

The "Lareka Terms and Conditions": General Terms and Conditions of Lareka B.V., recorded in the Commercial Register of the Chamber of Commerce and Industry in Eindhoven, under number 17178040, Lareka Confectionary Equipment B.V., recorded in the Commercial Register of the Chamber of Commerce and Industry in Eindhoven, under number 17178041, and Lareka Tobacco Equipment B.V., recorded in the Commercial Register of the Chamber of Commerce and Industry in Eindhoven under number 17178035, all with their registered offices and place of business in Valkenswaard, and individually and jointly referred to in these Terms and Conditions as "Lareka". These General Terms and Conditions were deposited on 13 July 2005 at the office of the clerk of court of the Den Bosch District Court under number 68/2005

1. Applicability

1. These General Terms and Conditions are applicable to:
 - a. all agreements, the execution thereof and all other commitments with Lareka;
 - b. all quotations and offers issued by Lareka to (potential) clients;
 - c. all the additional work, which in this document includes all that delivered or performed during the performance of an agreement entered into with a client in addition to that initially agreed.
2. The applicability of any general terms and conditions (of purchase) of a client are hereby explicitly excluded.
3. If a provision of these General Terms and Conditions is null and void or is nullified, the other provisions of these General Terms and Conditions remain in full force. At such time, the parties are required to mutually replace the null and void or voidable provision(s) in a manner that approximates as much as possible the null and void or nullified provision.

2. Offers and the realisation of agreements

1. All offers made by Lareka are based in part on data, materials and documents provided by or on behalf of the client, the accuracy and completeness of which are assumed. Offers are entirely free of obligation; the client cannot derive any rights from them.
2. If, prior to or upon the realisation of the agreement, Lareka provides the client with a model, sample, illustration, example and/or other data, these are only provided by way of indication. The objects to be delivered can deviate from that, unless it has been agreed explicitly and in writing that deliveries shall be effected in accordance with the model, sample, illustration, example and/or other documents displayed or provided.
3. The offer issued by Lareka, or the order confirmation if it deviates from the offer, is decisive for the determination of the contents of the agreement.
4. Agreements are realised with Lareka if the client accepts in writing offers made by Lareka, or if Lareka has commenced the performance of the assignment in the absence of a written acceptance.
5. An agreement does not become binding on Lareka until it has been confirmed in writing to the client.

3. Delivery of objects, materials, documents, etc. by the client

1. The client must ensure that:
 - a. the machines to be repaired or adapted and other items, the product specifications of the machines to be manufactured and other items, the related materials and materials to be provided later (such as sufficient testing material) and documents (such as instructions for use, designs, illustrations and models) are provided to Lareka in a timely fashion, correctly and completely;
 - b. the work and facilities, which must be provided by or for them under the agreement are ready in a timely fashion.
2. In the event of repair or adaptation of machines and/or other items of or at the request of the client, the client must deliver the relevant machines and/or items to Lareka or at a location to be designated by Lareka in accordance with the Incoterms, as applicable when the agreement is entered into, specifically DDP Lareka or a location to be designated by Lareka.
3. Any additional costs, caused by the failure to comply with the aforementioned conditions or to comply with the same in a timely fashion, will be met by the client.

4. Execution of the agreement

1. All work to be performed by Lareka and objects to be delivered are based in part on the data, materials and documents provided by the client, the accuracy and completeness of which are assumed. Lareka is not obligated to compensate any loss and/or costs resulting from the inaccuracy and/or incompleteness of the data thus provided.
2. Insofar as this is deemed necessary, useful or required, Lareka is entitled to assign the full or partial performance of the agreement to third parties. In addition, Lareka is permitted at all times to assign its rights and/or obligations under the agreement(s) with the client to a third party or otherwise provide the same by way of security, for which the client grants authorisation now for then. Without the prior, written authorisation of Lareka, the client is not authorised to assign or encumber its rights or claims against Lareka.
3. Only if agreed in writing Lareka is required to provide documentation to the client related to that delivered or to be delivered to the client, such as manuals, parts book, catalogue and wiring diagram. Manufacturing illustrations will never be made available. The provisions in Articles 8 and 9 apply in full force.
4. In the event that work is performed by Lareka on objects owned by the client, the risk for those objects remains with the client, also if the work is performed at Lareka's location. The client should obtain adequate insurance in that regard.

