

GENERAL CONDITIONS OF SALE  
EUROPEAN ASSOCIATION FOR THE TRADE IN JUTE AND RELATED PRODUCTS  
("EUROJUTE")

**1. INTERPRETATION**

1.1 In these terms and conditions:

"the Buyer" means	the buyer of the goods,
"the Seller" means	the seller of the goods,
"the Contract" means	the contract for the sale and purchase of the goods,
"Goods" means	the goods (incl. any parts of them) which the Seller agrees to supply to the Buyer and which the Buyer agrees to pay for in accordance with these terms and conditions.

1.2 The headings used in these Conditions are for convenience only and shall not affect their interpretation.

**2. GENERAL PROVISIONS**

2.1 These Conditions shall form part of all agreements concluded by the Seller and shall apply to all offers, deliveries and/or work.

2.2 These conditions shall apply in place of and prevail over any terms or conditions, whether or not in conflict or inconsistent with these Conditions, contained or referred to in any documentation submitted by the Buyer or in correspondence or elsewhere or implied by trade custom, practice or course of dealing unless specifically excluded or varied in writing by a director or other authorised representative of the Seller and any purported provisions to the contrary are hereby excluded or extinguished.

- 2.3 Acceptance by the Buyer of delivery of the goods shall, without prejudice to any manner in which acceptance of these Conditions may be evidenced, be deemed to constitute unqualified acceptance of these Conditions.
- 2.4 Any agreement between the Seller and the Buyer - whether or not concluded through intermediaries of the Seller - shall only bind the Seller after the Seller has confirmed the agreement to the Buyer in writing.

### **3. OFFERS AND TENDERS**

- 3.1 An offer, tender or quotation shall not bind the Seller and shall only be regarded as an invitation to the Buyer to place an order, unless there is an express statement to the contrary.
- 3.2 The Seller's employees and agents are not authorised to make any representations concerning the goods unless confirmed by the Seller in writing.
- 3.3 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss, damages, charges and expenses incurred by the Seller as a result of the cancellation.

### **4. PRICES**

- 4.1 All prices of the Seller shall be in Euro's, unless explicitly mentioned differently in the Contract, and shall be exclusive of sales tax (VAT). Unless expressly agreed otherwise, the packaging costs, shipping costs, import and export duties and excise duties, as well as all other levies or taxes imposed or levied in respect of the goods and the transport thereof shall be for the account of the Buyer.
- 4.2 After the agreement has been confirmed or after an offer has been made which is not free of engagement, the Seller shall remain entitled to adjust the purchase price in accordance with any changes in the costs of freights, import duties, levies, taxes and other charges, also if such change is exclusively the result of a

devaluation of the relevant currency applicable to such freights, import duties, levies, taxes and other charges.

- 4.3 The Seller shall further be entitled to adjust the purchase price to any changes in foreign exchange rates if - after the conclusion of the sale but before the delivery of the goods - the cost price and/or the selling price have undergone a change of over 3% related to the exchange rate of the relevant currency, or the exchange rate of the currency stipulated in the contract. In all these cases the Seller shall be alternatively entitled to dissolve the Contract if and in so far as the goods are not yet in the possession of the Buyer.
- 4.4 Any purchase price agreed upon or declared applicable by the Buyer and the Seller shall be based upon the purchase price agreed upon by the Seller and the supplier. If such purchase price is altered as a result of circumstances beyond the Seller's control - such as shortage or breach of contract committed by the supplier - the Seller shall be entitled to pass on such alterations to the Buyer by adjusting the purchase price accordingly. The Seller shall be obliged to exert himself to the best of his ability to maintain the original price as much as possible.

