

## **GENERAL TERMS AND CONDITIONS OF SALES**

**of**

**Navico Logistics Europe B.V.**

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These General Terms and Conditions of Sales of Navico Logistics Europe B.V., a limited liability company incorporated under Dutch law with its principal place of business at Donker Duyvisweg 56, 3316 BM Dordrecht, the Netherlands (“**Navico**”) are filed with the Trade Registry of the Dutch Chamber of Commerce under registration number 24404345.

### **1. General and Applicability**

- 1.1 These General Terms and Conditions of Sale (“**Conditions**”) comprise the basis on which Navico sells its products (“**Products**”) and shall form an integral part of any Agreement. In these Conditions, Navico and the counter party to any Agreement shall be referred to as “**Seller**” and “**Buyer**”, respectively. Seller and Buyer may also be referred to as “**Party**” and together as “**Parties**”. “**Agreement**” means the relevant Confirmation and these Conditions. “**Confirmation**” means the confirmation in writing by Seller to Buyer in relation to Buyer’s order. Any order requires the issue of a duly signed Confirmation by Seller to Buyer in order to constitute an Agreement binding upon Seller.
- 1.2 No other general terms and conditions shall be applicable, supplement or set aside (any part of) these Conditions unless expressly agreed to by Seller in writing. Reference by Buyer to any other general terms and conditions is hereby explicitly rejected.
- 1.3 In case of any inconsistency between the English version of these Conditions and a version in any other language, the English version shall prevail.
- 1.4 No right or claim of Buyer may be assigned to an affiliate of Buyer or a third party without prior approval of Seller.

### **2. Offers, Confirmation, Agreement and Security**

- 2.1 All offers, including verbal offers or other declarations by Seller’s (sales) representatives and/or employees, either as price lists or otherwise (“**Offers**”) are completely free of obligation and do not oblige Seller in any way to conclude a contract with Buyer.
- 2.2 No Agreement will be constituted until after the written Confirmation of an order within eight (8) working days after receipt of an order from the Buyer or after Seller has commenced to fill the order. The contents of the Confirmation shall be determinative of the contents of the Agreement.
- 2.3 Within eight (8) working days of the date of the order and/or the Confirmation, Buyer shall notify Seller in writing of any mistakes in the order form and/or the Confirmation, such as writing, printing or computing errors. The Seller shall correct such mistakes that it considers justified within a reasonable period of time.
- 2.4 In the Confirmation and/or once an Agreement has been concluded, Seller may vary the specifications (such as colors, measurements and similar) within reasonable limits and if

justified by commercial or technical reasons. In such cases, Seller may also decide not to deliver certain items.

- 2.5 Each order placed by Buyer shall amount to a new offer and result in a new and separate Agreement. However, if a court or arbitration panel should find that Buyer and Seller have entered into a continuing performance agreement, Seller may at its discretion choose to terminate all or any of a part of the agreement with three (3) months' notice, without any damages or compensation requirement.
- 2.6 These Conditions shall also apply to any Offers and Agreements regarding the delivery of items from stock, if such Offers and/or Agreements were made after the conclusion of a prior agreement in connection to which Buyer was already provided with a copy of these Conditions.
- 2.7 All Agreements are entered into on the assumption that Buyer is sufficiently creditworthy and if Seller has any reason to doubt such, Seller may require full or partial payment in advance or set other payment conditions for delivery and suspend, delay or cancel any credit delivery or any other performance of its obligations.
- 2.8 Seller may require Buyer to provide (any) security (interest) for the performance of Buyer's payment obligations. Seller may also determine the period in which such security is to exist. Failure to provide the requested security in full, in a timely fashion or at all shall constitute an attributable failure to perform (breach of contract) and shall justify postponing and terminating the Agreement by Seller.
- 2.9 Any electronic communication between Seller and Buyer shall be considered to be a "writing" and/or "in writing", irrespective of its status under Dutch law. The electronic communication system used by Seller will serve as sole proof for the content and time of delivery and receipt of such electronic communication.