5. Work on site

1. In the event it was agreed that Lareka or the individuals designated by it must perform the work at the client's location or elsewhere (work on site), the client must ensure, subject to the obligations it has, that:
 - they can commence their work once they arrive at the location of the work, and that they are able to perform their work during ordinary working hours and also outside ordinary working hours, if necessary;
 - if requested, a lockable room will be made available for the storage of materials and tools at the site where the work is performed;

- Lareka can temporarily and free of charge use aids present at the location, such as electricity, gas, water and compressed air;
 - the work location satisfies the requirements imposed by the law or otherwise;
2. Any additional costs, caused by the failure to comply with the aforementioned conditions or to comply with the same in a timely fashion, will be met by the client.

6. Delivery/completion term

1. The terms given by Lareka for delivery/completion are not fatal, unless explicitly agreed otherwise.
2. Moreover, the term for delivery/completion does not commence until the agreement has been realised, Lareka has all the objects necessary for the performance, including materials, documents and also that referred to in Article 3 (1) of these General Terms and Conditions and any other essential objects and data have been received by Lareka, and the payment has been effected, insofar as it should be effected upon the conclusion of the agreement. Agreed delivery/completion times will be suspended for the period in which the provisions in the foregoing sentence have not been complied with (in full).
3. The term is established in the expectation that the circumstances under which Lareka is to perform the work facilitate the unimpeded performance, and in particular that the client has complied with its aforementioned and otherwise agreed obligations. The term will be adjusted in any event, if:
- Lareka provides testing material at the client's request (costs and risk always for the latter);
 - more and/or additional work is ordered;
 - the work must be performed during periods and/or times and/or under working conditions other than those taken into account when the agreement was concluded. The related costs will be charged to the client.
4. The client is only entitled to damages and/or dissolution of the agreement if a term has been explicitly agreed in writing to be fatal, if Lareka fails to complete the assignment within this term, but not before the client has given Lareka a reasonable period of at least 14 days to comply with its obligations, by registered post, unless the overrun of the term can be attributed to force majeure. In the latter instance, the provisions in Article 12 apply in full force.

7. Factory Acceptance Test and delivery/completion

1. Prior to completion/delivery, a Factory Acceptance Test (FAT) will be performed during ordinary working hours at Lareka's location or a location to be designated by Lareka. The client will be invited to attend the FAT. All costs, travel and accommodation costs to be incurred by the client in that regard, including costs for testing material, will be met by the client.
2. Lareka will prepare a Test Report during or after the FAT, to be signed by both parties. If the client is not present during the FAT, while it has been invited to attend and a reasonable term has been observed, Lareka will draw up the Test Report unilaterally, and the relevant object/service will be deemed to have been accepted by the client. Lareka will inform the client of that. The Test Report is always binding on the parties. Any defects discovered during the FAT which, in the opinion of Lareka, can be repaired within 30

days of their discovery, do not impede the acceptance of the relevant object and (following repair), do not preclude delivery. The relevant defects will be mentioned in the Test Report.

3. In the unlikely event that the results of the FAT are not positive, and repair of the defects discovered is not possible within 30 days after the FAT, such at the discretion of Lareka, Lareka will be given a period longer than 30 days to rectify the problems encountered, after which the relevant object will as yet be deemed to have been accepted by the client. In the event the client desires a supplementary FAT, all related costs, both those incurred by Lareka and the client itself, will be met by the client.
4. Unless agreed otherwise, for example in the event of work on site, the delivery/completion will be effected in accordance with the Incoterms, as applicable when the agreement was concluded, specifically ex works (EXW) from the company/workplace of Lareka or a different location where the objects to be delivered and/or adapted have been adapted and/or stored by or on the instruction of Lareka. The risk for the objects will be entirely borne by the client from the time they are loaded for shipment to the client or to a third party designated by the client.
5. If, upon request by the client, Lareka organises the shipment of the objects delivered and/or adapted, the client will bear the costs and risk in full.
6. Lareka is authorised to make the delivery in parts, which parts can then be invoiced separately. The client is required to pay for all partial deliveries in accordance with the provisions in Article 15 of these General Terms and Conditions.
7. The client is required to take immediate receipt of the objects offered for delivery by Lareka, but in any event within 14 days after delivery. If objects to be delivered and/or adapted by Lareka are not collected by or on the instruction of the client within 30 days after the client has been informed by Lareka that the objects are ready to be received, Lareka is entitled to sell the objects, in which event Lareka will pay the profit to the client, with deduction of its claims against the client, including storage, selling and other costs and damage.