## **5. TERMS OF DELIVERY**

- 5.1 The term of delivery as stipulated in the Contract shall be observed by the Seller as much as possible, but time is not of the essence.
- 5.2 If the delivery date is not met, the Buyer shall not be entitled to any damages for that reason. In that case the Buyer shall not be entitled either to annul or cancel the agreement, unless the term of delivery is exceeded to such an extent that it cannot reasonably be required from the Buyer that he upholds the relevant part of the agreement. In that case the Buyer shall be entitled to annul or cancel the agreement in so far as this is strictly necessary, provided he notifies the Seller thereof in writing and without prejudice to the Seller's right to deliver the goods in question to the Buyer within three weeks of receipt of the written notification.
- 5.3 If the sale has been effected subject to delivery on Buyer's call, the Buyer must call for delivery in such a manner that all goods have been completely called for within 6 months of the conclusion of the Contract, unless a different term of call
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is agreed upon in writing. If the Buyer does not call in time or does not call at all, the Seller shall be entitled to invoice the remaining goods at once and demand immediate payment at least within 8 days on which after receipt of the payment the remaining goods will be delivered. If Buyer does not pay within these 8 days the Buyer will be liable for interest as per article 8.2.

- 5.4 Where the goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions, or any claim by the Buyer in respect of any one or more instalments, shall not entitle the Buyer to reject the other instalments or to treat the Contract as a whole as repudiated.
- 5.5 Where delivery of the goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to five per cent (5%) plus or minus or otherwise agreed, than the quantity ordered, with the price being adjusted accordingly, and the quantity so delivered shall be deemed to be the quantity ordered.

## **6. FORCE MAJEURE**

- 6.1 If the Seller is unable to fulfil his obligations to the Buyer due to circumstances beyond his control, those obligations shall be suspended for the duration of the force majeure.
- 6.2 If the situation of force majeure has lasted for one month, the Seller shall be entitled to adjust the term of delivery and the price to the then existing circumstances, or the agreement can be cancelled in writing, either entirely or partially, without the Seller being obliged towards the Buyer to pay any compensation or damages, even if the Seller should derive any benefit from the force majeure.
- 6.3 Circumstances beyond the control of the Seller or force majeure shall be understood to mean any circumstance over which the Seller has no control and as a result of which the fulfilment of his obligations to the Buyer is prevented entirely or partially or as a result of which the Seller can, in reason, not be

required to fulfil his obligations, irrespective of whether such circumstance could be anticipated at the moment when the agreement was concluded.

Such circumstances shall also include: war, war risk, civil war, rebellion, import or export embargoes or transport bans or any other obstructive measures taken by any authority, strikes and lockouts of workmen, sit-in strikes, go-slow strikes, physical and/or economic transport difficulties, fire or other disturbances, stagnation or other production problems of the Seller or his suppliers and/or with respect to his own transport or the transport taken care of by third parties and/or measures taken by any public body, as well as the absence of any licence or permit to be received from the authorities.

## **7. TRANSFER OF RISK AND OWNERSHIP**

- 7.1 Immediately when the sale is effected, the risk of any loss or damage which may be caused to or by the goods sold, shall be transferred to the Buyer, unless there is an express agreement in the Contract to the contrary like an Incoterm.
- 7.2 Notwithstanding the actual delivery, the ownership of the goods shall not pass to the Buyer until he has completely paid everything he owes the Seller with respect to any damages and/or any goods delivered or to be delivered under any agreement, including the purchase price, any additional charges, interest, taxes and costs due by virtue of these Terms and Conditions or the agreement, as well as any work done or to be done pursuant to such agreement.
- 7.3 Each amount received from the Buyer shall first of all serve to pay all the claims which the Seller has against the Buyer in respect of which the Seller has not made any reservation of title. After that, each amount received from the Buyer shall first of all serve to pay all and any interest and costs due as referred to in 8.2.
- 7.4 Before the ownership of the goods has been transferred to the Buyer, the Buyer shall not be entitled to alienate the goods, to rent them to third parties, to grant the use thereof, to pledge them or to encumber them in any other manner in favour of third parties, even if the (legal) acts in question form part, as a rule, of the normal business procedure of the Buyer, or if this is the normal destination

of the goods. If this prohibition is violated, the purchase price shall - irrespective of the terms of payment - be payable immediately and in full.

