

Article 1. Definitions

1. VDB: the private limited liability company A. van den Broek B.V. (Chamber of Commerce no. 18122921) or¹ the private limited liability company Hatco Industries B.V.B.A. (company number 0451.212.029) or the private limited liability company Star-Pack Produktie B.V. (Chamber of Commerce no. 18050199).

Company name: A. van den Broek B.V. / Hatco Industries B.V.B.A. / Star-Pack Produktie B.V.'

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Contact hours: Monday to Thursday 08:00 - 17:00, Friday 08:00 - 15:00

2. The Customer: the (intended) contracting party of VDB.
3. Agreement: the agreement entered into between VDB and the Customer.
4. General Conditions: these general terms and conditions.

Article 2. Formation of Agreement

1. An Agreement is formed by:
 - a. the Customer tacitly accepting an offer from VDB or;
 - b. the Customer accepting an offer from VDB in writing (or by email) or;
 - c. (following a request by the Customer), VDB sending a confirmation of the Agreement to the Customer.
2. The Agreement is formed in accordance with the offer as referred to in paragraph 1.a or 1.b or in accordance with the confirmation of the Agreement as referred to in paragraph 1.c.
3. Section 6:227b(1) in Section 6:227c BW Dutch Civil Code do not apply.
4. Unless otherwise agreed, the Agreements are to be regarded as separate Agreements and no continuing performance contract that requires notice of termination will be formed.
5. If and insofar as Customer can prove in writing that there is a continuing performance contract, it can always be terminated with due observance of a notice period of 3 months (counting from the last working day of the month) without any obligation to pay compensation.
6. Changes/additions to the Agreement can only be agreed in writing. VDB reserves the right to unilaterally change these General Conditions.
7. If provisions in an offer or confirmation of the Agreement conflict with provisions in the General Conditions, the former will prevail.
8. In the event of any difference in text and/or interpretation between the different language versions of the Conditions, the Dutch text and explanation according to Dutch law will always prevail.
9. Information such as images, colours, sizes, weights and/or other (technical) specifications provided or made public by VDB in writing, orally, digitally or otherwise is free of obligation. The Customer cannot derive any rights therefrom unless expressly agreed.

Article 3. Obligations of VDB

1. VDB will, if no specific standards or regulations have been agreed, deliver in accordance with what VDB could reasonably assume.

¹ It follows from the Agreement which of these three entities is the contracting party.

2. VDB does not offer the Customer any guarantees regarding the quality or (special) properties of the goods unless expressly agreed in writing. Thus, the quality of goods delivered under previous Agreements provides no guarantees for later Agreements. Insofar as the laws or regulations applicable to VDB change after the Agreement is formed, VDB does not warrant that delivered goods (continue to) comply with that changed law or regulation. Neither does VDB warrant the intended use of the delivered goods by the Customer.
3. The Customer can only make a warranty claim in writing to VDB within the agreed period during which the warranty was provided, or in the absence of an agreement on such a period, within six months after delivery. The Customer can only invoke a warranty if the Customer itself has fulfilled all its (payment) obligations towards VDB and insofar as the Customer has not directly or indirectly processed, sold or delivered the goods to a third party.
4. In the event of a successful warranty claim, VDB will have the option of replacing or crediting the defective goods. In the latter case, the Customer will return the defective goods to VDB at VDB's request.
5. The actual number of goods delivered by VDB may differ from the number agreed in the Agreement / ordered by the Customer. For instance, because VDB works with minimum numbers/packaging units or (in the case of delivery of items) because of rounding/tolerances. Such deviations will be accepted by the Customer and do not qualify as a shortcoming of VDB. The actual quantity delivered will be invoiced by VDB and will always be payable by the Customer.
6. Delivery times indicated by VDB will not be regarded as deadlines, unless the parties have expressly agreed otherwise in the Agreement. An agreed delivery time will only become effective after the Agreement has been concluded and all data necessary for the execution of the Agreement are in the possession of VDB.