8. Retention of title and right of retention

1. All objects delivered and to be delivered by Lareka remain the property of Lareka until full settlement of all that which Lareka can claim from the client in that regard.
2. Until full payment of the aforementioned claims, the client is not authorised or entitled to use these objects without the prior written authorisation by Lareka, and the client is also not authorised or entitled to alienate the objects, to encumber them with any right or otherwise withdraw them from recovery by Lareka.
3. As soon as the client fails in the performance of its obligations vis-à-vis Lareka, or if Lareka has good cause to fear that the client will fail in that performance, Lareka is entitled and authorised to retrieve the objects with no notice of breach being required. By accepting these General Terms and Conditions, the client authorises Lareka now for then to enter the location(s) where the objects are located for the aforementioned purpose.

4. If the client creates a new object using objects delivered by Lareka, or if it becomes part of another piece of property, which can be considered a primary object, the provisions in this Article apply mutatis mutandis, and the client will retain the newly created object for Lareka.
5. Lareka is entitled to suspend the performance of an obligation to surrender an object to the client until the client has complied with all its obligations pursuant to the agreement and these General Terms and Conditions.

9. Intellectual Property

1. All intellectual property rights on (parts) of goods, designs, sketches, illustrations, models, images, software, offers, instructions for use, etc. supplied and/or created by Lareka lie with Lareka or its supplier(s). The client can only have the right to use the relevant (parts of) objects and that referred to otherwise in the previous sentence within its organisation in a manner that can be considered customary for such an organisation. Insofar as the relevant objects include software, circuits, documentation and the like, the client is not permitted to translate, modify, decompile, disassemble, reproduce, change or (otherwise) reconstruct them without the prior written authorisation of Lareka, unless this is permitted on the basis of rules of mandatory law.
 2. The designs, sketches, illustrations, models, images, software, offers, instructions for use, etc., remain the property of Lareka and, subject to explicit, written authorisation, may not be reproduced or be disclosed in any manner to third parties or converted into cash, such on pain of an immediately exigible penalty of EUR 15,000 per violation, notwithstanding Lareka's right to claim damages, insofar as the damage amounts to more than the aforementioned penalty amount.
 3. If an order is executed according to and/or Lareka uses the designs, sketches, illustrations, specifications, models, images, software, offers, instructions (for use), materials, etc. provided by the client, the latter indemnifies Lareka against all claims related to any third-party intellectual property rights on the same.
 4. If legal action is initiated due an infringement of third-party intellectual property rights or if there a possibility that will occur, Lareka is permitted, at its own discretion, among other things to replace or change the objects in question, or acquire the right to continue the use thereof, or to retrieve them in full or in part, with repayment of the price the client paid to Lareka, with deduction of a reasonable amount for depreciation. Lareka has no other obligation related to any infringement of third-party rights other than pursuant to the provisions in this Article section. In the event described above in (3), the client is obliged to compensate all damage suffered by Lareka as a result of (possible) infringement of third-party intellectual property rights. The relevant risk is entirely for the client. Lareka is not liable in that regard.
2. The liability pursuant to the guarantee referred to in (1) is limited to the rectification of defects occurring in the guarantee period to the materials or finishing through repair or replacement, this at the discretion of and costs to be met by Lareka, which costs will not exceed the original invoice value of the objects in question. If the defects discovered could have been identified by the client during the FAT, but this was not done or the client failed to attend the FAT, then Lareka is not obliged to rectify the relevant defects under the guarantee or otherwise, subject to the case in which, owing to the defect, the object in question does not offer the safety which the client could expect.
 3. Travel expenses, travel time and accommodation expenses are not covered by the guarantee and must be paid separately by the client. If defective parts can be easily replaced by the client, Lareka is authorised to send the parts in question to the client in performance of its guarantee obligations.
 4. If, in the performance of its obligations, Lareka has acquired objects from third parties and Lareka issues a guarantee, then a maximum guarantee will be issued to extend to the guarantee offered by the said third party.
 5. The guarantee does not cover defects to materials or parts prescribed by and/or provided by or for the client. In this respect, a defect shall be equated with unsuitability for the use for which the prescribed materials and/or parts are intended by the client. Additionally, Lareka is not liable under its guarantee obligation if the object does not perform properly as a result of a defect in a design, product specifications, construction or working method prescribed by the client.
 6. Entitlement to the guarantee will expire immediately in the following instances:
 - the improper compliance with company or operating instructions and the failure to use the object delivered according to its nature;
 - insufficient maintenance to be attributed to the fault or for the account of the client;
 - assembling and/or repairing and/or taking into operation by the client or a third party of the objects delivered without the explicit authorisation of Lareka;
 - making its own changes to the object or having a third party do so.
 7. The guarantee does not apply if and as long as the client does not comply with its obligations vis-à-vis Lareka.
 8. Subject to the aforementioned guarantee, Lareka is not subject to any other obligations to repair or replace. Parts which Lareka replaces in the performance of its guarantee obligations become its property. If Lareka utilises its authority as detailed in (3) to send parts to the client, the client is required to immediately return the defect parts or parts to be replaced to Lareka.
 9. All the rights alleged by the client due to breaches by Lareka in the performance of its obligations must be invoked in writing, by registered post, with a meticulous statement of the nature and basis of the complaints, within eight days after the client has identified the defect or could have reasonably done so, absent which the relevant rights of the client lapse. The relevant rights of the client also lapse if it attempts to rectify a supposed defect without the explicit, written authorisation of Lareka.

