



GENERAL SALE CONDITIONS OF WESTLAND HOLDING B.V.

Article 1 – General

Definitions

In these Conditions the following capitalized terms shall have the following meanings:

Buyer:	the entity to whom Goods are supplied by the Seller.
Seller:	Westland Holding B.V. and its subsidiaries.
Conditions:	the General Sale Conditions of Westland Holding B.V. set out in this document.
Contract:	the contract for the sale and purchase of the Goods concluded between the Buyer and the Seller incorporating these Conditions.
Goods:	the goods which shall be delivered pursuant to the Contract with the Buyer.
Price:	the price for the Goods as set out in the estimate.

1.1 **THE APPLICABILITY OF THE GENERAL CONDITIONS USED BY THE BUYER IS HEREBY EXPLICITLY REJECTED.**

1.2 These conditions shall apply to all legal relations of the Seller acting as seller or potential seller of Goods.

1.3 In the event a specific Contract between the Seller and the Buyer is concluded to which these Conditions apply, the provisions of such specific Contract shall prevail in case of a conflict between the provisions of such specific Contract and the provisions of these Conditions.

1.4 English language words used in these Conditions intend to describe Dutch legal concept only and the consequences of the use of those words in English law or any other foreign law shall be disregarded.

1.5 Whenever "written" or "in writing" is used in these Conditions it shall mean by fax, e-mail, Electronic Data Interchange, internet or by means of any other electronic medium.

Article 2 – Contract

2.1 All offers by Seller are made without any engagement.

2.2 Information given in data sheets, brochures, etc. is only given as guidance and shall not be binding upon Seller.

2.3 The Seller is not obliged to make inquiries after the intended use of the Goods or the circumstances under which the Goods will be used by the Buyer.

2.4 The Seller is entitled to terminate any negotiations with the Buyer at any time, without any compensation being due.

2.5 A Contract between the Seller and the Buyer is concluded, if the Seller accepts the Buyer's order (made verbally or in writing) in writing, or if the Seller commences the execution of the order placed by the Buyer.

2.6 Verbal promises or agreements are only binding if confirmed in writing by the Seller.

2.7 All orders are placed under these Conditions exclusively and are accepted subject to the Seller's then current minimum order quantities for the particular Goods.

Article 3 – Packing materials and/or packaging

3.1 Returnable packing materials and/or packaging will remain Seller's property.

3.2 In case returnable packing materials and/or packaging is made available by Seller to Buyer, Seller is entitled to charge a deposit.

3.3 Buyer will return such returnable packing materials and/or packaging in an undamaged condition to a place of destination to be determined by Seller within a reasonable term set by Seller. Buyer shall comply with all applicable laws with respect to the transport of such packing materials and/or packaging. Buyer is not entitled to modify the returnable packing materials and/or packaging or keep such returnable packing materials and/or packaging for its own use.

3.4 Any deposit paid by Buyer for such packing materials and/or packaging will not be refunded if the obligation of undamaged return is not fulfilled within the term set. If no deposit has been asked for, the Buyer shall at Seller's first request compensate Seller for the value mentioned on the invoice or for the value, quoted by Seller at a later date, of the packing materials and/or packaging which have been returned damaged or outside the term set.



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- 3.5 Buyer shall be liable to compensate for the damage the Seller suffers if returnable packing materials and/or packaging is damaged or not returned by Buyer.
- 3.6 Any tools, artwork, cutting boards and the like made or purchased for the manufacture of the Goods shall remain the property of the Seller even if the Buyer has been charged for the cost of such items.
- 3.7 The packaging shall be provided with the brands and wording legally required in the country of origin.
- 3.8 The costs associated with meeting the requirements for packaging, labeling, stamping and palletizing established after the conclusion of the Contract, shall be borne by the Buyer.

