

VERENIGING GOLFKARTON
CONDITIONS OF SALE

Lodged with the Clerk to the Court of First Instance,
Haarlem on 21 April 2000

Published by
Vereniging Golfkarton (Association Dutch Corrugated Packaging
Industry)
Kruisweg 761
2132 NE Hoofddorp
The Netherlands

Clause 1 - Tenders

Tenders are not binding unless clearly agreed otherwise in writing.

Clause 2 - Orders

No matter how or in what way an order is issued, the purchaser shall be bound by it.

This applies equally to any orders given, contracts signed or agreements made concerning prices and acceptances of terms by someone authorised to act on behalf of the principal.

Clause 3 - Despatch

- a. Unless specifically agreed otherwise all delivery will be ex-works.
- b. The vendor will decide the method of delivery when an order is on a carriage-free basis. Where the purchaser requires a different method, any additional cost must be borne by him.
- c. Pallets, duckboards, covers etc used in transport will be at the cost and risk of the purchaser. The vendor may reclaim pallets if he so wishes.

Clause 4 - Risk

- a. No matter which delivery method is chosen, the purchaser will be responsible for the goods and any attached risk from the moment they leave the vendor's factory, depot or outlet. The vendor may insist that the purchaser takes out and pays for insurance to cover transport.
- b. The signature on the delivery or consignment note or any other note indicating reception of goods made by the purchaser or by one appointed by him for this purpose will be taken as proof that the delivery mentioned on the docket has been received in total and in good condition unless the recipient clearly states otherwise in writing on the said receipt and dates it.

Clause 5 - Ownership

All goods delivered by the vendor will remain his property until full and complete payment, as agreed beforehand in the contract signed by both parties, is received. Settlement may include payment for damages, costs and interest charged over and above any sums mentioned in the previous clause relating to risks.

Clause 6 - Delivery

- a. The vendor will do his best to meet the delivery dates quoted.
- b. A delivery which does not take place within the time stated cannot be taken by the purchaser as grounds for demanding compensation. The purchaser will however be entitled to specify, in writing, a day within the following fortnight when the delivery must take place. If after this the goods have still not been delivered the purchaser will have the right to assume, without further advice, that the agreement to supply has been cancelled. If in fact the merchandise in question left the vendor's factory, depot or outlet in time for the delivery to be accomplished as promised, it will be assumed that the vendor kept to his side of the bargain as regards delivery times.
- c. Where a vendor discovers that, for reasons outside his control, a failure has occurred, he will be entitled to postpone the delivery date until such time as the failure is rectified or, by sending a written statement, to cancel that part of the contract which has not been carried out.
- d. The purchaser is expected to take delivery of the goods on the date agreed or as soon after as possible. Where the purchaser wishes to have a later delivery date the cost of warehousing and handling will be added to the bill.

Clause 7 - Failure outside control (*force majeure*)

- a. When the vendor cannot be held responsible for a failure he will be entitled to cancel the sale contract as far as it has not been executed by issuing a written statement and without being held liable for damages or to provide a later delivery.
- b. The following circumstances, even if they could have been predicted at the moment the contract was signed, will be considered as outside the vendor's control: industrial action including strike and lock-out, excessive sick leave by employees, equipment and power failure, fire, collapse of company, the Netherlands placed on a war footing, declared state of war, siege, government intervention, stock requisition (including raw materials), government mandate to manufacture corrugated board, natural catastrophes, meteorological conditions and other factors which might have a detrimental influence on production and/or delivery.

Clause 8 - Payment

- a. Bills must be settled in full within 8 days of the invoicing

date and by the means indicated by the vendor. No discounts are given.

The vendor will be entitled to ask for a down payment, cash in advance or a deposit either before work on the order begins or during its execution.

If the purchaser refuses to comply with such a request the vendor will have the right to delay work until payment is received, cancel that part of the contract not yet fulfilled, or even cancel the whole contract without prejudicing his rights to compensation.

c. If the purchaser fails in his contractual obligations towards the vendor giving as his reasons suspension of payment, deferment of payment, bankruptcy, seizure, transfer of assets or liquidation of his business, he will still owe the vendor the full amount for which he is liable. The vendor will be entitled to seize unpaid goods without prejudice to any rights to which he becomes entitled by the failure of the purchaser to honour his part of the contract.

d. The purchaser will be penalised by the simple fact of not paying his bill on time. It will not be considered necessary to issue or serve warnings or formal notices.

e. If such a situation arises the vendor may claim the purchase amount from the purchaser and additionally a statutory rate of interest on the outstanding amount, as well as reimbursement for all legal and out of court costs involved and any collection charges for the amount outstanding and directly due to the purchaser's failure to pay. Out of court costs, mentioned above, will be set at not less than 8% of the total outstanding amount.

