



# FNOI general terms and conditions for purchases and the provision of services

Registered with the Clerk of the District Court The Hague, 2 August 2000, number 96/2000

- translation -

Federation for the  
Dutch Recovered Paper Industry

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## I. General

- 1.1 These FNOI (the Federation for the Dutch Recovered Paper Industry) general terms and conditions for purchases and the provision of services, form the basis of and are part of the agreement for the purchase of recovered paper and board, or the provision of services by a Recovered Paper Company concluded between a Recovered Paper Company and a Supplier, and of the execution thereof. These terms and conditions also apply to any submitted offers.
- 1.2 Purchase conditions of the Supplier, if any, will not be affected, provided and insofar as they are not in conflict with these terms and conditions. In the event of concurrence with the general payment and delivery terms, the FNOI payment and delivery terms shall prevail.
- 1.3 For the purpose of these terms and conditions 'Supplier' shall be understood to mean the civil law or private law natural or legal person who has concluded or intends to conclude an agreement with the Recovered Paper Company and who delivers the goods, or on whose behalf the goods shall be delivered, and/or for whose benefit the Recovered Paper Company shall provide services. 'Recovered Paper Company' shall be understood to mean the natural or legal person to whom the goods shall be delivered and/or who shall provide the services or on whose behalf the services shall be provided.
- 1.4 By entering into this agreement and/or by delivering the goods, the Supplier accepts these terms and conditions and explicitly waives his own terms and conditions insofar as they are in conflict with these terms and conditions. By entering into an agreement, whether verbally, by telephone, facsimile, email or in any other way, the Supplier shall be deemed to have accepted the applicability of these terms and conditions and to have waived his own terms and conditions insofar as they are in conflict with these terms and conditions.

## 2. Offers submitted by the Recovered Paper Company

- 2.1 Submitted offers are valid for the term to be indicated by the Recovered Paper Company. If no such term has been stipulated, the offer is without any obligation. Offers are deemed to be based on the information supplied by the Supplier, whereby the Recovered Paper Company assumes that this information is correct.
- 2.2 In the event of compounded quotations, there is no obligation to buy or to supply a part of the offered goods against the corresponding part of the price quoted for the goods.

## 3. Agreement

- 3.1 An agreement shall be concluded after the Recovered Paper Company has confirmed the purchase of the goods by means of a written order or after the Recovered Paper Company has confirmed to the Supplier that it shall provide the services offered. The order confirmation shall be deemed to represent the agreement fully and correctly and shall include a description of the quantity and composition of the goods or the services as well as the time when and manner in which they shall be delivered or provided.

3.2 Any subsequent written and/or oral additional arrangements and/or changes to the agreement between the Supplier and the Recovered Paper Company shall be binding only if and when confirmed in writing by the Recovered Paper Company.

- 3.3 With respect to deliveries and/or services for which no offer or order confirmation has been sent, the invoice shall be considered the order confirmation.

