

**LOSAN BENELUX B.V.
GENERAL CONDITIONS OF SALE AND DELIVERY**

Applicability

Article 1

- 1.1 Unless otherwise expressly agreed in writing between the parties any tender, offer and/or future agreement shall be governed by these general conditions. The applicability of general conditions of the customer/buyer is hereby expressly excluded.
- 1.2 All offers by Losan Benelux B.V. – including quotations, brochures, tenders, etc – are made without obligation and are merely an invitation to place an order.
- 1.3 All offers remain valid for one month unless the offer states otherwise.
- 1.4 The agreement shall take effect once Losan Benelux B.V. has confirmed the acceptance of the offer by the customer/buyer in writing. The acceptance by the customer/buyer of the offer by Losan Benelux B.V. shall show that the customer/buyer has agreed to the application of these general conditions and where necessary has waived its own general conditions. The agreement shall also take effect if Losan Benelux B.V. makes a start on its fulfilment.
- 1.5 Samples or models shown or supplied are merely by way of indication, without the good due having to comply with it.

Amendment, addition to agreement

Article 2

- 2.1 At the request of the buyer/customer Losan Benelux B.V. shall make all the changes in the order indicated by the buyer/customer, provided they can reasonably be made and with the right to charge the additional costs.

Prices

Article 3

- 3.1 The price will be increased by all taxes and/or duties, irrespective of which authority has levied or will levy them, as applicable on the day of supply.
- 3.2 The price is inclusive of insurance, transport and/or shipping costs.

Delivery/delivery time

Article 4

- 4.1. Delivery times agreed with the buyer/customer are by way of indication and not a deadline.
- 4.2 Delivery is ex works/free to buyer/customer's address.
- 4.3 Losan Benelux B.V. is entitled to fulfil the performance owed by it in parts.
- 4.4 If for whatever reason the customer/buyer is unable to take delivery of the goods at the agreed point in time and they are ready for delivery, Losan Benelux B.V., irrespective of its options arising under Article 10, shall have the right to store the goods at the expense of the customer/buyer. Losan Benelux B.V. shall do what may reasonably be expected of it in order to

counteract decline in the quality of the goods. The customer/buyer shall be charged for the storage and all other costs, irrespective of any subsequent dissolution of the agreement.

Payment

Article 5

- 5.1 Payment shall be made within 30 days of invoice date in a manner to be indicated by Losan Benelux B.V. in the currency in which the invoice is made out. Payment discounts must be expressly agreed by the parties. Drafts and cheques are excluded as means of payment.
- 5.2 On the expiry of 30 days from invoice date the customer/buyer shall be in default by operation of law; the customer/buyer shall be liable to pay interest on the amount due and payable from the moment of being in default in accordance with Article 6:119A of the Netherlands Civil Code. In the occasion of payment oversight, Losán Benelux is entitled to postpone pending deliveries. In case of default all remaining pending amounts will be due immediately.
- 5.3 Payment shall be made without discount or setoff.
- 5.4 Payments made by the customer/buyer shall be used in settlement in the first place of all interest and costs due and in the second place of due and payable invoices that are longest outstanding, even if the customer/buyer states that the payment relates to a later invoice.

Debt collection

Article 6

- 6.1 If the customer/buyer is in default in respect of the fulfilment of one or more of its obligations, then all the judicial and extrajudicial costs for the obtaining of payment shall be at the expense of the customer/buyer.

Retention of title

Article 7

- 7.1 All goods supplied by Losan Benelux B.V. shall remain the property of the user until the customer/buyer has fulfilled all the following obligations from all sales agreements concluded with Losan Benelux B.V.
- 7.2 The customer/buyer is not entitled to pledge the goods covered by the retention of title nor to encumber them in any other way.
- 7.3 The customer/buyer hereby gives its unconditional and irrevocable consent to Losan Benelux B.V. or to a third party to be appointed by Losan Benelux B.V., in all cases in which Losan Benelux B.V. wishes to assert its rights of ownership, to enter all those places where the property of Losan Benelux B.V. is then located and to take those goods there with them.
- 7.4 If third parties seize the goods supplied subject to retention of title or wish to establish or assert rights over them, the customer/buyer is obliged to notify Losan Benelux B.V. accordingly as soon as may reasonably be expected.
- 7.5 The customer/buyer agrees to insure the goods supplied subject to retention of title and to keep them insured against fire, explosion damage and water

damage and also against theft and to make the policy of this insurance available for inspection on first demand of Losan Benelux B.V.

- 7.6 The customer/buyer hereby gives in pledge to Losan Benelux B.V., which accepts this pledging, all the goods of which the customer/buyer becomes (co-)owner by specification, accession and/or confusion/amalgamation with goods supplied and/or to be supplied by Losan Benelux B.V. as security for everything that Losan Benelux B.V. has or shall have to claim from the customer/buyer at any time.

Security

Article 8

- 8.1 If there is good reason to believe that the customer/buyer will not fulfil its obligations in time, the customer/buyer is obliged to provide immediately adequate security in a form desired by Losan Benelux B.V. on first demand of Losan Benelux B.V. and if necessary to supplement it for the fulfilment of all its obligations. As long as the customer/buyer has failed to comply with this, Losan Benelux B.V. is entitled to suspend its obligations.
- 8.2 If the customer/buyer fails to comply with a request as referred to in the previous paragraph within 14 days, all its obligations shall become payable on demand.

