

# The general terms and conditions of Konimpex BV

## 1. General

**1.1.** These are the general terms and conditions of Konimpex BV, having its registered office and principal place of business at Doetinchemseweg 69, 7007CB, Doetinchem (KVK 0914182), hereinafter referred to as Konimpex.

**1.2.** The general conditions are applicable to all contracts, bids, offers, orders, deliveries, invoices and other legal relationships between Konimpex and her customers, suppliers and contractors.

**1.3.** These conditions keeps all terms and conditions of sale from the suppliers and/or customers intact so far as if one or more of the provisions of these general terms and conditions or of the accompanying contract are invalid or set aside, the remaining provisions of these general terms and conditions and the contract shall remain applicable in full.

**1.4.** Konimpex may consider the address of a contracting party at the time of concluding an agreement as the right address until the contractor notifies Konimpex as such in writing per registered mail. All letters, reminders, summonses, notices, writs and notices delivered shall be construed as sound and legally valid if sent to the first address given or delivered, as long as the new address is not changed in the prescribed manner.

**1.5.** Dutch law is applicable to all agreements stated by Konimpex to which these conditions apply. Differences that arise in respect of or in connection with contracts negotiated by Konimpex to which these conditions apply, shall be settled by the competent Court in The Netherlands. Konimpex, however, remains authorized in summoning the counterparty according to the law or applicable international treaty abled judge.

## 2. SALE BY KONIMPEX BV

### 2.1. Offers and prices

**2.1.1.** All quotations and offers from Konimpex are non-binding, unless expressly indicated in writing to the contrary.

**2.1.2.** Konimpex is firstly bound to an offer or quotation, if this is confirmed in writing by a duly authorised person. The other party is bound to an agreement as soon as Konimpex has notified them in any manner, to close an agreement or to commence the execution thereof.

**2.1.3.** All prices quoted by Konimpex are based on the underlying rates, levies, premiums and other costs of Konimpex. If one of those underlying factors outside the direct influence of Konimpex modifies, or is being modified before delivery has occurred then Konimpex has the right to change the price agreed with the customer.

### 2.2. Research financial strength

**2.2.1.** Konimpex has the right to investigate the financial health of the other party and, if they consider it necessary, to ask for the execution by the other party of its obligations under the agreement. The buyer will provide sureties on the first request from Konimpex.

### 2.3. Inspection of goods and delivery

**2.3.1.** The recipient of goods from Konimpex has the right to inspect the goods at his own expense or by an expert. Konimpex sells goods only in the condition it is currently in.

**2.3.2.** The goods sold are delivered by Konimpex from her own site or where the goods are stored. All goods are after delivery, starting from the moment with commencing a delivery, at the expense and risk of the customer.

**2.3.3.** All costs of transport, transportation, as well as the loading and unloading of the goods sold to or at the place of destination, are at the expense of the customer unless otherwise agreed in writing. If relevant to the transport, transport or loading or unloading otherwise agreed, paragraph 2.3.2 preceding this paragraph regarding the transition of risk remains applicable.

### 2.4. Delivery times

**2.4.1.** Goods will be delivered by Konimpex sold within the agreed period of delivery. If delivery will take place later than agreed, the buyer will grant a reasonable additional term of at least four weeks to Konimpex for the delivery. Late delivery by Konimpex gives the buyer no rights for compensation for the damage suffered by him, directly or indirectly, or consequential damages.

## **2.5. Insurance**

**2.5.1.** Konimpex will insure her sold goods against risks related to storage location of Konimpex or transport for the account and risk of Konimpex BV. All damage caused after delivery that are not reimbursed by the insurance company to Konimpex is the sole responsibility of the customer.

## **2.6. Advertising**

**2.6.1.** Any claims concerning goods supplied by Konimpex should be reported within fourteen (14) days to Konimpex with a written confirmation containing full indication of the nature and extent of the complaint.

**2.6.2.** If a complaint is found justified by Konimpex then Konimpex has the right to retrieve property, provided that payment is fulfilled and deliver in substitute equivalent goods or reimburse the buyer the value of the goods delivered originally by Konimpex, with a maximum of the invoice. Further compensation of damage from Konimpex is only held, as far as, and to the amount of, the insurance company is covering and transfers the payments.

**2.6.3.** If it is agreed that any complaints are for the account and at the risk of a supplier of Konimpex, then Konimpex will transfer its claim from supplier to the buyer.

**2.6.4.** Without prejudice to article 2.6.2, slight differences in quality, size, weight or qualification, this only at the discretion of Konimpex, are no grounds for advertising, in relation to the written agreement.