Article 4 – Weights and Measurement

- 4.1 The measurements and weights as shown on the offer and/or order confirmation submitted by Seller, determine the quantity supplied.
- 4.2 Minor deviations with respect to the agreed quantities, weight, measures and/or composition shall be accepted by the Buyer.
- 4.3 Samples of the Goods provided to the Buyer serve only as an indication.

Article 5 – Delivery and risk

- 5.1 Unless otherwise agreed in writing between the Buyer and the Seller, the Goods shall be delivered Ex Works (Incoterms 2010).
- 5.2 The Buyer shall be solely responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- 5.3 The times for delivery indicated by the Seller will only serve as an estimate and are not of the essence.
- 5.4 The Seller reserves the right to make delivery by instalments and to issue a separate invoice in respect of each instalment. When delivery is agreed to be by instalments or the Seller exercises its right to deliver by instalments and there is delay in the delivery of anyone or more instalments for whatever reason this will not entitle the Buyer to damages or to treat the Contract as repudiated.

- 5.5 Until such time as the property in the Goods passes to the Buyer, the Buyer shall:
- (a) keep the Goods separate from those of the Buyer and third parties and properly stored, protected and identified as the Seller's property;
 - (b) not destroy or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in a satisfactory condition and keep them insured on the Seller's behalf for their full Price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller.
- 5.6 Seller is entitled to sub-contract the Goods to be delivered to any other entity of the Seller's group of companies. These Conditions will also apply to these deliveries.

Article 6 – Warranty

- 6.1 Seller warrants only that the delivery of the Goods comply with the standard norms as maintained by Seller and with the contents of any warranty explicitly made by Seller in writing.
- 6.2 Buyer bears the risk of and is liable for the usage of the Goods, irrespective of whether these Goods have been used in combination with other goods or alone.
- 6.3 The Seller never warrants the absence of defects which are the consequence of complying with any mandatory laws and regulations regarding the nature or the quality of the raw materials and/or materials applied in the delivered Goods.
- 6.4 The Buyer cannot claim under this warranty after it has processed, confused the delivered or part of the delivered Goods with goods delivered by third parties or other goods delivered by the Seller, or has delivered the Goods to third parties.
- 6.5 Any other warranty is explicitly excluded.

Article 7 – Complaints

- 7.1 The Buyer is obliged to inspect the Goods at delivery in order to evaluate whether they conform to the Contract and are free from defects. If this is not the case, the Buyer loses its right to claim that the Goods do not conform to the Contract or are defective, if it has not informed the Seller thereof as soon as

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possible in writing by giving reasons, and in any case within 7 days after delivery of the Goods, or after such moment that the defect or deviation should reasonably have been detected.

- 7.2 The Goods in question shall remain available to the Seller in their state at the time the Seller receives a written notice referred to in Article 7.1. If a claim of the Buyer under this Article 7 is considered to be justified by the Seller, the Seller is, at its discretion, only obliged to either deliver the lacking part or quantity, replace the Goods delivered or to credit the Buyer the purchase Price paid for the relevant Goods. The Buyer is obliged to follow the Seller's instructions with respect to the storage and/or return of the Goods to be replaced.

Article 8 – Limitation of Liability

- 8.1 The Seller shall, irrespective of the legal basis on which a claim is based, only be liable to compensate for direct damages up to the invoice amount for the Products that caused the relevant damage, or, if the damage is covered by the Seller's insurance, the amount actually paid out by the insurer in that respect.
- 8.2 The Seller shall, irrespective of the legal basis on which a claim is based, never be liable for consequential losses or damage, including but not limited to: loss of profits, loss of data, loss of contracts, loss of savings or losses caused by disruption or cessation of the production and/or business.
- 8.3 The Seller shall, irrespective of the legal basis on which a claim is based, not be liable for damage and losses caused by willful intent (*opzet*) or conscious recklessness (*bewuste roekeloosheid*) on the part of other persons than the Seller or its management (*bedrijfsleiding*), including its employees (*ondergeschikten*), its independent contractors (*niet-ondergeschikten*) and other persons engaged by the Buyer in the performance of this Contract.
- 8.4 The Seller reserves all legal and contractual defenses that it can invoke in respect of its liability towards the Buyer, for itself and for those of its employees and independent contractors and other persons engaged by the Buyer in the performance of this Contract for whom or for which it can be held liable by law.

