

### **Article 1. Applicability:**

- A. These General Terms and Conditions apply to all agreements concluded by BS Forklifts International B.V. with third parties concerning the sale and purchase of movable goods and with regard to agreements of whatsoever nature. These General Terms and Conditions also apply to every tender, offer or quotation made by BS Forklifts International B.V. towards potential Purchasers. All offers, agreements and the performance thereof will be exclusively governed by the present terms and conditions of BS Forklifts International B.V. (hereinafter referred to as: "BSFI").
- B. Any derogating terms and conditions that are applied by the contracting party will only be binding for BSFI if and insofar as BSFI has expressly agreed thereto in advance and in writing.
- C. Moreover, derogations from these terms and conditions must also be expressly agreed in advance and in writing with BSFI.
- D. If BSFI has agreed in writing to the applicability of the derogating terms and conditions, these terms and conditions remain in effect for the remainder, even if this has not been expressly stated.
- E. The contracting party cannot derive any rights for future agreements from any previously agreed derogations from these terms and conditions.
- F. If these general terms and conditions are translated from the Dutch language into another language and there are any differences in the text resulting from the translation, the Dutch text and Dutch interpretation of these general terms and conditions will prevail.

### **Article 2. Offers:**

- A. All our offers are without obligation, unless expressly stated otherwise.
- B. All price lists, brochures and other data provided together with an offer are stated as accurately as possible. These will only be binding for BSFI if this has been expressly confirmed in writing by BSFI.
- C. Information, images, verbal notifications, statements, etc. provided by BSFI with regard to anything related to its offer, the goods and the most important characteristics thereof, provided by telephone, by email, or through the website will be represented, stated or made as accurately as possible by BSFI. However, it can occur that in spite of our accuracy (textual or verbal) inaccuracies can be present therein. BSFI retains a proviso as a result thereof, in the sense that no rights can be derived from the provided information and the contents thereof. Derogations cannot result in compensation and/or termination.

### **Article 3. Agreements:**

- A. Agreements will only be binding for BSFI if these are confirmed in writing by BSFI, or in the event that the offer is made through the internet site, the confirmation of the order is sent by email to the email address stated by the Purchaser, or as the case may be from the time when BSFI has commenced the performance of the agreement.
- B. Orders accepted from agents, representatives and other intermediaries and/or resellers, will only apply as accepted by BSFI as soon as they are confirmed in writing by BSFI together with a confirmation of the order.
- C. Any additional arrangements or changes made later, as well as arrangements and/or promises made by BSFI's personnel, or made on behalf of BSFI by its sellers, agents, representatives or other intermediaries and/or resellers, will only bind BSFI if these are confirmed in writing by BSFI.
- D. In the event of confirmation in writing of an order by BSFI the contents of the confirmation of the order will apply as the contents of the agreement.

- E. The contracting party of BSFI states not to be the resident of a country, or to form part of an organization, or to concern an individual, set out in the EU sanction lists, such as (but not limited to) CFSP list (Common Foreign and Security Policy list) and OFAC list (Office of Foreign Assets Control list).
- F. The client, in turn, is prohibited from supplying, forwarding or selling goods delivered by BSFI to Limited Jurisdictions as referred to in the previous paragraph. BSFI accepts no responsibility and accepts no liability for any sale or delivery of delivered goods by the client in violation of applicable laws and regulations.
- G. At BSFI's first request, the client will provide BSFI with the correct documentation to verify the final destination of goods. Such documentation will be provided within 30 days of BSFI's request or within such shorter period as will enable BSFI to comply with any requirement or request of the competent government or authority concerned, and will in any case include the name of the places or contain the port(s) of unloading, the date(s) of unloading and the quantity unloaded and the final destination of the goods. The obligations of the client to comply with such a requirement are not affected by any sale or disposal of the relevant property by the client.
- H. BSFI has the right to withdraw an offer, refuse delivery and terminate any order or agreement, without being obliged to compensate costs, expenses or damage, if BSFI has a reasonable suspicion that the client does not (fully) comply with the above the aforementioned Sanctions Act 1977 or similar legislation and regulations relating to Restricted Jurisdictions.

**Article 4. Prices:**

- A. The prices stated are based on the cost determining factors at the time of the offer. BSFI retains the right to charge on all changes, arisen after the date of its offer or confirmation of the order, in these cost determining factors, such as taxes, duties and import duties, purchase price, transport costs, insurance premiums, currency exchange rates, etc. to the contracting party, even if these cost price increasing circumstances were already foreseeable at the acceptance of the offer, provided that we have expressly notified this proviso.
- B. Costs of addendums to and/or amendments of the order or agreement will be at the expense of the contracting party of BSFI.
- C. The prices are excluding turnover tax and excluding shipping, transport, export or otherwise, unless expressly agreed otherwise in writing.

