

CAPAX GROUP

GENERAL TERMS AND CONDITIONS OF

Sale, Delivery and Payment

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COMPANY

CECS B.V., trading as Capax Group

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These General Terms and Conditions of Sale, Delivery and Payment apply to all offers, sales and deliveries of CECS B.V., trading as Capax Group, and its group companies. They are available at capaxgroup.com and are sent free of charge on request.

Company details

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Address	Kwiksilverstraat 19, 1362 JE Almere, the Netherlands
Chamber of Commerce	68816308
VAT number	NL857604491B01
E-mail	info@capaxgroup.com
Website	www.capaxgroup.com

ARTICLE 1

Article 1 – Definitions

In these Terms the following capitalised words have the meaning given below.

- 1.1 Capax:** CECS B.V., trading as Capax Group, with its registered office in Almere, the Netherlands (KvK 68816308), and each of its group companies within the meaning of article 2:24b of the Dutch Civil Code ("DCC") that uses these Terms, each acting individually as the selling party.
- 1.2 Customer:** any legal entity or person acting in the course of a profession or business to whom Capax makes an offer, or with whom Capax concludes an Agreement.
- 1.3 Agreement:** any agreement between Capax and the Customer for the sale and delivery of Goods, including any amendment or addition.
- 1.4 Goods:** all products sold or delivered by Capax, including cosmetics, fragrances, personal care, beverages and other fast-moving consumer goods, and their packaging.
- 1.5 Order Confirmation:** Capax's written confirmation of an order, a pro forma invoice or an invoice. An Order Confirmation is binding on the Customer and deemed accepted as soon as Capax has sent it.
- 1.6 T1 Goods:** Goods under a customs transit or bonded status that have not been released for free circulation in the European Economic Area ("EEA").
- 1.7 T2 Goods:** Goods in free circulation in the European Union.
- 1.8 Sanctions:** economic, financial or trade sanctions and export-control laws of the European Union, the United Nations, the Netherlands, and, to the extent applicable to a party, the United States and the United Kingdom.
- 1.9 In writing:** by letter, e-mail, through the Capax wholesale portal, or by instant-messaging apps such as WhatsApp. Orders and other messages sent by or on behalf of the Customer through any of these channels are in writing and bind the Customer. Messages sent by Capax through instant-messaging apps bind Capax only once confirmed in an Order Confirmation.
- 1.10 Working Day:** any day other than a Saturday, Sunday or public holiday in the Netherlands.
- 1.11 Incoterms:** the ICC Incoterms® 2020, or a later edition in force when the Agreement is concluded.

ARTICLE 2

Article 2 – Applicability

- 2.1** These Terms apply to all offers, quotations, Order Confirmations, Agreements and deliveries of Capax, and to all further agreements arising from them.
- 2.2** The applicability of the Customer's general terms and conditions, under whatever name, is expressly rejected.
- 2.3** Deviations from these Terms are valid only if agreed In writing by an authorised representative of Capax, and apply only to the Agreement for which they were agreed.
- 2.4** In case of conflict, the following order of precedence applies: (a) a signed framework, distribution or supply agreement; (b) the Order Confirmation; (c) these Terms; (d) the Incoterms.
- 2.5** These Terms apply only between businesses. The Customer warrants that it acts in the course of its profession or business.
- 2.6** A Customer that has once concluded an Agreement on these Terms is deemed to accept their applicability to all later Agreements.
- 2.7** Capax may amend these Terms. The amended version applies to Agreements concluded after it has been published on capaxgroup.com or sent to the Customer.
- 2.8** These Terms are drawn up in English. If they are translated, the English text prevails.

ARTICLE 3

Article 3 – Offers

- 3.1 All offers and quotations of Capax are without obligation and subject to availability, even if they contain a period for acceptance.
- 3.2 Capax may revoke an offer without delay after its acceptance (article 6:219(2) DCC).
- 3.3 A quotation does not oblige Capax to supply part of the quoted quantity at a proportional price, and does not apply to repeat orders.
- 3.4 Stock lists, price lists, portal listings, photographs, specifications, samples and indications of EAN codes, batch codes, shelf life or packaging are indicative only. They bind Capax only if expressly repeated in the Order Confirmation.