- 7.5 The Seller is irrevocably authorized by the Buyer to take back the goods delivered subject to retention of title (or cause them to be taken back) without any court intervention, summons or notice of default. The agreement shall not be dissolved by the Seller taking back the goods, unless the Seller has announced this to the Buyer.
- 7.6 If the Buyer resells or processes the goods supplied, or causes them to be processed, subject to retention of title, he shall do so in his capacity of representative of the Seller and, in so far as necessary, subject to the obligation to transfer all his rights to the Seller, without his obligations to the Seller being reduced in consequence.
- 7.7 If and as long as the Seller is the owner of the goods delivered, the Buyer shall inform the Seller forthwith in writing if the goods are attached or if a claim is made upon (any part of) the goods. The Buyer shall also let the Seller know, at the latter's first request, where the goods of which the Seller is the owner are kept.
- 7.8 In case of attachment, a (preliminary) moratorium or bankruptcy, the Buyer shall immediately call the attention of the bailiff levying the attachment, the administrator or the receiver to the (proprietary) rights of the Seller.

## **8. PAYMENT**

- 8.1 The Buyer shall pay the Seller the amounts charged to him, in the currency stated in the invoice, within the period of time agreed upon. All payments, either of the entire consignment or, in case of delivery in instalments, of the goods delivered, must be effected, at Seller's option, at his office or into a bank account to be specified by him. All amounts charged to the Buyer must be paid without any deduction, withholding or set-off. The Buyer shall never be entitled to suspend his obligations, even in case of any complaints.

- 8.2 The Buyer shall have to pay legal interest per month on all amounts that have not been paid on the last day of the term of payment, as from such day, without any notice of default being required. If the Buyer has not paid the amount due with interest on expiry of a second term of payment, the Buyer shall be obliged to compensate the Seller for all legal and non-legal expenses. The legal expenses to be paid shall be fixed at 15% of the amount to be paid by the Buyer at the moment at which the term of payment expires or the actual expenses whichever is higher.
- 8.3 In case of overdue payment, the Seller shall also be entitled to suspend the delivery of other goods and/or to dissolve any other agreements entered into with the Buyer or to suspend their execution, without being obliged to pay any compensation. In that case the Buyer shall be obliged to pay any expenses and to compensate the Seller for any loss or damage resulting there from, inclusive of any loss of profit.
- 8.4 The Seller reserves the right to demand security from the Buyer for the discharge of the latter's obligations, also after a partial delivery of the goods. If the Buyer refuses to provide the security required, the Seller shall have the right to refrain from the execution or further execution of the agreement or to suspend the execution thereof, without the Buyer being able to claim any damages from the Seller. In that case the Buyer shall be obliged to compensate the Seller for any loss or damage to be sustained by the latter.
- 8.5 If any license or consent of any government or other authority shall be required for the acquisition, carriage, sale or use of the goods by the Buyer, the Buyer shall obtain the same at its own risk and expense and if requested produce evidence of the same to the Seller on demand. Failure to obtain any license or consent shall not entitle the Buyer to withhold or delay payment of the price. Any additional expenses or charges incurred by the Seller resulting from such failure shall be for the Buyer's account.

## **9. QUALITY AND QUANTITY**

- 9.1 If the quality of the goods supplied is determined by the weight, the average weight of a consignment shall be binding. All tolerance percentages in this article must be read as tolerances plus or minus. Reference is made to the addendum (tolerances) to these conditions
- 9.2 If used goods are sold according to sample, the sample shall be decisive for the average quality of the consignment to be delivered. If more than one sample has been sent by the Seller, the Buyer shall not be able to take exception to small differences in quality, dimensions, weight and the number of darns.
- 9.3 The Seller shall not be responsible for the colour of the goods or any shades thereof. Any samples sent to the Buyer in connection with the colour shall not bind the Seller, but shall only serve to inform the Buyer of the average quality.
- 9.4 The Seller shall always be entitled to deliver not more than 10% more or less than the quantity mentioned in the agreement.
- 9.5 The Seller shall not be taken as having given a warranty, guarantee or recommendation as to the suitability of the goods for any specific purpose. The Buyer shall satisfy itself as to whether the goods are suitable for the purpose for which the Buyer intends to use them and the Seller gives no warranty nor makes any representations to this effect.

