



## VAN LEEUWEN PIPE AND TUBE GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

### Article 1 - Definitions

- 1.1 The term "Van Leeuwen" is understood to mean: VAN LEEUWEN Distribution Poland sp. z o. o. , having its registered office and business address in Dąbrowa Górnicza (41-303), ul. Roździeńskiego 17 (Poland) or one of its subsidiaries which is named in the agreement as a contracting party.
- 1.2 The term "Subsidiary" is understood to mean: a legal entity constituting part of the Van Leeuwen group.
- 1.3 The term "Customer" is understood to mean: the natural person - who has the status of an entrepreneur or legal entity or partnership (or other relation) which has entered into an agreement with Van Leeuwen, or which is negotiating an agreement with Van Leeuwen, in relation to the supply of services and/or products or in relation to rendering any other type of performance.
- 1.4 The term "Parties" is understood to mean: Van Leeuwen and the Customer.
- 1.5 The term "Agreement" as used in these terms and conditions is understood to mean: any agreement between Van Leeuwen and the Customer, any amendment or addition thereto, as well as all acts (juristic and otherwise) undertaken to prepare and perform that agreement.
- 1.6 If the term "written" or "in writing" is used in these terms and conditions, this is understood to include all messages sent by email.
- 1.7 The term "Website" means: [www.vanleeuwen.com](http://www.vanleeuwen.com).

### Article 2 - Applicability

- 2.1 These General Terms and Conditions of Sale and Delivery (to be referred to hereinafter as "the Conditions") apply to – and constitute an integral part of – every quotation, offer, order confirmation, and invoice, as well as every Agreement concluded, for the supply of services and/or products between Van Leeuwen and the Customer.
- 2.2 The general and/or other terms and conditions used by the Customer – including the Customer's general purchasing terms and conditions – are hereby expressly rejected.
- 2.3 Deviations from, or amendments to, these Conditions must be confirmed expressly by Van Leeuwen in writing and will apply only to the relevant quotation/engagement/agreement.

### Article 3 - General Provisions

- 3.1 Trade terms and Incoterms used in these Conditions, quotations, order confirmations, or otherwise must be interpreted in accordance with the version of the Incoterms published by the International Chamber of Commerce (ICC) that was in effect when the Agreement was formed.
- 3.2 If a written provision of an Agreement between the Customer and Van Leeuwen conflicts with a provision in these Conditions or with an applicable Incoterm, the written provision in the Agreement will prevail.

### Article 4 - Agreements

- 4.1 The Agreement will be formed by a written confirmation by Van Leeuwen through either an order confirmation or through Van Leeuwen's actual performance of the engagement.
- 4.2 All offers, quotations, price lists, and other communications from Van Leeuwen are free of obligation and will not be binding on Van Leeuwen unless expressly agreed otherwise in writing. Oral commitments, agreements, and amendments, including additions to a written Agreement, will only be binding on Van Leeuwen if they are confirmed in writing by Van Leeuwen. In the event of any conflict between the Customer's order and Van Leeuwen's order confirmation, only Van Leeuwen's order confirmation will be binding.
- 4.3 If, in Van Leeuwen's reasonable judgment, the Customer's financial situation so warrants, the Customer will be obliged, at Van Leeuwen's request, to make immediate payment in advance or furnish security for the sum owed to Van Leeuwen pursuant to the Agreement, in which respect Van Leeuwen will be entitled to suspend all or part of its performance of the Agreement until such payment is made or such security is furnished.
- 4.4 If, upon the receipt of the order by Van Leeuwen from the Customer, or once the Customer receives order confirmation from Van Leeuwen, either party notifies the other party within two working days that it does not intend to conclude the agreement based on these Conditions, the contract of sale/delivery shall take no effect.

### Article 5 - Secrecy

- 5.1 The Parties are obliged to observe secrecy with respect to all confidential information that they may have obtained from one another or from another source within the context of the Agreement. 'Confidential information' will at least be understood to include – but not be limited to – know-how, prices charged by Van Leeuwen, and the commercial arrangements made between the Parties. The Parties will use confidential information only to the extent necessary to perform the relevant Agreement.

**Article 6 - Force Majeure**

- 6.1** If Van Leeuwen is unable to perform or unable to perform in good time as a result of *force majeure*, the applicable delivery deadline will be extended by the duration of the *force majeure* situation.
- 6.2** The term '*force majeure*' as used in these Conditions will be understood to mean: any non-performance caused by circumstances that are outside the reasonable control of the non-performing party, which will at least include non-performance due to power outages, telecommunication disruptions, cybercrime, fire, import and export restrictions, strikes, machine failures, and other commercial disruptions due to non-performance by third-party suppliers and other third parties involved with the performance of the Agreement.
- 6.3** In the event of *force majeure*, the Parties' obligations will be suspended. If the *force majeure* situation lasts longer than three months, either the Customer or Van Leeuwen may rescind the Agreement in writing, but only for those obligations that have not yet been performed. In such case, the Parties will have no right to claim rescission-related damages.
- 6.4** If, when the *force majeure* situation commences, Van Leeuwen has already performed part of its obligations, or is only able to perform part of its obligations, Van Leeuwen will be entitled to invoice separately for the obligations it has performed or will be able to perform.

