

General sale, supply, and payment conditions of Vapor Apparel Europe B.V.

General conditions to be used by the private company with limited liability **Vapor Apparel Europe B.V.**, hereinafter also referred to as "Vapor Apparel Europe", whose registered office is in Goor. These general conditions have moreover been filed with the Chamber of Commerce in Enschede under number 067716466 on 20181102.

Article 1. Applicability

1.1. These general conditions are applicable to all legal relationships between Vapor Apparel Europe, or its legal successors, and its opposite contract parties pursuant to an agreement or on any other grounds.

1.2. Derogations to these general conditions are only valid if Vapor Apparel Europe has accepted such in writing. These derogations will only apply for the specific agreement for which they were made; these general conditions will continue to apply in full in all other cases.

1.3. The other party with whom a contract has been concluded under these conditions agrees to the applicability of these conditions to later agreements or legal relationships on any other grounds between it and Vapor Apparel Europe.

1.4. In the event of any inconsistency between these conditions and those of the other party, these conditions shall apply with the express exclusion of the conditions of the other party. The applicability of (any) general conditions used or invoked by the other party is expressly excluded.

1.5. If there are versions of these general conditions in a language other than Dutch, the Dutch text shall prevail.

Article 2. Offers

2.1. All offers, made in any form whatsoever, are without obligation and are valid during a period of 30 days, unless a clear indication to the contrary has been given. Vapor Apparel Europe will only become obligated after a written order confirmation has

been issued by Vapor Apparel Europe. Any previous agreements or commitments, which were not drawn up, made, or accepted in writing by Vapor Apparel Europe, will become null and void with such. Orders and acceptances of offers by the other party shall be deemed to be irrevocable.

2.2. If, despite that provided for in the previous paragraph, no quotation and/or order confirmation is sent by Vapor Apparel Europe, the invoice shall be deemed to be an order confirmation.

2.3. Vapor Apparel Europe cannot be bound by its quotations or offers if the other party knew, or can be reasonably expected to understand, that the quotations or offers, or a part of such, contained an obvious mistake or typing error.

2.4. Each agreement shall be entered into under the suspensory condition that the other party has sufficient creditworthiness - this in the exclusive opinion of Vapor Apparel Europe - for the fulfilment of the agreement.

2.5. All specifications given by Vapor Apparel Europe of numbers, dimensions, weights and/or other designations in relation to any goods will be made with the greatest possible care. Vapor Apparel Europe cannot however guarantee that no deviations will occur in relation to such. The standard deviations customary in the industry will be permissible in all cases. The other party must check the conformity with the stated or agreed numbers, dimensions, weights and/or other designations of Vapor Apparel Europe as far as possible upon receipt of the goods.

Article 3. Execution of the agreement

3.1. If, and insofar as, the proper performance of the agreement requires such, Vapor Apparel Europe has the right to have certain activities carried out by third parties.

3.2. If the information necessary for the execution of the agreement is not provided to Vapor Apparel Europe in a

timely fashion, Vapor Apparel Europe has the right to suspend the execution of the agreement and/or to charge the other party for the costs resulting from the delay at the usual rates.

3.3. Vapor Apparel Europe is not liable for damage, of any nature whatsoever, because Vapor Apparel Europe has followed inaccurate and/or incomplete information provided by the other party, unless this inaccuracy and/or incompleteness should have been apparent to Vapor Apparel Europe.

3.4. If the other party wants to change the agreement after the acceptance by Vapor Apparel Europe, then it will have to submit a request for such in writing to Vapor Apparel Europe. Vapor Apparel Europe is not obligated to accept the change(s). These general conditions are applicable to all amendments of the agreement.

Article 4. Prices

4.1. All listed prices, unless stated otherwise, are exclusive of turnover tax (VAT), exclusive of import and export duties, exclusive of transport costs, and exclusive of any other duties imposed by the government.

4.2. If Vapor Apparel Europe has provided packaging, packing, loading, transport, shipment, unloading, or insurance of goods without a price for such having been explicitly agreed in writing, it shall be entitled to charge the opposite party for such on the basis of the actual costs and/or the usual rates applied by Vapor Apparel Europe.

4.3. In the event of an increase of one or more of the aforementioned factors (e.g., by acts of government, exchange rate changes, transport prices, energy costs, import and export duties, or levies), Vapor Apparel Europe shall have the right to change the agreed prices accordingly. The other party shall only be entitled to dissolve the agreement if the price increase occurs within three months after the conclusion of the agreement. The right to

change the agreed prices can also be exercised even in an increase takes place on account of circumstances that were foreseeable at the time the agreement was concluded, this taking into account the statutory rules applicable to such matters.