ARTICLE 4

Article 4 – Formation of the Agreement

- 4.1 An Agreement is formed only when Capax sends an Order Confirmation, signs a written agreement, or starts performance (by releasing the Goods or issuing an invoice), whichever comes first.
- 4.2 Once sent, the Order Confirmation is deemed accepted by the Customer and to reflect the Agreement completely and correctly.
- 4.3 Statements or promises by Capax employees bind Capax only once confirmed in an Order Confirmation or In writing by a director of Capax.
- 4.4 Before and during the Agreement, Capax may request information on the Customer's identity, ownership, ultimate beneficial owners, VAT and excise numbers, and the end destination of the Goods. Capax may refuse or suspend an order if this information is not provided or not satisfactory.
- 4.5 The Customer may not cancel an Agreement. If Capax agrees to a cancellation In writing, the Customer owes a cancellation fee of 15% of the price of the cancelled Goods, plus any costs Capax has already incurred, without prejudice to Capax's right to full compensation.
- 4.6 Customary trade deviations in quantity of up to 5% are permitted and are invoiced as delivered.

ARTICLE 5

Article 5 – Prices, currency and taxes

- 5.1 Prices are exclusive of VAT, excise duties, import duties and other taxes and levies, and are based on delivery Ex Works, unless the Order Confirmation states otherwise. Pallets, special packaging, labelling and documents requested by the Customer are charged separately.
- 5.2 Prices are in the currency stated in the Order Confirmation. Where Capax has fixed an exchange rate in the Order Confirmation, that rate binds both parties.
- 5.3 Capax applies the VAT zero rate for an intra-EU supply only if the Customer has provided a valid VAT identification number before delivery, and, within 30 days of collection, the evidence of transport required under article 45a of Implementing Regulation (EU) 282/2011, including a signed CMR. For exports outside the EU, the Customer must provide the export evidence (exit-confirmed MRN) within the same term. If this evidence is not provided in time, Capax may charge Dutch VAT with retroactive effect, together with any interest and penalties imposed on Capax.
- 5.4 For excise goods, the Customer shall provide a valid excise number or tax warehouse authorisation, receive the Goods under the EMCS (e-AD) procedure, and confirm receipt within the statutory term. Any excise duty, interest or penalty arising from the Customer's failure is for the Customer's account.
- 5.5 If, after the Agreement is concluded but before delivery, Capax's cost price increases through purchase prices, freight, insurance, duties, taxes or exchange rates, Capax may adjust the price accordingly. If the increase exceeds 10%, the Customer may terminate the Agreement for the affected Goods within two Working Days

of notification, without either party owing compensation.

ARTICLE 6

Article 6 – Payment

- 6.1** Unless agreed otherwise In writing, the Customer shall pay the full price in advance. Capax is not obliged to release Goods before it has received the full amount in cleared funds.
- 6.2** Payment on credit applies only if Capax has granted a credit limit In writing. In that case, payment is due within the term stated on the invoice, or, failing that, within 14 days of the invoice date. Capax may reduce or withdraw a credit limit at any time with effect for future deliveries.
- 6.3** If a deposit has been agreed, it forms part of the price. If the Agreement is terminated because the Customer fails to perform, Capax may retain the deposit as fixed minimum compensation, without prejudice to its right to full damages. If the Agreement is terminated because Capax fails to perform, the deposit is refunded.
- 6.4** Payment shall be made in the invoice currency, without any deduction, discount, set-off or suspension, to the bank account stated on the invoice. All bank charges outside the Netherlands are for the Customer's account.
- 6.5** Capax never changes its bank details by e-mail alone. Before paying to new or changed bank details, the Customer shall verify them by telephone with a known Capax contact. A payment to an account not belonging to Capax does not discharge the Customer.
- 6.6** Payments are first applied to costs, then to interest, and then to the oldest outstanding invoices, regardless of any other instruction by the Customer.
- 6.7** If the Customer does not pay on time, it is in default without notice. From the due date it owes interest at the statutory commercial rate (article 6:119a DCC) or 1% per month, whichever is higher, with part of a month counted as a full month, as well as any exchange-rate loss.
- 6.8** All judicial and extrajudicial costs of collection are for the Customer's account. Extrajudicial collection costs are fixed at 15% of the outstanding amount, with a minimum of €250, without prejudice to Capax's right to claim the actual costs if higher. Judicial costs include the actual costs of legal assistance, also where these exceed any court-awarded amount.
- 6.9** Capax may at any time, before or during performance, require security for payment, such as prepayment, a bank guarantee or a confirmed letter of credit, and may suspend performance until security is provided.
- 6.10** Where payment by letter of credit is agreed, it must be irrevocable, subject to the UCP 600, and confirmed by a bank acceptable to Capax. All costs of opening, advising, confirming and amending it are for the Customer's account.
- 6.11** All claims of Capax on the Customer become immediately due in the cases listed in article 14.1.

