

# GENERAL TERMS AND CONDITIONS OF SALE OF EVE KIDS BV

## Article 1 Applicability

1. These terms and conditions of sale apply to all offers, quotations and agreements between Eve Kids BV and the client.
2. Eve Kids BV hereby expressly rejects the applicability of general or special terms and conditions on the client's part.
3. Such terms and conditions can only be binding on Eve Kids BV if Eve Kids BV has expressly accepted them in writing.
4. If one or more provisions of these general terms and conditions of sale should be void, voidable or unenforceable, the remaining provisions will remain in full force. The parties will replace the invalid provision(s) by a provision to the same effect which reflects the purpose of the original provision as closely as possible.

## Article 2 Quotation

1. The quotation issued by Eve Kids BV at the potential client's request will always be free of obligation until the moment when an agreement is actually concluded.
2. Eve Kids BV will never be liable for direct or indirect losses caused by any inaccuracies in the quotation. The same applies to recommendations issued by Eve Kids BV during the quotation phase.
3. All designs, drawings, samples, models or other items produced by Eve Kids BV for the purpose of the quotation will remain the property of Eve Kids BV.
4. Eve Kids BV will not be liable for (the harmful consequences of) inaccuracies in the information provided by the client on which Eve Kids BV based its quotation. Eve Kids BV is not obliged to check the accuracy of such information. The client indemnifies Eve Kids BV against any claims from third parties that might arise from the inaccurate information provided by the client.

## Article 3 Formation of agreement

1. An agreement will be formed after both parties have signed a written contract.
2. An agreement will also be formed after the client has placed a written order with Eve Kids BV and Eve Kids BV has accepted this order in writing by means of an order confirmation.

## Article 4 Amendments and additions

1. Any amendments to the agreement and additional arrangements will only be valid if Eve Kids BV has confirmed them in writing. In the event that Eve Kids BV does not accept such amendments and/or additional arrangements, the client will never be entitled to terminate all or part of the agreement and will remain fully liable for payment of the purchase price, or for compensation of the costs already incurred, the profits lost and the idleness losses, this being at the discretion of Eve Kids BV.
2. If, following the formation of the agreement, circumstances occur which affect the price, such as changes in the prices of raw materials, the prices of products purchased for the benefit of the client, wage levels, exchange rates, import duties, other relevant taxes, etc., Eve Kids BV will be entitled to pass on these price changes to the client.
3. With regard to products which Eve Kids BV is to deliver in the future or on a call-off basis and which are not or insufficiently available at the time when the agreement is concluded, Eve Kids BV reserves the right to charge the prices applicable at the time of delivery.

## Article 5 The agreement

1. Eve Kids BV is entitled to request upfront payment or security for payment of the purchase price agreed. Eve Kids BV may suspend performance of the activities in the interim until the requested upfront payment or security has been provided. If the client fails to pay upfront or to furnish security within ten working days of the request to do so, the client will be in default without notice of default being required, and Eve Kids BV may terminate the agreement in writing without judicial intervention. The client will be liable for all the costs, losses, lost profits and idleness losses associated with the order and its early termination.
2. The client may only cancel or terminate the agreement with the written consent of Eve Kids BV. In the event of cancellation or termination, the client must compensate Eve Kids BV not only for the costs already incurred by the latter but also for the lost profits and idleness losses it sustained.
3. Eve Kids BV is entitled to engage third parties for the performance of the agreement concluded with the client.
4. Eve Kids BV can never be held liable for harmful consequences of any inaccuracies in the details, information, recommendations, drawings, models, etc. provided by or on behalf of the client from which Eve Kids BV proceeded in the execution of the order. In this

context, the client indemnifies Eve Kids BV against any claims from third parties arising from such inaccuracies.

5. The reusable packaging (containers, pallets and suchlike) of the products will remain the property of Eve Kids BV, unless different arrangements have been made on this point. The client must retain such packaging with due care. The client will be liable for damage or loss.
6. All prices charged by Eve Kids BV apply to delivery ex warehouse or ex works, include packaging and exclude VAT, unless agreed otherwise. The products will be at the client's expense and risk from the moment they leave the warehouse. If the client arranged the transport of the products, the client will be obliged to take out adequate insurance for this transport. In the event that Eve Kids BV arranged the transport, it will take out adequate insurance in respect of the transport. Eve Kids BV will pass on the costs of the insurance to the client.

## Article 6 The product

1. If the agreement provides that components made available by or on behalf of the client must be fitted or incorporated into, to or on the product to be produced by Eve Kids BV, the client will have to deliver these components to Eve Kids BV in the right quantity, in good time, free of charge and carriage paid.
2. The client will be liable for the components or other goods made available to Eve Kids BV by it and third parties, and for the proper applicability of these components or goods. Eve Kids BV may assume without any further examination that these components etc. can be applied to, fitted to or incorporated into the ordered product to be manufactured without any problem, except where different provisions have been agreed in writing.
3. If the aforesaid components are delivered late or cannot be processed by Eve Kids BV, and this results in a production standstill, the client will be liable for all losses sustained by Eve Kids BV on account of this standstill.
4. Eve Kids BV will not put the product to be manufactured into production until the client has approved the trial series provided by Eve Kids BV and has confirmed this in writing, or Eve Kids BV has confirmed that approval in writing.

