



DOBLA GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

1 General

- 1.1 These General Terms and Conditions of Sale and Delivery, hereinafter referred to as: "General Terms of Delivery" shall apply to and/or form an integral part of all offers, tenders and agreements under which Dobla Beheer B.V. and/or its subsidiaries (including, but not limited to Dobla B.V., Dobla Belgium Productions NV, Dobla Logistics BVBA, Dobla Asia Company Ltd, Dobla Holding USA Inc., Dobla Manufacturing LLC and Dobla Chocolate Innovations Hong Kong Ltd.) hereinafter separately or jointly referred to as: "Dobla", supplies goods and/or services to purchaser/client, hereinafter referred to as "Client".
- 1.2 Derogations from the general terms of delivery or derogations from specific sections of the agreement shall only bind Dobla if these derogations or changes have been confirmed in writing by Dobla.
- 1.3 If any provision of the general terms of delivery is invalid or nullified, the remaining provisions of the general terms of delivery shall remain in full force and Dobla and the Supplier shall hold consultations in order to agree on new provisions replacing the invalid or voidable provisions, to the effect that the contents shall correspond with the purpose and the intent of the void or nullified provision wherever possible.
- 1.4 Any purchase terms or other terms and conditions of Client shall not apply, unless parties have expressly agreed otherwise in writing. Any (previous) reference by Client to its own or other general terms of delivery are expressly rejected by Dobla and therefore not accepted.
- 1.5 Dobla shall reserve the right to change the general terms of delivery at any moment. The modified general terms of delivery shall apply from the moment that Dobla has notified Client of the change, provided that the general terms of delivery that were in force on the day any offers were submitted continue to apply to the offers made.
- 1.6 If Client refers to several (legal) entities or companies, these shall be jointly and severally liable to fulfil all obligations arising from the agreement entered into with Dobla.
- 1.7 The headings above the articles are for identification purposes only and shall be disregarded for the interpretation of the General Terms of Delivery.
- 1.8 The general terms of delivery have been drawn up in Dutch, English, French, German and Spanish. In the event of interpretation differences between these texts, the Dutch version shall be binding.

2 Agreement

- 2.1 All offers and tenders from Dobla - including but not limited to images, models, drawings, specifications, diagrams, price lists and other documentation are deemed to be without obligation, unless expressly agreed otherwise in writing.
- 2.2 Should any other statement from Dobla be regarded or could be regarded as an offer or tender this will be deemed to be made without obligation, unless expressly agreed otherwise in writing.
- 2.3 If an offer or tender from Dobla is accepted by Client, Dobla shall have the right to immediately withdraw this offer, but in any case within three business days after learning of the acceptance by Client.
- 2.4 If reservations are included in the acceptance or changes with respect to the offer or tender are made, the agreement will only be concluded after Dobla has confirmed in writing to Client to assent to these reservations or derogations.
- 2.5 An agreement shall only come into being after Dobla has confirmed an order in writing and/or the agreement has actually been executed by Dobla. Verbal commitment by and agreements with agents, representatives or other intermediaries or subordinates shall only bind Dobla if these have been expressly confirmed in writing by Dobla.
- 2.6 Acceptance of an offer or tender by Client means that Client assents to the applicability and contents of the general terms of delivery.
- 2.7 Even though Dobla shall exercise the necessary care when formulating its offers and tenders, including price lists, brochures and other data that may suggest any (future) legal relationship between Dobla and Client, Client can never derive any legitimate expectations with respect to the accuracy of the data contained herein, unless expressly agreed otherwise in writing. Images, drawings, photographs, statement of dimensions, specifications and further descriptions by Dobla in catalogues, circulars or other products offered are not binding and are only intended to provide a general impression of the range of products Dobla offers, unless Dobla has expressly otherwise in writing and without prejudice to the obligation of Client to warrant the accuracy and completeness of the measurements and data it has provided. In no event shall Dobla be required to provide any (subsequent) delivery.

3. Prices and payments

- 3.1 Unless expressly determined otherwise, the prices of Dobla listed in, inter alia, catalogues, price lists and advertisements are Free Carrier (FCA ICC Incoterms® 2010) and exclusive of VAT and other taxes and duties that are levied or introduced for the delivery or performance. These taxes and duties are, however, passed on the Client. Abovementioned prices apply to the performance, delivery size and period listed in the tender. More or specific services are charged separately.
- 3.2 Dobla has the right to charge all price-increasing factors, which include an increase in cost prices and fees for materials, labour, social contributions, taxes, transport costs, (factory) prices of suppliers (of raw materials), as well as fluctuations in currency rates - that have come about after making the offer or after concluding the agreement - to the Client within three months. In the event of an increase of the agreed price between Dobla and Client by more than 10%, Client shall have the right to terminate the agreement before the end of the term. Dobla shall never be required to pay any damages.
- 3.3 If acceptance of the tender by Client takes place after the acceptance period specified in the tender and Dobla has expressly confirmed the acceptance in writing, on the basis of which Dobla shall still execute the order, Dobla shall be entitled to charge any related additional production costs to the Client.
- 3.4 Unless agreed otherwise, payments by Client must be effected in Euros, within 14 days after the invoice date.