ARTICLE 7

Article 7 – Delivery and collection

- 7.1** Unless the Order Confirmation states otherwise, delivery takes place Ex Works (EXW) at Capax's warehouse, under the Incoterms. In case of conflict, these Terms prevail over the Incoterms.
- 7.2** Delivery times are estimates and never strict deadlines. Capax will inform the Customer of foreseeable delays. If Capax exceeds the delivery time, the Customer may only terminate the Agreement for the late Goods after a written notice of default granting a reasonable further period of at least 30 days. In that case Capax refunds any amount prepaid for those Goods, without interest or compensation.
- 7.3** The delivery time starts on the latest of: the date of the Order Confirmation; receipt of full prepayment or agreed security; and receipt of all documents and information Capax needs, including VAT and excise numbers, end-user statements and import permits.
- 7.4** Capax may deliver in parts and invoice each part separately.

- 7.5 Every sale is subject to Capax's own supplier delivering to Capax correctly and in time. If its supplier fails to do so for reasons not attributable to Capax, Capax may terminate the Agreement for the affected Goods without liability, and will refund any amount prepaid for them.
- 7.6 The Customer shall collect the Goods within five Working Days of Capax's notice that they are ready. If it does not, risk passes to the Customer, Capax may charge storage of €15 per pallet per week, and, after 30 days, Capax may terminate the Agreement and sell the Goods to a third party. The Customer remains liable for any difference in price, for storage and handling costs, and for at least 15% of the price as fixed minimum compensation.
- 7.7 The Customer's carrier must present the collection reference issued by Capax. Capax may refuse to release Goods to a carrier that cannot identify itself. The Customer ensures that the CMR is correctly completed and that a copy signed on arrival is returned to Capax.
- 7.8 If Capax arranges transport at the Customer's request, it does so as agent, at the Customer's cost and risk. The Goods are insured during transport only if the Customer has instructed this In writing and at its cost.

ARTICLE 8

Article 8 – Risk and retention of title

- 8.1 Risk passes to the Customer in accordance with the agreed Incoterm. Under EXW, risk passes when the Goods are made available for collection or are handed to the carrier, whichever is earlier.
- 8.2 Capax retains title to all Goods delivered until the Customer has paid in full: (a) all amounts due for Goods delivered or to be delivered under any Agreement; (b) all amounts due for related services; and (c) all claims for failure to perform such Agreements, including interest and costs (article 3:92(2) DCC).
- 8.3 Until title has passed, the Customer shall store the Goods with care, separately and identifiably as Capax's property, and insure them against loss and damage. On Capax's first request, the Customer shall pledge its claims against the insurer to Capax.
- 8.4 The Customer may resell the Goods in its normal course of business, but may not pledge them or otherwise encumber them. On Capax's first request, the Customer shall pledge to Capax the claims it acquires against its buyers from such resale.
- 8.5 If the Customer fails to perform any obligation, Capax may repossess the Goods without notice of default. The Customer irrevocably authorises Capax to enter its premises for this purpose. The costs of repossession are for the Customer's account.
- 8.6 For Goods destined for export, the retention of title is governed by the law of the country of destination if that law gives Capax stronger protection (article 10:128 DCC). The Customer shall cooperate in any registration or formality that local law requires for the retention of title to be effective against third parties, such as registration on the Australian Personal Property Securities Register.
- 8.7 The Customer shall inform third parties of Capax's retention of title, and shall inform Capax immediately if Goods subject to it are attached or claimed by a third party.

