



- 1. General**

These General Sales, Delivery and Payment Terms and Conditions shall apply to all offers made by Heemskerk BV hereinafter to be referred to as 'Heemskerk BV' – and to all agreements, all sales and all ensuing deliveries of products and/or animals and services by Heemskerk BV. Insofar as not expressly deviated from in writing by both parties by mutual agreement, all provisions of these Terms and Conditions shall apply between the parties. Any reference by the other party to purchasing or other terms and conditions shall not be accepted by Heemskerk BV.
- 2. Offers and orders**

All offers made by Heemskerk BV shall be without obligation, unless they state that they shall be valid for a specific period. Orders placed orally or in writing shall be confirmed by Heemskerk BV in writing (by letter, fax or e-mail), and Heemskerk BV shall only be bound after this written confirmation.

The Buyer shall be entitled to dispute the confirmation within two working days after receiving it. After this period, the confirmation shall be assumed to be a true and complete description of the agreement. Offers and commitments made by Heemskerk BV's representatives shall only be binding insofar as they are confirmed in writing by Heemskerk BV.
- 3. Prices**
  - 3.1 Unless otherwise agreed, prices shall be in euros, inclusive of transport costs and exclusive of VAT.
  - 3.2 The prices mentioned by Heemskerk BV are based on the monetary relations of domestic and foreign currencies, labour costs, purchase prices, taxes and other charges, subsidies and the like in effect at the time the agreement is concluded. If one of these cost elements is increased after confirmation of the order, but before delivery of the products, Heemskerk BV shall be entitled to pass on those increases to the Buyer in a reasonable fashion.
  - 3.3 If the agreed deadline for delivery is exceeded, price increases occurring after this date shall not be passed on, unless the delay in delivery is due to circumstances which are not Heemskerk BV's fault.
  - 3.4 All amounts shall be charged and all invoices made out subject to the reservation that the parties may raise the matter of mistakes, including errors in counts, at any time. Amounts charged which are too low or too high may then be reclaimed or additionally claimed, even if the Buyer has been given full and final discharge for the amount due.
- 4. Selection**

Prior to delivery, the animals shall be selected, in the Buyer's presence or not. The selected animals shall be identified by ear number on a selection list.

If the Buyer is present at the selection, the selection list shall be signed by both the Buyer and the Seller. Animals which appear on the selection list but are taken off of it after a veterinary examination or an accident, or because of other reasons which are beyond Heemskerk BV's control, shall not be delivered. Heemskerk BV reserves the right to deliver fewer animals in such cases than agreed on. The parties may, however, agree that Heemskerk BV experts shall supplement the number of animals up to the original number, taking into account the agreed specifications.
- 5. Delivery**
  - 5.1 Delivery terms shall be agreed on per transaction. All delivery terms shall be subject to the Incoterms 2010
  - 5.2 Delivery periods shall be set per transaction. The delivery period shall commence at the time the agreement is formed in accordance with Section 2 and all records, data, permits and the like which are necessary to execute the agreement have been provided by the Buyer to Heemskerk BV, and any agreed security for payment, whether in the form of an open letter of credit or not, has been received from the Buyer as well. Heemskerk BV reserves the right to deliver in consignments. Subject to the provisions in Sections 8 and 9, each consignment shall be considered a separate agreement, the performance or non-performance of which shall not affect the overall agreement.
  - 5.4 The delivery period is based on the circumstances existing when the agreement is concluded. If a delay occurs as a result of a change in the aforementioned circumstances or because materials timely ordered for the execution of the agreement have not been provided in time, the delivery period shall be extended as is reasonable, taking all the circumstances into account.
  - 5.5 Unless otherwise agreed, stated delivery periods shall never be regarded as strict deadlines. If the delivery period is exceeded – for whatever reason –, the Buyer shall, after a proper written notice of default, only be entitled to perform or take actions to execute the agreement, with or without judicial authorization.
  - 5.6 If deliveries must be made on demand within a certain period, either periodically or in consignments, the Buyer shall no longer be able to request delivery of those goods for which the delivery period has expired. If a period has not been set by the parties, the Buyer must in an event take delivery of the entire order within one year.
  - 5.7 Each delivery shall be accompanied by an official veterinary certificate, signed by an authorized veterinary official on behalf of the government of the country of origin. This veterinary certificate's content may differ by country; with regard to delivery to countries within the European Community, only the mandatory certificate for intra-Community transport may be used; with regard to delivery to countries outside the European Community, the technical content of the certificate shall be determined based on the wishes of the country and/or recipient concerned. Unless additional agreements have been made in this regard in the purchase agreement, the animals shall only be free from the illnesses stated in the officially signed certificate accompanying the shipment, and the recipient shall not be able to assert claims in any case whatsoever if, after delivery, other illnesses are discovered, serologically or clinically. If the receiving party is unsure of the potential consequences of introducing new animals into an existing stock or an entirely new company, it is recommended that this party consult with its own veterinary surgeon before shipment.
- 6. Transport**