- 3.5 The payments of, by or on behalf of Client shall always first be applied to settle all statutory (commercial) interest payable and costs and subsequently those invoice amounts which have been outstanding for the longest period, even though Client has stated that the payment relates to a later invoice.
- 3.6 In case of payment via a bank, the date of payment shall be the date on which the bank account of Dobla is credited and in case of payment by cheque, the date of payment shall be the date on which to cheque was cashed by Dobla.
- 3.7 Any adverse consequences of exchange rate loss or otherwise arising from late payment or non-payment shall be at the expense of the Client.
- 3.8 If Client fails to fulfil its payment obligations or fails to fulfil its obligations by the stipulated date, the Client shall be in default by operation of law, without notice of default being required and the statutory (commercial) interest shall be owing to Dobla from the due date of the invoice, for which part of a month is calculated as a full month. Furthermore, Dobla shall be entitled to refer the claim for collection. All expenses related to collection, such as the judicial and extrajudicial costs and costs charged by external experts, in addition to the cost determined by the court, shall be paid by Client to Dobla, the amount of which is set at not less than 15% of the total amount, with a minimum of € 500.
- 3.9 Client may not refuse to fulfil its payment obligations on the basis of the fact that Dobla has not, not yet or not entirely fulfilled its guarantee obligations.
- 3.10 If Dobla has a Claim to Client, Dobla shall be entitled to suspend all services and further performance to Client until full payment is received from Client.
- 3.11 Complaints with respect to the amount or the method of creation of the invoices of the Dobla should be immediately reported in writing to Dobla by Client, yet within 14 days after receipt of the invoice, stating precise details of the nature and reason of the complaints.

4 Retention of title

- 4.1 Dobla shall retain the right of ownership of all items delivered to Client, as long as Client has not fully fulfilled its payment obligations towards Dobla in respect of the goods and services supplied under the agreement, including penalties, interests and costs and on the basis of amounts due by virtue of article 3. The retention of title includes all items delivered to Client by Dobla, including items already paid for.
- 4.2 Rights shall only be granted to Client or where applicable transferred under the condition that Client pays the agreed fees on time and in full.
- 4.3 An extraordinary disposition of the goods, including but not limited to pledging and security, may only be carried out with permission from Dobla. Client is obliged to immediately notify Dobla if goods supplied under retention of title are being detached (by garnishment).
- 4.4 In the event of failure to pay by the due date, if Client is probably not able or willing to meet its payment obligation(s) and in the event of bankruptcy or a moratorium of Client, Dobla shall be entitled to take the goods without notice and Client shall grant Dobla hereby irrevocable authorisation to do so, all this without prejudice to the right of Dobla to claim compensation. Dobla shall credit repossessed goods at a value it has reasonably assigned to them. Dobla shall never be required to pay any damages.
- 4.5 All expenses incurred and damages suffered by Dobla during the period that ownership of the goods sold by Dobla has not yet been transferred shall be borne by the Client.

5 Deliveries

- 5.1 Delivery shall take place Free Carrier (FCA ICC Incoterms® 2010), unless parties have expressly agreed otherwise in writing.
- 5.2 Unless parties have expressly agreed otherwise in writing, the warehouse of Dobla in Meer (Belgium) shall be the place of delivery.
- 5.3 Unless parties have expressly agreed otherwise in writing, the obligation rests with Client to indicate in detail when the goods to be supplied should be delivered by Dobla, when so demanded by Dobla. Client is obliged to provide all information desired by Dobla with respect to goods to be dispatched.
- 5.4 If it has been agreed that the goods are to be received for safekeeping, storage shall be at the risk and expense of Client. In this case, the Dobla warehouse shall be the place of delivery and the sending of the invoice shall be regarded as notification of storage.
- 5.5 If the data necessary for the execution of the agreement (including but not limited to digital files) are not, not timely or not in accordance with the agreements available to Dobla or if Client fails to fulfil its obligations in any other way (for example, by providing files/data of inferior quality), Dobla shall have the right to suspend the execution of the agreement and Dobla shall have the right to charge costs resulting thereof in accordance with its usual rates.

