

General terms & conditions of BRESC B.V.

Article 1. Definitions

1.1 These general terms & conditions are subject to the conditions below.

Bresc:	Bresc B.V., having its registered office at Jakobsstaf 6, 4251 LW Werkendam, listed in the trade register of the Chamber of Commerce under number 18082716.
Incoterms:	The most recent terms/rules on international transport of goods, drawn up and published by the International Chamber of Commerce (ICC).
Buyer:	The counterparty of Bresc.
Loan Packaging:	The (bulk) packaging material of the goods, which lends itself to direct reuse other than by recycling, and which is and remains the property of Bresc.
Agreement:	The (purchase) agreement between Bresc and the Buyer on the basis of which Bresc sells and delivers goods to the Buyer.

Article 2. Applicability

2.1 These general terms & conditions apply to every offer and quotation made by Bresc, and also apply to the formation, content and fulfilment of all Agreements entered into between Bresc and the Buyer, insofar as the Agreement does not expressly deviate from these general terms & conditions in writing by the parties.

2.2 Any general terms & conditions applied by the Buyer are not accepted by Bresc, unless the parties expressly agree otherwise in writing.

Article 3. Offers

3.1 Offers made by Bresc are valid for the period indicated by Bresc and are at the same time non-binding unless otherwise expressly indicated in writing in the offer. Bresc is entitled to revoke the offer for two (2) full working days after receipt of the acceptance.

3.2 The prices stated in the offers are exclusive of VAT unless otherwise indicated.

3.3 If an acceptance by the Buyer deviates from Bresc's offer, this will be deemed to be a new request by the Buyer and a rejection of Bresc's entire offer. Bresc is not bound by the new request, unless Bresc such in writing or has started the performance of the Agreement.

Article 4. Formation of the Agreement

4.1 The Agreement comes into being only by written order confirmation by Bresc or a start of actual performance by Bresc.

4.2 Where appropriate, invoicing by Bresc will be deemed to be written confirmation of the order, on the understanding that partial invoicing of an order does not constitute confirmation of the remaining part of the order.

4.3 Changes to the Agreement and these general terms & conditions are only valid if agreed in writing by Bresc and the Buyer.

Article 5. Price increase

5.1 Prices are based on cost-determining factors at the time of the offer. Bresc is entitled to pass on to the Buyer any price increases based on increases in these cost-determining factors that occur after the conclusion of the Agreement. The Buyer will only be entitled to terminate the Agreement if the price increase exceeds 15% of the purchase price.

Article 6. Representation

6.1. Statements by representatives and other personnel of Bresc, can only bind Bresc, if these statements are confirmed in writing by a person authorised to represent Bresc for that purpose.

Article 7. Advance payment and/or provision of security

7.1 Besc is at all times entitled to demand advance payment or security from the Buyer before proceeding with delivery in full or part. If this demand is not satisfied at first request, Besc will be entitled to terminate the Agreement, without prejudice to its right to compensation for the damage and costs it suffers or incurs as a result.

Article 8. Delivery times and default

8.1 The agreed delivery time is not a deadline and is indicative only, unless explicitly agreed otherwise. Besc will, also in case of an agreed deadline, only be in default after the Buyer has given it written notice of default as stated in Article 8.2 of these general terms & conditions.

8.2 In the event of delay, the Buyer will always give Besc written notice of default, granting Besc a reasonable period of at least fourteen (14) days to as yet fulfil its obligations.

8.3 If Besc is in default, the Buyer will only be entitled to terminate the Agreement. Besc will never be liable for any damage, by whatever name, to be suffered by the Buyer or third parties. The Buyer indemnifies Besc against third party claims.

Article 9. Delivery

9.1 Delivery will be made "carriage paid to the Buyer's place of business", unless otherwise agreed.

9.2 Where one of the Incoterms has been agreed as the delivery terms, the relevant Incoterms from the Incoterms in force at the time the Agreement is concluded will apply to the delivery.

9.3 Besc is permitted to deliver the sold goods in parts. If the goods are delivered in parts, Besc is entitled to invoice each part separately.

9.4 The Buyer will take delivery of the purchased goods at the moment at which they are delivered by or from Besc, or at the moment at which they are made available to him in accordance with the Agreement.