**Article 5. Delivery:**

- A. BSFI undertakes to observe the delivery period as much as possible, but any exceeding thereof will not give the contracting party any right to compensation, suspension, or as the case may be termination of the concluded agreement. The stated delivery period will only apply as an indication, which is the reason why no rights can be derived therefrom.
- B. Unless agreed otherwise, delivery takes place ex-factory, workshop or warehouse. As soon as the goods have been made available at the delivery address to the contracting party, or a third party who will take receipt of the movable goods on behalf of the contracting party, there will be delivery as soon as the contracting party, or the third party on behalf of the contracting party, can actually exercise control over the movable goods. At that time there will be delivery as well as risk transfer to the contracting party.
- C. Partial deliveries are permitted unless the contrary has been agreed.
- D. The contracting party will be obliged to immediately after delivery assess the movable goods delivered by BSFI. The contracting party is aware prior to the purchase agreement, as well as at the time of the delivery, of the fact that BSFI sells used movable goods.

**Article 6. Retention of title:**

- A. The goods remain, also after delivery, wherever they may be situated and in spite of the actual transfer thereof, the property of BSFI, and the contracting parties will be deemed to keep the goods for BSFI in the context of safekeeping, for as long as the contracting party has not or not completely fulfilled all the contracting party's payment obligations towards BSFI, on the basis of whatsoever agreement, including the payment of interest and costs, also those of any earlier or later deliveries.
- B. The contracting party will not be entitled prior to the payment in full to pledge the goods wholly or in part to third parties, or to transfer, or charge, or encumber the ownership thereof with any limited right other than in accordance with the contracting party's usual business or the usual designated use of the goods.
- B. If the contracting party disposes of the goods delivered by BSFI, the contracting party hereby transfers to BSFI the rights that the contracting party has or will acquire towards its own customers, which will be with all rights and/or securities attached thereto. BSFI can require that the contracting party informs its customers of the transfer and provides BSFI with all information and data that are required for the implementation of BSFI's rights and/or security interests.
- C. In the event that the contracting party does not fulfil any obligation towards BSFI ensuing from an agreement related to the execution of work or sold goods, BSFI will be entitled to take back the goods without any notice of default.
- D. If we rely on the retention of title the agreement will also be terminated without judicial intervention, without prejudice to BSFI's right to claim compensation of damage, lost profit and interest.

**Article 7. Complaints:**

- A. As there is sale and delivery of used goods it will be at all times the contracting party's responsibility to test and inspect the goods prior to the purchase. The general rule is that as a result thereof there is no right of complaint. BSFI will not accept any complaints on the basis of the above related to (used) goods sold by it, unless parties have agreed otherwise in writing prior to the purchase. In that event any complaints must be made in writing within 24 hours after receipt of the goods. Minor, derogations or damage that are usual in the trade, or technically unavoidable, will not be eligible for complaint. It will be exclusively at the discretion of BSFI whether or not there is a complaint.
- B. Returning of the delivery can only take place after prior permission in writing from BSFI subject to conditions to be stipulated by BSFI.
- C. If a complaint is considered to be well-founded by BSFI, BSFI can at its discretion repair or replace the goods that the complaint relates to, or to reimburse the contracting party for this, with the exclusion of any other right on the part of the contracting party to compensation.
- D. Submitting a complaint will never release the contracting party from its payment obligations towards BSFI.

**Article 8. Force majeure:**

- A. In the event of force majeure on the part of BSFI the performance of the agreement will be suspended for the duration of the force majeure situation, without prejudice to the entitlement on the part of BSFI to terminate the agreement without judicial intervention, in which case the contracting party will only be obliged to make a reasonable payment, to be determined by BSFI, for the performance already provided.

- B. Force majeure is taken to mean every circumstance that is beyond BSFI's control - even if this was already foreseeable at the time of the coming into effect of the agreement - which permanently or temporarily obstructs the performance of the agreement towards the contracting party, as well as insofar as not already included therein, fire, strike action, stagnation in supplies to BSFI for any reason whatsoever, lockouts, breakdowns in (telecommunication) networks, or connections, or used telecommunication systems and/or the unavailability at any time of the internet site, sickness of irreplaceable employees, sabotage, riots and civil commotion, mobilization, war, threat of war, being at war, state of siege, obstruction of traffic over land, water or air, government measures, without BSFI being obliged to demonstrate the impact thereof on the hindrance or delay.
- C. BSFI will also have the right to rely on force majeure if the circumstance that results in force majeure occurs after the goods and services should have been delivered.

