



GENERAL PURCHASE CONDITIONS OF WESTLAND HOLDING B.V.

Article 1 – General

Definitions

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

Purchaser:	Westland Holding B.V. and its subsidiaries.
Conditions:	the General Purchase Conditions of Westland Holding B.V. set out in this document.
Contract:	the contract for the sale and purchase of the Goods and/or the supply and acquisition of the Services incorporating these Conditions.
Goods:	the goods which shall be delivered pursuant to the Contract with the Purchaser.
Order:	the Purchaser's purchase order.
Price:	the price for the Goods and/or Services.
Seller:	the person or entity that shall deliver the Goods and/or Services.
Services:	the services which shall be rendered pursuant to the Contract with the Purchaser.
Specifications:	includes any recipes, descriptions, drawings, data or other information relating to the Goods and/or Services provided by the Purchaser to the Seller or agreed upon in writing between the Purchaser and Seller.

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

1.2 These Conditions shall apply to any request made by the Purchaser to the Seller to make an offer, to any offers made or to be made by the Seller, to any Orders placed or to be placed by the Purchaser and to any Contracts made or to be made with the Seller in which Westland Holding B.V. acts as the purchaser and/or principal in respect of the delivery of Goods and/or Services, as well as any legal relationships arising from the foregoing.

1.3 These Conditions may only be deviated from by written agreement.

1.4 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 Any offer made by the Seller may not be revoked and shall be valid for a period of 60 calendar days.

2.2 The Purchaser may terminate any negotiations at any time, without stating the grounds and without any compensation being due.

2.3 If the provisions of a Contract between the Purchaser and the Seller deviate from these Conditions, the specific provisions of the Contract shall prevail.

2.4 If, in the performance of a Contract, use is made of drawings, Specifications, instructions and the like that were made available or approved by the Purchaser, these shall form part of the Contract.

2.5 The Seller shall deliver the ordered Goods in the agreed form, quantity and quality on the agreed delivery date at the agreed place.

2.6 To the extent that the Seller is obliged to provide Services, it must deliver the agreed result on the agreed date and place to the Purchaser.

Article 3 – Prices

3.1 The Prices set out in the Purchaser's Order or the Seller's offer are exclusive of VAT, fixed, and inclusive of all costs necessary for the performance of the Contract and the delivery, including packaging, shipping and freight charges, insurance and duties and taxes up to the Delivery Address, and whatever the Purchaser reasonably requires from the Seller in order to use the purchased Goods for the intended purpose.

3.2 Additional costs that were not expressly accepted in writing in advance by the Purchaser shall not be reimbursed.

Article 4 – Payment

4.1 The Purchaser shall not accept any credit restriction charges or any other supplementary charges on the Seller's invoices.

4.2 Payment shall be made on the basis of invoices and within 60 days of receipt of the invoice by the Purchaser.



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- 4.3 Payment by the Purchaser shall not imply any acknowledgement that the Goods delivered and/or Services rendered conform to the Contract.
- 4.4 The Purchaser reserves the right to suspend payment if the Seller fails to perform a Contract timely or properly.
- 4.5 If the Purchaser is required to pay interest on overdue payment, interest shall be charged at the statutory rate as meant in Article 6:119 Dutch Civil Code.
- 4.6 The Purchaser is entitled to set-off all amounts owed to the Seller against amounts the Seller owes to the Purchaser.

Article 5 – Transfer and pledge

- 5.1 Without written permission from the Purchaser, the Seller may not delegate its obligations under a Contract with the Purchaser or any part thereof to third parties, or assign or pledge to third parties any receivables from the Purchaser under such a Contract.

Article 6 – Time of delivery and delivery

- 6.1 Delivery shall be effected Delivery Duty Paid (DDP) (Incoterms 2010) at the address indicated by the Purchaser.
- 6.2 The agreed times of delivery are fixed and in either case during the Purchaser's usual business hours. In the event of a failure to meet the time of delivery, the Seller shall be in default without any written notice of default being required.
- 6.3 If a penalty has been set for failure to deliver on time, this penalty may not be set off against any damages.
- 6.4 If the Seller is unable to perform his obligations on time, he must inform the Purchaser of this immediately.
- 6.5 The Purchaser may return any partial delivery(ies) that have not been agreed to the Seller, at the Seller's expense and risk. Delivery prior to the agreed time may only take place with the Purchaser's prior written agreement and shall not result in a change in the agreed payment date.
- 6.6 If the quantities delivered are not those agreed, and the deviation is larger than is usual in the industry concerned, the Purchaser shall be entitled to refuse or to return at the Seller's

expense and risk the excess delivery, or, in the event less was delivered, the entire delivery.