## Article 7 Guarantee

1. Before using or processing the products supplied by Eve Kids BV, the client must check whether the products comply with the agreement. Any defects must be reported to Eve Kids BV by means of a written complaint as soon as the defect has been detected. Externally apparent defects must be reported in any case within five working days of the delivery of the products, while all other defects must be reported within 14 days of such a defect being detected. Any obligation of replacement or subsequent delivery will lapse by operation of law if the client fails to notify Eve Kids BV of the defect in time or if the client repackaged, processed or otherwise used the products after delivery by Eve Kids BV.
2. The complaint will be reviewed by the quality department of Eve Kids BV. In reviewing the complaint, the product specification approved by Eve Kids BV will be normative and decisive.
3. Unless agreed otherwise, the client must check upon receipt whether the correct quantity of products has been delivered. If this quantity is not correct, the client must notify Eve Kids BV in writing within five working days of detecting this. In the absence of a timely notification, the client will be deemed to have accepted the quantity stated on the waybill, delivery note or similar document as correct.
4. Subject to condition of the client having fulfilled its payment obligations and/or other obligations in full, Eve Kids BV will replace or subsequently deliver the defective or missing products at its own expense or reimburse the client for the invoice value. The client waives all rights to claim termination of the agreement on account of a defect.
5. With regard to products or product components which Eve Kids BV procured from third-party suppliers, Eve Kids BV will give the same guarantee, under the same conditions, as the guarantee which Eve Kids BV stipulated from these third-party suppliers.
6. The guarantee will not apply:
  - a. to defects resulting from faultiness of materials and/or components made available or prescribed by the client;
  - b. to defects resulting from improper use or negligence by/on the part of the client or its staff;
  - c. to defects caused by normal wear and tear, incorrect handling, excessive load or the use of unsuitable equipment or corrosive chemicals;
  - d. in the event of alterations to the moulds carried out by third parties otherwise than on the instructions of Eve Kids BV.
7. The obligations of Eve Kids BV are limited to those set out above and do not extend to any other payment or performance. Eve Kids

# GENERAL TERMS AND CONDITIONS OF SALE OF EVE KIDS BV

BV rejects all claims for compensation, and in particular accepts no liability for any trading losses or other consequential losses.

8. If it should be established that Eve Kids BV is liable for losses, the amount payable will never exceed the net invoice value of the products which gave rise to the loss or the amount which the liability insurer of Eve Kids BV is prepared to pay out in this respect, whichever is higher.

## Article 8 Delivery

1. Delivery dates stated will be estimates only and will not be final deadlines. Unless expressly agreed otherwise in writing, Eve Kids BV will not be liable for the consequences of the delivery date stated being exceeded. If Eve Kids BV exceeds the delivery date for whatever reason, the client will not be entitled to any compensation, or to non-fulfilment of any of its obligations.

2. Eve Kids BV is entitled to deliver an order in its entirety or in successive parts. In the latter case, Eve Kids BV will be entitled to invoice the client separately and demand payment for each partial delivery. If and for as long the client has not paid for a partial shipment and/or has failed to fulfil other obligations arising from the relevant agreement or from one or more earlier agreements, Eve Kids BV will not be obliged to deliver a subsequent partial shipment and will be entitled to terminate the agreement(s), insofar as not yet performed, without judicial intervention and without any notice of default to the client, without prejudice to its right to compensation and without the client being able to exercise any right to compensation or other rights.

3. Eve Kids BV is only obliged to deliver in accordance with the product specifications agreed at the time when the orders were placed. Eve Kids BV accepts no liability for the suitability of the products supplied for the purposes specified by the client. The client indemnifies Eve Kids BV against all claims from third parties for compensation of any losses arising from the agreement.

## Article 9 Retention of title

1. The title to the products supplied by Eve Kids BV will only pass to the client after the latter has fulfilled all its obligations towards Eve Kids BV, comprising payment of the agreed considerations as well as payment of claims resulting from failure to comply with agreements.

2. If the client holds any items in respect of which Eve Kids BV can invoke the retention of title, the client will be obliged to surrender these products to Eve Kids BV when the latter so requests, without any judicial intervention being required. The client will also be obliged to keep these products separate and mark them as originating from Eve Kids BV. The products subject to retention of title may never be pledged or otherwise transferred as security to third parties, which includes hire purchase and/or sale in instalments, or be sold or alienated in any way, encumbered or moved to a location other than that agreed.

3. The invocation of the retention of title will be at the client's expense and risk. The client must ensure that the products subject to retention of title are insured against risks which are normally insured (expressly including fire, theft, water and storm damage) or which Eve Kids BV considers desirable. The client is obliged to notify Eve Kids BV immediately if third parties lay claim to products that are subject to retention of title pursuant to this article.

