



1. Application

- 1.1. These purchase and sale conditions are applicable to and are part of all purchase and sale agreements concluded by Cormorant Commodities B.V. (“Cormorant Commodities”)
- 1.2. The applicability of any conditions used by Cormorant Commodities counterparty is hereby explicitly excluded. Any stipulations made by the counterparty and any of its general terms and conditions will only be valid if and to the extent that they are explicitly accepted by Cormorant Commodities, in writing, for each individual transaction.
- 1.3. The counterparty, with whom any agreement has been entered into on these Conditions, agrees that they will apply to all subsequent agreements between it and Cormorant Commodities.
- 1.4. In case of discrepancy, the main contract terms and/or standard-contract terms shall prevail over these General terms and Conditions, with the exception of Clause 7, which will in any case apply, notwithstanding any provisions to the contrary.

2. Agreements and Contracts

- 2.1. If Cormorant Commodities order confirmation contains any conditions, which deviate from these general conditions, the condition in the Cormorant Commodities order will prevail.
- 2.2. Verbal undertakings or arrangements by or with Cormorant Commodities staff or representatives do not bind Cormorant Commodities until and unless these have been confirmed in writing.
- 2.3. The counterparty is deemed to have accepted Cormorant Commodities order, unless he has notified Cormorant Commodities in writing to the contrary within ten working days after the date the confirmation of Cormorant Commodities has been sent to the counterparty.
- 2.4. Cormorant Commodities reserve the rights to charge fees for the use of packaging and other required materials.
- 2.5. The counterparty shall respect all obligations under this contract, related to non-performance by Cormorant Commodities of its obligations under this or any contract.
- 2.6. Services performed by Cormorant Commodities, which are not part of the agreement are and remain for risk and account of the counterparty.
- 2.7. Cormorant Commodities is entitled to terminate or interrupt the agreement on an interim basis, in whole or in part, without any entitlement to compensation, apart from payment for the work actually done up until that point or a proportionate part of any fixed price agreed, at any time.

3. Confidentiality

- 3.1. The counterparty will treat as confidential all information provided by Cormorant Commodities and shall not make such information available to any third party, except and in as far as this is necessary in connection with the performance of the supplier under the agreement. This condition remains in force also after the agreement has been carried out or dissolved.
- 3.2. The counterparty will use all data, information and material, released by Cormorant Commodities with respect to any offer and/or quotation, for internal use only, and they shall at any time remain the intellectual and industrial property of Cormorant Commodities. Without the explicit written confirmation of Cormorant Commodities, the counterparty is not allowed to release these data, information and material.



4. Applicable law

- 4.1. The law of the Netherlands applies to all relationships between Cormorant Commodities and the counterparty covered by these Conditions.
- 4.2. The applicability of the UN Convention on Contracts for the International Sale of Goods (CISG), concluded in Vienna on 11th April 1980, is excluded.

5. Incoterms

- 5.1. The trading terminology used herein or in other documentation between the parties must be interpreted and explained in accordance with the provisions in the most recent edition of the Incoterms.

6. Reserving rights and disputes

- 6.1. The fact that Cormorant Commodities does not use its rights against the counterparty, does not use them immediately or doesn't use them in full does not mean that it may not still exercise those rights, nor does it mean that Cormorant Commodities either assimilates or renounces those rights.
- 6.2. All disputes arising between the parties will be tried exclusively by the competent Court in Amsterdam.

7. Liability / Force Majeure

- 7.1. Except in cases of intentional damage or clearly serious negligence by itself or its own staff members, Cormorant Commodities is not liable for any loss or other injury of any nature whatever and however such loss and/or injury may arise, caused to the counterparty, or to third parties hired by the counterparty for the implementation of the agreement or otherwise, or to property of the counterparty or such third parties, or to individuals in the employment of the counterparty or such third parties. The counterparty indemnifies Cormorant Commodities and frees it of liability in connection with all claims in relation to which Cormorant Commodities is not liable or does not wish to be liable in terms of the foregoing provisions.
- 7.2. The counterparty is liable for losses, of whatever nature and however they may arise, sustained by Cormorant Commodities and/or third parties, including those individuals in the employment of Cormorant Commodities or hired or otherwise involved by Cormorant
- 7.3. Cormorant Commodities shall not be liable for non-fulfillment of its obligations occasioned by circumstances beyond their control or by Act of God or any other cause comprehended in the term Force Majeure.
- 7.4. In the event of force majeure, the counterparty will immediately inform Cormorant Commodities of the details, in writing, and will keep Cormorant Commodities informed of the developments in the force majeure situation.
- 7.5. If, in case of force majeure, Cormorant Commodities considers that fulfilment of the agreement will be impeded or complicated for a lengthy period, or if it becomes or might reasonably become burdensome for Cormorant Commodities to sustain the agreement, Cormorant Commodities will be entitled to dissolve the agreement with immediate effect, in whole or in part, by means of a written statement and without the need for any prior notice or default.