- 6.7 If, due to special circumstances, the Purchaser is not able to take receipt of the Goods at the agreed time, the Seller shall, at the Purchaser's request, postpone the delivery for a reasonable period to be determined by the Purchaser without additional charges for the Purchaser.
- 6.8 All Goods delivered by the Seller shall be accompanied by a proper packing slip.

Article 7 – Packaging and transport

- 7.1 Goods shall be properly packaged, protected and transported in such a manner that they reach the place of delivery in good condition and that unloading there can occur in a safe manner. The Seller is responsible for complying with all applicable legal requirements both national and international concerning packaging and transport as well as for ensuring that the transporters contracted by or on behalf of the Seller comply with these requirements.
- 7.2 The Purchaser shall be entitled to refuse to take delivery of Goods if the abovementioned requirements and provisions have not been complied with. Acceptance by the Purchaser shall not constitute a waiver of its rights in connection with any failure of the Seller in respect of the above.
- 7.3 The Seller undertakes to take back for his own expense and risk, at the Purchaser's request, the packaging materials used by the Seller.

Article 8 – Title and risk

- 8.1 Title to the Goods shall pass to the Purchaser at the time of the passing of the risk of loss in accordance with delivery DDP (Delivery Duty Paid) (Incoterms 2010). This applies mutatis mutandis to partial deliveries.
- 8.2 Materials provided by the Purchaser to the Seller in order to perform the Contract, including materials, raw materials, semi-manufactured products, parts, models, Specifications, drawings, software and data carriers, shall remain the Purchaser's property.
- 8.3 If the Seller creates a new good ("zaak") out of or partly out of materials provided to him in accordance with Article 8.2, the Purchaser shall be deemed to have caused this new good



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to be created for itself and the Seller shall hold this good for the Purchaser as owner.

rights and know-how, and shall fully indemnify the Purchaser against any third party claims in this respect.

Article 9 – Warranty and indemnification

- 9.1 The Seller may never assert that it was unaware of the purpose for which Goods and/or Services to be delivered were intended or of the circumstances under which the delivery was to take place.
- 9.2 If the Purchaser refers in the Contract or the accompanying annexes to technical, safety, quality or other rules which are not attached to the Contract, the Seller is deemed to know these, unless the Seller immediately informs the Purchaser in writing to the contrary. The Purchaser shall then provide the Seller with further details of these rules.
- 9.3 The Seller warrants that:
- (a) the Goods and/or Services delivered: (i) will be of good quality, (ii) will fully comply with the Purchaser's requirements, Specifications, conditions, drawings, samples and/or other information/data provided by the Purchaser, (iii) will be free from design and production errors, (iv) will conform to the state of the art at the time of delivery and (v) will be complete and suitable for the intended purpose;
 - (b) the Goods and/or Services delivered will comply with legal requirements, standards and other government regulations of the country of destination and will be accompanied by the necessary clear instructions, safety regulations and warnings;
 - (c) the Goods and/or Services delivered will be new and free from defects;
 - (d) all materials or raw materials used will also meet the requirements set out in a to c above;
 - (e) its employees and any third parties engaged by it will be sufficiently competent.
- 9.4 The Seller shall indemnify the Purchaser against any claims brought against the latter by third parties as a result of damage arising from acts or omissions of, or a failure to perform obligations by the Seller and/or the subordinates and/or sub-contractors engaged by the Seller in the performance of the Contract.
- 9.5 The Seller warrants that the Goods delivered and/or Services rendered will not infringe third party rights, including intellectual property

Article 10 – Warranty period

- 10.1 Any defects discovered within a period of 12 months of delivery shall be dealt with by the Seller in accordance with the provisions of Article 12.
- 10.2 Any defects that could not have reasonably been discovered during the abovementioned warranty period of 12 months with normal use and normal inspections, but which are discovered within a period of 24 months from the date of delivery shall also be dealt with by the Seller in accordance with the provisions of Article 12.

Article 11 – Inspection/testing

- 11.1 Inspection/testing of the Goods and/or Services by or on behalf of the Purchaser can, at the Purchaser's request, take place at the Seller's premises prior to delivery or otherwise at the Purchaser's premises after delivery.
- 11.2 Without the Purchaser incurring any additional costs, the Seller shall cooperate in the inspection/testing and, at the Purchaser's request, provide reasonable assistance in terms of material and staff.
- 11.3 If the Purchaser, during an inspection/testing, rejects the Goods to be delivered, the Seller shall immediately provide the missing, repaired or substitute Goods for inspection/testing, without prejudice to any other rights of the Purchaser. In that event, the provisions of this Article 11 shall apply unimpaired.
- 11.4 The prior inspection/testing of the Goods and/or Services shall not be deemed to constitute an acknowledgement that the Goods/Services comply with the warranties referred to in Article 9.