### **3. Delivery**

- 3.1 Delivery terms shall be set out in the Confirmation and be interpreted in accordance with the Incoterms 2010. In case no other delivery term is declared applicable in the Confirmation, delivery of the Products takes place, unless another place of destination is set in the Confirmation. In case Buyer wishes to use more places of destination Buyer shall bear all additional (delivery) costs. In case of conflict between the Incoterms 2010 and the Confirmation, the Confirmation shall prevail.
- 3.2 If partial deliveries are made, each such delivery may be charged separately.
- 3.3 Communicated or acknowledged delivery dates are approximate only and shall not, unless explicitly stated otherwise, be considered as final terms. Seller shall not be liable, nor in breach of its obligations to Buyer, based on any delivery made within a reasonable time before or after the stated delivery date. Buyer will give Seller written "notice of failure to deliver" and a reasonable time, which will be no less than thirty (30) days, in which to cure.
- 3.4 If Buyer fails to accept delivery all costs and expenses, including but not limited to transport, duty and storage, will be at Buyer's expense. Any requests from Buyer to delay, change or

cancel a confirmed order must be received by Seller in writing no later than the fourteen (14) days before the scheduled delivery date.

- 3.5 Any delay in delivery of any Products shall not relieve Buyer of its obligation to accept delivery thereof. Deviations in quantity of Products delivered from that stated in Seller's Confirmation shall not give Buyer the right to reject the Products. Buyer shall be obligated to pay the purchase consideration specified in Seller's Confirmation for the quantity of Products delivered.

#### **4. Transfer of title**

- 4.1 The right of property in the Products delivered shall remain vested in Seller until Buyer has paid in full whatever is due to Seller for whatever reason ("**Retention of Title**"). During the period the property is still vested in Seller, Buyer shall hold the Products in trust for Seller.
- 4.2 During the period of Retention of Title, the goods may not be pledged, assigned nor may any other similar right be granted to a third party.
- 4.3 If Buyer fails to fulfill its obligations, if in the opinion of Seller reasonable grounds exist to suggest that Buyer shall fail to do so, or any of the events referred to under Article 9 occur, Seller shall, without notice of default or court intervention, be entitled to take possession of the Products which are subject to Retention of Title or have them collected from Buyer or from third parties holding them for Buyer. Buyer shall provide any assistance necessary to effect the foregoing, under an immediate due and payable penalty of ten percent (10%) of the purchase price per occurrence and two percent (2%) per day when such has not been remedied.
- 4.4 In case the Retention of Title regarding Products delivered cannot or can no longer be effected, as security for proper payment of its obligations Buyer herewith grants a pledge to Seller, which Seller accepts, on all the Products owned by Buyer and/or any claims or rights Buyer has towards a third party holding these Products for Buyer.
- 4.5 Notwithstanding the foregoing, Buyer shall be entitled to (re)sell the Products in the normal course of its business , including prior to its payment in full of the purchase price. The risk of loss or damage to the Products shall at all times pass to Buyer on delivery in accordance with the agreed delivery term of Article 3.1.
- 4.6 Any promotional materials which Seller has made available to Buyer to promote its products and/or brands shall remain Seller's property and shall immediately be returned at Seller's first request. Such promotional materials may not be sold and/or transferred to third parties.

#### **5. Purchase Price**

- 5.1 Unless agreed otherwise in writing between Seller and Buyer, sales prices are in Dollars and do not include any taxes, duties or similar levies, now or hereafter enacted, applicable to the Products. Seller will add taxes, duties and similar levies to the sales price where Seller is required by law to pay or collect them which will thereupon be paid by Buyer.
- 5.2 The price for the Products is based on the cost price for the Products applicable at the time of the Offer. In case of a change in the cost price resulting from an increase in the prices of energy, raw materials or other materials necessary for the manufacture of the Products

ordered by Buyer and/or an increase in freight, storage, insurance charges, wages and exchange rates occurring prior to the agreed date of delivery, Seller shall have the right to increase the price of the Products ordered accordingly, even if such an increase was foreseeable at the time of concluding the Agreement, by a ninety (90) days written notice to Buyer.

- 5.3 In the event the increase of the cost price for the Products exceeds five percent (5%), Buyer shall have the right to cancel the Agreement within three (3) days after receipt of the prior written notice of each such an increase.
- 5.4 If Seller advises on possible retail prices to be used by Buyer, such are only suggestions to Buyer, based on Seller's understanding of the market.