ARTICLE 9

Article 9 – Inspection, complaints and returns

- 9.1 On collection or delivery, the Customer or its carrier shall check the number of packages and pallets and any visible damage, and note any shortage or damage on the CMR or delivery note. Without such a note, the Goods are deemed received complete and in good order.
- 9.2 Within five Working Days of delivery, the Customer shall inspect the Goods for quantity, specification and condition, including: EAN or barcode, batch and lot codes, best-before date or period after opening, packaging version, language and labelling, seals, cellophane and security features. Complaints about defects that this inspection would have revealed must be made In writing within that term.

- 9.3** Complaints about defects that could not reasonably be discovered on inspection must be made In writing within five Working Days of discovery, and in any event within three months of delivery.
- 9.4** A complaint must include the delivery or invoice number, a description of the defect, photographs, the batch codes concerned and the quantity affected. The Customer shall keep the Goods concerned in their original condition, quarantined and available for inspection, and shall give Capax or its appointed expert access and samples on request.
- 9.5** A complaint that Goods are not authentic must be supported by a written, verifiable statement from the brand owner or a recognised independent authenticator, identifying the batch codes concerned and the grounds. Capax may have the Goods examined by an expert of its choice.
- 9.6** Unless the Order Confirmation expressly guarantees otherwise, the following do not constitute a defect: Goods originating from different production sites, or carrying different batch codes, packaging versions, label languages or production dates; and the remaining shelf life of the Goods. Goods sold as clearance, short-dated, damaged-packaging or "as is" lots are sold in their condition at delivery and give no right to complain.
- 9.7** All claims lapse if the Customer has not complained in time and in the required form, or if the Goods have been processed, relabelled, repackaged or otherwise altered, have been stored incorrectly, have been resold or exported, or can no longer be identified as delivered by Capax.
- 9.8** A complaint does not suspend the Customer's payment obligations.
- 9.9** If a complaint is justified, Capax shall, at its option, deliver missing Goods, replace defective Goods, or credit or refund the price of the defective Goods. Where Goods are shown not to be authentic, Capax takes them back and refunds their price. These remedies are the Customer's only remedies for defects, subject to article 12.
- 9.10** Goods may be returned only with Capax's prior written consent and return reference, in their original, unopened condition. Returns travel at the Customer's cost and risk unless the complaint proves justified.

ARTICLE 10

Article 10 – Brands, parallel trade and regulatory compliance

- 10.1** Unless the Order Confirmation states that Capax acts as authorised distributor for the brand concerned, the Customer acknowledges that Goods may have been sourced through secondary channels and that Capax gives no warranty that the brand owner has consented to their sale in the Customer's market.
- 10.2** The Order Confirmation states the customs status of the Goods, describing in words whether they have been released for free circulation in the European Union (T2 Goods) or remain under a customs transit or bonded status (T1 Goods). Trademark rights in T1 Goods are not exhausted in the EEA. The Customer shall not release T1 Goods for free circulation in the EEA, or otherwise place them on the EEA market, without the brand owner's consent.
- 10.3** The Customer is solely responsible for verifying, before resale, that the trademark and other intellectual property rights in the Goods are exhausted in the market where it sells them, and that the Goods may lawfully be imported and marketed there. This includes import permits, product registrations and notifications, labelling and language requirements, and the obligations of a distributor or responsible person under Regulation (EC) 1223/2009 on cosmetic products or equivalent local law.
- 10.4** The Customer shall not remove, alter or obscure batch codes, serial numbers or other identification marks, and shall not repackage, relabel or otherwise alter the Goods or their packaging. The Customer shall not use the brand owner's trademarks except to resell the Goods in the usual way, and shall not present itself as an authorised dealer unless it is one.
- 10.5** The Customer shall keep records that allow it, for at least three years after delivery, to identify to whom it supplied each batch, and shall cooperate fully and without delay in any product recall, withdrawal or authority inquiry.