The carrier shall be determined by Heemskerk BV. If the price mentioned includes transport, Heemskerk BV may not be held liable for loss or direct, indirect or consequential damage arising during the transport, unless it would be liable under the agreed delivery term (Incoterm). If the prices include transport, they shall be based on one location for unloading. If there are multiple locations for unloading, Heemskerk BV reserves the right to increase the price.
- 7. Insurance**
  - 7.1 The insurance shall be subject to the terms and conditions stated in the order confirmation. Which risks are to be insured against and for which percentage of the agreed basis shall be indicated. In principle, policies shall be in the Buyer's name, unless otherwise agreed.
  - 7.2 If the delivery is insured, the Buyer must, in the event of damage, report the nature of the damage claim within 48 hours. This may be done by telephone, fax or e-mail to Heemskerk BV. No later than 30 days after the insured period expires, a written veterinary statement must be submitted, showing which damage claims occurred within the insured period.
  - 7.3 The insurance company's decisions concerning amounts claimed shall be binding, and are completely beyond Heemskerk BV's control. Heemskerk BV cannot therefore be held liable in any manner whatsoever for the insurance company's denial of an insurance claim.
- 8. Payment**
  - 8.1 Unless otherwise agreed, a payment period of 30 days after the invoice date shall apply. Payments must be made in euro's, without a discount or claim to a Dutch bank in the Netherlands. Any credit notes furnished by Heemskerk BV may, however, be settled within one year of their date.
  - 8.2 If payment by means of a letter of credit is agreed on, this must be a confirmed, irrevocable letter of credit in favor of Heemskerk BV. Confirmation must be provided by a Dutch bank. The letter of credit shall be subject to the Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500.
  - 8.3 If payment is not made in time, the Buyer shall be deemed to be in default, without any notice of default or judicial intervention, and it shall then be charged interest on the amount due of 1% per month or portion of a month and also all costs associated with collecting the claim. Moreover, if payment is not made in time, Heemskerk BV shall, without prejudice to its other rights under the law or agreement, be entitled, at its option, either to suspend further deliveries or to regard the agreement as rescinded, without judicial intervention.
  - 8.4 The entire purchase price shall in any event be immediately due and payable in the event of non-payment of an agreed installment on a fixed date, or if the Buyer is put into liquidation, granted a suspension of payments or placed under guardianship, or if an attachment is made on its assets, or, in the event of his/her death, insofar as a natural person is concerned, or in the event the Buyer's business is wound up or closed down.
  - 8.5 All costs incurred by Heemskerk BV as a result of the Buyer's non-timely payment, including the fees for third parties and extrajudicial costs plus Dutch VAT engaged by Heemskerk BV to collect the claim, shall be borne by the Buyer.
- 9. Provision of security**
  - 9.1 Before delivering or continuing with delivery, Heemskerk BV shall be entitled to insist on adequate security for the fulfillment of the payment obligations or pre-payment by the Buyer.
- 10. Retention of title**
  - 10.1 If delivery has been made before payment of the entire amount owed under the agreement, the products delivered shall continue to be owned by Heemskerk BV, until all amounts owed to it with respect to delivery of these products, including the collection costs and interest regarding that delivery, have been paid in full.
  - 10.2 The Buyer shall not be entitled to transfer ownership of these products (if applicable, in treated or processed form) to third parties, whether as security or not, before title has passed to the Buyer. Nevertheless, the Buyer shall be entitled to resell the products as part of its normal business operations. The Buyer shall cooperate at all times in enabling Heemskerk BV to effectuate its ownership rights.
- 11. Quality**
  - 11.1 Deliveries shall be made in conformity with the agreed specifications. Heemskerk BV shall ensure that, at the time of delivery, the products delivered by it comply with the government safety and inspection requirements in the country of destination.