## **6. Payment terms**

- 6.1 The purchase price shall be paid, effectively in the currency referred to in the Confirmation, to the bank account of Seller in accordance with the payment terms stated on the invoice or otherwise within thirty (30) days after the date of invoice.
- 6.2 If Buyer fails to pay to Seller any amount when due, then, without prejudice to any other right:
  - a. Seller will accrue interest on all late payments, to the extent permitted by applicable law, from the due date until payment in full, at the higher of the following rates: (i) twelve percent (12%) per annum or (ii) the statutory rate as applicable under Dutch law to commercial receivables, and;
  - b. all costs, including judicial, made in order to obtain payment by Buyer of the amount or amounts due, shall be borne solely by Buyer. These costs are fixed at fifteen percent (15%) of the amount due, but with a minimum of USD fifteen hundred (1,500).
- 6.3 Amounts paid by Buyer shall be credited by Seller against the debts receivable by Seller from Buyer, including those pursuant to Article 6.2, in the chronological order of the due dates of the debts, unless specifically indicated otherwise on Buyer's remittance.

## **7. Warranty and Liability**

- 7.1 Seller grants that under normal use, the Products, shall, be free from defects in material or workmanship. Seller's sole and exclusive obligation, and Buyer's sole and exclusive right, with respect to claims under this warranty shall be limited, at Sellers option, to the replacement of a defective or a non-conforming Product or to an appropriate credit for the purchase price thereof.
- 7.2 Buyer may ship Products returned under warranty claims only with Seller's prior written consent. Where Products are sent without such prior written consent or where the Products are not found to be defective or non-conforming, Buyer shall pay for the returned Products as well as the freight, testing and handling costs associated therewith. Receipt by Seller of any return shipments may not be interpreted as constituting approval or acceptance of such shipments.
- 7.3 If the Products are returned by Buyer, the risk of damage or loss shall remain with Buyer until the Products have been received by Seller.

- 7.4 Seller shall store any Products returned without justification at Buyer's expense and risk.
- 7.5 Notwithstanding the foregoing, Seller shall have no obligations for breach of warranty if the alleged defect or non-conformance is found to have occurred as a result of misuse or improper handling by Buyer. Misuse and improper handling shall include all use that is deemed as such according to industry's best practices.
- 7.6 Seller shall not be held liable for any deviations in shape, size and color that are customary in the industry or technically unavoidable.
- 7.7 Buyer may not alter (the notices affixed to) the products and packaging delivered.
- 7.8 Seller shall not be liable for damage suffered by third parties in connection with any infringement of their rights, including industrial and intellectual property rights.
- 7.9 With regard to items delivered by Seller and originating from third parties, Seller shall only be liable towards Buyer to the extent that the third party in question has not limited or excluded its liability towards Seller.
- 7.10 Seller's liability shall never exceed the net invoice price of the Products concerned. Seller shall not be liable for any direct or indirect consequential loss or damage (*gevolgschade*) (including without limitation loss of production, loss of profit) and personal injury (*immateriële schade*).
- 7.11 Buyer herewith indemnifies Seller for any claims made against Seller by third parties who do business with Buyer directly or indirectly in relation to the purchase by Buyer of the Products under any Agreement, arising as a result of the breach by Seller of any of its obligations.
- 7.12 Seller may settle or set off any liability towards Buyer against any liability Buyer will have towards Seller or any other company affiliated with Navico as part of the Navico group of companies ("**Navico Group**"), or alternatively make payment towards the Buyer in settlement of any debt of Buyer towards any other company in the Navico Group.
- 7.13 Buyer cannot assign or transfer any right under an agreement with Seller or any claim on Seller to any third party without Seller's prior consent. Seller is entitled to assign or transfer any claim it may have on Buyer to any other company in the Navico Group.

## **8. Inspection, claims, notification and return of Products**

- 8.1 Upon delivery of the Products or as soon as possible thereafter, Buyer shall inspect the same, by analysis or otherwise, exercising such care as is customary or appropriate under the circumstances.
- 8.2 Any claims concerning the quality or quantity of the Products delivered shall be submitted by Buyer to Seller in writing eight (8) days from the date of receipt of the Products.
- 8.3 Any claims concerning defects incapable of being detected by random checks shall be submitted by Buyer to Seller in writing eight (8) days from the date of discovery and in any case within three (3) months from the date of receipt of the Products.

8.4 Claims regarding the purchase price referred to in the invoice shall be made in writing and must be received by Seller within eight (8) days after the invoice date.

8.5 Claims must be made by registered mail and provide a statement of reasons.

## **9. Breach and Termination**

9.1 Without prejudice to any rights or remedies Seller may have under these Conditions, the Agreement or by law, Seller may, by written notice to Buyer, terminate with immediate effect the Agreement, or any part thereof, without prior written notice of default and without any liability whatsoever, if:

- a. Buyer fails to make payment for the Products when due;
- b. any proceedings in insolvency, bankruptcy (including reorganization) liquidation or winding up are instituted against Buyer, whether filed or instituted by Buyer, voluntary or involuntary, a trustee or receiver is appointed over Buyer, or any assignment is made for the benefit of creditors of Buyer;
- c. Buyer violates or breaches any of the provisions of these Conditions and/or the Agreement; or
- d. Buyer violates or breaches any of the provisions of the conditions and/or the agreement with any other company of the Navico Group.

