

General conditions of delivery

The background image is a composite. On the left, there is a photograph of a warehouse interior. In the foreground, two large, industrial refrigeration units with circular fans are visible. Behind them are high industrial shelving units filled with stacks of white-wrapped pallets. A forklift is parked in the aisle. On the right side of the image, there is a close-up photograph of several crates filled with fresh, ripe red and yellow apples. The text 'GEA refrigeration' is overlaid in white on the left side of the image.

GEA refrigeration

General conditions of delivery

GENERAL CONDITIONS OF DELIVERY GEA GOEDHART B.V.

established by statute in St. Maartensdijk. Deposited with the Chamber of Commerce in Middelburg as number 971976

Article 1: General

1. The General Conditions set out below apply to all offers, contracts of sale and provision of services by the private limited liability company Goedhart B.V.
 2. If any condition(s) specified in these General Conditions or in any agreement entered into with these General Conditions in mind should not appear, in the opinion of the Court, to be (legally) valid, then the other conditions specified will remain in force unless the (legal) invalidity affects the essence of the agreement, and the principal agrees that the condition(s) in question may be converted to a condition(s) which is legally acceptable.
 3. The principal, by the mere fact that he has placed an order with Goedhart, waives his right to use any conditions however they may be named and however they may have been deposited. This means that only these conditions will apply to all agreements entered into.
 4. Alterations to and deviations from these General Conditions are only valid if they have been agreed upon in writing by the parties. They will in that case only apply to the one specific case concerned.
3. The time allowed for delivery will commence after the agreement has been entered into and after all documents, information, licences and the like are available to Goedhart and/or an instalment which has been agreed upon has been paid.
 4. Goedhart will, if the principal suspends the work in question, indicate a new time for delivery, depending on the delivery time prevailing at the time for similar products. Any extra costs incurred will be paid for by the principal.
 5. Delivery will be considered to have been made when the products ordered have been offered at the place agreed upon.
 6. If an order which has been placed is carried out in instalments, then each delivery will be considered to be a separate transaction subject to all legal consequences. Each partial delivery will be invoiced separately.
 7. Goedhart is authorised to suspend compliance with the obligations incurred by them if, after the agreement has been entered into, circumstances become known to them which cause them to fear that the principal will be unable to comply with the obligations incurred by him.

Article 2: Offers and agreements

1. All offers made are completely non-binding unless the offer in question states otherwise. Each offer is based on carrying out the order under normal circumstances and during normal working hours.
2. Orders placed with Goedhart will be considered to be irrevocable unless Goedhart refuses to accept the order.
3. An agreement takes effect when the order placed has been accepted by Goedhart.
4. Goedhart is bound by the obligations specified in their written confirmation of the order; if no written confirmation is given, then Goedhart will be bound by that specified in the offer.

Article 3: Time allowed for delivery

1. Goedhart will supply the products or carry out the services ordered within the period of time specified on the order confirmation. That period of time will be determined to the best of their ability, based on the labour conditions prevailing at the time when the agreement was entered into, and on delivery in good time of the materials ordered by Goedhart for the work to be carried out. Goedhart agrees, if goods or services have not been delivered or supplied within the time allowed for delivery, to notify the principal of that fact. The principal cannot, if the time allowed for delivery has passed, claim compensation for any damage which he may suffer because of late delivery unless otherwise has been agreed between the parties in writing.
2. The principal is entitled, if delivery is more than 6

months late and that is due to Goedhart, bearing in mind that specified in Article 5, to terminate the agreement entered into between the parties. If the principal should make use of this right then he will notify Goedhart of that fact as soon as possible. The principal is, in any case, obliged to purchase from Goedhart that part of the order which is ready or which is more or less ready against payment on a pro rata basis.

3. The time allowed for delivery will commence after the agreement has been entered into and after all documents, information, licences and the like are available to Goedhart and/or an instalment which has been agreed upon has been paid.
4. Goedhart will, if the principal suspends the work in question, indicate a new time for delivery, depending on the delivery time prevailing at the time for similar products. Any extra costs incurred will be paid for by the principal.
5. Delivery will be considered to have been made when the products ordered have been offered at the place agreed upon.
6. If an order which has been placed is carried out in instalments, then each delivery will be considered to be a separate transaction subject to all legal consequences. Each partial delivery will be invoiced separately.
7. Goedhart is authorised to suspend compliance with the obligations incurred by them if, after the agreement has been entered into, circumstances become known to them which cause them to fear that the principal will be unable to comply with the obligations incurred by him.

Article 4: Place of delivery

Delivery will be made, unless otherwise has been agreed in writing: unpacked, ex-factory/stores.