4. In the event that the client fails to take delivery in time and/or to properly fulfil its obligations, or in the event that the client applies for a moratorium or is declared bankrupt, either on its own petition or on a third party's petition, or if an attachment is made in any way of its movable and/or immovable property or other goods, or if the client discontinues or is about to discontinue its business or approaches its creditors in the context of a debt rescheduling arrangement or payment arrangement, or if Eve Kids BV may assume in all reasonableness that any of the aforementioned situations is about to occur, Eve Kids BV will be entitled to suspend any further delivery of items or performance of services, as well as to suspend any payments and terminate every agreement concluded with the client either wholly or in part by mere notification in writing to the client, without prejudice to the rights of Eve Kids BV, such as the right to demand full compensation and/or take back items. The client agrees to this in advance and hereby grants Eve Kids BV permission to access its grounds and buildings in the event that Eve Kids BV should wish to take back the products delivered but not yet paid. In all the above situations, the claim against the client will become immediately due and payable in full.

## Article 10 Force majeure

1. If a force majeure situation occurs in respect of Eve Kids BV, which includes interruptions of operations or in the supply of products, materials, raw materials or resources, or if circumstances

occur which make delivery unreasonably onerous and/or disproportionately burdensome, Eve Kids BV will be entitled to suspend delivery during a reasonable period of its choosing, or to terminate the agreement without judicial intervention - either upon expiry of the reasonable period specified or immediately - by means of a written statement supported by reasons, without this giving the client any entitlement to compensation of the losses sustained or to be sustained by it.

2. If the agreement has been performed in part, the client will have to pay the costs incurred by Eve Kids BV and/or a proportionate part of the total price, obviously in exchange for delivery of the products manufactured by Eve Kids BV.

3. Eve Kids BV will not be liable for any direct or indirect losses, by whatever name, sustained by the client or by third parties on account of suspension or cancellation resulting from the aforementioned force majeure.

## Article 11 Intellectual property rights

1. If Eve Kids BV is to manufacture articles in accordance with drawings, samples, models or other instructions in the broadest sense which it receives from the client or, through the client, from third parties, the client will guarantee that the manufacture and/or supply of those articles will not infringe any patents or rights of use, commercial models or any other right of third parties, and the client will fully indemnify Eve Kids BV against all resulting claims and associated costs.

2. If a third party objects to the manufacture and/or supply pursuant to any alleged right as referred to above, Eve Kids BV will be entitled on the basis of that mere fact to cease the manufacture and/or supply immediately and to demand reimbursement of costs incurred from the client, without prejudice to its entitlements to any further compensation, and without Eve Kids BV being obliged to pay any compensation to the client. Eve Kids BV will notify the client immediately if third parties object to the manufacture and/or supply of goods intended for the client.

3. The intellectual property rights to the documents, drawings, samples, models or other items prepared by Eve Kids BV will remain vested in Eve Kids BV, even after these have been supplied to the client.

4. The client will be liable for losses caused by the infringement of the intellectual property rights of Eve Kids BV, committed by means of the products which it supplied to the client. The client is obliged to notify Eve Kids BV immediately if it becomes aware of any infringement of its rights.

## Article 12 Payment

1. Payment must be effected within 30 days of the invoice date, unless otherwise agreed in writing. If this term is exceeded, the client will be in default by operation of law through the mere expiry of this payment term, therefore without any notice of default or notification being required. 'In that case, Eve Kids BV will be entitled to suspend the execution of all orders accepted from the client until payment has been made in full, and will be entitled to claim compensation'.

2. From the moment when payment should have been effected, the client will owe interest at 1.5% of the invoice amount for each month or part of a month by which the due date is exceeded.

3. The client will be in default, without any notice of default being required, by the mere expiry of the payment term, or in the event of (a petition for) bankruptcy or (an application for) a moratorium, placement under guardianship or administration, or winding-up. All costs, in particular the extrajudicial costs and the judicial costs incurred in collecting the claim associated with the overdue payment, will be payable by the client. The extrajudicial costs will be 15% of the amount owed.

4. Eve Kids BV is entitled to demand further security from the client to ensure payment. If the client fails to furnish security within ten working days of the request to do so, the client will be in default without further notice and the order will be deemed to have been brought to an end or the agreement will be deemed to have been terminated. The client will be liable for all the costs and losses arising from the order and its early termination. Eve Kids BV will be entitled to demand that the client sign a deed of assignment for the purpose of transferring its claim(s) against its customer, which the client undertakes to do towards Eve Kids BV if the latter should so request, by way of security for the payment of the client's debt(s).

## Article 13 Applicable law

Any and all agreements between Eve Kids BV and the client will be governed by Dutch law.

# GENERAL TERMS AND CONDITIONS OF SALE OF EVE KIDS BV

## **Article 14 Choice of forum**

Any and all disputes regarding an agreement between Eve Kids BV and the client will be submitted exclusively to the competent judge of the District Court of Limburg. However, Eve Kids BV will always be entitled to summon the client to appear before the court that has jurisdiction according to the law or according to the applicable international treaty.

## **Article 15 Location**

These terms and conditions of sale have been filed with the Chamber of Commerce.

Kessel, November 2018

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