

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

Article 1 Applicability

1.1 These terms and conditions, and, if any, any specifically-agreed written provisions, exclusively apply to all offers of and all engagements, present and future, for sales and deliveries by Berrymark, with the express exclusion of any general or specific terms and conditions of customer ("Customer"), whenever and in whatever form they are communicated, even if they determine the opposite and even if they have been provided at a later date.

1.2 Any deviation from these general terms and conditions is only possible by further written agreement.

1.3 In the event of a conflict between these general terms and conditions and specifically-agreed written provisions, such specifically-agreed written provisions take priority over these general terms and conditions.

Article 2 Offers

2.1 All offers and quotations are free of obligation, unless otherwise agreed in writing.

2.2 An agreement is only realised by confirmation of the order by Berrymark. This confirmation can be made both verbally and in writing. Berrymark shall confirm all verbal order confirmations in writing. Subject to evidence to the contrary to be provided by the Customer, the written order confirmation is decisive and takes priority over any verbal agreement.

Article 3 Price

3.1 The price and delivery of the product shall take place according to the Incoterm as referred to on the purchase order. Any Incoterms referred to shall be based on the most recent version of the Incoterms as issued from time to time by the International Chamber of Commerce. Unless otherwise agreed in writing, the price is based on a FCA factory or FCA coldstore Incoterm delivery. The factory or coldstore from which Berrymark effects delivery is determined by Berrymark.

3.2 Berrymark shall pass the costs related to the introduction and/or increase of import duties, VAT and other taxes and levies on the product, the requisite raw and/or ancillary materials, the delivery or any other increase of costs occurring after the conclusion of the agreement on to the Customer in full.

3.3 Without prejudice to other terms in specific agreements, Berrymark reserves the right to demand suitable guarantees from the Customer if the confidence of Berrymark in the creditworthiness of the purchaser is threatened by legal action against the Customer and/or other implementation of the commitments made by the Customer. If the Customer refuses to consider this, Berrymark reserves the right to cancel the whole order or a part thereof without prior warning, even if all or part of the goods have already been dispatched.

Article 4 Payment

4.1 Every payment must be effected within the term indicated on the invoice, net and cash and without the Customer having entitlement to any discount not explicitly agreed upon nor the application of a setoff. Payment is effected when Berrymark can dispose of the money.

4.2 If no time period is indicated on the invoice, the Customer is obligated to pay the purchase price within thirty (30) calendar days after the invoice date.

4.3 As long as previous deliveries have not been paid in full, Berrymark is entitled, if there is reason to do so in its opinion, to require cash payment or payment in advance, and to suspend further delivery. The customer is at all times obligated to provide all security deemed necessary by Berrymark for the payment of Customer's debts to Berrymark upon its first request.

4.4 Late payment will incur interest, calculated on the basis of the interest rate used by the European Central Bank for its most recent basic refinancing transaction for the first calendar day of the relevant half-year ("the reference interest rate"), increased by at least seven (7) percentage points ("the margin"). The above does not affect the right of Berrymark to request a fixed compensation at ten (10) % of the invoiced amount, with a minimum of 75 euro.

4.5 All costs associated with collection, such as postage, telephone and internal processing fees, as well as all court costs and costs for (extra)judicial legal assistance including costs not liquidated in court, shall be for the account of the Customer. Extrajudicial costs shall amount to at least EUR 750.

4.6 The drawing and/or acceptance of bills of exchange or other negotiable documents does not imply any renewal of debt and does not represent any departure from these terms and conditions of sale.

4.7 Non-payment on the due date of any invoice shall render the due balance of all the other invoices, even those that are not yet due, immediately payable by law.

4.8 Failure to pay the full price for goods sold on the due date can lead to the sale being dissolved by law without prior notification of default, and without prejudice to the rights of the vendor to compensation and interest.

Article 5 Delivery

5.1 All delivery time periods are estimations.

5.2 Exceeding the delivery time, for whatever reason, does not entitle the Customer to dissolve the agreement, to stop performance of any obligation to Berrymark entered into or to any damages, unless the Customer proves intent or gross negligence on the part of Berrymark.

5.3 Berrymark reserves the right to deliver the goods at different times.

Article 6 Retention of title

6.1 Berrymark retains full rights of ownership to all goods delivered until the Customer has made full and final payment and has performed his obligations towards Berrymark regarding the relevant, previous and subsequent similar deliveries, relating to additional work performed or to be performed by Berrymark, and related to the claims of Berrymark against the Customer due to default of the Customer in the performance of its obligations towards Berrymark. The Customer bears the risk of loss from the moment of delivery of the goods. The down payments made are retained by Berrymark, to compensate for possible losses on resale. The Customer undertakes to show these terms and conditions of sale to any public official that might levy attachment on the products that have not been paid for in full in favour of third parties.

6.2 All products held by the Customer which originate from Berrymark are always deemed to be those listed on the outstanding invoices, at least to the extent that the quantity of the products held by the Customer does not exceed the quantities listed on the outstanding invoices as regards type and composition.

6.3 Berrymark is at all times authorised to retrieve said products during business hours without prior warning, if a situation occurs as described in Article 11.1. The customer now grants authority to Berrymark to that end, including the right to enter the location where the products are stored and to remove the products.

Article 7 Inspection and complaints

7.1 The Customer is obligated to adequately inspect the goods delivered upon receipt, in any event prior to treatment or processing, regarding compliance with the quality or type stipulated in the agreement.