6 Delivery dates

- 6.1 All delivery dates specified by Dobla are approximations only and are not final, therefore. Merely exceeding the specified delivery date does not cause Dobla to be in default.
- 6.2 Dobla determines the delivery date to the best of its ability on the basis of data known upon entering into the agreement and will observe the delivery dates wherever possible. Dobla shall never be bound to delivery dates that due to circumstances arisen after entering into the agreement can no longer be met.
- 6.3 If exceeding any (delivery) date is likely, Dobla shall, entirely voluntarily, inform Client thereof as soon as possible. If a delay in the delivery occurs, the delivery date shall be extended by such a period that is considered reasonable in view of all circumstances.
- 6.4 In the event of exceeding the delivery date, or any other circumstance, Client shall not be entitled to refuse the purchase nor shall it have a claim and/or right to any relevant compensation unless exceeding the date is attributable to intent or gross negligence by Dobla.
- 6.5 In the event of exceeding the agreed delivery date, Client shall not have the right to terminate the agreement unless the delivery date has been exceeded to such an extent that the Client cannot reasonably be requested to leave (the relevant part of) the agreement intact.
- 6.6 Dobla has a right to deliver the goods in instalments. If a delivery can only be performed in part, the remaining part shall be recorded for subsequent delivery. Client shall be notified orally or in writing. The payment conditions described in article 3 of the general terms of delivery shall apply to each partial delivery.



6.7 Where delivery on demand is agreed, Dobla may, in case demand does not take place or not on time, invoice Client to its own discretion and store the goods. If there has been no demand for a period of two months, a surcharge of 5% (five percent) per month of the value of the goods that should already have been demanded in storage at that moment will be charged.

6.8 A Client who tends to give one of his employees or a third party an oral or written contract to purchase goods from Dobla at his expense and to collect these, needs to inform Dobla in writing if such a contract has been terminated. If that does not happen, the Client shall be liable for damages suffered by Dobla as a result of handing over the goods to a third party who was not or no longer authorised to purchase and collect the goods on behalf of the Client.

7 Risk

7.1 Unless agreed otherwise in writing, the risk of loss, damage or otherwise of goods delivered by Dobla shall be transferred to Client at the moment that Dobla makes the goods available at the agreed place of delivery, namely the location included in article 5.2 of the general terms of delivery or the location expressly agreed otherwise in writing.

7.2 Unless agreed otherwise, transport of the goods to be delivered by Dobla shall be at the expense and risk of the Client. Unless agreed otherwise, the goods to be transported are not insured unless this is expressly demanded by Client, in which case the costs shall be at the expense of the Client. If Dobla arranges transport on behalf of (and at the expense and risk of) Client, it will charge the Client a surcharge of 15% (fifteen percent) of the price.

8 Inspection and complaint

8.1 Client is obliged to immediately inspect the goods (or have these inspected) delivered by Dobla upon receipt, to the extent which can be reasonably expected from him.

8.2 Claims with respect to missing or non-ordered goods that are discovered during an inspection, or could have reasonably been discovered, need to be immediately reported in writing to Dobla by Client or in any case within one (1) business day after delivery by Dobla, stating details of the nature and the reason of the complaints.

8.3 Defects concerning defects of goods delivered by Dobla which cannot or could not have been discovered within the period specified in the previous clause of this article, need to be reported in writing to Dobla by Client within seven (7) days after they have been discovered, or should have reasonably been discovered, stating details about the nature and the reason of the complaints.

8.4 Client needs to return the packing list to Dobla within the period as referred to in clause 2 and clause 3 of this article, stating shortage or surplus.

8.5 Upon discovery of a defect as referred to in clause 2 and clause 3 of this article, Client shall be obliged to cease any use of the goods, to act as a prudent debtor in carefully preserving the goods and to take the necessary measures to minimise his damage wherever possible. In doing so, Client shall strictly follow the instructions from Dobla and give Dobla its full cooperation for the investigation into and of the observed defect and related circumstances, such as handling and use of the goods. In the event of complaints about the quality of the delivered goods, the goods need to be stored for inspection by Dobla and not, except for after written permission from Dobla, be returned to Dobla.

8.6 In case of failure by Client to strictly observe the above provisions, every relevant claim of Client shall lapse. If Client fails to submit claims with Dobla within the above stipulated periods, Client is deemed to have approved the delivered goods and Client will never be able to rely upon the fact that the goods did not conform with the agreement.