Warranty and claims

Article 9

- 9.1 Losan Benelux B.V. guarantees that the goods it supplies will be free from material and manufacturing defects for a period of three months following supply.
- 9.2 If the good has a material or manufacturing defect, the customer/buyer has the right to repair of the good. Losan Benelux B.V. can choose to replace the good if repair meets with objections. The customer/buyer only has a right to replacement if repair of the good is not possible. Replacement does not go beyond the forwarding of the goods to be replaced or the parts thereof.
- 9.3 The warranty is not valid if damage is the consequence of improper use or the failure to follow instructions properly. Claimed additional costs will always be declined. In relation to rendered services by Losán, the liability is limited to the invoiced value of the services.
- 9.4 The customer/buyer shall inspect the goods supplied (have them inspected) on delivery or as soon as possible thereafter. In so doing the customer/buyer shall check that the goods supplied comply with the agreement, that is:
- that the correct goods have been supplied;
 - that as regards quantity (for example the amount and the number) the goods supplied correspond to that which has been agreed;
 - that the goods supplied meet the agreed quality requirements or, if there are none, the requirements that may be made for normal use and/or commercial purposes.
- 9.5 If visible defects or deficiencies are found, then the buyer shall notify the user accordingly in writing within three days of delivery.
- 9.6 Part payments or withholds on invoices are prohibited.

- 9.7 Even if the other party claims in time, its obligation to pay and accept orders made continues to exist.
- 9.8 Losan Benelux B.V. does not guarantee that the item purchased is suitable for the purpose for which the buyer wishes to use it, unless the purpose and the use have been expressly mentioned by the buyer and have been included in the agreement.
- 9.9 Minor variations in dimensions, weights, colours, etc, do not count as a material or manufacturing defect.
- 9.10 Liability decays when delivered goods, without written permission of Losán Benelux, are changed, treated or handled in an incompetent way.

Force majeure/dissolution and discharge

Article 10

- 10.1 Apart from what is understood in this regard in the law and jurisprudence, in these general conditions the term force majeure means all outside causes, foreseen or unforeseen, over which Losan Benelux B.V. is unable to exert any influence, but because of which Losan Benelux B.V. is unable to fulfil its obligations, including industrial action in the user's business.
- 10.2 During force majeure the supply and other obligations of Losan Benelux B.V. shall be suspended. If the period of time in which fulfilment of the obligations by Losan Benelux B.V. is not possible because of force majeure is longer than two months, either party is entitled to dissolve the agreement without there being an obligation to pay damages in that case.
- 10.3 If on the commencement of the force majeure Losan Benelux B.V. has already fulfilled its obligations in part or can only fulfil its obligations in part, it is entitled to invoice the goods already supplied or the part that can be supplied separately and the customer/buyer is obliged to settle this invoice as if it concerned a separate agreement.
- 10.4 An agreement between the user and a buyer can be dissolved immediately by Losan Benelux B.V. in the following cases:
 - if the customer/buyer fails to fulfil any obligation arising for it from this agreement or fails to do so adequately or in time;
 - if the customer/buyer is bankrupt, applies for court protection from creditors or is placed in receivership;
 - if the customer/buyer does not or cannot take delivery of the goods to be supplied for whatever reason;
 - if closure or liquidation of the customer/buyer's business takes place;
 - if following conclusion of the agreement the customer/buyer fails to comply with the request of Losan Benelux B.V. as set out in Article 8 of these conditions;
 - if before or on the conclusion of the agreement Losan Benelux B.V. has asked the customer/buyer to provide security for fulfilment and this security fails to appear or is insufficient in spite of a warning.In the said cases Losan Benelux B.V. is entitled to suspend the further performance of the agreement or to dissolve the agreement, all notwithstanding the right of the user to claim damages.

Liability

Article 11

- 11.1 Losan Benelux B.V. is only liable to the customer/buyer for damage as a consequence of defects in goods supplied as set out in Article 9 (Warranty) of these conditions.
- 11.2 Under no circumstances shall Losan Benelux B.V. be obliged to compensate for other damage than that to persons or goods.
- 11.3 Losan Benelux B.V. is only liable if damage has been caused by intent or gross negligence on the part of Losan Benelux B.V. or its most senior managers. This damage is only eligible for compensation if Losan Benelux B.V. is insured or, given the customs prevailing in the sector, reasonably should have been insured against it, up to a maximum of the amount of the insurance payment. If the insurance does not provide cover or does not make payment or is not applicable in any case and Losan Benelux B.V. is liable, the liability of Losan Benelux B.V. is limited to a maximum of the invoice value of the transaction, at least that part of the transaction to which the liability relates.
- 11.4 The customer/buyer shall indemnify Losan Benelux B.V. – except for intent or gross negligence on the part of Losan Benelux B.V. or its most senior managers – for all claims of third parties, for whatever reason, in respect of compensation of damage and/or costs in connection with the goods supplied by Losan Benelux B.V.

Choice of law and forum

Article 12

- 12.1 All legal relationships between Losan Benelux B.V. and the customer/buyer are subject to the law of the Netherlands. The applicability of any (sale of goods) convention is expressly excluded. The District Court where Losan Benelux B.V. has its registered office has sole authority to take note of disputes. Nevertheless, Losan Benelux B.V. has the right to summons the other party before the competent court according to the law.

Conversion

Article 13

If and in so far as any provision of this agreement cannot be invoked on grounds of reasonableness and fairness or its unreasonably onerous character, then as regards content and scope this provision shall as far as possible acquire a corresponding meaning so that it can be invoked.

Dutch text prevails

Article 14

The Dutch text of these general conditions prevails over translations of the text.