Article 5: Force majeure

1. If Goedhart is unable to carry out the agreement because of circumstances beyond their control and/or of their suppliers/sub contractors, then the obligations incurred by Goedhart will be suspended. The time allowed for delivery will be extended by the length of time that force majeure prevailed. Goedhart cannot be required to pay any compensation of any kind whatsoever for damage caused.
2. The term "force majeure" as used here in this Article must be taken to mean all circumstances which, within reason and in all fairness, would make it difficult for Goedhart to carry out the agreement in good time or part thereof. This also includes a situation brought about by actions of third parties and makes it impossible for Goedhart to acquire information which is essential for the agreement to be carried out, as well as, among other things: war, danger of war, riots, revolutions, piracy, sabotage, natural disasters (storm, cyclones, earthquakes, flooding, water damage, thunderbolts), explosions, fire, factory breakdowns, destruction of machines and/or factory respectively other installations, boycott, occupation of factory, walkouts, measures imposed by government, import and export hindrances, lack of or delay in delivery of raw materials required or ordered by Goedhart, labour shortages, hold-ups due to frost, and all other

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circumstances which are not the fault of or due to actions by Goedhart and which mean that Goedhart cannot, within reason, be expected to carry out the agreement entered into in good time, whether or not those circumstances were foreseeable.

3. If delivery is delayed for more than 6 months because of force majeure, then both Goedhart and the principal are authorised to terminate the agreement without legal intervention being required. Force majeure must be proven. Goedhart is also entitled to terminate the agreement without legal intervention as soon as it has been established that they are, because of circumstances beyond their control, hindered from complying with the obligations incurred by them towards the principal. The principal is not in that case entitled to claim compensation for damage of any kind whatsoever, and is required to pay the costs already incurred by Goedhart, as well as take possession of and pay for raw materials, materials and components which have been reserved, processed and manufactured by Goedhart, so that the latter could carry out the agreement. Failure by the principal to do so will mean that Goedhart is authorised to store those items at the risk and expense of the principal, or to sell them and collect the proceeds from that sale. If the parties should wish to exercise their right to terminate the agreement, then they agree to inform the other party, in writing, immediately but not later than one week after a period of 6 months has expired respectively the moment when Goedhart has established that they cannot comply with the obligations incurred by them. The principal is obliged in any case to purchase and pay Goedhart pro rata for that part of the order which is ready or nearly ready

Article 6: Prices

Prices charged are, unless the offer respectively the order confirmation states otherwise, ex-factory. Prices quoted are exclusive Sales Tax and costs for containers, packaging, transport and clearance charges.

Article 7: Transfer of risks and reservation of proprietary rights

1. Products delivered will continue to belong to Goedhart until the principal has complied with all financial obligations, including interest and costs, incurred by him under the terms of the agreement entered into with Goedhart.
2. The principal gives Goedhart irrevocable authority, without prejudice to rights which Goedhart has, if the principal does not comply with or is late complying with financial obligations incurred by him towards Goedhart, to repossess, without legal intervention being required and the first time Goedhart so requests, the goods delivered or, if they have been attached to any moveable property or real estate to dismantle and repossess them.
3. If the law of the country where the principal is established does not permit the action specified in section 2 to be taken, then the principal is required, insofar as Goedhart is concerned, to respect those rights which Goedhart may appeal to and which are permitted by the laws of the country in question.
4. The principal is obliged to assist Goedhart in every way

possible to make use of the rights specified in sections 2 and 3.

5. The principal is obliged, if Goedhart wishes him to do so, to provide guarantees that he will comply with the obligations incurred by him. Ownership of the products in question will, in that case, only be transferred after such guarantees have been given.
6. Products are, notwithstanding the reservation of proprietary rights, for the account and risk of the principal from the moment when delivery has taken place.

Article 8: Dispatch

1. Goods are dispatched at the expense and risk of the principal unless otherwise has been agreed in writing. Goedhart is authorised, unless the principal has given instructions about the way in which goods are to be dispatched, to determine the method of transport to be used.
2. Goods will only be insured by Goedhart against damage and the like during transportation if the principal explicitly requests and pays for that insurance.
3. If the principal fails to collect the finished products and/or products which are to be delivered, or to accept products, then Goedhart may:
 - store the products in question at the expense and risk of the principal, and recover the extra costs incurred for that as well as compensation for damage suffered by Goedhart from the principal. Products will in that case be considered to have been delivered, or
 - declare the agreement terminated, without further notice of default being required to be given and without legal intervention being necessary, and recover costs incurred by them because of this and compensation for damage suffered from the principal.