10. Guarantee and objection

1. If Lareka issues a guarantee related to objects it has delivered and/or set up, then it entails that during the guarantee term given, the objects are free of defects as a result of manufacturing and/or material errors, unless otherwise agreed in writing. The guarantee does not cover abrasive parts and is only valid if the client has signed and returned the order confirmation to Lareka.

10. Complaints related to invoices must be sent to Lareka, including reasons, in writing by registered post, within 14 days after the invoice date, absent which the relevant rights of the client lapse.
11. Complaints as referred to above in (9) and (10) do not suspend the client's payment obligations.

11. Liability

1. Lareka only accepts liability if:
 - the damage is the direct result of intent or gross neglect on the part of Lareka, and/or
 - the damage is the direct result of a demonstrable defect in that delivered by Lareka, insofar as the objects in question do not offer the safety that may be expected of them, taking all circumstances into account.
2. Lareka's total liability is, in any event, limited to the material damage and direct damage (among other things, consequential damage/loss of profit are explicitly excluded) up to no more than the amount of the individual price stipulated (exclusive of VAT).
3. Lareka's liability is at all times limited to the amount insured by Lareka with regard to the damage occurring. If, in such instances, it turns out that there is no insurance cover, for any reason whatsoever, Lareka's liability will be limited to the invoice value as detailed in (2).
4. The client indemnifies Lareka fully and unconditionally against all claims, regardless of their nature and scope, which third parties - attempt - to assert vis-à-vis Lareka.
5. This Article concerns the (extra)contractual liability of Lareka.

12. Unforeseen circumstances and force majeure

1. If, after the realisation of the agreement, circumstances arise or become known, of which Lareka was unaware when entering into the agreement, nor was required to be aware of, as a result of which Lareka is unable to comply with its obligations vis-à-vis the client in good time, Lareka will not be in breach and will be entitled to suspend its obligations. Lareka is entitled to invoice the work performed thus far separately and prematurely, and the client is obliged to pay the invoice as though it pertained to a separate transaction.
2. If, as a result of the aforementioned circumstances, performance by Lareka is permanently impossible, it will be entitled to demand that the agreement be amended such that its performance thereof remains possible, unless this cannot be reasonably required in the given circumstances and dissolution is justified. In the latter instance, the agreement entered into by the parties will be dissolved without the client being able to assert any entitlement to damages.
3. The circumstances referred to above under (1) include every circumstance that does not depend on the wishes and intentions of Lareka, which permanently or temporarily impedes the performance of the agreement, along with, insofar as not already understood to include, (threat of) war, riot, nuisance, terrorism, strikes (natural) disaster, accidents, government measures, including import and export impediments, ban on sales, delayed/ delivery or nondelivery by suppliers (including suppliers of fuel, electricity and water), transportation problems, fire, water damage and disruption in the company of Lareka or its suppliers. The provisions above under (1) and (2) remain in full force in those circumstances.