Article 12 – Complaints

- 12.1 The Purchaser shall notify the Seller as soon as possible in writing of the complaint. The Seller shall then cure the defect within a period to be determined by the Purchaser, if possible at the Purchaser's premises. All costs relating to this shall be borne by the Seller. If the Seller fails to meet its obligation to cure the defect within the period determined, the Purchaser shall be entitled, irrespective of all its other rights, to



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cure the defect itself or have a third party do this, at the Seller's expense, or to demand replacement of or refund for the Goods, at the Purchaser's discretion

- 12.2 If, in the event of a defect in the Goods delivered, immediate measures are required in connection with the safety of persons and/or property, and the Purchaser is not in a position to notify the Seller, the Purchaser shall be entitled to perform temporary repair measures at the Seller's expense. The Purchaser's notification shall then follow as soon as possible, in order to enable the Seller to comply with the further warranty obligations.

Article 13 – Insurance and liability

- 13.1 The Seller shall adequately insure any liability that it may have pursuant to its legal relationship with the Purchaser or pursuant to the law. At its first request, the Purchaser shall be entitled to inspect the insurance policies taken out for this purpose.
- 13.2 The Seller shall be liable for any damage and/or loss sustained by the Purchaser, its subordinate(s) or independent contractor(s) as a result of or in connection with Goods/Services delivered or the performance of a Contract with the Seller irrespective of whether it was caused by the Seller, its direct manager(s), subordinate(s) or independent contractor(s).
- 13.3 The Purchaser shall, irrespective of the legal basis on which a claim is based, never be liable for consequential losses or damage.

Article 14 – Industrial/intellectual property rights, confidentiality

- 14.1 All intellectual, industrial and any other property rights in respect of drawings, Specifications, manuals, samples, software, etc., that were made available by the Purchaser to the Seller, or which were created by the Seller as part of the Contract, shall rest with or belong to the Purchaser. The Seller shall cooperate in drawing up and executing the required deeds of transfer, inter alia with respect to the intellectual, industrial and any other property rights. Without the Purchaser's prior written permission, the Seller shall not make copies of the documents, materials, etc. referred to.

- 14.2 All Orders granted by the Purchaser are confidential and may not be disclosed by the Seller for publicity or sales promotion purposes.

- 14.3 The Seller has a duty of confidentiality towards third parties in respect of any information and knowledge provided to it by the Purchaser or disclosed to it in any other manner and it shall only use this for the purpose of performing the Contract. The Seller shall also impose this duty on all subordinates and independent contractors who acquire such knowledge and warrants that they will comply with this duty.

Article 15 – Suspension and termination

- 15.1 The Purchaser shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery and/or performance.
- 15.2 Purchaser 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 and without any obligation to pay damages, if:
- (a) the Seller fails to comply with any of its obligations under the Contract, or if it is established that full compliance will be impossible;
 - (b) the Purchaser has good grounds to suspect that the Seller will not properly or not timely fulfil his obligations under the Contract;
 - (c) the Seller is declared bankrupt or his bankruptcy or (provisional) suspension of payment is applied for or granted, the Seller ceases its operations, the Seller is wound-up or dissolved, or any arrangements with the Seller's creditors are made;
 - (d) a pre-judgment or post-judgment attachment is levied on a substantial part of the Seller'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 Purchaser, the Seller undergoes a substantial change in management and/or any change occurs in the effective control over the Seller, or if the Seller is involved in a merger or demerger.



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15.3 In case the Purchaser terminates or rescinds the Contract in accordance with this Article 15, without prejudice to any other rights or remedies the Purchaser may have, and whilst retaining all rights to compensation for costs, damages and interest, to be decided at its own discretion, any and all claims the Purchaser may have vis-a-vis the Seller shall become immediately due and payable.

15.4 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 Purchaser might incur pursuant to a default of the Seller shall be borne by the Seller.

Article 16 – Force Majeure

16.1 In the event of force majeure, the Seller may suspend the performance of its obligations under a Contract with the Purchaser for a period not exceeding 2 weeks, provided that it informs the Purchaser immediately after the circumstances giving rise to force majeure occurred, describing these circumstances. If the Seller is unable to fulfil its obligations after this 2-week period has ended, the Purchaser shall be entitled to terminate the Contract, without any obligation to pay damages.

16.2 The Seller shall in any event bear the risk of, without limitation, strikes, lock-outs, shortages of raw materials, transport problems, failures on the part of the Seller's suppliers to perform their obligations and disruptions in the Seller's production process.

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.

17.2 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.

17.3 It is expressly and irrevocably agreed that any rights of Seller under these Conditions shall

also be for the benefit of all other companies which belong to the Seller's group of companies.

17.4 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.

17.5 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 Purchaser and Seller 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 Purchaser and Seller shall be submitted to the exclusive jurisdiction of the competent courts in Amsterdam, the Netherlands.