8.7 Slight variations in quality, colour, smell, taste, dimensions and appearance that are customary in the industry or are technically unavoidable do not form a basis for complaints. The packaging of the goods shall at least contain the net quantity expressed in mass units (as specified on the packaging of the goods). Therefore, the net weight of the goods shall at least be equal to the net weight specified on the label of the packaging of the goods. Exceeding the net quantity/net weight by and/or a deviation from the number of items per packaging of the goods of a maximum of 10% shall not form a basis for complaints.

8.8 Unless agreed otherwise, return consignments outside the planning period as referred to above in clause 1 of this article - without prior permission from Dobla - are not permitted. In the event such a return consignment is permitted by Dobla, this will in principle be collected by Dobla free of charge from the location where the goods were delivered.

9 Warranties

9.1 If a delivered good is not conform the agreement or does not comply with applicable legislation, Dobla will, at its discretion, replace the item or repair the item to the best of its ability, if these defects have been reported to Dobla in writing and in detail within the period specified in article 8.2. All replaced goods become the property of Dobla.

9.2 The warranty obligation lapses if the defects in the item delivered are wholly or partially a result of improper storage by Client; or transport by Client in faulty packaging; improper, careless or incompetent use by Client; external causes such as fire or water damage; the lack of serial numbers; or if Client carries out changes or has changes carried out to the items or parts that have been supplied by Dobla under maintenance or warranty. The expenses incurred by Dobla in that case, including examination (with a minimum of one hour) and transport costs will, in the above cases, be charged to the Client by Dobla at the then prevailing rates.

9.3 Incidentally, the claim to warranty shall lapse during the period that Client has not fully or timely fulfilled any obligation under the agreement.

9.4 Work and costs, including costs of repairs/replacement outside the scope of this warranty shall be charged to Client by Dobla at the then prevailing rates.

9.5 Client is obliged to send the items eligible for repair/replacement under the warranty in proper packaging accompanied by a written, clearly described complaint, as well as a photocopy of the invoice to the address provided by Dobla, unless determined otherwise. Risks of transport of the items, both to Dobla and return consignments, shall be at the expense of the Client.

9.6 Except for the warranty described in this article, Dobla grants no other guarantee, direct or indirect, on the delivered items.

10 Goods from the supplier

- 10.1 If and insofar as Dobla supplies Client with goods from third parties, the terms and conditions of those third parties shall apply to those goods instead of any derogating provisions in these terms, provided Client has been informed by Dobla hereof. Client assents to such terms of third parties.
- 10.2 If and insofar as the referred to terms of third parties are deemed, for whatever reason, not to apply to the relationship between Client and Dobla or are declared to be inapplicable, the provisions in these terms shall apply.
- 10.3 In the case as referred to in clause 1 of this article, Dobla shall grant the same warranty for the goods it has delivered as is granted by the suppliers of Dobla. The warranty shall only apply during the warranty period stipulated by its suppliers. The warranty on the goods shall lapse, irrespective of the warranty period, from the moment that the goods have been processed or used in other products. With respect to the goods delivered under Dobla's own brand, the warranty period shall be equal to the complaint and warranty periods included in article 8 and 9.
- 10.4 The warranty referred to in clause 3 of this article means that Dobla will deliver the goods once more. This warranty does not oblige Dobla to credit invoice amounts.
- 10.5 The warranty referred to in clause 3 of this article shall only apply if Client has fulfilled all its payment obligations towards Dobla.

11 Transfer of rights and obligations

- 11.1 Client is not entitled to transfer its rights or obligations under the agreement, wholly or partly, to a third party without prior written permission from Dobla.
- 11.2 Dobla has the right to engage third parties for the performance of the agreement.

12 Liability

- 12.1 Dobla does not accept any liability towards Client for any damage, on any ground whatsoever, including all direct and indirect damages such as consequential loss or loss of profits, with the exception of intent or gross negligence on behalf of employees and/or auxiliary persons engaged by Dobla.
- 12.2 If and insofar as any liability rests with Dobla, on any ground whatsoever, each event of liability of Dobla shall be limited to the invoice amount (exclusive of VAT) paid to Dobla by Client for the delivered goods/services, whereby a series of events is regarded as one event.
- 12.3 If and insofar as any liability rests with Dobla, on any ground whatsoever, each event of liability of Dobla for employees and/or agents employed by Dobla shall at all times be limited to the amount the liability insurance pays, less the excess under such insurance.
- 12.4 The provisions under 12.1 to 12.3 inclusive, shall only apply where the liability of Dobla under the law or agreement, including the provisions in these general terms of delivery, has not been further limited than would ensue from the mere application of 12.1 to 12.3 inclusive.
- 12.5 Notwithstanding the provisions in article 6:89, Civil Code, in any case the right to compensation shall lapse twelve months after the event from which the damages, direct or indirect, arises and for which Dobla is liable.