## **2.7. Retention of title and power of disposal**

**2.7.1.** Konimpex is always entitled to claim payment in advance for its goods that needs to be delivered. All goods supplied by Konimpex remain its property until the buyer has complied fully all outstanding invoices, therefore also invoices related to previously delivered goods, as well as claims in respect of failing in fulfilment of the agreement or prior agreements. The customer is not entitled to have the goods in question in any way, not even in exercise of his profession or business, nor is he entitled to transfer the goods to a third party, make it available, otherwise make use of, dispose or object to, without prior written permission of Konimpex.

## **2.8. Force majeure**

**2.8.1.** If Konimpex is unable to deliver, due to force majeure or facts or circumstances beyond its control, the agreement between the parties and/or periods referred to in these terms and conditions, will be suspended until the force majeure situation has been lifted. In case Konimpex is of the opinion that the force majeure situation is of lasting nature, it has the right to terminate the agreement with immediate effect. In case of Konimpex lifting the force majeure situation to abide with following an order, in case Konimpex decides to rescind, Konimpex can never be held accountable to any compensation or reimbursement of consequential damages.

## **2.9. Payment**

**2.9.1.** The customer must pay all invoices from Konimpex BV, without discount, unless otherwise agreed in writing, within the time limit set on which invoices to pay by transfer to bank account of Konimpex BV. If no period is specified then invoices must be payed within fourteen (14) days starting from the date of the invoice, using the determined currency, date and crediting of the bank of Konimpex BV.

**2.9.2.** All payments received are first withdrawn from the open invoices and only then on the open invoice(s) for delivered goods.

**2.9.3.** In the event of late payment, Konimpex has the right to add interest legitimately with 1.5% per month of the due amount, where a part of a month is considered as an entire month.

**2.9.4.** The customer is not entitled to offset any payment obligation to Konimpex or compensate with any claim to a payment obligation, subject to the prior written consent of Konimpex BV.

**2.9.5.** If the customer is not paying, or does not pay on time then Konimpex has the right to her total claim against the buyer including the at that time not yet affordable invoices. The cost of debt collection are the sole responsibility of the buyer that includes the real extrajudicial and judicial collection costs.

**2.9.6.** If the customer is not paying, or does not pay on time, or otherwise fails to comply with its obligations, or is not on time, then Konimpex is entitled to suspend its obligations to the buyer or to dissolve the agreement with the customer. In the latter case, the customer will compensate suffered damages by Konimpex as a result of not continuing the agreement. Damage due to loss of profit shall in that case be fixed on 20% of the purchase price.

#### **2.10. Liability**

Without prejudice to the preceding provisions Konimpex will never be liable towards the buyer or any third party for damages of any nature whatsoever, caused by or in connection with the goods supplied by Konimpex BV. The buyer indemnifies Konimpex against any claims by third parties in that respect. In addition, under any circumstances, at all times, regarding the damage or consequential loss which is covered under the insurance referred to in article 2.5 and in so far as payment is actually transferred by the insurance company, for and up to the amount, for which cover is granted, the customer first has to appeal to his own insurance before any claim can be made on the insurance of Konimpex BV. Furthermore, Konimpex BV, without prejudice to the above, will keep compensation to a maximum of the amount for which Konimpex has or has been invoiced, Konimpex is never liable to any compensation for damages, including consequential damages.

### **3. PURCHASE BY KONIMPEX BV**

#### **3.1. Orders and assignments**

**3.1.1.** Orders and assignments by Konimpex are only binding if confirmed in writing signed by a representative listed in the trade register.

**3.1.2.** Konimpex has the right to cancel any orders in whole or in part or to withdraw as long as the relevant supplier or contractor fails to supply the ordered goods or services in whole or in part.

**3.1.3.** Not or not proper fulfilment. If Konimpex is of the opinion that an assignment does not or has not been properly performed, or goods not properly delivered, then Konimpex has the right to suspend payment until proper execution or delivery has taken place.

**3.1.4.** In the event of culpable non-compliance by the supplier or contractor, Konimpex has the right to fulfilment or dissolution of the contract granting reimbursement to the suffered damage or oncoming suffering of damage with a minimum of 25% of the contractually agreed price.

#### **3.2. Interest payment and prescription**

**3.2.1.** Accepted supplies of goods and services will be paid by Konimpex within the agreed payment terms. Konimpex will first be required to pay the legal interest effective from the time after the payment is summoned in writing. Konimpex will never be bound to a payment of extrajudicial collection costs or to interest at a rate higher than the official interest rate.

**3.2.2.** Claims for payment by suppliers of goods or services should be submitted within one year of delivery at Konimpex. The claims are considered to be barred or expired after expiry of that period.

#### **3.3. Transfer Obligations**

**3.3.1.** Konimpex is entitled to transferring its obligations from an agreement to a third party. If the supplier or contractor does not agree to this, Konimpex should be notified in writing within a week after notice of the acquisition. The agreement between the parties is then dissolved, and parties have to give back what they received from each in the framework of the agreement.