Article 4. Obligations of the Customer

1. The Customer will, at VDB's first request and on its own initiative, provide VDB with all information necessary or relevant to the performance of the Agreement.
2. Unless agreed otherwise, prices will be quoted exclusive of VAT, transport, packaging, import and export duties and any other government levies, costs of insurance, disposal contributions, environmental levies or environmental surcharges imposed or to be imposed by the authorities and/or costs of quality inspections.
3. All costs and/or price increases resulting from additions and/or amendments to the Agreement and/or the specifications of the goods to be delivered, which are made at the Customer's oral or written request, will be borne entirely by the Customer.
4. Any costs resulting from circumstances VDB could not reasonably have taken into account at the time of entering into the Agreement will be borne by the Customer. This includes in any event price changes imposed by VDB's suppliers after conclusion of agreement.
5. Returning goods is only possible after VDB has given its express prior written consent thereto. Return shipments will be sent carriage paid, at the risk and expense of the Customer.
6. Unless agreed otherwise, all payments will be made by the Customer to VDB to a bank account number designated by VDB, without suspension or set-off, in euro and no later than thirty (30) days after the invoice date. This qualifies as a 'term fixed for payment' within the meaning of Section 6:83(a) Dutch Civil Code.
7. At VDB's request, the Customer is entitled and obliged (also) to pay in other ways than in cash, such as - but not limited to - by transferring goods (tendering in payment).
8. Failing timely payment, the Customer will be in default by operation of law with in any event (without prejudice to VDB's other rights, such as the right to claim performance or compensation) the following (legal) consequences:
 - a. the Customer will become liable for default interest of 1.5% per month on any outstanding invoices;
 - b. the Customer will owe extrajudicial collection costs of 15% of any outstanding invoices with a minimum of €250;

- c. If VDB takes the Customer to court in respect of its payment obligations, the Customer will also, in addition to the foregoing paragraphs, be liable for reimbursement of the actual costs VDB incurs in this regard (such as attorney's fees, bailiff's fees, court registry fees, etc.).
9. Payments made by the Customer will always first be applied to reduce all costs and interest due and then to pay due invoices that have been outstanding the longest, even if the Customer states a different reference or other instruction or description when making the payment.

Article 5. Quality and complaints

1. Immediately upon delivery (in any event within 24 hours of receipt), the Customer will check the delivered goods for quantities, quality, visible damage, properties or defects and notify VDB thereof in writing or by email, stating the order and/or invoice number and sending (a copy of) the waybill. Failing that, the goods will be deemed to be in conformity with the Agreement.
2. The Customer can no longer invoke defects other than those referred to in the previous paragraph if it has not complained in writing to VDB within 24 hours after it has discovered or reasonably ought to have discovered the defect.
3. If the Customer fully or partially processes the goods, whether directly or indirectly, and/or no longer has possession of the goods, the Customer will be regarded as having approved the goods and the Customer - and not VDB - is liable for the consequences thereof. In that case, VDB's liability will lapse.
4. If a complaint proves well-founded after investigation by VDB, VDB has the choice to replace, repair or give a price reduction to the delivered goods. The Customer will be bound by this choice of VDB.

Article 6. Transfer

1. Unless otherwise agreed, goods will be delivered Ex Works (Incoterms 2010).
2. The risk for the goods will pass to the Customer at the time of delivery.
3. VDB may deliver the goods in partial shipments (partial deliveries).
4. The Customer is obliged to take delivery of the goods.
5. In the event of delivery ex VDB's premises, the obligation to take delivery commences at the time VDB notifies the Customer that the goods are ready for collection, whereupon the Customer will collect the goods at the latest within a period of seven (7) days.
6. In the event of delivery to the address of the Customer, the goods will be regarded as delivered at the time VDB presents the goods at that address. If no delivery address has been expressly agreed in writing, VDB may deliver the goods to the address of the Customer known to VDB or as it appears from the trade register. Goods are always transported at the Customer's risk and expense, and the Customer is responsible for taking out transport insurance for the goods.
7. If the Customer does not take delivery of the goods or does not take delivery of them on time, the Customer will be in default without further notice of default being required. In that case, VDB is entitled to store the goods for the Customer's risk on account or to sell them to a third party at any price VDB deems reasonable under the circumstances. The Customer will continue to owe the full purchase price and delivery costs, without prejudice to the provisions elsewhere in these General Conditions. If VDB as yet sells the goods to a third party, VDB may decide to reduce the amount owed by the Customer by the net proceeds of the sale to that third party.