## 4. Purchase price and prices for the provision of services

- 4.1 All purchase prices for goods to be delivered and quotations for the provision of services are subject to changes due to the circumstances as set forth in paragraph 2 of this article.
- 4.2 If, after the agreement has been concluded, changes occur in one or more of the cost components of the goods or services to be delivered or provided and/or in the international market prices for recovered paper and board, the Recovered Paper Company shall be entitled to adjust the purchase price or the price for the services provided accordingly, whereof the Recovered Paper Company shall inform the Supplier in writing.
- 4.3 If the prices change by more than 10%, the Supplier shall be entitled to terminate the agreement by written notice sent by registered post. In this event the agreement shall be terminated within seven days after the Supplier has been informed by the Recovered Paper Company of the proposed adjustment of the price. If the Supplier fails to terminate the agreement by registered post the Supplier shall be deemed to have accepted the price adjustment.
- 4.4 Except when otherwise noted, the agreed purchase price or the price for the services to be provided shall be exclusive of VAT, import charges, customs duties and any other taxes and levies.
- 4.5 The purchase price and the price for the provision of the services shall be expressed in an agreed currency. The purchase price shall state whether the price is 'ex works' or 'free delivered'. 'Ex works' shall mean that the Recovered Paper Company shall collect the goods from the Supplier's. 'Free delivered' shall mean that the Supplier delivers the goods to the premises of the Recovered Paper Company or on otherwise to be agreed location. In the latter event, the Supplier shall arrange transport. In the event that the goods are to be collected, the transportation costs are for the account of the Recovered Paper Company shall be included in the price 'Ex works', except when explicitly stated otherwise.
- 4.6 Any costs arising from cancellation of and/or additions or changes to the agreement shall be for the Supplier's account. If the Supplier cancels the agreement, the Supplier shall compensate any and all damage suffered by the Recovered Paper Company as a result, including any loss of profit. The same applies in the event of changes to the agreement resulting in a reduction of the quantity of the goods or services to be delivered or provided.

## 5. Payment and collection costs

- 5.1 Payment shall be effected within 30 days after the invoice date either by payment directly into an indicated bank account, by cheque or in cash in the agreed currency at the offices of the Recovered Paper Company or in any other agreed form of payment.
- 5.2 The Recovered Paper Company shall in no event be required to pay if the agreed goods have not been received at the agreed place or at the agreed time.
- 5.3 Regardless of the agreed payment conditions, the Recovered Paper Company shall be entitled, both before and after the agreement has been concluded, to request security for payment as well as for any of the other agreed obligations of the Supplier and has the right to suspend the provision of services until this security has been provided. If the Supplier fails to furnish the required security by the Recovered Paper Company, the Recovered Paper Company shall be entitled to terminate the agreement, without judicial intervention or without notice of default being required, and without prejudice to any of its other rights.
- 5.4 The parties shall be in default by law, without notice of default being required by the simple expiration of the term of payment as set forth in article 5.1. The parties shall owe interest over the invoice amount as from 30 days after the invoice date. This interest shall amount, for each month or part thereof, to one-twelfth part of the legal annual interest as set forth in Section 120, Book 6, of the Dutch civil code.
- 5.5 In that event, the parties shall be entitled to claim all other legal and extralegal costs incurred as set forth in Section 96, paragraph 2 under c, Book 6 of the Dutch civil code. The extralegal costs shall be fixed at 15% of the amount due, with a minimum of NLG 100.00 (€ 45.00).

## 6. Non-attributable failing (force majeure)

- 6.1 Failure to comply with the execution of the agreement by either of the parties shall not be attributed to the failing party if and to the extent the failure may not be attributed to wrongful act; nor shall such failure be for the account of the failing party, pursuant to the law, the contents of the agreement, or according to generally accepted standards. The failing party shall therefore not be obliged to pay damages, provided it has informed the other party immediately, and in any event within the term in which the obligation had to be complied with, in writing of the failure and the cause thereof.
- 6.2 In the event of force majeure, the parties shall be entitled either, within reason, to postpone, in mutual consultation, the date of delivery, or to dissolve the agreement, if it turns out to be impossible to postpone the delivery or if no agreement can be reached regarding postponement.

## 7. Dissolution

- 7.1 Without prejudice to any of its other rights, either party shall be entitled to dissolve the agreement, without legal intervention or notice of default being required, if the other party fails to comply with its obligations under the agreement, has fled for or has been granted suspension of payments, has been

declared insolvent or has filed a petition in bankruptcy, or if the goods (part of) to which it is entitled to, have been seized.

7.2 Dissolution may take place by means of a written notice.

## 8. Indemnification

The Supplier shall indemnify the Recovered Paper Company against all claims for damages from third parties related to the execution of any agreement concluded between the Recovered Paper Company and the Supplier. The Supplier shall be liable for all resulting costs.