8. Prices, payments and collections

- 8.1. The price in the Cormorant Commodities order confirmation is firm and exclusive of VAT, unless otherwise stipulated.
- 8.2. Unless agreed otherwise all invoices shall be paid within 7 days of the date of Cormorant Commodities invoice.
- 8.3. Cormorant Commodities must be informed and/or notified, within 7 days after the invoice date in writing, of any complaint with respect to the invoice. Thereafter the counterparty shall be deemed to have approved the invoice.
- 8.4. The counterparty shall notify Cormorant Commodities immediately of any Complaints and reclamations, but these notifications will not allow the counterparty to suspend or cancel its own obligations under the contract (such as, but not limited to the obligation to pay).
- 8.5. The counterparty is not allowed to set-off against any amounts payable to Cormorant Commodities, without a written confirmation by Cormorant Commodities.
- 8.6. In the situation that the counterparty fails to timely comply with its obligations, an interest fee and all extra costs to collect any outstanding amount will be charged to the counterparty.
- 8.7. If the counterparty fails to effect timely payment of its debts or compounds with his creditors, or if the counterparty is subject to measures which can be taken under the applicable law in relation to debtors who are unable or unwilling to pay all their debts, or if the counterparty were to fail to perform its payment obligations under any agreement with Cormorant Commodities, Cormorant Commodities will be authorized to terminate, by written notice, with retroactive effect any and all of the Contracts with the counterparty, without prejudice to any of Cormorant Commodities remaining rights under any contract with the counterparty.
- 8.8. When the situation should occur as described in the paragraph above, Cormorant Commodities will also be entitled to reclaim the documents with immediate effect or to take back the goods forthwith and set off the revenue from the sale of these documents and/or goods against the counterparties debt. Any costs by doing this will be for the counterparties account.
- 8.9. Cormorant Commodities is entitled to pledge/transfer all of its all existing and future receivables/claims against its counterparties to its bankers, including but not limited to ING.

9. Transfer of risk and property

- 9.1. The risk of the goods and/or documents shall pass to the counterparty on delivery or so much earlier as agreed within the terms of the contract.
- 9.2. When the goods, for which delivery is suspended pending payment by counterparty, or goods, of which delivery is wrongfully rejected or not accepted by the counterparty, shall be held and stored by Cormorant Commodities at the risk and expense of the counterparty.
- 9.3. Goods, respectively documents representing the goods, that are subject to the retention of title may not be transferred as security or pledged.
- 9.4. This retention of title extends to goods after having been processed, changed or co-mingled and also applies to any moneys or other value (to be) received by or on behalf of the counterparty in respect of these goods.
- 9.5. In all cases Cormorant Commodities remain owner of all delivered goods and respectively documents representing the goods, until the counterparty has fulfilled all commitments and payments in full and has been received by Cormorant Commodities, (with respect to goods, respectively documents representing the goods situated in Germany, the German rules and legislation on retention of title apply) without any restriction.



10. Testing, inspection and quality of goods

- 10.1. Cormorant Commodities is not obliged to carry out any quality checks or entrance controls. The counterparty is never entitled to rely on Cormorant Commodities failure to carry out such a check as a defense against any claim by Cormorant Commodities.
- 10.2. Unless otherwise agreed, the counterparty must check and test, at its own risk and expense, the goods, partially fabricated items, packaging and other items for composition and quality before processing or using them and must report any irregularities to Cormorant Commodities before such processing or use.
- 10.3. At Cormorant Commodities request the counterparty / (supplier) shall enable Cormorant Commodities to audit the quality and/or the state of the goods prior to delivery and/or the state and the progress of the manufacturing of the goods. Such testing, inspection and/or verification do not affect the liability of the supplier under the agreement with Cormorant Commodities. Cormorant Commodities may have a third party to carry out the testing, inspection and/or verification.
- 10.4. The counterparty / (supplier) shall provide the person(s) carrying out the testing, inspection and/or verification with such equipment and information as they may reasonably require.
- 10.5. If the results of the testing, inspection and/or verification are not to the reasonable satisfaction of Cormorant Commodities, Cormorant Commodities is entitled to cancel the order without prejudice to his other rights and without the seller being entitled to any compensation.
- 10.6. The counterparty has to submit any complaint in writing and within 48 hours from delivery. Submitting after this period the counterparty will have forsaken all rights to compensation regarding shortcomings that could reasonably have been discovered after careful examination. Other shortcomings should be notified to Cormorant Commodities in writing within one week from the date upon which the counterparty became aware, or should reasonably have become aware, though no later than one month after delivery.
- 10.7. In the situation the counterparty submits a complaint, Cormorant Commodities reserve all rights to inspect the delivered goods and/or to have the goods inspected by a third party. In the event that the complaint would be unfounded the counterparty will be charged for all costs of inspection and other related costs by Cormorant Commodities.

