

GENERAL SALES CONDITIONS
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1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Buyer: the person, firm or company who purchases the Goods from Company.

Company: Agfa-Gevaert NV, Septestraat 27, 2640 Mortsel, Belgium.

Contract: any contract and/or purchase order between Company and Buyer for the sale and purchase of the Goods, incorporating these conditions.

Delivery Point: the place where delivery of the Goods is to take place under condition 4.

Goods: any goods agreed in the Contract to be supplied to Buyer by Company (including any part or parts of them).

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the purchase order of Buyer, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 Buyer has acknowledged it has taken note of, and accepts that all sales and purchases of the Goods are subject to these conditions, and any variation to these conditions and any representations about the Goods shall have no effect, unless expressly agreed in writing and signed by an authorized representative of Company. Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Company which is not set out in the Contract. Nothing in this condition shall exclude or limit Company's liability for fraudulent misrepresentation.

2.4 Each order or acceptance of a quotation for Goods by Buyer from Company shall be deemed to be an offer by Buyer to buy Goods subject to these conditions.

2.5 No order placed by Buyer shall be deemed to be accepted by Company until a written acknowledgement of the order is issued by Company or, if earlier, Company delivers the Goods to Buyer.

2.6 Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.7 Any quotation is given on the basis that no Contract shall come into existence until Company despatches an acknowledgement of order to Buyer.

Any quotation is valid for a period of thirty (30) days only from its date, provided that Company has not previously withdrawn it.

3. DESCRIPTION

3.1 The quantity and description of the Goods shall be as set out in the quotation or acknowledgement of order of Company.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by Company and any descriptions or illustrations contained in the catalogues or brochures of Company are issued or published for the sole purpose of giving an approximate idea of the Goods described in them.

They shall not form part of the Contract.

4. DELIVERY

4.1 Unless otherwise agreed in writing by Company, delivery of the Goods shall take place "Ex Works" (ICC 2022 Incoterms) Septestraat 27, 2640 Mortsel, BELGIUM.

4.2 Buyer shall take delivery of the Goods within three (3) days of Company giving it notice that the Goods are ready for delivery.

4.3 Any dates specified by Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

4.4 Subject to the other provisions of these conditions Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the failure of Company), nor shall any delay entitle Buyer to terminate or rescind the Contract unless such delay exceeds sixty (60) days.

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- 4.5 If for any reason Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or Company is unable to deliver the Goods on time because Buyer has not provided appropriate instructions, documents, licences or authorisations:
- (a) Risk in the Goods shall pass to Buyer, including for loss or damage caused by the negligence of Company;
 - (b) Goods shall be deemed to have been delivered; and
 - (c) Company may store the Goods until delivery, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.6 Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading the Goods.
- 4.7 If Company delivers to Buyer a quantity of Goods of up to ten percent (10%) more or less than the quantity accepted by Company, Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the *pro rata* Contract rate.
- 4.8 Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.9 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle Buyer to repudiate or cancel any other Contract or instalment.
- 5. NON-DELIVERY**
- 5.1 The quantity of any consignment of Goods as recorded by Company upon despatch from the place of business of Company shall be conclusive evidence of the quantity received by Buyer on delivery, unless Buyer can provide conclusive evidence proving the contrary.
- 5.2 Company shall not be liable for any non-delivery of Goods even if caused by the negligence of Company, unless Buyer gives written notice to Company of the non-delivery within five (5) days of the date when the Goods would in the ordinary course of events have been received.
- 5.3 Any liability of Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the *pro rata* Contract rate against any invoice raised for such Goods, at the option of Company.
- 6. RISK/TITLE**
- 6.1 The Goods are at the risk of Buyer from the time of delivery as defined by the applicable ICC 2022 Incoterm.
- 6.2 Ownership of the Goods shall not pass to Buyer until Company has received in full, in cash or cleared funds, all sums due to it in respect of:
- (a) The Goods; and
 - (b) All other sums due to Company from Buyer on any account.
- 6.3 Until ownership of the Goods has passed to Buyer, Buyer shall:
- (a) Hold the Goods on a fiduciary basis as a bailee of Company;
 - (b) Store the Goods (at no cost to Company) separately from all other goods of Buyer or any third party in such a way that they remain readily identifiable as the property of Company;
 - (c) Not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - (d) Maintain the Goods in satisfactory condition and keep them insured on behalf of Company for their full price against all risks to the reasonable satisfaction of Company. On request Buyer shall produce the policy of insurance to Company.
- 6.4 Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
- (a) Any sale shall be effected in the ordinary course of the business of Buyer at full market value; and
 - (b) Any such sale shall be a sale of the property of Company on the own behalf of Buyer and Buyer shall deal as principal when making such a sale.
- 6.5 The right of Buyer to possession of the Goods shall terminate immediately if:

