

## **GENERAL CONDITIONS OF SALE AND DELIVERY OF:**

### **G. VAN DE REIJT - VAN GORP B.V.**

in Terheijden, the Netherlands

## **ARTICLE 1. SCOPE OF THESE CONDITIONS**

The conditions set out below are applicable to all - including future - contracts under which Van de Reijt Meststoffen B.V., hereinafter referred to as "**V.d. Reijt**", delivers goods or renders services of any nature as well as to statements made in that context. All parties engaged by V.d. Reijt in the context of the implementation of the contract can invoke the provisions of these general conditions. The counterparty of **V.d. Reijt** is referred to below as "the buyer". The general conditions presented by the buyer at any time to **V.d. Reijt** are hereby expressly rejected.

## **ARTICLE 2: FORMATION OF CONTRACTS, NON-COMPLIANCE ON THE PART OF THE BUYER AND CONTENT OF THE CONTRACT**

1. The offers of **V.d. Reijt** are subject to contract and, in the absence of any statement to the contrary, remain valid for 8 days following their signature. **V.d. Reijt** reserves the right to withdraw a quotation up until the third working day of receipt of acceptance. If **V.d. Reijt** does not send a quotation or order confirmation, the delivery note, or if no delivery note has been drawn up, the invoice will take its place.
2. In the event of the buyer culpably failing to meet his obligations, **V.d. Reijt** shall be entitled, in addition to the right to dissolve the relevant contract or suspend its execution, to dissolve or suspend the execution of other contracts with the buyer that have not yet been settled by means of a written statement to that effect. In that case, **V.d. Reijt** shall also be entitled to require the buyer to remit all amounts payable up to that time in a lump sum and/or to deliver future supplies exclusively on a cash on delivery basis. The rights set forth in this paragraph do not affect the other statutory rights of **V.d. Reijt**, which **V.d. Reijt** can also exercise if the buyer is granted (provisional) suspension of payment or declared bankrupt or otherwise loses the freedom to dispose of his assets without restriction.
3. If **V.d. Reijt** issues to or shows the buyer an image, sample or model, that shall be done exclusively for indicative purposes without the goods having to conform to them.
4. If **V.d. Reijt** delivers to a third-party on the request of the buyer, that shall not affect the buyer's payment obligations. The same shall apply if **V.d. Reijt** agrees with the buyer that **V.d. Reijt** will send the invoice to the buyer's customer.
5. In the absence of agreement to the contrary, the quality standards shall conform to the standards that are customary in the industrial sector of the relevant product, subject to the proviso that the quality standards customary in the country of origin shall at all times be taken into account. Furthermore, **V.d. Reijt** cannot under any circumstances be obliged to supply goods of above average quality. Deterioration of quality as a result of weather conditions that cannot reasonably be prevented in the context of the business operations of **V.d. Reijt** shall be for the buyer's account.

## **ARTICLE 3: DELIVERY**

1. The buyer is obliged to **V.d. Reijt** to take immediate receipt of the purchased goods or the offered service as soon as they are delivered or offered to him.

2. In the absence of explicit agreement to the contrary, agreed delivery terms are approximate and are not firm deadlines. Therefore, in the event of late delivery **V.d. Reijt** must be given written notice of default in which **V.d. Reijt** is granted following consultation a reasonable period of time in which to meet its obligations.
3. The delivery period shall also be extended in the event of a temporary impediment up to 2 weeks as provided for in article 9, paragraph 5. In that case - without the buyer thus becoming entitled to dissolve the contract - the period provided for in the previous sentence shall be extended by the duration of the impediment plus the period within which **V.d. Reijt** can reasonably be expected to deliver.
4. **V.d. Reijt** further reserves the right to deliver goods in batches subject to the condition that this is done within the agreed period or the period extended by virtue of the two previous paragraphs.
5. The significance of the delivery provisions shall be interpreted on the basis of the most recent edition of Incoterms. Contrary to the above, the goods shall at all times be at the buyer's risk as soon as they leave the storage depot of **V.d. Reijt**. **V.d. Reijt** shall only take out transport insurance on the explicit request of the buyer and at the buyer's expense.

#### **ARTICLE 4: SECURITY**

**V.d. Reijt** reserves the right to require the furnishing of sufficient security upon entering into the contract. **V.d. Reijt** further reserves the right to require security during implementation of the contract if **V.d. Reijt** receives information suggesting that the buyer's credit worthiness is reduced to the extent that there are reasonable doubts about the buyer's ability to meet all of his obligations in full. That shall be the case in all situations where the buyer fails to meet his obligations despite being held in default. If the buyer fails to furnish security despite being held in default, **V.d. Reijt** reserves the right to exercise its rights in respect of the buyer as described in paragraph 2 of article 2.