Article 9: Drawings and models

1. Drawings, designs, models, schedules, copyrights, trademarks and patents, software and the like will continue to belong to Goedhart and may not, without written permission from Goedhart to do so, be copied in full or in part, imitated or given to third parties, and third parties may not examine the items referred to above. The principal cannot claim any rights associated with the above, or with regard to measurements and weights stated, unless Goedhart has explicitly stated otherwise in the order confirmation.
2. All rights established and associated with designs, illustrations, drawings, models etc. (including copyrights) are reserved and must be honoured. Goedhart guarantees that the software provided by them does not infringe any of the rights valid in The Netherlands concerning intellectual ownership by third parties and that use of that software, in another way, is not an unlawful act towards third parties. Goedhart indemnifies the principal against claims made by third parties in that respect.
3. The principal accepts all responsibility, if goods are manufactured according to drawings, models or other instructions given by the principal, that manufacture and/or delivery of the product in question does not infringe any trademarks, patents or similar rights

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belonging to third parties. If third parties should lodge a complaint(s), which is(are) based on any right(s) which they claim to have, about the manufacture and/or delivery of the product in question, then Goedhart is authorised to cease manufacture and/or delivery immediately, without being required to pay compensation of any kind whatsoever to the principal and/or third parties. Goedhart will notify the principal immediately about this. Goedhart will in that case be entitled to claim compensation for the costs incurred by them without prejudice to their right to claim full compensation for damage suffered. The principal indemnifies Goedhart against any claims which third parties may make about this.

Article 10: Payment

1. The principal must pay Goedhart, without any deduction and/or discount of any kind whatsoever, within 30 days after the date shown on the invoice unless otherwise agreed in writing. A payment will be considered to have been received by Goedhart as soon as the amount owed has been credited to one of their accounts.
2. Any claims which may be made under the terms of a guarantee given do not entitle the principal to suspend his obligation to pay.
3. The principal will, if payment is not made respectively is not made in good time, be considered to be in default by the mere fact that the period of time allowed for payment has passed. No summons or notice of default is required to be given. Interest equal to the rate of interest which may be charged by law plus 1% will be charged on the amount owed, and will become payable by the principal with effect from the moment when the payment should have been made to Goedhart.
4. The principal will be required to pay the extra-judicial costs incurred for collection of debts owed, including the costs incurred by those parties whom Goedhart has instructed to collect the debt owed (among other things the costs incurred by the bailiff, debt collection agency, advocate). Extra-judicial costs incurred for collection of debts owed will amount to at least 15% of the amount owed, with a minimum of € 350,=. Goedhart will not be required to prove that those costs have been incurred. Goedhart may, if payment is too late, also charge the principal for fluctuations in the rates of exchange with effect from the date on which payment was due.
5. If the principal fails to comply with the obligations incurred by him to pay, then the total amount owed to Goedhart for the purchase price will become payable on demand until the total amount, whatever the state of the work may be, and Goedhart may require that amount to be paid on demand and suspend the orders given by the principal until full payment has been made.
6. Payments made to Goedhart will be applied in the first instance to reduction of the costs, then the interest and after that the principal amount owed.

Article 11: Dissolution

1. If the principal fails to comply with or is late complying with or does not comply satisfactorily with one or more of the obligations incurred by him under the terms of the agreement, or becomes deceased, is declared bankrupt or applies for suspension of payments, liquidates his company, is placed under legal control, or all or some of his products are seized or if he should appear to be insolvent in any other way then Goedhart is entitled to terminate the agreement unilaterally with regard to that part of the agreement which has not yet been carried out. No legal intervention will be required; Goedhart may repossess products which have been delivered but not yet paid for, or Goedhart may suspend carrying out the agreement for a maximum period of 6 months.
2. Each claim made against the principal in respect of all the cases referred to above is payable on demand and Goedhart is authorised to recover compensation from the principal with regard to carrying out the agreement. That compensation is fixed at 50% of the price agreed, without prejudice to the rights of Goedhart to claim full compensation for damage suffered.
3. The principal agrees to indemnify Goedhart against claims made by third parties because the agreement was terminated.
4. Goedhart is bound by statements made by them about capacity, performance and results concerning products to be delivered by them if that has been agreed in writing. Minor deviations from the usual or reasonable tolerances do not entitle the principal to make a complaint, reject goods or require replacement or to make a statement about termination of the agreement and/or compensation for damage caused.