  - 11.2 In the event of disputes regarding the quality of the goods delivered, Heemskerk BV shall be entitled to submit these to a binding opinion by an impartial expert. The decision by the aforementioned expert shall be binding on both parties. After he/she has given both parties the opportunity to defend their positions once in writing and once verbally and, if necessary, after having heard witnesses, the designated expert shall decide the dispute. He or she shall also state in the decision which party must pay, in whole or in part, the costs associated with the opinion.
- 12. Complaints**
  - 12.1 Complaints must be submitted by the Buyer in writing to Heemskerk BV within one month after delivery, failing which the Buyer shall be deemed to have accepted the product unconditionally.
  - 12.2 Complaints made in another manner or to intermediaries, re-sellers, representatives and so forth shall be invalid and shall have no effect.
  - 12.3 Complaints shall not suspend the payment obligations, not even with respect to return shipments approved by Heemskerk BV.
  - 12.4 Complaints shall not be taken up if third parties have modified the product in some way, without Heemskerk BV's prior knowledge.
  - 12.5 Insofar as the goods are consistent with the selection list, rights may not in any event be derived from complaints, given that the products were already accepted at the time of selection by or on behalf of the Buyer in the country of origin.
  - 12.6 If there is a complaint, the Buyer must allow inspection of the products by an independent expert to be jointly designated by both parties. If the complaint is well-founded, the inspection costs shall be paid by Heemskerk BV. If the complaint is unfounded, the costs shall be charged to the Buyer.
- 13. Liability**
  - 13.1 Any liability of Heemskerk BV ensuing from a breach attributable to Heemskerk BV shall be limited at all times to at most the products' net invoice amounts, except in the case of intentional acts/omissions or gross negligence by Heemskerk BV.
  - 13.2 Subject to the provisions in Section 13 and in subsection 1 of this Section, Heemskerk BV shall never be obliged to compensate the Buyer for any damage, including any direct or indirect damage, on any account whatsoever or of whatever nature.
  - 13.3 The Buyer shall indemnify Heemskerk BV against any third-party claims for which Heemskerk BV is not liable under these Terms and Conditions.
- 14. Unforeseen circumstances**
  - 14.1 In the event of war, civil unrest, riots, fire, terror-related impediments, outbreaks of veterinary diseases or other disasters, and, in addition, all circumstances beyond Heemskerk BV's control, regardless of whether these occur at Heemskerk BV, its suppliers or the transport company engaged by it, or in the event of such a change in circumstances that further performance of Heemskerk BV's obligations cannot reasonably be demanded, Heemskerk BV shall be entitled to revoke its offers, suspend deliveries or terminate the agreement without judicial intervention, without being obliged to pay any compensation.
  - 14.2 This shall also apply if it becomes clear to Heemskerk BV, after it has issued an offer or concluded an agreement, that difficulties exist or will arise as a result of laws, actions or decisions by international or national institutions, government agencies and the like relating to deliveries to the Buyer or those for whom the products are intended.
  - 14.3 If Heemskerk BV invokes the aforementioned circumstances, it shall immediately inform the Buyer in writing when these circumstances become operative as well as when they end.
- 15. Conflict with statutory provisions**

Should any provision of these General Terms and Condition turn out to be inapplicable or contrary to public order or the law, only the provision in question shall be regarded as not having been written, and the General Terms and Conditions shall otherwise remain in full force.
- 16. Applicable law**

Dutch law shall solely apply to agreements and the ensuing obligations to which these Terms and Conditions apply in full or in part.
- 17. Dispute resolution**

All disputes between the parties which cannot be resolved in mutual consultation shall, at Heemskerk BV's option, be adjudicated by the Dutch court in the District where Heemskerk BV has its registered office or by another competent court, unless the parties agree to submit the dispute to arbitration.