9.2 Upon occurrence of any of the aforementioned events, all payments to be made by Buyer under any Agreement shall become immediately due and payable. In addition, Seller shall be entitled to claim full compensation for damages, lost profits and/or interest.

9.3 If Seller terminates any Agreement for breach of any payment obligation or other material obligation, Buyer shall be obliged not only to co-operate in undoing or returning any deliverables already received, but also to pay damages equivalent to fifty percent (50%) of the Confirmation value of the items, without affecting Seller's right to claim full compensation.

9.4 All costs of judicial and extra-judicial measures which Seller takes against Buyer shall be payable by Buyer.

## **10. Intellectual Property**

10.1 All current or future intellectual property rights regarding the Products, including but not limited to patent, copyright, trademark or trade secret, remain property of Seller. Seller herewith grants Buyer a limited non-exclusive, non-transferable license to use these intellectual property rights, solely and directly in connection with the sale or advertising of Seller's Products, pursuant to the following terms and conditions:

- a) Buyer shall receive prior written approval from Seller for all promotion and advertising, including via the Internet, of Seller's Products;
- b) Any websites displaying Seller's Products must meet Seller's quality standards for product image and brand integrity; and
- c) Buyer may only display on-line those Products of Seller that Buyer has in its inventory.
- d) Buyer shall not register, either in its own name or on behalf of Navico, the trademarks, trade name or other Navico intellectual property and will also abstain from using Navico or any designation of its products as (part of) its trade name or corporate identity. To the extent the buyer has obtained or acquired any such rights, it hereby unconditionally

and irrevocably authorizes Navico to annul such rights or hereby assigns them to Navico or its authorized assigns, and agrees to undertake the necessary action to effect such annulment or assignment.

## **11. Taxation**

- 11.1 Where any excise duty, energy tax, VAT or other tax (“**Tax**”) becomes payable by Seller to a third party in relation to the supply, release from a tax warehouse or transport of the Products, Buyer shall pay such Tax to Seller in addition to the sales price.
- 11.2 Where possible and solely at Buyer’s request, Seller will apply an exemption or a low or zero percent Tax rate or a suspension scheme as provided for under the applicable legislation. Buyer will in such case provide Seller with all documents (including an annotated copy of the administrative accompanying document) and information reasonably requested by Seller in accordance with the applicable legislation. If any (additional) Tax becomes due because Buyer has not timely provided Seller with such documents or information, or because of any fraud, loss or misappropriation in relation to the Products, documents or information, Buyer shall indemnify Seller against all liabilities for such Tax which Seller reasonably needs to pay to a third party, including any interest, penalties and costs. If Seller is subsequently able to obtain a credit or repayment of such Tax from a third party, Seller shall reimburse Buyer the amount so credited or repaid less all reasonable costs, penalties and interest incurred by Seller. Parties undertake to inform each other of any relevant facts so that remedial action can be taken, and to take into account the interest of the other in any dealings with national fiscal / customs authorities to resolve disputes.

## **12. Force Majeure**

- 12.1 Seller shall not be in breach if any obligation suffers from force majeure (“**Force Majeure**”). Force Majeure includes any extraordinary circumstances such as fire, traffic impediment or transport problems, strikes, illness, mobilization, state of siege, (threat of) (civil) war, disturbances or riots, import or export impediment and any other governmental measure or regulation, as well as any other circumstance that is beyond Seller’s control and which would result in Seller’s inability to perform in accordance with the Agreement.
- 12.2 In case of Force Majeure or other special non-attributable failures, Seller is entitled to either:
  - a. suspend the performance of the relevant part(s) of the Agreement for the period such a non-attributable failure continues; or
  - b. terminate the Agreement without any liability whatsoever.
- 12.3 In cases of Force Majeure Buyer may not:
  - a. suspend the performance of the relevant part(s) of the Agreement;
  - b. terminate the Agreement; or
  - c. claim any damages.
- 12.4 If a Party to any Agreement is unable to perform any of its obligations under these Conditions and/or any Agreement, it shall notify the other Party in writing as soon as possible.