- 10.6** The Customer indemnifies Capax, its group companies and their directors and employees against all claims, fines, seizures, costs and losses, including reasonable legal fees, arising from the Customer's import, storage, resale, export or marketing of the Goods, or from any breach of this article.

ARTICLE 11

Article 11 – Sanctions, anti-bribery and anti-money-laundering

- 11.1** Each party shall comply with all applicable Sanctions, export-control, customs, anti-bribery and anti-money-laundering laws.
- 11.2** The Customer warrants that neither it, nor its directors, ultimate beneficial owners or the end users of the Goods, is a sanctioned person, or owned or controlled by one, or located in a country subject to comprehensive Sanctions.
- 11.3** The Customer shall not sell, export or re-export the Goods, directly or indirectly, to the Russian Federation or Belarus, or for use there. The Customer shall impose the same obligation on its own buyers, maintain adequate measures to detect its breach further down the chain, and inform Capax immediately of any such breach.
- 11.4** On request, the Customer shall provide an end-user or end-destination statement and evidence of arrival of the Goods at the stated destination.
- 11.5** The Customer shall not offer, promise or give, directly or indirectly, any payment, gift, commission or other advantage to any employee or representative of Capax in connection with an Agreement, other than customary hospitality of modest value. Any such advantage must be reported to Capax's management.
- 11.6** Payments to Capax shall be made only from a bank account held in the Customer's own name. Payments by third parties require Capax's prior written consent. Capax does not accept cash.
- 11.7** A breach of this article is a material breach. Capax may then suspend or terminate any Agreement with immediate effect, without liability, and may notify the competent authorities, notwithstanding any confidentiality obligation. The Customer indemnifies Capax against all resulting losses.

ARTICLE 12

Article 12 – Liability

- 12.1** Capax's liability for defects in the Goods is limited to the remedies set out in article 9.9.
- 12.2** Any other liability of Capax, on any legal ground, is limited to direct damage and to the invoice value, excluding VAT, of the delivery to which the claim relates. If Capax's insurance covers the damage, its liability is further limited to the amount paid out by the insurer.
- 12.3** Capax is never liable for indirect or consequential damage, including loss of profit, lost sales, loss of goodwill, delay damage, fines or claims of brand owners, authorities or the Customer's buyers.
- 12.4** The limitations in this article do not apply in case of intent or gross negligence of Capax's management.
- 12.5** All claims against Capax lapse twelve months after delivery of the Goods concerned, unless legal proceedings have been started before then.
- 12.6** The limitations and exclusions in these Terms also benefit Capax's directors, employees and any third parties engaged by Capax in performing the Agreement.
- 12.7** The Customer indemnifies Capax against third-party claims relating to the Goods after delivery, except to the extent Capax is liable under these Terms.

ARTICLE 13**Article 13 – Force majeure**

- 13.1** Force majeure means any circumstance beyond Capax's reasonable control, whether or not foreseeable, that prevents or delays performance. It includes: failure or late delivery by Capax's suppliers; supply stops, allocations or interventions by brand owners; Sanctions, export or import bans and other government measures; seizure or detention of Goods by customs or other authorities not caused by Capax; war, terrorism, civil unrest; epidemics; strikes; fire, flooding and extreme weather; energy shortages; cyberattacks and IT failures; and disruptions of transport, ports or logistics providers.
- 13.2** During force majeure, Capax's obligations are suspended. If the force majeure lasts or is expected to last more than 60 days, either party may terminate the Agreement In writing for the part not yet performed, without owing compensation. Capax refunds any amount prepaid for Goods not delivered.
- 13.3** If Capax has partly performed when the force majeure arises, it may invoice the performed part separately.