Article 7. Retention of title

1. Except in the case of delivery in Germany or to German Customers, the retention of title of Artikel 7 applies.
2. Delivery is made under comprehensive retention of title. VDB will retain ownership of all goods delivered by VDB until the Customer has fully satisfied:
 - a. all claims relating to the consideration for goods delivered or to be delivered by VDB to the Customer pursuant to an agreement or work also performed or to be performed for the benefit of the Customer pursuant to an agreement and;
 - b. all claims for failure to perform such agreements.

3. As long as the Customer has not fully satisfied these claims, the Customer is obliged to VDB to treat the goods delivered with due care, to keep them insured and not to pledge, process, transfer or assign them to third parties. Upon non-compliance with this obligation, the entire purchase price associated with the Agreement will become immediately due and payable.
4. If the Customer fails to fulfil its obligations towards VDB, VDB will be entitled to immediately repossess the goods of which ownership is reserved. To the extent necessary, the Customer will, at VDB's first request, grant VDB immediate access to buildings and/or premises of which the Customer is the owner or manager, so that VDB can reclaim its property.
5. Payments made by the Customer will first and foremost be allocated to VDB claims which are not subject to retention of title.

Article 8. Eigentumsvorbehalt (DE)

1. Bei Lieferung in Deutschland oder an einen deutschen Kunden gilt der Eigentumsvorbehalt des Artikel 8.
2. Das Eigentum an den gelieferten Waren bleibt zur Sicherung aller Ansprüche vorbehalten, die uns aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Abnehmer und seine Konzerngesellschaften zustehen. Unser Eigentum erstreckt sich auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Abnehmer stellt die neue Sache unter Ausschluss des eigenen Eigentumserwerbs für uns her und verwahrt sie für uns. Hieraus erwachsen ihm keine Ansprüche gegen uns.
3. Bei einer Verarbeitung unserer Vorbehaltsware mit Waren anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerben wir zusammen mit diesen Lieferanten – unter Ausschluss eines Miteigentumserwerbs des Abnehmers – Miteigentum an der neuen Sache, wobei unser Miteigentumsanteil dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu dem Gesamtrechnungswert aller mitverarbeiteten Vorbehaltswaren.
4. Der Abnehmer tritt bereits jetzt seine Forderungen aus der Veräußerung von Vorbehaltsware aus unseren gegenwärtigen und künftigen Warenlieferungen mit sämtlichen Nebenrechten im Umfang unseres Eigentumsanteils zur Sicherung an uns ab.
5. Bei Verarbeitung im Rahmen eines Werksvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages unserer Rechnung für die mitverarbeitete Vorbehaltsware schon jetzt an uns abgetreten.
6. Solange der Abnehmer seinen Verpflichtungen aus der Geschäftsverbindung an uns ordnungsgemäß nachkommt, darf er über die in unserem Eigentum stehende Ware im ordentlichen Geschäftsgang verfügen und die an uns abgetretenen Forderungen selbst einziehen.
7. Bei Zahlungsverzug oder begründeten Zweifeln an der Zahlungsfähigkeit oder Kreditwürdigkeit des Abnehmers sind wir berechtigt, die abgetretenen Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen.
8. Scheck-/Wechselzahlungen gelten erst nach Einlösung der Wechsel durch den Abnehmer als Erfüllung.
9. Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten gilt ausschließlich deutsches Recht.