**Article 9. Liability:**

- A. BSFI will never be liable for trading loss (business interruptions and other expenses, loss of revenue and suchlike), damage as a result of personal injury, decrease in value of goods, or any other damage whatsoever, which is the direct or indirect result of goods delivered by BSFI or advice provided by or on behalf of BSFI, work or services executed by or on behalf of BSFI, delay of, or the not being forthcoming of deliveries, advice, work or services, that might arise for the contracting party and/or third parties.
- B. In the unlikely event that BSFI will still be held liable for compensation of damage, this payment will never be more than an amount equal to the invoice price of the goods involved as a result of which the damage was caused, and compensation of damage occurs exclusively if BSFI, as the seller, is insured for this and its insurer provides cover for the claim concerned. In that context there will be limitation of any liability to the invoice amount of the movable goods concerned and delivered by BSFI. Liability for any consequential loss and/or trading loss is expressly excluded. Liability as detailed above will only be on the agenda if it has been convincingly established that the movable goods delivered by BSFI has been used in the correct and accurate (prescribed) manner, and furthermore if it has been established that there is apparent intention or gross negligence on the part of BSFI.
- C. If BSFI can rely on the provisions of this article, any of its employees who are held responsible can also rely thereon, as if they were personally party to the agreement.

**Article 10. Indemnity:**

The contracting party of BSFI will indemnify BSFI on the basis of the agreement against any possible claims for compensation towards BSFI by third parties, who in connection with the performance of the agreement suffer damage, on whatsoever legal basis and/or cause, and will be liable for all costs ensuing therefrom.

**Article 11. Provision of security & creditworthiness:**

- A. For every agreement entered into by and with BSFI the insufficient creditworthiness of the contracting party applies as resolute condition, also if (partial) delivery has already taken place.
- B. The contracting party will be obliged upon the first request from BSFI to provide security for the benefit of BSFI for the complete fulfilment of the contracting party's obligations concerning the agreements performed by BSFI, or still to be performed wholly or in part, in any form required by BSFI. If the contracting party does not comply therewith all that which the contracting party owes to BSFI on whatsoever basis will be immediately due and payable, without prejudice to BSFI's other rights.

**Article 12. Payment:**

- A. Payment of our invoices must be made in cash before or at the delivery without any reduction or set-off compensation. Payment of our invoices must be made effective, within two (2) weeks, meaning that the amount needs to be received on the bank account of BSFI, without any reduction or set-off compensation.
- B. Payments must be made from a bank account from the country of and in the name of the company to which the invoice is addressed, to a bank account number to be designated by BSFI. All other payments will not be accepted.
- C. Payments must be made in the currency in which the agreed prices are stated and must also be made within two (2) weeks.
- D. Every payment made by the contracting party will firstly serve as payment for the interest owed by the contracting party as well as the judicial and extrajudicial costs, as these are determined in the following articles and thereupon will be entered as reduction of claim that has been outstanding the longest.
- E. The contracting party will be in default (of payment) by the mere expiry of a payment term of 24 hours after delivery; separate notice of default will not be required for this purpose.
- F. If there is non-payment, or late payment, or payment that is not in full, there will be failure to pay on the part of the contracting party. In that event default interest will be owed per month, whereby a part of a month will be calculated as one month. The contracting party will in addition also owe collection costs to BSFI for the collection of the unpaid amount.

**Article 13. Interest:**

- A. If payment is not made in cash before or at the delivery the contracting party will owe interest over the invoice amount from the day after the invoice date until the day of payment in full.
- B. This interest amounts to two (2) percent per month, whereby a part of a month will be calculated as a full month.

**Article 14. Costs:**

- A. All judicial and extrajudicial costs, which BSFI must incur, related to breach of contract, including payment default on the part of the contracting party, will be at the contracting party's expense.
- B. In the event of late payment the extrajudicial collection costs will be equal to Extrajudicial Collection Costs (Standards) Act and the associated Ruling, as of 1 July 2012.

**Article 15. Applicable law:**

The law of the Netherlands exclusively applies to all agreements between BSFI and the contracting party. The applicability of the Vienna Sales Convention on Contracts for the International Sale of Goods (UN Convention 1980) is expressly excluded and will not be applicable on any agreement between BSFI and the contracting party.

**Article 16. Court with competent jurisdiction:**

All disputes that might arise between BSFI and the contracting party related to an agreement/agreements concluded between parties will be submitted at first instance to the Zeeland West Brabant District Court, location Breda.