Article 5. Payment

5.1. Payment for the supplies, whereby settlement and/or suspension by the other party is not possible, must be paid within the period stated on the invoice, or before the final payment date stated on the invoice, by giro or bank transfer to the account number stated on the invoice. If a payment period is not specified on the invoice, then the payment must take place no later than 30 days after the invoice date. Vapor Apparel Europe reserves the right to demand advance payment of either all or part of the amount owed.

5.2. The payment period as referred to in paragraph 1 shall apply as a fixed and final deadline. If this period is exceeded, the other party shall be in breach without any further notice of default being required. In such a case, all claims of the supplier against the other party will become immediately due and payable. The other party shall owe default interest of 2% per month, or part thereof, to Vapor Apparel Europe, calculated as of the date on which the other party was first in default.

5.3. Vapor Apparel Europe, or a company allied to Vapor Apparel Europe (in the sense of article 2:24 Civil Code), is at all times entitled to settle that which is owed to the other party with that which the other party owes, whether due for payment or not, on account of conditions or deadlines, to Vapor Apparel Europe or to a company allied to Vapor Apparel Europe. If the other party is in default with the (timely) fulfilment of its obligations, then it shall owe extrajudicial debt collection costs to Vapor Apparel Europe. These costs shall amount to 15% of the outstanding amount, with a

minimum of € 500. All judicial costs to the incurred shall not be limited to the legal costs to be settled, but shall be for the account of the other party in full if it is ruled against (for the most part).

5.4. Each payment of the other party shall serve in the first place for payment of the interest owed by it, as well as the debt collection and administration costs incurred by Vapor Apparel Europe, and thereafter as settlement of the claim which has been outstanding the longest.

Article 6. Delivery and delivery date

6.1. All deliveries shall take place at the delivery address designated by the other party. The other party must ensure that Vapor Apparel Europe has proper access to the delivery location in order to make the delivery.

6.2. The specification of delivery dates in offers, order confirmations, and/or agreements shall be made in good faith, and shall be observed as far as possible, but at no time shall such be binding. The delivery dates specified by Vapor Apparel Europe shall be deemed to be approximate, and at no time shall such be deemed to be fixed and final deadlines. In the event a delivery date is exceeded, the other party shall at no time have the right to claim supplementary or replacement damages, direct or indirect damages, or the non-performance or suspension of any obligation arising out of the agreement, or the termination or dissolution of the agreement. The other party has the right to offer Vapor Apparel Europe a new reasonable deadline after the expiry of the delivery date, and in the event this is exceeded the other party shall have the right to terminate or suspend the agreement at no cost by way of a written notification of such to Vapor Apparel Europe within 14 days, without such leading to any obligation to pay compensation for Vapor Apparel Europe.

6.3. If the sold goods are not accepted by the other party after the expiry of the delivery date, it shall be in default

without any notice of default being required, and must stored such at its disposal for its own account and risk. After a period of four weeks (commencing on the agreed delivery date) Vapor Apparel Europe shall be entitled to conduct a (private) sale of these goods. Any undervalue of the proceeds and the costs (interest and damages) shall be for the account of the other party, without prejudice to the other rights accorded to Vapor Apparel Europe.

6.4. Vapor Apparel Europe is entitled to make a supply in part deliveries, which can be invoiced for separately. For the application of these conditions, each part delivery will be treated as an independent supply.

Article 7. Force Majeure

7.1. Shortcomings not imputable to Vapor Apparel Europe if they are the result of force majeure (“non-attributable shortcoming”). Circumstances of force majeure shall include, but not be limited to: labour conflicts, the withdrawal of the necessary permits, mobilisation, confiscation, embargo, foreign currency prohibitions, assignment, uprising, epidemic, transport shortages, general shortages of raw materials, war, threat of war, civil war, and civil unrest, fire, and other disruptions in the business, or those in the business of suppliers, that cause a delay in the supply, for any reason whatsoever, of articles ordered by Vapor Apparel Europe in a timely fashion, and moreover all impediments outside of the control of Vapor Apparel Europe.

7.2. Force majeure, as described in the previous paragraph, and more generally circumstances of such a nature that the fulfilment of the agreement cannot reasonably be required, or not in full, of Vapor Apparel Europe, shall give Vapor Apparel Europe the right to wholly or partially dissolve such, or to wholly or partially to suspend the execution of such, without being obligated to pay any compensation to the other party on account of these circumstances.

