- II.5.7** In the event of a jointly issued Order, Customers (clients) are jointly and severally liable for the payment of the invoice amount and the payable interest and costs.
- II.5.8** Lanko is entitled to invoice part performances and/or consignments.

SECTION 3: SPECIFIC PROVISIONS REGARDING LIABILITY AND GUARANTEE

III. Liability

- III.1.1** Lanko cannot be held liable for direct or indirect loss suffered by the Customer or third parties arising from a poor application or wrong use of its Products, unless this is the result of an intentional act or willful recklessness by Lanko. The Customer is deemed to be familiar with the product information. Processing, application and other advice as well as guidance and instructions, do not impose liability on Lanko for the implementation and the end result. Every liability is excluded in this matter.
- III.1.2** Lanko is not liable for loss of the Customer arisen because the Customer provided Lanko with incorrect and/or incomplete information. Lanko is not liable for any consequential loss, trading loss or indirect loss which is the result of the non-performance, late performance or improper performance by the Customer.
- III.1.3** If and insofar as any liability might rest on Lanko, for whatever reason, this liability is at all times limited to the value of the delivered Products and/or Services from which the liability ensues as stated in the invoice issued by Lanko to the Customer in this matter. Lanko is never liable for indirect loss (including but not limited to trading loss, loss of turnover volume and/or lost profits).
- III.1.4** Any liability of Lanko towards the Customer and/or third parties can never exceed the amount for which Lanko is insured.
- III.1.5** Lanko does not accept liability arising from any infringement of trademark and/or patent and/or comparable intellectual property rights of the Customer and/or third parties as a result of the manufacturing, sale and/or delivery of the Products and/or Services to the Customer.
- III.1.6** The Customer indemnifies Lanko against all claims by third parties relating to, or arising from, the use or application of the Products and/or Services, including claims in connection with the infringement of trade names and/or patents and/or comparable intellectual property rights of third parties.
- III.1.7** The Customer indemnifies Lanko against claims by third parties due to loss caused by the Customer having provided Lanko with no, incorrect or incomplete data and/or information.
- III.1.8** Lanko is not liable for loss caused by the Products if it appears that the Customer and/or a third party: a) has not observed the instructions sent with the Products by Lanko; or b) has added other materials, substances or products to the Products which reduce the effect and/or the quality of the Products and/or cancels this, or gives rise to a dangerous chemical composition; or c) has an allergic reaction to the Products delivered by Lanko; or d) has not stored/kept the Products in the prescribed manner, or has used the Products for different purposes than for which they were intended; or e) has swallowed the Products or Products entered into the body in any way. Lanko is also not liable for any harmful effects of the Products if according to the state of the art at the time of delivery of the Products, it was impossible for Lanko to discover the occurrence of the defect.

III.2 Guarantee/complaints

- III.2.1** Lanko guarantees the soundness of the work carried out and the Products delivered in accordance with what may be reasonably be expected by the Customer pursuant to the Agreement. All information provided by or on behalf of Lanko relating to the characteristics, specifications and applications of the Products is based on (technical) research but may not be viewed as any (form of) guarantee. Such statements (whether or not published in catalogues), as well as statements (whether or not published in the catalogues) by or on behalf of Lanko regarding the quality, the composition, the treatment (in the widest sense of the word) and the dosage for use of the Products do not bind Lanko, unless they have been included in the Agreement or has been otherwise determined by Lanko in writing.
- III.2.2** The results of application and use of research carried out by Lanko and technical advice provided depend on many factors, which are partly beyond the control of Lanko. Lanko guarantees that it will carry out an instruction to submit (technical) advice to its best knowledge and ability and in accordance with high standards based on the circumstances present during the inspection carried out by Lanko for the benefit of its study and/or technical advice.
- III.2.3** The Customer is obliged to inspect the Products delivered by Lanko immediately on receipt and before taking them into use and/or inspect the work carried out immediately on completion (or have this done), at the risk of any claim, on whatever ground, lapsing. Any complaint relating to the quantity of the delivered Products must on delivery be noted on the shipping or delivery note, failing which the quantities stated on the bill of lading or the delivery note provide conclusive evidence against the Customer.
- III.2.4** A complaint relating to work carried out or Products delivered by Lanko or the invoice amount must be notified to Lanko in writing within 3 working days after the performance of the work or the receipt of the invoice in respect of which the Customer complains at the risk of any claim, on whatever ground, lapsing.
- III.2.5** Not covered by the guarantee are in any event defects which occur by the Customer not complying with the directions or instructions, unforeseen use, improper maintenance or use by the Customer or third parties, work by third parties (without the knowledge and consent of Lanko), by advice issued by Lanko, by Products delivered or prescribed by Lanko etc.
- III.2.6** Deviations in soundness, specifications, composition, characteristics, colour and suchlike which are inevitable from a technical point of view or which are generally accepted, cannot form a basis for a complaint.
- III.2.7** If the Customer complains, it is obliged to give Lanko the opportunity to establish the alleged failure or the defect in the Product (possibly with the aid of third parties). In that event, Lanko and the Customer will together aim to come to a solution. Any defects relating to part of the work or delivered Products do not entitle the Customer to reject or refuse the whole work or the whole consignment of Products.
- III.2.8** If the objections of the Customer are considered valid by Lanko, Lanko is entitled to either improve the relevant work for free/to replace the Products, or apply a reasonable price reduction, all this at the discretion of Lanko.
- III.2.9** Complaints do not suspend the payment obligations of the Customer. After observation of an alleged failure or defective Product, the Customer is obliged to do all that required to prevent or limit (further) damage and to contact Lanko immediately.