Article 9. Force majeure

1. If VDB cannot fulfil its obligations towards the Customer due to a non-attributable failure, this will constitute a situation of force majeure. In addition to its definition in the law and case law, force majeure includes all external causes, foreseen or unforeseen, over which VDB has no influence, as a result of which VDB is wholly or partially unable to perform its obligations towards the Customer or as a result of which VDB cannot reasonably be required to perform its obligations, regardless of whether that circumstance could have been foreseen at the time of the conclusion of the Agreement. Such circumstances will include (the consequences of): epidemics, strikes, lockouts, fire, machinery breakdown, stagnation or other problems in the production by VDB's suppliers and/or measures of any governmental body (such as recall actions), as well as the absence of any governmental permit. Force majeure on the part of VDB will in any event apply, but not exclusively, if, after the Agreement has been concluded, VDB is prevented from performing its obligations under this Agreement or from being prepared to perform them as a result of war, war damage, civil war, threat of war, riots, blockade boycott, natural disasters, epidemics, pandemics, lack of raw materials, hindrance and interruption of transport possibilities, acts of war, fire, flooding, ash cloud(s), strikes and sit-down strikes (both organised and unorganised), lock-outs, import and export impediments government measures, machine defects, failures in the delivery of energy, late delivery of required raw materials and/or auxiliary materials (from suppliers), sickness among employees and/or absence of employees, equipment or facilities that are crucial for the delivery, all this at the VDB's company as well as at third parties, such as suppliers, from whom VDB has to acquire the required materials or raw materials in whole or in part, as well as during storage or during transport, whether or not under its own management, and furthermore through all other causes beyond the VDB's risk or control. This enumeration is not exhaustive.
2. In the event of force majeure:
 - a. the Customer is not entitled to terminate the Agreement and;
 - b. the fulfilment of VDB's obligations will be suspended for the duration of the force majeure situation and;
 - c. In case of force majeure, the Customer is not entitled to any compensation (for damage), including if VDB benefited from the force majeure.
3. If any force majeure condition has lasted for 2 (two) months, VDB has the right to terminate the Agreement in writing in whole or in part.

Article 10. Industrial and intellectual property

1. Unless expressly agreed otherwise in writing, VDB will retain the copyrights, patent rights and all other industrial and/or intellectual property rights to the goods it has sold, offers made, designs, illustrations, drawings, (test) models, recipes, software, etc., provided.
2. Unless expressly agreed otherwise in writing, VDB will retain ownership of the rights to the data referred to in this article regardless of whether the Customer has been charged for their production.
3. VDB will retain ownership of all information, oral or written, provided by VDB to the Customer and may only be used by the Customer for the purpose for which it was provided. In any event, the Customer is prohibited from:
 - a. using and stating VDB's intellectual property rights or any other intellectual property right and/or trademark under which VDB sells the goods, unless the Customer has obtained VDB's prior written permission to do so;
 - b. make any alteration to the goods sold by VDB or remove the labels or other distinguishing marks applied by VDB to the goods or affix and/or add brand names or any other indication of any kind to the goods;
 - c. producing and/or using materials and/or documents for advertising and/or promotion, unless the Customer has obtained prior written permission from VDB. If VDB makes promotional materials or documents available to the Customer - whether for payment or not - during their business relationship, the Customer will return such materials and/or documents at VDB's first request.

4. Upon violation of one or more of the prohibitions of paragraph 3, the Customer will by operation of law owe VDB an immediately payable penalty of €5,000 for each violation and of €2,500 for every day the violation continues. These penalties are intended as an incentive for compliance and do not affect VDB's rights under the law. Section 6:92 Dutch Civil Code is not applicable.
5. The Customer will not disclose VDB's information to third parties in any manner whatsoever, except to the extent reasonably necessary in connection with the proper performance of the Agreement and then only after and to the extent a confidentiality obligation has been agreed.

Article 11. Privacy

1. In the event that VDB processes personal data provided by the Customer, the Customer guarantees that the processing is not unlawful and does not infringe the rights of the data subjects concerned or third parties. To the extent necessary, VDB may summon the Customer in indemnification proceedings in the event of any claims by data subjects or third parties as a result of the Customer's failure to comply with applicable privacy laws and regulations, including but not limited to the General Data Protection Regulation (GDPR) and the GDPR Implementation Act.
2. Any privacy statement present on VDB's website forms an integral part of these General Terms and can be accessed via [Privacy](#). In the event - for whatever reason - no privacy statement is present on VDB's website then, if requested, we will be informed as soon as a privacy statement is posted.