9.5 If the Buyer refuses to take delivery or is negligent in providing information or instructions necessary for delivery, the goods will be stored by Besc at the risk and expense of the Buyer. The Buyer will in that case owe all additional costs, including in any case storage costs.

Article 10. Loan Packaging

10.1 Unless delivered Loan Packaging is apparently intended for one-time use, the Buyer will return to Besc, at its own expense, within fourteen (14) days, all Loan Packaging received from Besc, sorted in accordance according to the nature of the packaging material concerned.

10.2 If the Buyer fails to fulfil this obligation or does not fulfil it properly, all resulting costs, including costs arising from late return and costs of replacement, repair or cleaning, will be borne by the Buyer.

Article 11. Retention of title

11.1 Besc retains ownership of all goods delivered by Besc until the Buyer has fulfilled all of the following obligations under all Agreements entered into with Besc, including claims which Besc has against the Buyer on account of failure to fulfil the Agreement:

- the full consideration(s) in respect of the goods delivered or to be delivered, including full payment;
- any claims for non-performance by the Buyer of one or more Agreements.

11.2 Goods delivered by Besc, which are subject to retention of title pursuant to Article 11.1, may only be resold in the context of normal business operations. In other cases, the transferability, as referred to in Section 3:83(2) Dutch Civil Code, of the goods is excluded. In case of bankruptcy or suspension of payments of the Buyer, reselling in the ordinary course of business is also not permitted. The Buyer is not entitled to pledge the goods or to establish any other right thereon.

11.3 If the Buyer fails to fulfil its obligations or if there is a well-founded fear that it will not do so, Besc is entitled to remove, or cause to be removed, delivered goods subject to retention of title from the Buyer or from third parties holding the goods for the Buyer. The Buyer will provide all necessary co-operation subject an immediately payable penalty of 10% of the invoice value of these goods for each day (including a part of a day) during which the Buyer retains possession of the goods. This penalty will be immediately due and payable and the indebtedness of this penalty will not affect Besc's right to performance, substitute or additional compensation and/or termination of the Agreement, so that the right to demand payment of this penalty may be exercised by Besc in addition to the aforementioned rights. The Buyer guarantees that third parties holding the delivered goods for it also provide all cooperation as referred to in this paragraph.

11.4 If third parties attach the goods delivered under retention of title or wish to establish or assert rights thereon, the Buyer will inform Besc thereof as soon as may reasonably be expected.

11.5 The Buyer will at Besc's first request

- insure and keep insured the goods delivered under retention of title against fire, explosion, water damage and against theft and to make the policy of this insurance available for inspection by Besc on first request;
- pledge all claims of the Buyer against insurers in respect of the goods delivered under retention of

- title to Besc in the manner prescribed in Section 3:239 Dutch Civil Code;
- pledge to Besc, in the manner prescribed in Section 3:239 Civil Code, any claims which the Buyer acquires against its purchasers on the resale of goods delivered by Besc under retention of title;
- mark the goods delivered under reservation of ownership as the property of Besc;
- immediately cooperate in other ways with all reasonable measures which Besc wishes to take in order to protect its proprietary right with regard to the goods and which do not unreasonably hinder the Buyer in the normal exercise of its business.

Article 12. Complaints

12.1 The delivered goods will be checked by the Buyer immediately upon delivery for visible defects. Complaints regarding visible defects will be reported by the Buyer to Besc immediately, i.e. at the latest within twenty-four (24) hours after delivery, fully and clearly described in writing.

12.2 Complaints in respect of other defects will be fully and clearly described in writing to Besc by the Buyer within eight (8) days after delivery.

12.3 Failure to submit a complaint in a timely manner, i.e. submitting a complaint after the expiry of the periods stipulated in Article 12.1 and/or 12.2, will result in the Buyer losing all its rights in this respect.

12.4 The Buyer bears the burden of proof that the delivered goods and their packaging were defective upon delivery.

12.5 The Buyer bears the burden of proof that the goods to which the claim relates are the same as those delivered by Besc.