**Article 7 - Warranty**

- 7.1** The products supplied by Van Leeuwen will be considered to comply with the Agreement if they possess the specifications that have been agreed in writing. Unless quality standards or alternative agreements are agreed in writing, the products must only meet the requirements of EU product laws as applied in the Netherlands. The Customer may not derive any rights from any images, descriptions, and information about price, size, weight, and qualities of the products stated by Van Leeuwen or third parties in price lists, on websites, or in other various media publications. Van Leeuwen bears no responsibility for the products being fit for any purpose for which the Customer wishes to process, treat, or use such products (or to cause such products to be processed, treated, or used). Minor deviations and differences in quality, colour, size, weight, or finishing that are customary in the industry and which cannot reasonably be technically prevented will never constitute a failure to perform.
- 7.2** Unless agreed otherwise, Van Leeuwen warrants that the products will meet the specifications agreed in the Agreement for a period of 12 months after delivery. This warranty will not prejudice Van Leeuwen's invocation of the other provisions of this article or *force majeure*.
- 7.3** To the extent that the warranty regards products which Van Leeuwen has obtained from a third party are involved, the warranty is limited to any warranty that the third party has extended to Van Leeuwen in respect of those products.
- 7.4** The Customer may only invoke the warranty after he has met all of his payment obligations to Van Leeuwen.
- 7.5** The Buyer shall be obliged to examine the delivered goods immediately upon delivery in a state in which the goods are delivered at the time of delivery. Upon subjecting the goods delivered to any processing, cutting, or merging with other elements, in particular as a result of any kind of physical, chemical and mechanical interference, the Buyer shall no longer be entitled to report claims to Van Leeuwen regarding the goods delivered, and Van Leeuwen's responsibility for the warranty for the delivered goods shall cease.

**Article 8 - Delivery**

- 8.1** Unless expressly agreed otherwise, delivery will be made ex works (Incoterms). The agreed delivery times and dates are only indicative and will never be deemed to be absolute deadlines. Missing a deadline will not entitle the Customer to rescind the Agreement or to any form of compensation whatsoever.
- 8.2** If delivery cannot be made at the agreed time or within the agreed term, Van Leeuwen will be entitled to make partial deliveries and the Customer will afford Van Leeuwen a reasonable time to still perform the delivery by serving Van Leeuwen with a notice of default.
- 8.3** The Customer will be obliged to accept delivery of the products immediately as soon as they are ready for the Customer and Van Leeuwen has notified the Customer of this fact. Non-performance of this obligation will entitle Van Leeuwen to store the products at the Customer's risk and expense or to keep them stored and invoice the Customer for same, without prejudice to Van Leeuwen's other rights. In such cases, the Customer cannot refuse payment on the grounds that delivery has not yet taken place.
- 8.4** To the extent the Customer is obliged to unload the products, he is obliged to do so immediately. The Customer will always ensure that proper unloading equipment and skilled personnel are available. The provisions of paragraph 3 of this article will apply *mutatis mutandis* upon the failure to perform this obligation (or these obligations).
- 8.5** In the event of a delay in the receipt of the Goods ordered by the Buyer, Van Leeuwen shall be entitled to substitute issue of Goods to the Buyer through the separation of the Goods covered by the transaction from the total mass of the goods stocked in Van Leeuwen warehouse and place them at the disposal of the Buyer by issuing unilaterally a CI document and its delivery to the Buyer. In such case, the transfer of ownership of the Goods takes place on the day of the delivery to the Buyer of the CI document unilaterally drawn UD by Van Leeuwen.



- 8.6** If in the period occurring between the date of order acceptance by Van Leeuwen, and the date of preparation of the ordered goods for the release, the Buyer places additional supplementary order as to the quantity or the range of the requested goods, with a view to its execution together with the total goods covered by the order prepared for release, Van Leeuwen shall be entitled to charge the Buyer a fee in respect of disruptions to the organization process and/or delivery implementation technology in the amount of 3% of the total value of the contract, in any case, not less than PLN 150.00.