Article 12: Liability

1. Goedhart accept the liability imposed upon them by law for damage caused by a defect in their products unless:
 - they did not place the product on the market;
 - the defect which caused the damage did not exist at the time when Goedhart placed the product on the market or that defect was caused later;
 - it was impossible, because of technical knowledge available at the time, to discover the defect;
 - the principal has prescribed or provided certain materials and/or constructions.
2. Goedhart cannot be held liable for components supplied by Goedhart which are used in a product which is not marketed by Goedhart as a finished product. The principal is required, if product damage should occur, to approach the manufacture directly. Goedhart agrees to provide all possible information which may be required.
3. Goedhart cannot be held liable for damage, whatever it may be called, caused to products belonging to the principal and caused by the work ordered, carried out by Goedhart employees and persons not employed by Goedhart, unless there is talk of deliberate damage and/or gross negligence. This exclusion of liability does not only apply to the principal and his employees

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but also to third parties. The principal indemnifies Goedhart in this matter against eventual claims which may be made by third parties.

4. Goedhart cannot be held liable in any way whatsoever for damage to or loss of materials made available by the principal. Costs incurred for transportation of such materials to Goedhart will be for the account and risk of the principal.
5. Compensation shall in the first instance take place in the form of repair of the product supplied. If in Goedhart's opinion repair is not possible or economically not justified, compensation of the damage suffered shall be effected by financial indemnification. Goedhart shall not be liable for third-party damage and consequential damage, including the compensation for cooling liquid (primary refrigerant / refrigerating medium). Goedhart's obligation to pay compensation shall in any case be limited to the total amount of the order in question.
6. Goedhart cannot be held liable in any way whatsoever, other than that which is specified in this Article, unless otherwise was agreed in writing when the agreement was entered into.
7. Far-reaching claims of any kind whatsoever or for any reason whatsoever are, except for product liability which is required by law, also excluded. That includes payment of compensation for consequential damage and damage caused to third parties. The principal agrees to indemnify Goedhart against the above.
8. If damage is caused, for any reason whatsoever, then the parties are obliged to take measures which will limit that damage as far as possible.

Article 13: Guarantee

1. Goedhart guarantees the good quality of products supplied by them as well as the quality of the materials used and/or delivered for that purpose. No guarantee is given for defects in the nature or the quality of materials used, if those defects are due either in full or in part to any governmental requirement of any kind. Should flaws or deficiencies be discovered in the products supplied as a direct result of their construction as designed by Goedhart or due to faulty workmanship or the use of inferior materials, Goedhart will be obliged to replace the faulty parts, provided that the client can establish that the faults in the delivered products occurred within a 12 month period of product use, or at the latest within 18 months after the time of delivery. The costs involved in extension and installation are for the client's account. The principal agrees to notify Goedhart immediately in writing of any such faults and to return the defective goods post-paid to the address of Goedhart, and to do everything possible to limit the damage. Old material will belong to Goedhart after replacement.
2. The guarantee is no longer valid as soon as the principal has made alterations to the goods delivered respectively has had alterations made without permission from Goedhart to do so or if the principal has acted contrary to that which is specified in the business or operating instructions supplied by Goedhart. The principal is required to enable Goedhart

to carry out the guarantee.

3. No guarantee is given for the delivery of materials or products used in consultation with the principal unless the parties have explicitly agreed otherwise. If the principal makes products or raw materials available to Goedhart for processing then a guarantee will only be given on the good quality of the processing.
4. Goedhart is not obliged to give any guarantee of any kind if the principal does not comply with or does not comply satisfactorily with or is late complying with any obligation incurred by him under the terms of the agreement concerned. Alleged non-compliance by Goedhart with obligations incurred by them does not release the principal from complying with the obligations incurred by him under the terms of the agreement entered into with Goedhart.
5. Goedhart cannot be held liable if errors, defects and breakdowns may be attributed to inexpert handling by the principal or his employees respectively third parties. This also applies if the principal, his employees or third parties carry out repairs during the lifetime of the guarantee without written permission from Goedhart to do so.
6. Complaints about defects which are directly visible in products must be submitted to Goedhart in writing immediately after receipt of the goods in question. Failure to do so will render every claim against Goedhart null and void.

Article 14: Disputes and legislation applicable

1. Agreements entered into with the principal are subject only to the laws of The Netherlands. On the grounds of article 6 of the United Nations Charter, regarding international sales agreements for moveable property (Vienna Sales Treaty), the application of this treaty is explicitly barred.
2. Any disputes which may arise from or in connection with an agreement(s) entered into between the parties and the performance thereof will be submitted to the District Court in Middelburg, which is competent to deal with the dispute, unless Goedhart prefers to submit the dispute to another Court which is competent in the principal's place of residence.
3. If a claim is made against Goedhart in a country where the choice of legislation referred to above is not considered binding, then the claim meant and which is the subject of the dispute will be settled according to Dutch law by arbitration, in accordance with that specified in the Regulations of the Dutch Institute of Arbitration (Nederlands Arbitrage Instituut).

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GEA Refrigeration

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