12.6 Timely complaint by the Buyer does not affect the Buyer's obligation to pay and take delivery of the ordered goods.

12.7 Goods can only be returned to Besc with the prior written consent of Besc.

Article 13. EAN code

13.1 Besc accepts no liability with regard to the printing on packaging of goods, such as packaging with the symbol as referred to in the International Article Numbering Association regulations on it.

Article 14. Force majeure

14.1 Besc is not obliged to fulfil any obligation if it cannot or can no longer fulfil the Agreement, if this is a consequence of circumstances beyond Besc's control or sphere of risk. Circumstances beyond Besc's control will in any case include (but not be limited to): war or a similar situation, mobilisation, riots, strikes in Besc's supply companies, all types of strikes in Besc's company, blockade, boycott, the outbreak of pandemics or infectious diseases and/or the consequences thereof, natural phenomena, weather conditions, fire or failure of supply of electricity, gas or water, failure of suppliers or auxiliary persons to perform on time, government measures, shortages of raw materials and significant transport problems.

14.2 Besc is also entitled to invoke force majeure if the circumstance preventing (further) compliance occurs after Besc should have fulfilled its obligations.

14.3 Besc's obligation to deliver and other obligations will be suspended during force majeure. If the period in which fulfilment of the obligations by Besc is not possible due to force majeure lasts longer than thirty (30) days, both Besc and the Buyer are authorised to terminate the Agreement, without there being any obligation for either party to pay compensation in that case.

14.4 If Besc has already partially fulfilled its obligations on the occurrence of the force majeure or can only partially fulfil its obligations, Besc is entitled to invoice separately for the part already delivered and/or the deliverable part and the Buyer will pay this invoice as if it concerned a separate Agreement.

14.5 If a situation as referred to in Article 14.1 arises, Besc will report this to the Buyer as soon as possible. Besc and the Buyer will consult on a possible change to the Agreement.

Article 15. Liability

15.1 Besc accepts no liability for damage incurred by the Buyer of whatever nature and on whatever grounds, including all direct and indirect damage. Within the framework of these general terms & conditions, direct damage is understood to mean: material damage to goods, reasonable costs to prevent or limit damage that could be expected as a result of the event on which the liability rests, reasonable costs to ascertain damage and liability and reasonable costs to obtain satisfaction out of court. For the purposes of these general terms & conditions, indirect damage will in any case include (but not be limited to) consequential damage, loss of turnover, loss of data, damage due to business stagnation, missed savings or reduced goodwill in the Buyer's business or profession.

15.2 The Buyer indemnifies Besc against all damage that Besc may suffer as a result of claims by third parties, which are connected with the performance of the one or more of the Agreements by Besc.

15.3 Only if it should be established in court that Besc, despite the provisions in Article 15.1, is liable for any damage suffered by the Buyer, Besc's liability will be limited to the compensation of only direct damage up to a maximum of the invoice value of the Agreement. Under no circumstances will Besc's total liability for direct

damage, irrespective of the basis of the claim, exceed EUR 25,000 (in words: twenty-five thousand euro).

15.4 Besc cannot invoke the liability exclusions or limitations of these general terms & conditions if and insofar as damage to the Buyer is the result of gross negligence or wilful intent on the part of Besc, its directors or actual managers.

Article 16. Payment

16.1 Without prejudice to the provisions of Article 7 and unless expressly agreed otherwise in writing, payment will, without the Buyer being entitled to any discount, suspension or set-off, be made within fourteen (14) days of the invoice date,

- by means of legal tender at the offices of Besc;
- by transferring the amount due to Besc's bank account.

16.2 After the expiry of fourteen (14) days after the invoice date, the Buyer will be in default, without any notice of default being required. The Buyer will owe statutory commercial interest on the amount due from the moment of default.

16.3 In the event of: liquidation, application for bankruptcy or suspension of payments, of the Buyer, the Buyer's obligations will become immediately due and payable.

16.4 Payments made by the Buyer will first serve to pay all interest and costs due and secondly to pay the longest outstanding due invoices, even if the Buyer states that the payment relates to a later invoice.

16.5 If the Buyer pays the amount due in foreign currency, any change in currency, which has negative financial consequences for Besc, between the date on which the Agreement is concluded and the date of payment will be for the Buyer's account.

16.6 Payment discounts, which are tied to a term within which the payment must be made, expire if the amount due is not in Besc's possession within the set term.