- 8.5 The Buyer is obliged to indemnify and hold the Seller harmless against any and all claims of third parties relating to the Goods in the event the Buyer has formulated, packaged and/or finished the Goods itself in any manner whatsoever. Any such claims shall include but are not limited to claims, costs, legal costs and liabilities that are based upon or arise in connection with (i) article 6:162 or articles 6:185-193 of the Dutch Civil Code or (ii) any similar statutory provisions which have been enacted in a Member State of the European Union other than the Netherlands as a result of the implementation of the European Council Directive of July 25, 1985, concerning liability for defective products (85/374/EEC), or (iii) any similar statutory provisions of the laws of any other jurisdiction.

Article 9 – Force majeure

- 9.1 Except as hereinafter provided, no party shall be liable for any reasonable default or delay in the performance of the terms of these Conditions where such failure is due to force majeure (as hereinafter defined) affecting that party.
- 9.2 The term "force majeure" referred to in these Conditions shall mean any event or circumstance which is beyond the reasonable control of the affected party and which gives the affected party reason to claim that it cannot properly perform its obligations, in whole or in part, whether temporarily or permanently, under the Contract, including, without limitation, governmental regulations or orders which prohibit or restrict the sale of the Products to be delivered, shortage of the Products in question to be delivered, prohibitions on import and/or on export, including but not limited to non-performance or late performance by the Sellers' suppliers or transport undertaking, disruption(s) in the production process of the Products, strikes, lockouts or industrial disputes or disturbances, civil disturbances, wars, riots, blockades, insurrections, epidemics, nature and/or nuclear disasters, explosions, the inability to obtain or retain necessary authorizations and/or permits, (threats of) terrorist activity.
- 9.3 Upon the occurrence of an event constituting force majeure, the party affected by this event or circumstance shall take all measures which may reasonably be required to perform its obligations under the Contract as quickly as



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possible. The parties shall, if necessary, jointly examine the measures to be taken to limit the effect of force majeure.

- 9.4 In the event that a party wishes to rely on a condition of force majeure, that party shall notify the other party already as soon as reasonably possible, but in no case later than 72 hours after discovery of such condition.

Article 10 – Retention of title

- 10.1 The Seller retains title relating to the Goods delivered or to be delivered, until the Buyer has fulfilled its payment and/or any other obligations with respect to all Goods delivered or to be delivered under the Contract and with respect to all claims based on breach of such Contract.
- 10.2 The Buyer shall notify the Seller immediately, if:
- (a) third parties exercise rights to the Goods referred to in Article 10.1 or if the Buyer becomes aware of the fact that third parties wish to do so;
 - (b) an application for a provisional suspension of payment or a suspension of payment is made by the Buyer or granted, or if any arrangements with the Buyer's creditors are made;
 - (c) an application for bankruptcy is filed with regard to the Buyer or the Buyer is declared bankrupt.
- 10.3 In case the Buyer fails to fulfil any of its payment obligations, the Seller has the right; without prior notice being required, to repossess the Goods delivered. The Buyer herewith irrevocably authorizes the Seller, or any third party designated by the Seller, to enter those premises of the Buyer where the Goods have been stored. All costs relating to the repossession of the Goods are borne by the Buyer.
- 10.4 The property law aspects of retention of title (*goederenrechtelijke gevolgen van eigendomsvoorbehoud*) to the Goods shall be governed by Dutch law or, at the Seller's discretion, by the laws of the country of destination of the Goods, provided that (i) the laws of such country in respect of retention of title provide better protection to the Seller than Dutch law and (ii) the Goods are actually imported into that country of destination.