#### **Article 9 - Prices and payment**

- 9.1** The prices indicated by Van Leeuwen are based on the information provided in the request and are exclusive of VAT, other levies (including import or export duties), and packaging, and are based on delivery ex works.
- 9.2** If one or more cost-price factors are subjected to increase after the Agreement date but before delivery, Van Leeuwen will be entitled to increase the agreed price accordingly.
- 9.3** Payments must be received within thirty calendar days after the invoice date, at the latest. Alternative payment arrangements must be agreed in writing. The Customer's right to settle its obligations against any claims it may have in respect of Van Leeuwen is expressly excluded. Payment must be made in the same currency used in the invoice.
- 9.4** The applicable payment deadline is an absolute deadline; failing to meet this deadline will place the Customer immediately in default. Should Van Leeuwen consider the Customer's financial situation to be poor, or if the Customer has filed for bankruptcy or a suspension of payment, or has been declared bankrupt or granted a suspension of payment, then the Customer will immediately be in default and all of Van Leeuwen's claims against the Customer will become immediately due and payable.
- 9.5** The Customer will owe trade interest at the statutory rate with effect from the date of default referred to in paragraph 4 of this article. If Van Leeuwen must take judicial or extrajudicial measures in connection with late payment, all of the costs ensuing from those measures will be borne by the Customer, which costs will be deemed to be at least 15% of outstanding claim, with a minimum of EUR 150, without prejudice to Van Leeuwen's right to claim full damages.
- 9.6** If the Customer fails to meet any of its obligations pursuant to the Agreement formed with Van Leeuwen or related agreements ensuing therefrom, or fails to do so in full, properly, and in good time, Van Leeuwen will be entitled, without any notice of default being required, either to suspend performance of the Agreement or to rescind the Agreement in full or in part, without incurring any liability to pay any form of damages and without prejudice to any of the other rights accruing to it.
- 9.7** Whenever the price is expressed in EURO, for the purpose of settlement in Polish zlotys (PLN), the average EURO exchange rate announced by the President of the Polish National Bank from the day preceding the invoice shall apply.

#### **Article 10 - Complaints and Liability**

- 10.1** The Customer must check the products for any deviations from the agreed specifications immediately after delivery. Any instances of non-conformity must be noted on the bill of lading or consignment note. Van Leeuwen must be notified in writing of these instances of non-conformity, as well as any other defects visible upon delivery, within ten working days after delivery. The Customer must notify Van Leeuwen in writing of invisible defects within ten working days of the date on which these defects were discovered or should have been discovered.
- 10.2** If a defect is not reported to Van Leeuwen within the prescribed term or in good time, the Customer will be precluded from demanding performance in respect of that defect. The Customer must keep defective products available for Van Leeuwen and afford Van Leeuwen the opportunity to inspect the products. The submission of a complaint will not entitle the Customer to a suspension of its payment obligations.
- 10.3** Van Leeuwen's obligations in the event of defects in the products and/or services supplied will be limited, at Van Leeuwen's option, to repair, replacement, or crediting of the invoice amount relating to the defective products and/or services.
- 10.4** If Van Leeuwen provides advice regarding the use, features, or suitability of the products, this advice will be based on the best of Van Leeuwen's knowledge. However, Van Leeuwen will bear no liability in respect of the erroneousness and/or incompleteness of such advice. Van Leeuwen will never be liable for:
- indirect and consequential harm incurred by the customer's conduct and/or loss: including stagnation losses, fines, manufacturing losses, travel and accommodation expenses, lost profit and turnover, transport costs, the costs of installation or de-installation, loss of goodwill, damages (including fines) owed to third parties, or delay-related losses;
  - damage to products in the custody of the Customer: such as damage inflicted on other products during the performance of the work;
  - harm or loss caused by an intentional act or omission or deliberate recklessness on the part of customer staff;
  - non-performance due to *force majeure* as described in these Conditions.
- 10.5** The performance of the Agreement will be rendered exclusively to benefit the Customer. Third parties may not derive any rights from such performance. The Customer will indemnify Van Leeuwen against all third-party claims



for damages or otherwise, as well as all costs or harm/loss Van Leeuwen has incurred or will incur in relation to such claims, which ensue directly or indirectly, or relate to, products and/or services which Van Leeuwen has sold, delivered, or will deliver to the Customer, including any work or advice.