#### **ARTICLE 5: RETENTION OF TITLE**

All deliveries shall take place under retention of title. **V.d. Reijt** shall retain the ownership of goods delivered and to be delivered to the buyer under any contract until the buyer:

- a. has remitted full payment of the purchase price for all of the goods plus interest and costs, and
- b. has met all claims concerning the work carried out or to be carried out by **V.d. Reijt** for him under the relevant contract, and
- c. has met the claims that **V.d. Reijt** can invoke against him in the event of his non-compliance with the obligations set out above.

The buyer may not have the goods delivered under retention of title used as security for claims other than those of **V.d. Reijt**. If the buyer has placed the goods with a third-party he shall - if he fails to meet his obligations to **V.d. Reijt** - be obliged to inform **V.d. Reijt** of the name and address of that third-party and **V.d. Reijt** shall be entitled to inform that third-party that the third-party must henceforth retain the goods for **V.d. Reijt**.

#### **ARTICLE 6: PAYMENT AND COSTS**

1. In the absence of agreement to the contrary, the prices of **V.d. Reijt** do not include turnover tax and/or other governmental levies and/or costs of storage and/or costs of transport. If these levies/costs - insofar as they are charged on by **V.d. Reijt** to the buyer - and/or the costs that affect the products - such as

the procurement prices and salaries payable by **V.d. Reijt** – are increased after the contract is entered into, **V.d. Reijt** shall be entitled to adapt the agreed price to those price increases. If a price change as provided for above takes place within three months of the contract being entered into, the buyer shall be authorised to dissolve the contract by means of written notification to that effect, in which case **V.d. Reijt** shall for its part be authorised to give notification immediately upon receipt of that notification that it wishes to maintain the contract at the original price, in which the contract shall be deemed not to have been dissolved. The provision set forth above shall also apply if **V.d. Reijt** delivers goods on call or in batches and for each batch delivery separately. In the event of governmental levies – including turnover tax – being increased, **V.d. Reijt** can charge on that increase with immediate effect.

2. In the absence of agreement to the contrary, payment shall be due within fourteen days of the invoice date. The buyer cannot under any circumstances stipulate setoff or suspend payment. If **V.d. Reijt** sends to the buyer a specified statement of the amount payable by the buyer to **V.d. Reijt**, and of the amount payable by **V.d. Reijt** to the buyer, that statement shall also serve as a statement of setoff. Upon expiry of the due date the buyer shall be held in default without notice of default being required and shall be liable from the expiry date of the invoice onwards to payment of interest over the total amount at the statutory interest rate plus 2% per year until full and final settlement. At the end of each year the amount over which the interest is payable shall be supplemented by the interest payable over that year. The place of payment shall at all times be the offices of **V.d. Reijt** in Terheijden.
3. The buyer is liable to **V.d. Reijt** for all extrajudicial and judicial debt collection costs if he fails to remit any due and payable amount despite receiving a demand to do so, and **V.d. Reijt** passes on the claim to third-parties. If **V.d. Reijt** attaches property before judgement, it will not be necessary to issue a demand or claim the exigibility of the claim as regards the costs. The extrajudicial and judicial costs (based on a minimum of the amount estimated by the court outside of the contract) shall be calculated on the basis of the rate per unit of time usually charged by the lawyer of **V.d. Reijt** to third-parties. If **V.d. Reijt** is partially ruled against, the costs shall be moderated proportionally unless the court takes the view that moderation is not required in view of the minor nature of the error made by **V.d. Reijt**. The judicial costs shall at all times be charged to the buyer on the basis of the aforementioned system, with the amount to be settled by the court outside of the contract as the minimum.
4. Amounts payable by the buyer or third-parties shall at all times first be deducted from the claims for which **V.d. Reijt** cannot invoke the retention of ownership provided for in the previous article. With due observance of the above, payments shall first to payment of all payable costs and then to all payable interest and then, finally, to the principal amount or amounts.

## **ARTICLE 7: INSPECTION AND COMPLAINTS**

1. The buyer is obliged to inspect the goods delivered by **V.d. Reijt** directly upon their receipt for correct quantity and immediately visible defects. If the buyer wishes to lodge complaints in that regard, **V.d. Reijt** must receive notification to that effect within two working days of delivery at the latest.
2. The buyer must also inspect the goods according to the standards of good workmanship within eight working days of their delivery to establish that they are in keeping with the agreements and, if any defects are established, to report them to **V.d. Reijt** on the last day of this period at the latest.