- 10.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all amounts owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) immediately become due and payable.

- 10.6 The Seller is at all times entitled to pledge or assign to third parties any receivables from the Buyer under a Contract.

Article 11 – Suspension and termination

- 11.1 Seller reserves the right to suspend the execution of the Contract or, at its own discretion, to terminate or rescind the contract in full or in part and with immediate effect without prior notice being required, whilst retaining all rights to compensation for costs, damages and interest, to be decided at its own discretion, if:
- (a) the Buyer fails to comply with any of its obligations under the Contract, or if it is established that full compliance will be impossible;
 - (b) the Seller has good grounds to suspect that the Buyer will not properly or not timely fulfil his obligations under the Contract;
 - (c) the Buyer is declared bankrupt or his bankruptcy or (provisional) suspension of payment is applied for or granted, the Buyer ceases its operations, the Buyer is wound-up or dissolved, or any arrangements with the Buyer's creditors are made;
 - (d) a pre-judgment or post-judgment attachment is levied on a substantial part of the Buyer's assets and, in the event of a pre-judgment attachment, is not released or discharged within 30 days;
 - (e) in the opinion of the Seller, the Buyer undergoes a substantial change in management and/or any change occurs in the effective control over the Buyer, or if the Buyer is involved in a merger or demerger.
- 11.2 In case the Seller terminates or rescinds the Contract in accordance with Article 11.1, without prejudice to any other rights or remedies the Seller may have, any and all claims the Seller may have vis-a-vis the Buyer shall become immediately due and payable.



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Article 12 – Prices

- 12.1 All Prices quoted by the Seller are estimates and the applicable Price for the Goods shall be the current Price of such Goods at the date of delivery as determined by reference to the Seller's pricelist.
- 12.2 The Prices quoted are in Euros, exclusive of VAT and exclusive of taxes and levies, transport, insurance and customs clearance.
- 12.3 In case, upon the formation of the Contract, alterations occur in one or more of the factors constituting Seller's cost price, such as, but not limited to, costs of materials, measures by the Government, wages, premiums, freights, exchange rates and taxes, Seller is entitled to command that the Prices will be increased accordingly. Seller will inform Buyer in writing of the Price increase. Buyer will be deemed to have accepted the Price increase unless it has informed Seller within 14 days after receipt of such notice that it wishes to terminate the Contract.

Article 13 – Payment

- 13.1 Unless otherwise agreed in writing, payment must be made within 30 days after the date. Payment by the Buyer shall be made in the currency set out in the invoice and without set-off, discount and/or suspension.
- 13.2 If payment is not received by the due date, the Seller shall be entitled, without prejudice to any other rights and remedies that the Seller may have, and without any written notice of default being required, to charge statutory commercial interest over the outstanding amount(s) until full payment is received. The Seller shall in such case also be entitled to request immediate payment of all invoices, irrespective whether these are due, and to immediately suspend performance of all of its obligations.
- 13.3 All costs with respect to payment, including but not limited to costs with respect to the provision of security, shall be for the Buyer's account and expense.
- 13.4 All extra-judicial costs, which expressly includes costs incurred by drafting notice letters, conducting settlement negotiations, and performing any other acts relating to the preparation of legal proceedings, and judicial costs which the Seller might incur pursuant to

a default of the Buyer shall be borne by the Buyer.

- 13.5 Payments by the Buyer shall be deemed to have been made first to settle judicial and extra judicial costs as stipulated in Article 13.4, accrued interest as stipulated in Article 13.2, thereafter they shall be charged to the oldest debt, irrespective of any indications made by the Buyer.
- 13.6 If upon the terms applicable to any order the Price shall be payable by instalments or if the Buyer has agreed to take specified quantities of Goods at specified times, a default by the Buyer of payment for any due instalment or the failure to give delivery instructions in respect of any quantity of Goods outstanding shall cause the whole of the balance of the Price to become due and payable forthwith.