11. Warranty

- 11.1. The counterparty warrants that all information, samples, and other documents related to the goods as agreed in the contract or agreement with Cormorant Commodities are correct, complete and reliable.
- 11.2. The counterparty warrants that the goods shall at all times be properly and sufficiently insured with first class underwriters, with a waiver of recourse against Cormorant Commodities.
- 11.3. The counterparty warrants that the counterparty complies with statutory safety, health and environmental regulations as well as all individuals and entities that work for or in cooperation with the counterparty.



12. Rescission

12.1 Without prejudice to any further rights vested in Cormorant Commodities, Cormorant Commodities is entitled inter alia to rescind the agreement with its counterparty without any further notice of default in full or in part by means of a written statement, if:

- the counterparty fails to perform one or more obligations from the agreement;
- the counterparty has been declared bankrupt, has applied for an official moratorium, has shut down his business, or liquidated his company, an attachment is carried out of a substantial part of his assets or he transfers his company to third parties;

12.2 If in the view of Cormorant Commodities there is sound reason to fear that counterparty will not timely perform its obligations, counterparty is held to give due security at the first request of Cormorant Commodities, without delay, in the form desired by Cormorant Commodities for full performance of all its obligations.

13. Special Clause (German counterparties)

13.1. Wir behalten uns das Eigentum an den gelieferten Waren bis zur vollständigen Tilgung aller uns aus der Geschäftsverbindung zustehenden und noch entstehenden Forderungen, gleich aus welchem Rechtsgrund, vor.

13.2. Der Kunde ist zur Verarbeitung unserer Erzeugnisse oder deren Verbindung mit anderen Erzeugnissen im Rahmen seines ordnungsgemässen Geschäftsbetriebes berechtigt. An den durch die Verarbeitung oder Verbindung entstehenden Gegenständen erwerben wir zur Sicherung unserer in Ziffer 1 genannten Ansprüche Miteigentum, das der Kunde uns schon jetzt überträgt. Der Kunde wird die unserem Miteigentum unterliegenden Gegenstände unentgeltlich verwahren. Die Höhe unseres Miteigentumsanteils bestimmt sich nach dem Verhältnis des Werts unseres Erzeugnisses und dessen durch die Verarbeitung oder die Verbindung entstandenen Gegenstandes

13.3. Wir gestatten unseren Kunden widerruflich die Weiterveräußerung im gewöhnlichen Geschäftsgang. Dieses Recht erlischt im Falle einer Zahlungseinstellung. Der Kunde tritt uns schon jetzt alle ihm aus der Weiterveräußerung zustehenden Forderungen mit Nebenrechten ab. Die abgetretenen Forderungen dienen der Sicherung aller Ansprüche nach Ziffer 1. Der Kunde ist zum Einzug der abgetretenen Forderungen berechtigt, solange wir diese Ermächtigung nicht widerrufen haben. Die Einziehungsermächtigung erlischt auch ohne ausdrücklichen Widerruf, wenn der Kunde seine Zahlungen einstellt. Auf unser Verlangen hat uns der Kunde unverzüglich schriftlich mitzuteilen, an wen er Ware veräußert hat und welche Forderungen ihm aus der Veräußerung zustehen, sowie uns auf seine Kosten öffentlich beglaubigte Urkunden über die Abtretung der Forderungen auszustellen.

13.4. Zu anderen Verfügungen über die in unserem Vorbehaltseigentum oder Miteigentum stehenden Gegenstände oder über die an uns abgetretenen Forderungen ist der Kunde nicht berechtigt. Pfändungen oder sonstige Rechtsbeeinträchtigungen der uns ganz oder teilweise gehörenden Gegenstände hat der Kunde uns unverzüglich mitzuteilen.

13.5. Wir sind jederzeit berechtigt, die Herausgabe der uns gehörenden Waren zu verlangen, wenn der Kunde mit einer Zahlung in Verzug kommt oder sich seine Vermögenslage wesentlich verschlechtert.

13.6. Machen wir von diesem Gebrauch, so liegt- unbeschadet anderer zwingender Gesetzesbestimmungen - nur dann ein Rücktritt vom Vertrag vor, wenn wir dies ausdrücklich erklären.

13.7. Übersteigt der Wert der für uns bestehenden Sicherheiten unsere Forderungen insgesamt um mehr als 20%, so werden wir auf Verlangen des Kunden insoweit Sicherungen nach unserer Wahl freigeben