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- (a) Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of Buyer or notice of intention to appoint an administrator is given by Buyer or its directors, or a resolution is passed or a petition presented to any court for the winding-up of Buyer or for the granting of an administration order in respect of Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of Buyer; or
- (b) Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between Company and Buyer, or is unable to pay its debts, or Buyer ceases to trade; or
- (c) Buyer encumbers or in any way charges any of the Goods.
- 6.6 Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from Company.
- 6.7 Buyer grants Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the right of Buyer to possession has terminated, to recover them.
- 6.8 Where Company is unable to determine whether any Goods are the goods in respect of which the right of Buyer to possession has terminated, Buyer shall be deemed to have sold all goods of the kind sold by Company to Buyer in the order in which they were invoiced to Buyer.
- 6.9 On termination of the Contract, howsoever caused, the rights of Company (but not of Buyer) contained in this condition 6 shall remain in effect.
- 7. PRICE**
- 7.1 Unless otherwise agreed by Company in writing, the price for the Goods shall be the price set out in the price list of Company published or applicable on the date of order placement.
- 7.2 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts Buyer shall pay in addition when it is due to pay for the Goods.
- 8. PAYMENT**
- 8.1 Subject to condition 8.4, payment of the price for the Goods is due in Euros (EUR) within thirty (30) calendar days from the date of receipt of invoice, unless expressly agreed otherwise.
- 8.2 Time for payment shall be of the essence.
- 8.3 No payment shall be deemed to have been received until Company has received cleared funds.
- 8.4 All payments payable to Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.5 Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless Buyer has a valid court order requiring an amount equal to such deduction to be paid by Company to Buyer.
- 8.6 If Buyer fails to pay Company any sum due pursuant to the Contract within the term set forth in condition 8.1, Buyer shall be liable to pay interest to Company on such sum, automatically and without the necessity of a prior notice, from the due date for payment in accordance with the Belgian Law of August 2, 2002, accruing on a daily basis until payment is made.
- 9. LIMITED WARRANTY & REMEDIES**
- 9.1 Where Company is not the manufacturer of the Goods, Company shall endeavour to transfer to Buyer the benefit of any warranty or guarantee given to Company.
- 9.2 Company warrants that (subject to the other provisions of these conditions) upon delivery, and for a shelf-life period of twelve (12) months from the date of delivery, the Goods shall:
- (a) Be of in conformance with any agreed specifications;
- (b) Be free from defects in material and workmanship that prevent the Goods from conforming to agreed specifications.
- 9.3 Company shall not be liable for a breach of any of the warranties in condition 9.2, unless:

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- (a) Buyer gives written notice of the non-conformity or defect to Company, and, if the defect is as a result of damage in transit to the carrier, within thirty (30) days of the time when Buyer discovers or ought to have discovered the non-conformity or defect; and
- (b) Company is given a reasonable opportunity after receiving the notice of examining such Goods and Buyer (if asked to do so by Company) returns such Goods to Company's place of business at Buyer's cost for the examination to take place there.
- 9.4 Company shall not be liable for a breach of any of the warranties in condition 9.2 if:
- (a) Buyer makes any further use of such Goods after giving such notice; or
- (b) The non-conformity or defect arises, because Buyer failed to follow the verbal or written instructions of Company as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
- (c) Buyer alters or repairs such Goods without the written consent of Company.
- 9.5 Subject to condition 9.3 and condition 9.4, if any of the Goods do not conform with any of the warranties in condition 9.2, Company shall furnish on an exchange-basis replacement in quantity and kind. Company may request samples of Goods that do not conform with the above warranties. Company shall have no obligation under any of the above warranties with respect to Goods that have been modified or damaged through, but not limited to, misuse, abuse, accident, neglect, improper use, storage and/or mishandling by any other person than Company, or in connection with Goods held in storage beyond their expiry date.
- 9.6 If Company complies with condition 9.5 it shall have no further liability for a breach of any of the warranties in condition 9.2 in respect of such Goods.
- 9.7 Any Goods replaced shall belong to Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the twelve (12) month period.
- 9.8 The limited warranties under condition 9.2 are the sole and exclusive warranties of Company with respect to the Goods and are in lieu of all other warranties, expressed or implied (which are hereby disclaimed and excluded by Company), including without limitation any warranty of merchantability or fitness for a particular purpose or use and of all obligations or liabilities on the part of AGFA.
- 9.9 Buyer furthermore agrees that any and all warranties and terms made to its customers with respect to the Goods are made by Buyer only without obligation or liability of Company, and Buyer shall have no recourse against Company under the warranties in condition 9.2 if Buyer makes any warranties or terms, expressed or implied, concerning the Goods, the Goods' specifications or their performance, which purport to extend, modify or alter the warranties and obligations of Company.
- 9.10 Moreover, Buyer is solely responsible to determine the suitability of the Goods for Buyer's intended or desired use, and Company shall have no responsibility or liability in connection herewith. Company expressly disclaims any warranties and liability related to the performance or lifetime of the Goods as used in Buyer's goods in which the Goods are installed. The qualification of Company's goods in which the Goods are installed to ensure material compatibility with the Goods, is the sole responsibility of Buyer and Company shall have no liability in connection herewith.
- 9.11 To the maximum extent permitted by law and without prejudice to Buyer's own warranties granted by Company as set out in condition 9.2, Buyer shall indemnify, defend, and hold harmless Company and its affiliates, directors, officers, agents, successors and assignees from and against any and all third party claims, demands, actions, causes of action, losses, judgments, damages, costs and expenses (including attorney costs and fees), court costs and costs of settlement arising out, or in connection with, or based on a breach of (i) the warranties for the Goods, or (b) any warranties granted by Buyer to its customers in case such breach of warranties is due to a breach of the warranties for the Goods set out in condition 9.2.
- 10. LIMITATION/DISCLAIMER OF LIABILITY**
- 10.1 Subject to condition 4, condition 5 and condition 9, the following provisions set out the entire financial liability of Company, including any liability for the acts or omissions of its officers, directors, employees, agents and sub-contractors to Buyer in respect of:
- (a) Any breach of these conditions by Company;
- (b) Any use made or resale by Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- (c) Any tortious acts or omission, including negligence, arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied are, to the fullest extent permitted by law, excluded from the Contract.