Article 8. Defects

8.1. The other party is obligated to have the goods closely inspected immediately after receipt by the other party itself or by a third party acting on behalf of the other party. Any complaints in relation to visible defects must be reported by the other party immediately, but no later than within eight days after delivery, in as much detail as possible by registered post to Vapor Apparel Europe. If the aforementioned period is exceeded, all claims against Vapor Apparel Europe in relation to such shall become null and void.

8.2. Complaints by the other party in relation to hidden defects must be made within 14 days after they are discovered, or ought to have been discovered, to Vapor Apparel Europe by registered post. In default of which all claims against Vapor Apparel Europe shall likewise become null and void.

8.3. In the event of a (timely) reporting of a complaint, Vapor Apparel Europe shall investigate such as quickly as possible. The other party must give Vapor Apparel Europe the opportunity to properly investigate any complaints.

The other party must provide all cooperation necessary for the investigation. If the other party does not provide the necessary cooperation, then all claims against Vapor Apparel Europe shall become null and void.

8.4. Any entitlement to restitution shall in all cases become null and void if:

- a. the goods are transported, treated, used, processed, or stored by or on behalf of the other party improperly or in violation of the instructions given by or on behalf of Vapor Apparel Europe;
 - b. the goods have been processed by or on behalf of the other party;
 - c. the other party does not fulfil, or not properly, or not on time, any of obligations towards Vapor Apparel Europe arising for it out of the underlying agreement.
- 8.5. The reporting of a defect shall at no time relieve the other party of its obligations, in particular its payment

obligations, arising out of this agreement. The submission of a complaint shall not suspend the payment obligations of the other party.

Article 9. Retention of title

9.1. The ownership of the goods supplied by Vapor Apparel Europe, whether processed or unprocessed, shall remain vested in Vapor Apparel Europe until such time as the relevant payment obligations have been satisfied in full.

9.2. As long as the other party has not yet become the owner of the goods supplied by Vapor Apparel Europe, the other party shall only be entitled to dispose of these goods in connection with its normal business operations. It shall not have the right to establish limited rights on or otherwise to encumber goods supplied subject to a retention of title.

9.3. Now for then, Vapor Apparel Europe reserves a right of pledge, as referred to in article 3:237 of the Dutch Civil Code, on goods supplied that have devolved in ownership to the other party, but which are not yet in the possession of the other party, as additional security for its claims, otherwise than as referred to in article 3:92 paragraph 2 of the Dutch Civil Code, which Vapor Apparel Europe might have against the opposite party on any grounds whatsoever.

9.4. The other party is obligated to store the goods subject to a retention of title for Vapor Apparel Europe with the necessary due care and recognisably as the property of Vapor Apparel Europe. The other party is obligated to keep and/or make the goods identifiable, and to keep such separate from each other and from the other goods held by the other party. Vapor Apparel Europe shall at all times have the right, without any further authorisation on the side of the other party being required for such, to reposes the goods that fall under its retention of title, wherever these goods may be. The other party shall provide every cooperation with such. After repossession, the other party shall be credited for the market value of the

relevant goods, which in no case shall be higher than the original purchase price, less a deduction for the costs of the repossession and the other expenses and damages of Vapor Apparel Europe.

Article 10. Risk

10.1. The risk for the purchased goods (including packaging and packing materials) shall devolve to the other party as of the moment of delivery. The transport of goods shall be carried out in all cases for the account and risk of the other party, even when the transport company requires that a clause is included on delivery notes, transport slips, and the like that all transport damage shall be for the account and risk of the sender.

Article 11. Liability

11.1. The liability of Vapor Apparel Europe in connection with any shortcomings in relation to goods supplied by it and the services associated with such shall be limited to the fulfilment of the obligations described in article 8 after a complaint.

11.2. Vapor Apparel Europe shall at no time be obligated to pay compensation except if and insofar as the damages suffered are caused by the wilful misconduct or gross negligence of Vapor Apparel Europe or its management operative. Vapor Apparel Europe shall in no case be liable for indirect or immaterial damages, such to include but not limited to consequential losses, consequential damages, or loss of earnings or profits, loss of clients, or damage to reputation and/or goodwill. Nor is Vapor Apparel Europe liable for damages caused by injudicious use of that supplied or the use of such for another purpose than that which it is suitable for by objective standards.