## **10. COMPLAINTS**

- 10.1 The Buyer shall be obliged to thoroughly examine the goods himself or to cause them to be thoroughly examined by a third party acting on his instructions, immediately after the arrival of the goods at their destination or, if this is earlier, upon delivery.

- 10.2 Any claim by the Buyer which is based on any defect in the quality, quantity, print or condition of the goods or their failure to correspond with specification shall be notified to the Seller within 10 days from the date of delivery, or where the defect or failure was not apparent on reasonable inspection, within 10 days after discovery of the defect or failure and in any event within two months after the date of delivery.
- 10.3 If the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the goods and/or to refrain from paying the purchase price and the Seller shall have no liability for such defect or failure.

## **11. LIABILITY AND INDEMNIFICATION**

- 11.1 Any advice or recommendation given by the Seller or its employees or agents to the Buyer as to the storage, application or use of the goods which is not confirmed in writing by the Seller, shall, if followed or acted on, be entirely at the Buyers own risk and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 11.2 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 11.3 Any description, specification or representation given in respect of any of the goods sold by the Seller in any catalogue, leaflet, advertisement or any other literature are approximate only and no liability shall lie with the Seller for any inaccuracies in such literature.
- 11.4 If a claim has been made in time, correctly and in accordance with the provisions of article 10, the Seller shall - at his option - either pay reasonable damages, which shall in all cases be limited to the invoice value of the goods delivered, or replace the goods delivered, free of charge, by a lot which conforms to the quality agreed upon, or combine these two possibilities. The Seller shall only have to provide a substitute consignment or proceed to payment of the European Association for the Trade in Jute and Related Products "Eurojute"

damages after the consignment rejected by the Buyer has passed into the possession of the Seller.

- 11.5 The Seller shall never be liable for any indirect damage sustained by the Buyer or third parties, including but not limited to physical damage, any consequential damage, emotional damage, trading loss or damage to the environment.
- 11.6 The liability of the Seller to the Buyer on any account whatsoever shall per occurrence (a coherent sequence of events being regarded as one occurrence) be limited to the invoice value of the goods delivered (exclusive of V.A.T.).
- 11.7 Except in case of intent or wilful misconduct of the Seller or his executive staff, the Buyer shall keep the Seller indemnified in respect of any claims from third parties, on any account whatsoever. The Buyer shall be obliged to keep himself properly insured against these risks.
- 11.8 With respect to any orders to print the goods to be supplied or to mark them in any other manner, the Buyer guarantees that he is entitled to give the order concerned and that he has paid in full any amounts due to third parties. Buyer will hold Seller harmless against all claims resulting from the said orders to print, copy, make public the texts, designs, bills, photographs, lithographic prints, films, computer software, data files, or any other information carrier or media whatsoever provided by Buyer to Seller on the goods supplied or to be supplied by Seller to Buyer. Seller expressly rejects and Buyer accepts all and any liability under national or international legislation in the field of intellectual property, Trade Marks and copyright.
- 11.9 If and in so far as it turns out - when the order is carried out or after it has been carried out - that there is or has been an infringement of any rights of third parties with respect to the intellectual and/or industrial ownership in the country in which the goods are processed, but also in the country or countries in which the goods are put on the market and/or are used, the Buyer shall be obliged to indemnify the Seller against any claims of third parties. In this case the Seller shall at all times be entitled to suspend the execution of the agreement and to retain the material which has been or is to be processed.
- 11.10 In case any code is affixed, the Seller shall not accept any liability for the legibility and/or usefulness thereof.

- 11.11 Where the Seller supplies goods from “redundant or used” stocks, these may bear trade marks or other identifying features of third parties. Any use of such goods shall be the sole responsibility of the Buyer. The Buyer shall be solely responsible for ensuring that no unauthorised use, misrepresentation or other abuse occurs in relation to such goods. The Seller shall have no liability in respect thereof and the Buyer indemnifies the Seller from and against any claims, actions or proceedings brought by third parties in relation to such goods.