Article 14 – Security

- 14.1 In case Seller has good reason to believe that the Buyer will not strictly or timely fulfil its obligations vis-a-vis Seller, the Buyer is obliged to provide at Seller's first request satisfactory security in any form requested by Seller with respect to the fulfilment of Buyer's payment obligations.
- 14.2 In case the Buyer fails to comply with Seller's request mentioned in this Article within 7 days after having received such a request, any and all payment obligations of the Buyer, irrespective of the title thereof, shall become due and payable, and Seller is entitled to suspend immediately fulfilment of all its obligations, without prejudice to any other rights or remedies Seller may have.

Article 15 – Intellectual property rights, confidentiality

- 15.1 The Buyer may only use the trade names, logos, patents, copyrights, trademarks and/or any other intellectual property rights of Seller for the purpose of resale of the Goods and under the conditions set forth by and instructions Buyer shall strictly adhere.
- 15.2 The Buyer shall not disclose to any third party in any manner whatsoever any confidential information relating to the Goods and/or the business of Seller save to the extent required under applicable law.
- 15.3 The Buyer is obliged to indemnify and hold the Seller harmless against any and all claims of third parties relating to the alleged



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infringement of intellectual property rights in the event the Buyer has formulated, packaged and/or finished the Goods itself in any manner whatsoever.

liability in Article 8, shall also be for the benefit of all other companies which belong to the Seller's group of companies.

Article 16 – Product Recall

- 16.1 The Buyer shall notify the Seller immediately if it has evidence that the quality of the Products is defective, or that the Products constitute a danger to the safety and health of consumers. In such event, the Buyer shall contact the Seller immediately. The Buyer shall also immediately furnish all relevant documents showing the risk and/or danger referred to in this Article 16.1.
- 16.2 The Buyer shall demonstrably organize its processes in such a way that Products constituting a risk to the safety and health of consumers can be traced and withdrawn easily.
- 16.3 Before taking any action, the Parties shall consult each other. Any decision to recall or withdraw a Product shall be made by the Seller.
- 16.4 The Seller determines the contents of any warnings, press releases and/or other statements in connection with any Product recall. Any questions from the press and/or media in connection with a Product recall will be answered by the Seller. The Buyer will refer press and/or media on to the Seller.
- 16.5 The Buyer shall render all assistance to ensure an adequate and effective handling of the proceedings for a Product recall of the Seller.

- 17.11 If any provision of these Conditions, or part thereof, cannot be invoked, or is invalid or null and void, the other provisions, or part thereof, shall remain in full force. The parties agree to replace the invalid or null and void provision by a provision whose content and effect corresponds as much as possible to the provision that is invalid or null and void.
- 17.12 These Conditions have been filed with the Chamber of Commerce in Amsterdam and can be consulted at www.westland-kaas.nl and will be sent upon request free of charge.

Article 18 – Governing law and competent court

- 18.1 These Conditions and all legal relationships between Seller and Buyer shall be governed by and construed in accordance with the laws of the Netherlands. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG 1980) do not apply to these Conditions nor to any individual Contract.
- 18.2 Any dispute arising out of or in connection with these Conditions and/or any other legal relationship between Seller and Buyer shall be submitted to the exclusive jurisdiction of the competent courts in Amsterdam, the Netherlands.

Article 17 – Miscellaneous

- 17.1 Without written permission from the Seller, the Buyer may not delegate its obligations under a Contract with the Seller or any part thereof to third parties, or assign or pledge to third parties any receivables from the Seller under such a Contract.
- 17.9 Nothing in a Contract shall be construed as creating a partnership or joint venture of any kind between the parties or as appointing any party as agent for the other party for any purpose and neither party shall have the authority to bind the other party or to contract in its name for any purpose.
- 17.10 It is expressly and irrevocably agreed that any rights of Seller under these Conditions, including but not limited to the limitation of