11.3. In all cases in which Vapor Apparel Europe is obligated to pay compensation, at no time shall this exceed, at its choosing, either the invoice value of the goods supplied and/or services carried out in connection with which the damage was caused, or the amount that is actually paid out by the insurance company

if the damage is covered by an insurance policy of Vapor Apparel Europe.

11.4. Any claims for damages against Vapor Apparel Europe, apart from those which Vapor Apparel Europe has acknowledged, shall expire if such are not made within six months after the date on which the claim arose.

11.5. The other party shall indemnify Vapor Apparel Europe for all claims of third parties in relation to damages directly or indirectly connected with goods or services supplied by Vapor Apparel Europe to the other party.

Article 12. Guarantee

12.1. The goods supplied by Vapor Apparel Europe which are found to be faulty otherwise than due to causes for the account of the other party - if such occurs within a period of 3 months after delivery - on the condition proof of such can be provided by the other party, shall be repaired or replaced free of charge by Vapor Apparel Europe, this at the choice of Vapor Apparel Europe.

12.2. Any entitlement to make a claim under a guarantee shall be exclusively vested in the opposite contract party of Vapor Apparel Europe. This entitlement will end in all cases upon the disposal of the supplied goods by the other party. Any future supply or repair of parts shall not result in an extension of the guarantee obligation of Vapor Apparel Europe. If the other party makes changes to the supplied goods itself or has such carried out by a third party, the guarantee obligation shall become null and void.

Article 13. Obligations of the other party and indemnification

13.1. Non-fulfilment by the other party of the agreement with Vapor Apparel Europe, or one or more provisions of these conditions, or attributable wrongful acts or omissions by or on behalf of the other party, or non-fulfilment of other instructions or rules of Vapor Apparel Europe, which results in damages for Vapor Apparel Europe shall obligate the other party to compensate Vapor Apparel Europe for all damages arising out of such.

The other party shall indemnify Vapor Apparel Europe against all claims of third parties or the compensation of any damages suffered by a third party in such a case. In connection with the obligation of indemnification, the other party is amongst other things obligated to compensate the reasonable costs of a defence against claims of third parties.

13.2. Vapor Apparel Europe can obligate the other party to recall goods which it has sold on the market, and which contain a defect, or where there is a danger of a defect appearing in such, within a reasonable period to be set by Vapor Apparel Europe ("recall action"). All costs associated with such shall be for the account of the other party, unless the cause of the recall action is not for the account and risk of the other party under this agreement, these general conditions, or the law.

Article 14. Termination and dissolution

14.1 Vapor Apparel Europe has the right to suspend the performance of the agreement, or at its choice, to terminate or to dissolve the agreement, wholly or partially, by written notice, and without prior notice of default, notification, or judicial intervention being required, with immediate effect, with reservation of all the rights accorded to it for compensation of costs, damages, and interest:

- a. If the other party does not, or not on time, or not properly fulfil one or more of its obligations arising out of, or otherwise connected with, the agreement, or if it is established that the fulfilment of such will be impossible without shortcomings;
- b. If Vapor Apparel Europe has good cause to fear that the other party is not able and/or willing to fulfil, or shall fulfil, its obligations;
- c. If the other party is declared bankrupt or an application is made or granted for its bankruptcy or a suspension of payments (provisional or otherwise), it undertakes liquidation or folding of its business, offers a composition, an attachment is imposed on (a part of) its

assets, or it becomes insolvent in any other way.

d. If in the opinion of Vapor Apparel Europe radical changes occur in the direct or indirect ownership or control of the other party.

14.2 Vapor Apparel Europe is moreover entitled, at its choice, to wholly or partially end or dissolve the agreement with the other party if the agreement with its supplier or client, for any reason whatsoever, is terminated or dissolved or not fulfilled by its supplier or client for any other reason. In the event of dissolution, Vapor Apparel Europe is only obligated to reimburse or credit the sales price invoiced by it, subject to the return by the other party of that which has already been delivered.

14.3. The other party is only entitled to undertake termination or dissolution in the cases referred to in articles 6.2 and 7.1 of these conditions.

Article 15. Applicable law

15.1. Unless otherwise is expressly provided for between the parties, all obligations between Vapor Apparel Europe and the other party under these general conditions shall be subject to Dutch law, such with the express exclusion of the Vienna Sales Convention.

Article 16. Disputes

16.1. All disputes between the parties arising out of or otherwise in connection with any agreement and/or these general conditions, and which fall under the competency of the civil law section of a District Court, shall in the first instance be exclusively settled by the (interim relief judge of the) District Court in Overijssel, Almelo location, unless Vapor Apparel Europe has a preference for a different competent court.