- 10.6** The Customer's right to invoke a product defect will lapse if the product has been exposed to abnormal circumstances, has not been used in accordance with the instructions for use or has otherwise been carelessly or inexpertly handled, has been changed or has had work performed on it, or if the quality of the product has been compromised due to being stored for a longer period than is customary.
- 10.7** Any legal claim the Customer has against Van Leeuwen will expire simply by the passing of one (1) year after the event that resulted in the claim. Contrary to the statutory expiry term, the expiry term for all claims and defences against Van Leeuwen and third parties which Van Leeuwen has involved in the performance of the Agreement, is one (1) year.
- 10.8** Liability to damages or the obligation to indemnify Van Leeuwen pursuant to any statutory ground is therefore limited to a maximum of 15% of the total sum for the engagement (excluding VAT). If the Agreement consists of parts or partial deliveries, the liability to damages will be limited to a maximum of 15% of the total sum of the engagement relating to that part or partial delivery which caused the harm/loss (excluding VAT).
- 10.9** Van Leeuwen's employees, managing directors, representatives, third-party suppliers, and auxiliary staff may invoke the limitations of liability laid down in this article.
- 10.10** Van Leeuwen does not intend for any provision of these Conditions to exclude or limit liability for harm/loss caused by an intentional act or omission or deliberate recklessness on the part of Van Leeuwen's management.
- 10.11** Van Leeuwen shall only be liable for damages incurred by the Buyer as a result of wilful non-performance or improper performance of the contract by Van Leeuwen.
- 10.12** The Buyer can demand the damage suffered following the deliberate non-performance or improper performance of the contract to be repaired by Van Leeuwen to the amount of the suffered loss (*damnum emergens*), with Van Leeuwen's upper liability limit set to the net price of the ordered Products.
- 10.13** In no case shall Van Leeuwen be liable for damages based on the loss of Buyer's benefits that the Buyer could obtain, if the damage was not caused (*lucrum cessans*) nor within pure financial loss.

#### **Article 11 - Title and Retention of Title**

- 11.1** All products delivered will remain the property of Van Leeuwen until the moment at which the Customer has met all of its payment obligations in consideration of all of the products delivered pursuant to Agreements concluded with the Customer, as well as all claims due to the failure to perform such Agreements. In case the product provided by Van Leeuwen is used to manufacture a new product, Van Leeuwen will become a co-owner of the new product according to the rule laid down in Article 193 of the Civil Code, i.e. shares in co-ownership of the new product will be marked according to the invoice value of the goods delivered by Van Leeuwen and goods related with this product. Retention of property title shall expire upon payment or upon expiry of the period of storage of the goods.
- 11.2** If the Customer fails to render to Van Leeuwen performance of any obligation under this article, or if there is a reasonable, well-founded concern that the Customer will not perform such obligations, Van Leeuwen will be entitled, without any notice of default being required, to repossess the products delivered to own possession, regardless of where they may be located. The associated costs shall be borne by Customer.
- 11.3** As long as the aforementioned outstanding claims have not been fulfilled, the Customer will not be entitled to sell the products, to establish a right of pledge or non-possessory pledge on the relevant products, and/or to otherwise encumber the products. In addition, the Customer will be required to keep the products delivered by Van Leeuwen separate from other products, and ensure that they are clearly identified as Van Leeuwen's property, obtain and maintain proper insurance for those products, and refrain from processing or treating the products until the aforementioned claims have been fulfilled.

#### **Article 12 - Laws and regulations**

- 12.1** The Customer guarantees that it will act in compliance with applicable national and international laws and regulations, standards and norms, directives and codes in connection with performing the Agreement, including applicable laws and regulations including those regarding international trade, embargoes, import and export restrictions, and sanction lists, and including all laws and regulations designed to combat and prevent child labour, corruption, slavery, poor working conditions, and terrorism.

#### **Clause 13 - Termination**

- 13.1** In addition to its statutory rights, Van Leeuwen will be entitled to terminate any Agreement with a Customer with immediate effect, without judicial intervention being required, and without incurring any liability to pay any form of damages, if the Customer applies for a suspension of payment; if the Customer files for bankruptcy itself or if it is declared bankrupt involuntarily; or if the Customer (being a natural person) dies or (being a legal entity or company) is liquidated or dissolved; or if Van Leeuwen reasonably suspects that the Customer is not complying with, or not

fully complying with, applicable laws and regulations, including those relating to international trade, embargoes, import and export restrictions, and sanctions, including financial and other trade restrictions.

**Clause 14 - Disputes**

- 14.1** All Agreements and juristic and other acts to which these General Terms and Conditions of Sale and Delivery apply are governed by the laws of Republic of Poland. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) is excluded. The application of provisions of any other existing or future international regulations on the sale of movable goods is also excluded to the extent the Parties are permitted to exclude such application.
- 14.2** All disputes that may arise between the Parties in connection with the Agreements and juristic and other acts to which these General Terms and Conditions of Sale and Delivery apply will be adjudicated exclusively by the Polish court within whose jurisdiction Van Leeuwen's registered office is located, although Van Leeuwen will always be entitled to submit such a dispute to any court which would have had jurisdiction to adjudicate the dispute in the absence of this provision.
- 14.3** To the extent these General Terms and Conditions of Sale and Delivery are also drawn up in a language other than Polish, the Polish version will always prevail in the event of differences between versions.