Clause 9 - Vendor's responsibility

a. The vendor is expected to abide by the delivery standards of the Dutch Association of Corrugated Board Manufacturers in force at the time the contract was drawn up. As far as techniques allow when the contract is drawn up, the vendor is also expected to meet any environmental requirements as well as the quality standard set by the customer. The financial liability of the vendor in this respect or in respect of whatever delivery is agreed is limited to the amount stated in any invoice for delivering the goods to which it refers or for no more than the amount covered therein. Where a delivery is spread out the vendor's financial liability will be limited to the portion of the amount covered by that delivery.

b. Any advice issued by the vendor as regards the quality, produced

shapes, measurements etc will be given to the best of his ability but such advice cannot be taken as ground for claiming damage against him at a later stage.

- c. Where goods are produced from anything which, in the widest interpretation of the word can be called a design, a model, sample or suchlike, and given to the vendor by the purchaser, the purchaser must undertake to guarantee that the fabrication and/or delivery of such goods will not contravene any trademark, patent, copyright or any other rights by a third party.

Where a claim is put forward by a third party in respect of some right the party may or may not have and relating to fabrication and/or delivery of the goods mentioned above the purchaser will indemnify the vendor against any such claims and will authorise the vendor to cease production and/or delivery immediately and will reimburse the vendor for all costs and harm done and without any responsibility, financial or otherwise, on the part of the vendor towards the purchaser.

- d. The vendor cannot be held responsible for damage to or loss of any goods belonging to the purchaser or a third party which are made available in the course of drawing up or carrying out the contract except where damage is caused wilfully by the vendor or by those for whom he takes responsibility.

Clause 10 - Claims

Any claim relating to a delivery must be made within 8 (eight) days of the delivery or consignment note date.

Where a delivery is faulty the responsibility of the vendor is limited to supplying a replacement within normal delivery times for that part of the delivery rejected. No matter what the consequences are of a faulty delivery they cannot be used as grounds for claiming compensation of any sort.

- c. Claims or disputes of whatever sort or nature do not give the purchaser the right to delay payment.

Clause 11 - Disputes

The relationship between the vendor and the purchaser will be governed by the law of the Netherlands. References in the United Nations Convention on International Purchasing Contracts relating to personal property will not apply.

- b. Disputes which cannot be resolved amicably between the parties will be settled by the local county court for the area in which the vendor's company has its head offices.
- c. Where the dispute also hinges on a technical point according to either party or both, advice may be sought from the Dutch TNO Packaging Institute before the matter is brought to court. The costs of this being borne by the party judged to be in the wrong.

Clause 12 - Measurements

- a. Measurements for boxes will be given for their interior dimensions in millimetres and in the following order: length, width, height
- b. Where the inside is compartmentalised the number of compartments will be described in the following order: the number of layers, the number across the length and finally the number across the width.
- c. Where boards are mentioned, the first measurement given will be the one parallel to the fluting. Direction of the corrugation describes the direction of the ridges and grooves of the fluting.
- d. Measurements will be accurate to within $\pm 5\text{mm}$ unless it is decided otherwise and put in writing.
- e. The vendor will, if the purchaser requests, apply a EAN indication to the ordered packaging. In doing so he will follow the purchaser's instructions while bearing in mind the principles applied by the EAN Nederland. The vendor cannot however be held responsible, or civilly liable for the legibility of the EAN indication or indeed for any other codes which are to be applied using the purchaser's own or customer's equipment.

Clause 13 - Differences in quality

The vendor cannot be held responsible for differences in colour from the inks used or in small variations in the board.
A maximum tolerance of 8% in the grammage (gsm), depending on the initial components, is considered acceptable.

Clause 14 - Differences in the ordered quantity

Depending on the quantity ordered, per format, the following variations will be acceptable:

20% for batch lots of less than 1000

15% for batch lots from 1000 to 5000

10% for batch lots of more than 5000

Where exact quantities are ordered the price will increase by 10%.

Clause 15 - Layout plans, designs, models, mock-ups etc.

- a. All plans, designs, models, mock-ups, etc. which are not part of an order will be billed to the purchaser.
- b. Plans, designs, models, mock-ups, cut-outs and stamps made by the vendor will remain his property even if the purchaser contributes to the cost of producing them.
- c. Contributing to the cost will enable the vendor to assure the purchaser that the material will only be used for the purchaser's ends and when the moment arrives, for whatever reason, the material will be withdrawn from use.
- d. A guarantee can only be given of the material's safekeeping for one year following its last use.
- e. Plans, designs, mock-ups, film, models, etc. belonging to the purchaser will remain on the premises of the vendor at the purchaser's risk.

Clause 16 - Fees

All fees imposed by or in the name of any authoritative body or which arise because of measures taken or agreements signed and in force within the Dutch corrugated board industry will be included in the account.

Clause 17 - Terms of purchase

All sales contracts prepared by the vendor will be deemed to include these general conditions. Different clauses including conditions of purchase for buying on one's own account will not be binding on the vendor unless he agrees to them in writing.

Clause 18 - Sales conditions for 1964, 1975, 1982 and 1992 of the VNG

(Dutch Association of Corrugated Board Manufacturers)

Conditions of sales lodged previously are obsolete.