16.7 The Buyer will only be entitled to any compensation by virtue of customary and/or with the Buyer agreed (extra) discounts, turnover bonuses, etc., if it has fulfilled all its obligations from all Agreements entered into with Besc in full and on time.

16.8 Complaints about invoices will be submitted in writing, fully and clearly described to Besc at the latest within one (1) week after the invoice date. If the Buyer does not complain about the invoice within this period, the invoice is assumed to be correct and the Buyer's right to invoke the incorrectness of the invoice lapses.

16.9 In the event of late payment as referred to in Article 16.1, the Buyer will, in addition to the amount due and the interest accrued thereon, pay in full all extrajudicial and judicial collection costs, including the costs of lawyers, bailiffs, collection agencies, court registry fees and other associated costs. The extrajudicial costs are set at least 15% of the principal sum with interest such with a minimum of EUR 250.

Article 17. Termination

17.1 Without prejudice to the provisions of Articles 11 and 14, in the event of any default by the Buyer, Besc will be entitled to suspend its obligations under the Agreement without judicial intervention, or to terminate the Agreement. Besc also reserves the right to full compensation for damages, costs, interest and loss of profit resulting from such termination.

17.2 Without prejudice to the provisions in Article 17.1, Besc may terminate the Agreement without notice of default and without judicial intervention by written notice with immediate effect in whole or in part if: the Buyer is granted - whether provisionally or not - a suspension of payments, or bankruptcy is applied for by or in respect of the Buyer, or his company is liquidated, or, the Buyer's business activities are terminated. Besc will never be liable to pay any compensation due to termination of the Agreement, irrespective of the grounds.

Article 18. Intellectual property rights

18.1 All goods manufactured by Besc such as, but not limited to, means of production, semi-finished products, aids, recipes and the like will remain the (intellectual) property of Besc and/or its licensors, even if a fee for the use of these goods is stated as a separate item on the offer, in the offer or on the invoice.

18.2 Besc is not obliged to hand over the goods referred to in paragraph 1 of this article to the Buyer.

18.3 Besc is not obliged to retain the goods referred to in paragraph 1 of this article for the Buyer. If Besc and the Buyer agree that these goods will be kept by Besc, this will take place for a maximum period of one (1) year and without Besc guaranteeing their suitability for repeated use.

18.4 All rights of intellectual property including in particular, but explicitly not limited to, copyrights on all goods supplied by Besc are vested exclusively in Besc. The Agreement does not in any way constitute a transfer of any right of intellectual property or a licence of such right.

18.5 Production materials supplied by the Buyer will be kept for a maximum of one (1) year and then destroyed, unless the Buyer has indicated in writing that they are to be returned or kept longer. Any liability of Besc for these goods is excluded.

18.6 Besc is not liable for claims and/or demands of third parties relating to the violation of intellectual property rights, including (not exclusively) copyright, patent, licence, trademark, model rights.

Article 19. Personal data

19.1 Bresc declares that it will comply with all relevant laws and regulations regarding the protection of personal data when executing the Agreement. If and to the extent that, in the context of the performance of the Agreement, personal data are processed for and/or together with the Buyer, the parties will enter into the further Agreement(s) required for that purpose under the privacy laws and regulations.

Article 20. Law and choice of forum

- 20.1 All Agreements between Bresc and the Buyer are governed by Dutch law. The applicability of the Vienna Sales Convention is expressly excluded.
- 20.2 All disputes, which may arise as a result of the Agreement between the Buyer and Bresc or further Agreements entered into between them, will be settled by the Rotterdam District Court.
- 20.3 However, Bresc remains authorised to sue the Buyer before the competent court designated by law or the applicable international treaty as if no choice of forum had been made.

Article 21. Changes to the general terms & conditions

- 21.1 Bresc is entitled to make changes to these general terms & conditions, not only but also in the event that one or more of the provisions of these general terms & conditions are found to be non-binding.
- 21.2 These changes will come into force at the announced time of entry into force.
- 21.3 Bresc will prove the Buyer with the changed general terms & conditions in a timely manner.
- 21.4 If no time of entry into force has been announced, changes will enter into force with respect to the Buyer as soon as it has been notified thereof.