#### **3.4.**

#### **Proper Performance**

**3.4.1.** A supplier or contractor is always responsible for proper quality of his deliveries and works and should, in particular, hold responsibility for the damage that the customers and legal successors under special title by Konimpex are suffering, due to not or not properly performing

#### **3.5. Withdrawal in Case of Force Majeure**

**3.5.1.** If, as a result of events of force majeure, labour disputes, in culpable business disturbances, civil unrest, official measures or other unavoidable events which occur after conclusion of the contract, there is a significant drop in demand for the goods ordered without blame on our part, then, to the extent that the events in question are not of insignificant duration, Konimpex can withdraw from the contract in full or in part or demand performance at a later time, without the supplier being entitled to make any claims in respect thereof against Konimpex. If a customer of Konimpex goes bankrupt this is also considered force majeure.

**3.6.** Ownership of Objects, Reservation of Title

**3.6.1.** All items handed over by Konimpex to the supplier, such as designs, presentations, samples or models, remain our property. The supplier shall be obliged to keep such items strictly confidentiality and shall return them immediately upon our request. The supplier therefore undertakes that, without our prior consent, the supplier will not pass on such items to third parties nor use the same for own purposes.

**3.6.2.** If Konimpex makes a contribution to the cost of production of manufacturing equipment, tools or models, then the supplier will transfer co-ownership of the manufacturing equipment, tools or models to Konimpex in proportion to the relationship of our contribution to the total costs of manufacture. Konimpex accepts the transfer of this co-ownership. The supplier is only entitled to use the manufacturing equipment, tools or models which are encumbered with our right of co-ownership for the benefit of other customers after our written consent has been given.

**3.7.** Article 19 Secrecy

**3.7.1.** The supplier undertakes, during the period of the contract, to keep confidential all information which will become accessible to him in connection with the contract, which is described as confidential or which, for other reasons, is recognizable as constituting a business- or company secret, included, but not limited to, all technical- and commercial information; and the supplier undertakes, unless previously expressly approved or unless any such conduct is necessary in order to achieve the purpose of the contract, to neither record nor pass such confidential information on to third parties or to exploit them in any way. This duty of secrecy shall remain in force for a further ten years after the fulfilment or termination of the contract.

**3.7.2.** The following information is excepted from these obligations of the supplier:

information which was already known to a party before the contractual negotiations commenced or which was notified to a party by third parties as not being confidential, provided that those third parties are, in turn, not in breach of any obligations of confidentiality; information which has been developed by each of the parties independently of the other, respectively;

information which is, or will become, public knowledge without the blame or involvement of the parties; or information regarding which there is a statutory duty of disclosure or which must be disclosed due to an order from a public authority or court.

**3.7.3.** In the case last mentioned above, the disclosing party is obliged to inform the other party without delay before disclosure. Statutory duties of confidentiality which go beyond those referred to above remain unaffected.

**3.7.4.** For every case of faulty infringement by the supplier of this obligation to maintain secrecy, Konimpex is entitled to claim a liquidated damages amounting to EUR 10,000.-- (in words: Ten Thousand Euros); it is open to the supplier to show that Konimpex has not incurred any loss or that the loss incurred by Konimpex is smaller. If the evidence presented is satisfactory, then Konimpex is only entitled to claim compensation for the loss which has actually arisen.

**3.7.5.** Konimpex reserves the right to claim an amount of loss which is verifiably higher, either instead of the liquidated lump-sum or in addition thereto.

**3.8.** Form of Declarations

**3.8.1.** Legally relevant declarations and notifications which have to be provided to Konimpex must be made in writing.

**3.8.2.** This also applies to legal declarations and notifications which the supplier has to provide to third parties, In case they are relevant to the contractual relationship between Konimpex and the supplier.

**3.9.** CE Declaration of Conformity / Manufacturer's Declaration / Certificates

**3.9.1.** The items supplied must fulfil all legal provisions, directives and norms relating to the relevant goods and must be delivered with the prescribed certificates and confirmations. If a declaration of the manufacturer or a declaration of conformity (CE) is necessary for the goods, the supplier must prepare it and must make it available on demand, without delay and at the supplier's own.

**3.10.** Code of Conduct

**3.10.1.** As a BSCI Participant, Konimpex is committed to the values and principles set out in the BSCI Code of Conduct and to meeting, within our sphere of influence, our responsibility to respect human rights. In this regard, it remains fundamental to our company's approach to integrate the BSCI Code of Conduct, when doing business with all partners regardless of where they source in the world.

**3.10.2.** If applicable, the supplier agrees to become Amfori member and to undergo an audit.

**3.10.3.** Alternative membership, underwritten and accredited by Amfori, will be accepted.

**3.10.4.** The supplier agrees to respect the labour principles set out in the BSCI Code of Conduct.

**3.10.5.** The supplier will at all times admit an unannounced, semi announced or announced audit, provided that the auditing company can demonstrate that they are legitimate and are acting on behalf of Konimpex and/or Amfori BSCI