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10.3 Nothing in these conditions excludes or limits the liability of Company for:

- (a) Death or personal injury caused by the negligence of Company, or the negligence of its officers, directors, employees, agents and sub-contractors; or
- (b) Fraud or intentional fault; or
- (c) Any matter for which Company's liability cannot be lawfully excluded or limited;

10.4 Subject to condition 10.2:

- (a) The maximum, total liability of Company in contract, tort, including negligence, or breach of statutory duty, misrepresentation, restitution or otherwise, arising in connection with the performance of the Contract shall be limited to the Contract price paid by Buyer for the lots of Goods that are the cause of action, or otherwise underlying the claim of Buyer; and
- (b) Notwithstanding the foregoing, in no event or under no circumstance shall Company be liable to Buyer and have to indemnify Buyer, (A) for Company's gross negligence (in accordance with article 5.89 of the new Belgian Civil Code); and/ or (B) by reason of any breach of contract, statutory duty and/ or in tort, including but not limited to (gross) negligence, or otherwise, for: (i) any loss of profit and/ or revenues, (ii) loss of contracts, business or other, (iii) loss of anticipated savings and/ or loss of investments, (iv) costs of downtime and/ or (v) loss of goodwill or reputational damage, and (vi) for any indirect, incidental, punitive, exemplary, special or consequential damages or losses of any kind whatsoever.

11. ASSIGNMENT

- 11.1 Company may assign the Contract or any part of it to any person, firm or company.
- 11.2 Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of Company.

12. FORCE MAJEURE

Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by Buyer (without liability to Buyer) if it is prevented from or delayed in the carrying on of its business due to unexpected acts, circumstances or events preventing Company from performing the Contract in whole or in part, and beyond the control of Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes, except strikes, lockouts and labour disputes involving a party's own employees), or restraints or delays affecting carriers, or shortage and unavailability in supply of (raw) materials, or inability or delay in obtaining supplies of adequate or suitable (raw) materials, or industrial dispute affecting a third party for which a substitute third party is not reasonably available, existing on or after the effective date of this Agreement, and provided that, if the event in question continues for a continuous period in excess of sixty (60) days, Buyer shall be entitled to give notice in writing to Company to terminate the Contract.

13. GENERAL

- 13.1 Each right or remedy of Company under the Contract is without prejudice to any other right or remedy of Company whether under the Contract or not.
- 13.2 The application of Article 5.74 (hardship) of the new Belgian Civil Code to the Contract is excluded.
- 13.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, void-ness, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 13.4 Failure or delay by Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 13.5 Any waiver by Company of any breach of, or any default under, any provision of the Contract by Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 13.6 The parties to the Contract do not intend that any term of the Contract shall be enforceable by any person that is not a party to it.

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13.7 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Belgian law without giving effect to any other choice of law, or conflict-of-laws rules, or foreign or any international law provisions, including the United Nations Convention on Contracts for the International Sale of Goods (1980) ("Vienna Convention") (if applicable), that would cause the laws of any jurisdiction other than Belgian law to be applicable, and the parties submit to the exclusive jurisdiction of the courts of Antwerp, Belgium.

14. COMMUNICATIONS

14.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:

(a) In case of communications to Company, to its registered office or such changed address as shall be notified to Buyer by Company; or

(b) In case of the communications to Buyer, to the registered office of the addressee (if it is a company) or (in any other case) to any address of Buyer set out in any document which forms part of the Contract or such other address as shall be notified to Company by Buyer.

14.2 Communications shall be deemed to have been received:

(a) If sent by mail, two (2) days (except Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

(b) If delivered by hand, on the day of delivery; or

(c) If sent by email on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

14.3 Communications addressed to Company shall be marked for the attention of the responsible sales manager.

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