ARTICLE 14**Article 14 – Suspension and termination**

- 14.1** Capax may suspend performance, or terminate any Agreement in whole or in part with immediate effect by written notice, without notice of default or court intervention and without liability, if:
- the Customer fails to perform any obligation correctly or on time;
 - Capax has good grounds to fear that the Customer will not perform;
 - the Customer applies for or is granted a suspension of payments, is declared bankrupt, offers a composition outside bankruptcy (including under the Dutch WHOA), or a comparable procedure is started abroad;
 - the Customer's business is wound up, discontinued or sold, or control over the Customer changes;
 - assets of the Customer are attached;
 - the Customer breaches article 10 or article 11; or
 - the Customer or any of its group companies is in default towards any Capax group company.
- 14.2** In those cases, all claims of Capax and its group companies on the Customer become immediately due. The Customer shall compensate all damage, including loss of margin, without prejudice to Capax's other rights.
- 14.3** If Capax suspends performance, it shall decide within three months whether to perform or to terminate.
- 14.4** Goods returned after termination travel at the Customer's cost and risk until Capax has taken possession of them.

ARTICLE 15**Article 15 – Confidentiality and non-circumvention**

- 15.1** The Customer shall keep confidential all information it receives from Capax or learns in connection with an offer or Agreement, including prices, margins, stock lists, sources of supply, supplier identities, batch information and the terms of these dealings, and shall use it only to perform the Agreement.
- 15.2** For 24 months after the last delivery, the Customer shall not contact, directly or through third parties, any supplier of Capax whose identity it learned through Capax, in order to purchase the same or similar goods while bypassing Capax.
- 15.3** For each breach of this article, the Customer forfeits to Capax an immediately payable penalty of €10,000, increased by €1,000 for each day the breach continues, without prejudice to Capax's right to full damages in addition to the penalty.
- 15.4** This article remains in force for three years after the end of the last Agreement.

ARTICLE 16**Article 16 – Personal data**

- 16.1** Each party shall comply with the General Data Protection Regulation (EU) 2016/679 in respect of personal data it processes in connection with an Agreement. Each party acts as an independent controller.
- 16.2** Capax processes personal data as described in its privacy statement on capaxgroup.com. Capax may share payment data with its credit insurer and financiers.

ARTICLE 17**Article 17 – General provisions**

- 17.1** The Customer may not assign, pledge or otherwise transfer its rights or obligations under an Agreement without Capax's prior written consent. Capax may assign or pledge its receivables, including to a factor or credit insurer.
- 17.2** Capax and each of its group companies may set off any amount they owe to the Customer, or to its group companies, against any amount owed to any Capax group company, whether or not due.
- 17.3** Capax's administration and electronic records are conclusive evidence of orders, deliveries and communications, subject to proof to the contrary.
- 17.4** If any provision of these Terms is void or annulled, the remaining provisions remain in force. The parties shall replace the invalid provision by a valid one that comes as close as possible to its purpose.
- 17.5** Provisions that by their nature are intended to survive the end of an Agreement, including articles 8, 10, 11, 12, 15 and 18, remain in force after it ends.
- 17.6** Failure by Capax to enforce a right does not mean that it waives that right.

ARTICLE 18**Article 18 – Governing law and disputes**

- 18.1** All Agreements, these Terms and any non-contractual obligations arising from them are governed by Dutch law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply.
- 18.2** If the Customer is established in the European Union, Switzerland, Norway or Iceland, all disputes are submitted exclusively to the District Court of Amsterdam, the Netherlands. Capax may instead bring proceedings before the competent court of the Customer's seat.
- 18.3** If the Customer is established elsewhere, all disputes shall be finally settled by arbitration under the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The seat of arbitration is Amsterdam, the tribunal consists of one arbitrator (three if the amount in dispute exceeds €1,000,000), and the proceedings are conducted in English.
- 18.4** Nothing in this article prevents Capax from seeking summary relief or conservatory attachment before any competent court.