III.3 Force majeure

- III.3.1** Lanko is entitled to rely on force majeure in all cases in which the performance of the Agreement can, wholly or in part, whether or not temporary, reasonably not be demanded from Lanko as a result of circumstances which cannot be attributed to it, are not its fault or cannot, either pursuant to the law, legal act or in common opinion, be held for its account or are outside of its control. In such cases, Lanko is entitled, completely at its own discretion, to terminate, suspend or change the Agreement respectively until the extraordinary circumstances have ceased to exist, such by a simple written notification to the Customer without judicial intervention being required and without Lanko being liable to pay costs, loss or interest whereby the Customer is however obliged to pay for any delivered performances.
- III.3.2** Extraordinary circumstances, such as inter alia, storm damage and other natural disasters, impediments by third parties, traffic obstructions in general, whole or partial industrial action, riot, war or threat of war both in this country as in the country of origin of the materials, state of siege, exclusions, loss or damage of goods during transportation to Lanko or the Customer, lack of raw materials, non or late delivery of goods by the suppliers of Lanko, export and import prohibitions, impeding measures by any government, fire, operational breakdowns and accidents in the company or in the means of transportation of Lanko, sickness of personnel, resulting in a change in the actual circumstances, constitute force majeure for Lanko which relieve it from its obligation to delivery or perform the work without the Customer being able to exercise any right to compensation of whatever nature and however named.
- III.3.3** Lanko will notify the Customer of the occurrence of said circumstances as soon as possible and state whether, and under which conditions, it will continue the Agreement.
- III.3.4** In such cases Lanko is entitled, such completely at its own discretion, to cancel, suspend or amend the Agreement respectively, until the extraordinary circumstances have ceased to exist, whereby the Customer is obliged to pay Lanko for any delivered performances.

SECTION 4: SPECIFIC CONDITIONS ON SUSPENSION/TERMINATION

IV. Suspension/termination

- IV.1.1** Lanko is entitled, after careful balancing the interests, to suspend the performance of all its obligations, including future deliveries to the Customer or third parties, until such time all claims on the Customer due and payable at that time have been paid in full.
- IV.1.2** Without prejudice to the right to claim performance and subject to the right to suspend the (performance of) still running agreements, Lanko has - if the Customer does not comply with its obligations towards Lanko under the Agreement, or in any claims which Lanko has towards the Customer due to the failure in the performance of the Agreement - the right to terminate the Agreement without any further notice of default being required, such without prejudice to all other rights Lanko has in connection with the non-performance, late performance or incomplete performance of the obligations of the Customer.
- IV.1.3** Lanko can, in addition to the other rights vested in it, terminate the Agreement with the Customer at all times without any further notice of default and/or judicial intervention being required and without any liability for compensation towards the Customer, with immediate effect in the event:
I cessation of the business of the Customer; or
II dissolution of the Customer (if it is a legal person); or
III insolvency or moratorium of the Customer; or
IV sale of assets or a substantial part of all the assets of the Customer; or
V a legal merger of the Customer.
- IV.1.4** The Customer also has the right to terminate the Agreement, though only after sound and an as detailed as possible written notice of default whereby Lanko is given a reasonable term to remedy the breach.
- IV.1.5** Through the termination, the mutually existing obligations become immediately due and claimable. The Customer is liable for the loss suffered by Lanko, including, inter alia, lost profit and incurred costs, if the cause of the reason for the termination lies with the Customer.

SECTION 5: OTHER FINAL PROVISIONS

V. Confidentiality/computer data-bank

- V.1.1** Lanko and the Customer, as parties, are obliged to keep all information, in whatever form, of a secret or confidential nature, confidential, which has been obtained by the other party in the context of an Agreement or Order.
- V.1.2** With due observance of the statutory provisions personal data are stored and processed where commercially necessary.

V.2 Unilateral amendments to the General Conditions

- V.2.1** Lanko is entitled to amend these General Conditions unilaterally. Amendments also apply in respect of agreements already entered into. Amendments come into force one month after announcement by means of a written notification. If the Customer does not wish to accept the amendments to General Conditions, it has until the moment of coming into force of the amendments, the right to terminate the Agreement from the date on which the amended conditions come into force. After the moment of coming into force, the Customer is deemed to have – tacitly - accepted the amendments.

V.3 Applicable law and choice of forum

- V.3.1** The Agreement and all agreements derived from or related to it (or work otherwise carried out) are exclusively governed by Dutch law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG, Vienna 11 April 1980 (Vienna Sales Convention) do not apply.
- V.3.2** All disputes (including disputes which are only considered to be such by one of the Parties) which might arise between the Parties as a result of the Agreement or agreements derived from it, will be brought before the competent judge of the District Court Limburg.

V.4 Nullity repair clause

- V.4.1** If any provision in these General Conditions or in the underlying Order/Agreement should be void and/or not valid and/or unenforceable, either wholly or in part, as a result of any statutory provision, legal judgment or otherwise, this will not have any effect on the validity of all the other provisions of these General Conditions or the underlying Order/Agreement.
- V.4.2** If a provision in these General Conditions or the underlying Order/Agreement is not valid for a reason as referred to in the previous paragraph but would be valid if it were to have a more limited scope or purport, this provision will - firstly – automatically apply with the most far-reaching or expansive limited scope or purport with which it is valid.
- V.4.3** Without prejudice to the provisions in paragraph 2, the parties may if desired enter into consultation in order to agree new provisions in replacement of the void or voided provisions. In this, the objective and purport of the void or voided provisions must be taken into account as far as possible.