Article 12. Liability of the Customer

1. The Customer is responsible for the information provided by it or on its behalf, such as prescribed constructions, materials and working methods or orders, directions and instructions given.
2. The Customer is liable for all loss resulting from errors in the information provided by it as aforementioned or defects in goods, building materials, materials or auxiliary materials made available by it or prescribed by it.
3. The consequences of compliance (by VDB or third parties) with statutory regulations or government decisions will be borne by the Customer, regardless of whether the cause/necessity of such compliance is attributable to the Supplier, VDB or a third party. VDB accepts no liability to the Customer for any damage as a result of compliance as aforesaid and the Customer will, at VDB's first request, cooperate in compliance as aforesaid and to compensate all damage and costs incurred by VDB as a result of compliance as aforesaid.
4. The Customer is liable for loss resulting from work performed or deliveries made by it or on its behalf by third parties.
5. The Customer will indemnify VDB unconditionally for any damage as referred to in this article. To the extent necessary, VDB may summon the Customer in indemnification proceedings in this respect.

Article 13. Liability of VDB

1. Cumulative liability, based on any legal ground or grounds whatsoever, cannot result in VDB having to pay a sum of money to the Customer that exceeds the amount for which VDB is insured and its insurance actually pays out. VDB's total liability is limited to this amount.
1. In the event VDB is not insured for the liability (based on any legal grounds whatsoever) invoked by the Customer and/or VDB's insurance does not pay out, the cumulative liability based on any legal grounds of VDB will be limited to (i) the sales price excluding VAT of the Agreement to which the liability relates or (ii) (if that amount is lower) €25,000, and VDB accepts no liability for any indirect damage suffered by the Customer or a third party in connection with (the performance of) an Agreement, goods or services provided by VDB, including any damage caused by delay, consequential damage, immaterial damage, business or environmental damage.
2. The exclusion of liability in this article will not apply if loss is caused by intent or gross negligence of VDB or its managerial staff.
3. Unless the liability is caused by intent or gross negligence of VDB or its managerial staff, the Customer will compensate VDB for all damage (including (legal) consultancy costs) resulting from or relating to third-party claims, directly or indirectly related to (the performance of) an Agreement. To the extent necessary, VDB may summon the Customer in indemnification proceedings in this respect.

4. Auxiliary persons of VDB may (also) rely towards the Customer on the liability exclusions in this article, which qualifies as a third-party clause within the meaning of Section 6:253 Dutch Civil Code.
5. The Customer may only invoke the obligations as set out in this article if it has itself fulfilled all its obligations towards VDB.
6. Any right of action of whatever nature of the Customer against VDB will lapse no later than one year after delivery of the goods sold to the Customer or performance of the Agreement.

Article 14. Suspension, set-off and termination

1. The Customer is not entitled to suspend or set off its obligations.
2. In the following cases, VDB's entire claim against the Customer will become immediately due and payable, the Customer will be in default by operation of law and VDB will be entitled to terminate the Agreement in whole or in part - without any notice of default or judicial intervention being required - out of court:
 - a. if the Customer files for bankruptcy or (temporary) suspension of payment, or is declared bankrupt, is granted (temporary) suspension of payment, or the Customer is placed under administration, management or guardianship by virtue of statutory provisions;
 - b. if the Customer transfers, liquidates or shuts down (parts of) its business or at least its activities in whole or in part;
 - c. if prejudgment attachment or executory attachment is levied against the Customer;
 - d. If VDB so requests, the Customer will pay all or part of the agreed price and/or fees in advance and/or provide security for that purpose.
3. If the Customer provides no or insufficient security and/or makes no advance payment, VDB is entitled to terminate the Agreement. Section 6:92 Dutch Civil Code is not applicable.
4. If VDB so requests, the Customer will pay all or part of the agreed price and/or fees in advance and/or provide security for that purpose. If the Customer provides no or insufficient security and/or makes no advance payment, VDB is entitled to terminate the Agreement. In such case, the Customer will be liable for all loss suffered by VDB.

Article 15. Applicable law and disputes

1. Only Dutch law, with the exception of the Vienna Sales Convention, will apply to the Agreement.
2. Only the Zeeland-West Brabant District Court, seated in Breda, has jurisdiction to settle any disputes arising from the Agreement. In addition/divergence thereof, VDB will be entitled to submit the dispute to a court that has jurisdiction according to national, international or supranational (such as European) laws and regulations.