## 9. Disputes and applicable law

9.1 Each quotation, order, order confirmation, agreement and legal act resulting from the above, as well as any change and/or addition to the agreement, shall be governed by Dutch law. Any dispute arising from the above shall be settled by the Dutch court. If the Dutch court is the subject-matter court in first instance, the disputes shall be submitted exclusively to the court in the district where the Recovered Paper Company has its registered office. The conditions of the Vienna Sales Convention (CISG) do not apply.

9.2 If the dispute is (partly) caused by the translation of these general terms and conditions for purchases and the provision of services of the FNOI, the text of the Dutch version shall be binding.

## Conditions relating solely to the purchase of goods

### 10. Delivery of goods; transfer of risk

10.1 The Supplier shall deliver the goods at the agreed place within the agreed period.

10.2 If the goods have not been delivered at the agreed place within the agreed period, the Supplier shall be in default without a notice of default being required.

10.3 If no delivery period has been agreed upon, the Recovered Paper Company shall be entitled to suggest to the Supplier a delivery period by registered letter. This period shall not be shorter than two weeks as from the day of sending the registered letter, unless a shorter period has been agreed upon in mutual consultation.

10.4 The goods shall not be deemed to have been delivered until the Recovered Paper Company has inspected these at the agreed place of delivery. The inspection relates only to the quantity, time and manner of delivery. If, in the opinion of the Recovered Paper Company, the goods delivered do not comply with the agreement as regards quantity, time and manner of delivery, the Recovered Paper Company is entitled to reject the goods. If the Recovered Paper Company does not immediately proceed with the quality control as set forth in article 10.5, the inspection is without prejudice to the right to complain of the Recovered Paper Company as set forth in article 12.

10.5 The Recovered Paper Company shall be entitled, though is not obliged, to control the quality of goods immediately upon delivery. If in the opinion of the Recovered Paper Company, the goods do not comply with the agreed quality within the meaning of article 11, the Recovered Paper Company shall be entitled to reject the goods.

10.6 If the inspection as set forth in article 10.4 and/or the quality control, as set forth in article 10.5, results in a rejection of the goods, the delivery shall be deemed not to have taken place and the goods shall remain for the risk of the Supplier. If the inspection and/or the quality control takes place at the premises of the Recovered Paper Company, the Supplier shall be obliged to take back the goods if they are rejected. If the

Supplier does not agree with the decision of the Recovered Paper Company to reject the goods, he shall still be obliged to take back the goods. In that event he may resort to the measures as set forth in article 12.5.

10.7 In the event of disputes with respect to the quantity of the delivered goods, the weighbridge weight of the Recovered Paper Company shall be binding.

### 11. Nature and quality of the goods to be delivered

11.1 The delivered goods shall comply with the terms of the agreement.

11.2 The delivered goods shall not comply with the terms of the agreement if they deviate from what has been agreed upon between the Supplier and the Recovered Paper Company as regards the composition and quantity thereof and/or the manner in which they are delivered.

11.3 Insofar as the agreement does not include a further specification of the requirements with which the goods have to comply, they shall at least be of good quality and comply with those which are customary in the industry.

11.4 The Supplier and the Recovered Paper Company shall come to further arrangements with respect to the acceptance and settlement of the moisture content, if any, in the goods delivered as well as for the removal of non-paper components from the recovered paper and board.

11.5 Without prejudice to the stipulations of the previous paragraphs of this article, the costs of removal of delivered recovered paper and board affected by fire or water shall be charged to the Supplier.

### 12. Complaints and liability

12.1 Complaints about the delivered goods shall be made to the Supplier in writing, by facsimile, or email within two working days after the goods have been delivered, whereupon the Supplier shall be granted opportunity to inspect the goods or have them inspected.