7.2 Complaints regarding the quantity of products delivered and other defects visible upon delivery must be immediately reported on accompanying documents. Complaints in that regard will not be dealt with if the documents have been signed without further indication. Complaints with regard to defects not visible upon delivery must be reported clearly in writing within 24 hours after discovery. Berrymark deals with complaints provided the complaint has been made within the minimum shelf life and the product has been stored in the prescribed manner. Complaints submitted after the terms referred to in paragraphs 2 and 3 will not be dealt with. Complaints will be only dealt with if the product's nature and/or composition have not been changed after delivery, the products have not been damaged in part or in full and have not been repacked or used. In any event, complaints are only dealt with if the product is retained for Berrymark in accordance with instructions given by Berrymark or returned. Complaints are not dealt with if they pertain to the utilisation of the product delivered for the purpose for which the Customer wishes to use it, unless the utilisation has been guaranteed by Berrymark by written agreement.

7.3 In the event of resale by the Customer to third parties, Berrymark is only bound in respect of the Customer.

7.4 Samples count as type samples without any obligation. Results of analysis are only approximate, as are the maximum and minimum limits.

Article 8 Return consignments

8.1 Return consignments are only permitted if Berrymark has explicitly agreed to that in advance in writing or if such return consignments are performed by or at the instruction of Berrymark.

8.2 Unless agreed otherwise in writing, return consignments are effected for the account and risk of the Customer. If Berrymark deems the complaint to be justified, Berrymark shall reimburse the Customer the costs of the return consignment.

Article 9 Liability

9.1 The liability of Berrymark is at all times limited to damage to goods directly resulting from the fact causing the damage, regardless of the basis, such as attributable shortcoming or wrongful act and therefore also in the case of gross negligence or wilful intent by subordinates of Berrymark or third parties engaged by Berrymark for the performance of the agreement. Berrymark is therefore not liable for damage as the result of injury or death of persons or any other consequential damage.

9.2 The liability of Berrymark for damage as referred to in the foregoing paragraph is further limited to the amount for which Berrymark is insured with regard to the damage occurring. If, as the case arises, it turns out that for any reason there is no insurance coverage, the liability of Berrymark shall be limited to the invoice value of the delivery of which the product that caused the damage formed part.

9.3 The Customer shall indemnify Berrymark against claims of third parties to compensate damage for which Berrymark is not or could not be liable towards the Customer on the basis of the provision in the previous paragraphs of this Article.

Article 10 Force majeure

10.1 Force majeure entitles Berrymark, after having notified the Customer in writing, to suspend performance, without the Customer being entitled to damages.

10.2 Force majeure includes (i) every event that cannot be attributed to Berrymark, as a result of which performance of an obligation cannot reasonably be required of Berrymark, or (ii) disruptions or interruptions of operations of any nature whatsoever, regardless of the cause, delayed or late delivery by one or more suppliers, impediments to transport of any nature whatsoever, as a result of which the transport to Berrymark and/or from Berrymark to the Customer is hampered or impeded, insufficient harvest, bad harvest, strikes, fire, rail strikes and defective means of transport.

10.3 Insufficient harvest or bad harvest means the partial or full failure of the raw material and ancillary materials required by Berrymark as a result of which Berrymark cannot dispose of the raw material and ancillary materials required by Berrymark, cannot do so in good time or can only do so under conditions objectionable to Berrymark.

10.4 If delivery is delayed more than three months as a result of force majeure, both Customer and Berrymark shall be authorised to dissolve the agreement.

10.5 If the force majeure occurs when the agreement has already been executed in part and if the remaining delivery is delayed more than three months, the Customer shall retain that portion of the products delivered and pay the purchase price owed.

Article 11 Termination

11.1 Without prejudice to its entitlement to performance and/or damages, Berrymark shall be authorised, without any compensation being owed to the Customer, to terminate the agreement with the Customer in full or in part without notice of default and without judicial intervention and/or to claim damages, retrieve the goods already delivered and in the case of partial dissolution, to suspend the delivery to the Customer, if the Customer is in breach in any respect of performance of its obligations, if the Customer ceases operations, applies for suspension of payments, if suspension of payments is requested with regard to the Customer, if the Customer is granted suspension of payments, if the Customer applies for bankruptcy or any procedure under the Belgian Act of 31 January 2009 on the Continuity of Enterprises, if bankruptcy is applied for with regard to the Customer, if the Customer declared bankrupt, if the Customer offers a settlement to its creditors or if other, comparable, circumstances occur.

11.2 In the case of termination of the agreement on the basis of one or more of the grounds listed in the previous paragraph, every claim which Berrymark has against the Customer shall become immediately due and payable.

Article 12 Severability

In the event that parts of the present terms and conditions are found to be invalid in whole or in part, the remaining parts of the Conditions shall nevertheless remain in full effect. Any invalid provision shall be replaced by the valid provisions that best meet the economic intentions of the invalid provision. The present general conditions represent the full contract between the parties.

Article 13 Confidentiality

13.1 The Customer shall keep confidential the existence, nature and substance of the agreement, along with other corporate information and shall not disclose or use any information regarding that without the written permission of Berrymark.

Article 14 Intellectual property rights

14.1 The intellectual property rights belonging to Berrymark shall at all times remain property of Berrymark.

Article 15 Disputes and applicable law

15.1 Any contractual relations between the Customer and Berrymark, including these terms and conditions, are governed by Belgian law (without application of the conflict of law rules thereof). The United Nations Convention on Contracts for the International Sale of Goods (the Vienna Convention of 11 April 1980) does not apply to the Agreement.

15.2 All disputes between the Customer and Berrymark shall be adjudicated by the competent court in the district of Hasselt (Belgium), which shall be exclusively competent.