## **12. RECALL PROVISION SALE**

- 12.1 Buyer is obliged to strictly observe all the obligations as regards the items supplied by the Seller that ensure for the Buyer from Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 (General Food Law) and the rules and regulations derived from that Regulation.
- 12.2 Buyer indemnifies Seller against all the claims from third parties (government agencies among them) if and insofar the Buyer fails to strictly observe the rules and regulations referred to above.
- 12.3 If the Buyer or a third party to whom the Buyer has supplied on the items supplied by the Seller carries out or causes to be carried out a recall action, the Seller may only be held liable for the related costs or part of these costs if (i) it is established that the Seller is responsible for the situation that gave rise to the recall; (ii) the recall has been carried out following prior written approval from the Seller; (iii) the recall has been carried completely in accordance with a recall plan agreed by both parties; as well as (iv) it is determined that the Buyer has acted reasonably and professionally and has made any reasonable efforts to keep the recall action expenses as limited as possible.
- 12.4 The Buyer will immediately inform the Seller of any imminent recall action and will provide the Seller with all the requested information at the Seller’s first request.
- 12.5 The Buyer does not provide any information to third parties about the recall unless the Seller has granted prior permission to do so.

## **13. DISSOLUTION**

- 13.1 If the Buyer does not properly fulfil any obligation resulting to him from any agreement or if he does not do so within a period fixed or otherwise in time, the Buyer shall be in default and the Seller shall have the right to perform the European Association for the Trade in Jute and Related Products “Eurojute”

following acts without any court intervention:

- to suspend the execution of such agreement and any agreement directly connected therewith until the payment has been sufficiently guaranteed; and/or
- to entirely or partially dissolve such agreement and any agreement directly connected therewith, without prejudice to the other rights of the Seller under any other agreement with the Buyer, and without the Seller being obliged to pay any compensation whatsoever.

- 13.2 In case of the granting of a (provisional) moratorium, the bankruptcy, closing down or liquidation of the Buyer's enterprise, all and any agreements with the Buyer shall be dissolved by operation of the law, unless the Seller informs the Buyer within a reasonable period of time that he wishes the agreement(s) in question to be (partially) carried out, in which case the Seller shall be entitled, without any notice of default being required:  
to suspend the execution of agreement(s) in question until the payment has been sufficiently guaranteed; and/or  
to suspend all and any of his obligations to the Buyer, without prejudice to the other rights of the Seller under any other agreement with the Buyer, and without the Seller being obliged to pay any compensation whatsoever.
- 13.3 In case of an occurrence as referred to in (i) 12.1 or (ii) 12.2, (i) all claims of the Seller against the Buyer and (ii) all such claims on account of the contract(s) in question, respectively, shall be due and payable entirely and at once, and the Seller shall be entitled to take back the goods concerned. In that case the Seller and his attorney(s) shall have the right to enter the premises of the Buyer to take possession of the goods. The Buyer shall be obliged to take the necessary measures to enable the Seller to exercise his rights.

#### **14. DISPUTES, GOVERNING LAW, COMPETENT COURT**

- 14.1 These Conditions, as well as all Contracts shall be governed by the law of the country of the Seller, inclusive of the applicable international trade treaties (The ICC Incoterms 2010 are applicable).

- 14.2 All terms of delivery mentioned in the agreement are or shall be interpreted as being ICC-Incoterms 2010 as proposed by the ICC (International Chamber of Commerce), even if this has not been stipulated by the parties.
- 14.3 Any disputes that may arise out of or in relation to a Contract, offer, delivery or these Conditions will be settled by the court in the place and country of the Seller. However, if Buyer and Seller have explicitly agreed in writing that any disputes will be settled by arbitration in accordance with the Arbitration Rules of Eurojute, which can be obtained from the secretary of this association upon request (Eurojute Secretariat's Office, PO Box 93002, 2500 AA The Hague, The Netherlands) such arbitration agreement shall prevail.

These General Conditions of Sale were filed at the Office of the Registrar of the District Court of The Hague on 20 June, 2016 under number 21/ 2016 and at the Chamber of Commerce on 21 July, 2016 under number 40409336.

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