12.2 By approval upon delivery, by processing the delivered goods entirely or in part, or by expiration of the term as set forth in article 12.1, the Recovered Paper Company shall be deemed to have approved the delivered goods. Thereafter, a complaint can no longer result in claims on the Supplier, including downward value adjustment and returning of the goods.

12.3 Shortcomings in parts of the delivered goods shall not result in a right to reject the entire shipment, unless an expert estimation estimates that the non-paper components exceed more than 5% of the entire weight of the delivered goods.

12.4 Filing a complaint releases the Recovered Paper Company from his payment obligations towards the Supplier, until the Recovered Paper Company acknowledges that the complaint was unfounded, on the basis of the expert advice within the meaning of article 12.5, or until this has been established by law.

12.5 After the complaint as set forth in article 12.1 has been received, the Supplier has two working days in which to decide whether:

- he shall replace or take back the goods;
- he shall come to a settlement with the Recovered Paper Company;
- he shall hire an expert to verify and determine the extent of the damage. The expert must be acceptable to the Recovered Paper Company. If the Recovered Paper Company and the Supplier fail to reach agreement on the expert, they shall each appoint one expert, who shall jointly appoint a third expert. These three experts thus appointed shall subsequently carry out an investigation in order to verify and determine

the extent of the damage. The costs of hiring the expert, or experts, shall be for the account of the Supplier, unless the expert, or experts, decide in favour of the Supplier. The assessment of the expert, or experts, shall be regarded as a binding advice.

12.6 If the arrangements as set forth in article 12.5 do not result in a settlement of the complaint to the satisfaction of the Recovered Paper Company or in a binding advice, and if an acceptable settlement shall not be provided in any other way, the Recovered Paper Company shall be entitled to return the delivered goods. If the binding advice is to the effect that the complaint was well founded, the Recovered Paper Company shall still be entitled to return the delivered goods, or part thereof, to which the complaint relates. The costs for returning the goods shall be for the account of the Supplier, unless it shall as yet be established between the parties that the complaint was unfounded, or if this shall be irrevocably determined by law.

## Conditions relating solely to the provision of services

### 13. Ownership rights regarding containers/presses or other equipment made available

13.1 The containers and other equipment to collect paper and board made available by the Recovered Paper Company as well as baling presses, shredders and other processing equipment shall remain the property of the Recovered Paper Company, unless the parties expressly agree otherwise in writing.

13.2 Consequently, the Recovered Paper Company shall be entitled to claim back the equipment referred to in article 13.1 and to take possession thereof if a cause for dissolution arises within the meaning of article 7.1

13.3 The Supplier shall inform the Recovered Paper Company immediately when a situation as referred to in article 7.1 threatens to occur and shall, if necessary, inform any third parties involved regarding the ownership rights of the Recovered Paper Company.

13.4 The Supplier shall not be allowed to pledge the equipment made available by the Recovered Paper Company or to establish any other right on this equipment.

13.5 The Supplier shall use the equipment made available by the Recovered Paper Company for the purpose for which they have been made available. The Supplier shall not make any adjustments or additions to the equipment without the written permission from the Recovered Paper Company.

13.6 The Supplier shall keep the equipment made available to him in proper state of repair. Costs for maintenance and repairs shall be for the account of the Supplier, unless the parties have expressly agreed otherwise.

13.7 The Supplier shall inform the Recovered Paper Company immediately in case of any damage to the equipment made available to the Supplier. The Supplier shall be liable for all damage, unless the damage is the result of wear and tear during normal use of the equipment for the purpose it was made available.

13.8 The Supplier shall be liable for all damage caused by or resulting from the installation and use of the equipment made available to the Supplier. Unless the equipment made available by the Recovered Paper Company is unfit for the purpose for which it was made available, the equipment was already defective when it was made available, or the Recovered Paper Company has given incorrect instructions as to the use of the equipment.

13.9 The Supplier shall indemnify the Recovered Paper Company against any and all claims from third parties regarding damage to property as a result of the installation and use of the equipment made available.