3. If and insofar as the defects could not reasonably have been established within the two periods provided for above, then the complaint must be submitted to **V.d. Reijt** within eight working days but at the latest within a period of six months as specified in article 9, paragraph 1, of the period in which the buyer establishes or could reasonably have established a defect. This provision shall also apply if the goods lack a property which according to statement made by **V.d. Reijt** they should possess or if the deviation relates to facts that **V.d. Reijt** was or should have been aware of but did not inform the buyer.
4. **V.d. Reijt** is not obliged to accept complaints made following the periods provided for in this article and those complaints shall not lead to **V.d. Reijt** being held liable. If **V.d. Reijt** none the less accepts a complaint of that nature, its efforts made in that regard should, in the absence of agreement to the contrary, be regarded as a courtesy without accepting any liability whatsoever. If a complaint proves to be unfounded and **V.d. Reijt** has carried out work or delivered goods in that context, **V.d. Reijt** shall be entitled to charge the buyer for that work at its normal rates.

#### **ARTICLE 8: SUBSTITUTE TRANSACTION**

1. If the buyer has held **V.d. Reijt** liable for a breach of contract and plans to enter into a substitute transaction he is obliged to inform **V.d. Reijt** of that intention immediately in writing, preferably by fax. **V.d. Reijt** reserves the right upon receipt of that notification to inform the buyer of the seller with which the substitute transaction can be conducted and at which price and under which conditions. If the buyer can reasonably be expected to enter into this substitute transaction, irrespective of whether he enters into the substitute transaction proposed by **V.d. Reijt**, he cannot claim a less favourable price for the substitute transaction carried out.
2. The provisions of this article shall not affect the provisions of the previous article.

#### **ARTICLE 9: LIABILITY AND FORCE MAJEURE**

1. If the buyer has acted in conformity with the provisions of the previous article, **V.d. Reijt** can only be held liable for an attributable breach with due observance of these conditions for a period of six months following the date of delivery.
2. If **V.d. Reijt** acknowledges that it has culpably failed to meet its obligations or if that is otherwise established, **V.d. Reijt** reserves the right to inform the buyer of its intention to redeliver or deliver free of charge the missing goods or to repair the defective goods. If **V.d. Reijt** delivers shortly following the aforementioned notification, that shall imply that the contract has been correctly complied with and the buyer shall not be entitled to compensation for damages. The provisions of the previous sentence shall not apply if, prior to the aforementioned notification, the buyer has justifiably dissolved the contract extrajudicially or has lodged a claim for dissolution and that claim has been awarded.
3. Other than in cases of intentional act or omission or gross negligence, and in the event of it being judged that **V.d. Reijt** is liable for the payment of financial compensation in addition to or instead of that provided for in these general conditions regarding its liability, the liability of **V.d. Reijt** shall be limited, in cases of pecuniary loss, to a maximum of the invoice price for the batch it has delivered containing the goods that have caused the loss. In the event of a different loss being suffered, the liability of **V.d. Reijt** shall be limited to the amount payable under its liability insurance. If and insofar as that insurance does not provide any cover, the provisions of the first sentence of this article shall apply by analogy.

4. In addition to that regarded by law as constituting force majeure, force majeure is deemed as strikes and or sickness among the personnel of **V.d. Reijt**, non-compliance and/or force majeure on the part of its suppliers, transporters or other third-parties involved in the contract, stagnation of supplies, natural force, war or mobilisation, obstructive measures of any public authority, fire or other accidents at its company and other circumstances as a result of which the (continued) implementation of the contract cannot reasonably be expected and if the impediment can reasonably be expected to have a duration in excess of 2 weeks following the circumstance that has led to the impediment or its being established that the impediment will result in compliance with the contract becoming fully or definitively impossible. If a force majeure situation has thus arisen, either party shall be entitled to dissolve the contract in full or - with regard to the part of the contract that cannot be implemented - in part, in which latter case the parties undertake to comply with the part of the contract that has not been dissolved. If the contract is dissolved in full or in part in compliance with this paragraph, neither party shall be obliged to pay compensation for damages.
5. In the event of a temporary impediment up to 2 weeks following the circumstance/circumstances provided for in the previous paragraph, force majeure will not be deemed to have arisen and the period within which **V.d. Reijt** is required to deliver in accordance with the provisions of article 3, paragraph 3, shall be extended without the buyer thus becoming entitled to dissolve the contract.

#### **ARTICLE 10: APPLICABLE LAW AND COURT WITH COMPETENT JURISDICTION**

1. All contracts entered into by **V.d. Reijt** shall be governed by the laws of the Netherlands to the exclusion, if otherwise applicable, of the United Nations Convention on Contracts for the International Sale of Goods.
2. All disputes arising between **V.d. Reijt** and the buyer shall, notwithstanding the legal competence of the subdistrict court, be referred for adjudication to the court with competent jurisdiction in **V.d. Reijt's** place of establishment, notwithstanding the right of **V.d. Reijt** to institute legal proceedings against the buyer at the court with competent jurisdiction.