13 Intellectual property

- 13.1 All rights of intellectual or industrial property on all goods and materials manufactured and/or made available by Dobla under the agreement, including (but not limited to) analyses, designs, images, texts, drawings, diagrams, lists of materials, documentations and other materials exclusively rest with Dobla or its supplier. Only Dobla shall have the right to deposit the aforesaid goods, materials, texts and suchlike. The aforesaid texts, images, drawings, diagrams, lists of materials, documentation and other materials and items and suchlike provided to the Client may not be reproduced and/or published, wholly or partially, or issued to third parties by print, photocopy, microfilm or in any other manner whatsoever without the express prior written permission from Dobla. Dobla is authorised to attach conditions to be determined at a later stage on granting permission, including, but not limited to, payment of a fee to Dobla.
- 13.2
- 13.3 Notwithstanding the remaining provisions of these terms, Dobla shall only be liable towards Client for infringement of provisions of law, violations of rights or legally protected interests of third parties if these provisions, rights or interests are generally known within the Netherlands or when the Client has expressly pointed out the existence of such provisions or rights to Dobla. If Dobla itself or with respect to a violation or infringement as referred to here held responsible by third parties, the Client shall be similarly liable to indemnify and compensate Dobla.

14 Force Majeure

- 14.1 If Dobla fails to fulfil any obligation as a result of force majeure, Dobla shall never be liable towards Client for damages, caused by any grounds whatsoever, and shall be entitled at its own discretion and without judicial intervention to either suspend the performance of the agreement for a maximum period of six months or wholly or partially terminate the agreement, all this without compensation being due.
- 14.2 Dobla is not bound to fulfil any obligation nor to compensation, if it is prevented to do so as a result of any circumstance that cannot be attributed to its fault and for which it is not accountable by law or juristic act or according to generally accepted standards. Force majeure for Dobla also includes: any of the circumstances independent of the will of Dobla and other events that lie beyond the control of Dobla, even though these could have been foreseen at the moment of concluding the agreement, which permanently or temporarily prevent the performance of the Agreement, and where not already included, failures of suppliers of Dobla, illness, (civil)war, threat of war, riot, industrial action, lack of personnel, strikes, transport obstacles, fire, weather conditions, epidemics, involuntary loss of possession, late delivery of materials and products by the importer/ factory/ supplier, restrictive government measures, sabotage and generally any unforeseen circumstances within the company, both at home and abroad. The above shall also apply if the circumstances referred to above occur with respect to or in the company, factories, importers or other dealers from whom Dobla purchases or tends to purchase its goods.

15 Termination

- 15.1 Dobla may terminate the agreement with immediate effect without notice and without judicial intervention in the event that:

- * Client has been declared insolvent;
- * It has been granted a provisional moratorium or its assets are attached;
- * Client's business is liquidated or terminated;



- * Client fails to fulfil any payment obligation after having received written notice;
- * If, in the opinion of Dobla, the credit risks arising from the agreement cannot be covered or not sufficiently covered by an institution to be determined by Dobla engaged in insurance of such risks.

Dobla shall never be liable to pay any compensation due to termination.

15.2 Amounts invoiced (in any manner whatsoever) prior to termination of the agreement relating to goods delivered and services performed under the agreement shall become immediately due and payable at the moment of termination.

15.3 If such a situation as referred to in clause 1 of this article occurs, Dobla shall be entitled to repossess the goods delivered under retention of title and Dobla shall have the right to demand the amount due at once, without prejudicing the remaining rights of Dobla, such as the right to reimbursement of expenses, damage and interest, including the costs of repossessing the goods by Dobla.

16 **Export**

16.1 If the goods from Dobla are exported on behalf of and/or by Client, the relevant export provisions shall apply. Client shall indemnify Dobla against all claims from third parties related to violations of the applicable export provisions attributable to Client.

17 **Applicable law and dispute settlement**

17.1 All disputes between Dobla and Client arising from agreements entered into by Dobla or the implementation thereof shall be exclusively submitted to the competent court in Noord-Holland, insofar as statutory provisions are not incompatible.

17.2 Only Dutch law shall apply to all agreements between Dobla and Client to which these terms of delivery apply in whole or in part, and to all parties involved in these agreements. The applicability of the 1980 Vienna Sales Convention (CISG) is expressly excluded.