## **13. Hardship**

If, prior to the date of delivery of the Products, the circumstances that existed at the date of conclusion of the Agreement should change to such an extent as to make it impossible for either Party to be reasonably required to fulfill one or more of its obligations under the Agreement, and if such change could not have been reasonably foreseen by such Party, then Seller and Buyer shall jointly investigate, at the request of the injured Party, whether such hardship can be removed in a manner acceptable to the non-injured Party. If no agreement is reached within a reasonable time, the injured Party shall be entitled to terminate the Agreement.

#### **14. Compliance with laws**

- 14.1 Each Party represents that it is duly authorized to enter into an Agreement with the other Party and represents that with respect to its performance thereunder, it will comply with all applicable international, federal, state and local laws. By accepting Seller's offer, entering into any Agreement and/or accepting any Products, Buyer agrees that it will not deal with the Products and/or documentation related thereto in violation of any law restricting international trade, including but not limited to any applicable export or import control law and regulation, any applicable antiboycott law and regulation, and any applicable economic sanction and trade embargo law and regulation.
- 14.2 Seller shall only be liable for compliance of the Products with technical requirements or standards following from foreign legislation or regulations when such specific requirements or standards have been explicitly notified in writing by Buyer to Seller before concluding an Agreement.

#### **15. Applicable Law, Arbitration and Competent Court**

- 15.1 Any agreement between the Seller and the Buyer as well as any rights and/or obligations pursuant to such Agreement, whether based on contract law or in tort is subject to and shall be construed and interpreted according to the laws of the Netherlands. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the construction or interpretation of any Agreement to be entered into between the Seller and the Buyer or affect any of its provisions.
- 15.2 Seller and Buyer agree that any dispute arising out of or related to this Agreement and any subsequent amendments of this Agreement as well as any rights and/or obligations pursuant to such Agreement, whether based on contract law or in tort, shall be submitted for final and binding arbitration pursuant to the Arbitration Rules of the World Intellectual Property Organization (WIPO) in effect on the date of commencement of arbitration, as modified by this Agreement. The costs of arbitration, including the fees and expenses of the arbitrator(s), shall be shared equally by the parties unless the arbitration award provides otherwise. Each party shall bear the cost of preparing and presenting its own case. The arbitral tribunal shall consist of three arbitrators, unless the amount of claim as specified by the claimant in the arbitration does not exceed EUR three-hundred and fifty thousand (350,000). The place of arbitration shall be Rotterdam. The language to be used in the arbitrable proceedings shall be English. Any controversy over whether an issue is arbitral shall be determined by the arbitrator(s). The arbitrator shall not have authority to award punitive or exemplary damages and the parties expressly waive their rights to any such damages. The award may be confirmed and enforced in any court of competent jurisdiction. Without prejudice to any other rights or remedies that Seller may have, Buyer acknowledges and agrees that damages alone would not always be an adequate remedy for any breach by Buyer and that accordingly it shall be entitled, without proof of special damages, to the

remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the provisions of this Agreement and the Supplier will be entitled to apply for injunctive relief and other provisional measures either to a court having jurisdiction in relation to such relief or order or under the WIPO rules for expedited arbitration.

- 15.3 For any court proceedings in aid of, or ancillary to arbitration, each party submits to the non-exclusive jurisdiction of the competent court of Rotterdam, the Netherlands. Each party waives any right it has to object to such a proceeding being brought in those courts including by claiming that action, suit or proceeding has been brought in an inconvenient forum or that those courts do not have jurisdiction.
- 15.4 However, all disputes arising out of any offer, Confirmation or Agreement or any contractual claim or claim based in tort, which might result thereof that relate to payment or failure to pay may at the discretion of Seller also be exclusively submitted to and finally settled by the competent court in Rotterdam if Buyer is domiciled in a Member-State of the EU or EFTA.
- 15.5 Any business information submitted in the arbitration shall be kept secret at all times. The WIPO may adopt such measures as it deems appropriate to secure the confidentiality of such information also after the determination.
- 15.6 Parties waive the right to claim consolidation of arbitral proceedings on the basis of article 1046 Dutch Code of Civil Procedure and agree such a consolidation would be a deviation from the agreed arbitral proceedings.

## **16. Invalid Provisions**

If any of these Conditions should prove invalid, the other Conditions shall remain intact. The invalid term or condition shall be interpreted as having been converted into a valid terms or condition approximating the purpose or the original term or condition as closely as possible.