13. Prices and invoicing

1. All prices offered or agreed are based on the standard of the factors determining the cost when the offer was made or the agreement was concluded and also based on the materials, data and documentation provided by the client, the accuracy and completeness of which are assumed.
2. Unless explicitly announced otherwise in writing, all prices given by Lareka are based on delivery ex factory/ex works or another location where the objects to be delivered and/or adapted are stored by or for Lareka, are stated in euros and are exclusive of VAT and other taxes, charges and levies.
3. If, after the offer has been made or the agreement has been concluded, but no later than prior to the completion or delivery, any increase occurs in the cost-determining facts, for example, in the event of an increase of wage costs, a change in exchange rates, an increase of energy prices or an increase of the prices of materials, Lareka will be entitled to increase the offered or agreed prices accordingly and inform the client thereof in writing. If this leads to a price increase of 10% or more within a period of three months after the agreement is entered into, the client will be entitled to cancel the agreement within five days of having been notified of the increase in writing. In the case of cancellation, the client is obliged to compensate Lareka for the work already performed by Lareka or third parties engaged by Lareka, or any other performance by Lareka, on the basis of the prices prior to the increase.
4. Unless agreed otherwise in writing, Lareka invoices as follows:
 - 50% of the agreed price, in advance when the order is placed;
 - 40% two months prior to delivery/completion as referred to in Article 7 (4) of these General Terms and Conditions;
 - 10% upon delivery/completion, at which time additional/less work will be set off by Lareka.

In the event of orders for an invoice amount of less than EUR 5,000.00, invoicing will be effected upon delivery, unless agreed otherwise in writing.

14. Additional work

1. The price agreed for work to be performed by Lareka pertains solely to the work and deliveries detailed in Lareka's assignment confirmation. The costs of all additional work and/or deliveries of any nature whatsoever will be met by the client. The execution hereof can only be demanded by Lareka if the parties have entered into a prior, separate, written agreement.
2. Lareka reserves the explicit right to perform additional work and charge the client for it than was initially agreed between the parties, if the interests of the client and/or the execution of the assignment so dictate. In all instances, Lareka is entitled to payment and settlement of additional work, with the absence of a written assignment to perform additional work not diminishing Lareka's entitlements. With regard to additional work, that which the parties have agreed with regard to objects and/or services to be delivered by Lareka applies in full, including the contents and applicability of these General Terms and Conditions.

15. Payment

1. Payment should be effected by irrevocable crediting or deposit into a bank or giro account designated by Lareka. Payment should be effected in euros, inclusive of VAT, unless explicitly agreed otherwise. The value day indicated on the bank or giro statements of Lareka or a designated third party is decisive for the determination of the date of payment.
2. Payment should be effected within 14 days after the invoice date, without entitlement to discount, set off or suspension, absent which the client will be in breach automatically and thus without a demand or notice of breach being required, and will owe interest to Lareka as from the invoice date on the total amount still outstanding, which on an annual basis is equal to the statutory interest plus 2%.
3. In the event of collection of the invoice amount, all actual judicial and extrajudicial costs will be met by the client. Judicial costs include, in any event, the bills for attorney's, procurators, experts and all those individuals whom Lareka has instructed to be cooperative in the collection or those individuals whom Lareka has instructed to conduct the legal case in that regard, even if the bills in question are higher than the amount at which the judge in the proceedings has estimated as costs to be met by the party ruled against. Extrajudicial costs include in any event, the bills and accounts of (legal) expert advisors, collection agencies, bailiffs and all those individuals whom Lareka has instructed to be cooperative in the collection out of court.
4. The claim for payment of the amounts owed to Lareka is immediately exigible if one or more of the circumstances referred to in Article 17 occur or if there is a realistic chance of that occurring. The client is obliged to immediately inform Lareka of the occurrence of the aforementioned circumstances.
5. Prior to or during the performance of the agreement, Lareka is at all times entitled, for example if its has good cause to fear that the client will not be able to comply with its payment obligations vis-à-vis Lareka or will not be able to do so in a timely fashion, to demand security from the client (for example, by providing a bank guarantee) and/or to require (additional) payments (the agreed price or part of that) and to suspend the performance of its obligations, until the client has, upon request, provided sufficient security and/or has effected the (additional) payments. If the client remains in breach of that, Lareka will be entitled to dissolve the agreement. The client must compensate all loss ensuing for Lareka from such suspension and/or dissolution.
6. Lareka is always entitled to set off all claims the client has vis-à-vis Lareka that have a monetary value with claims of Lareka and companies affiliated with Lareka in any manner vis-à-vis the client.
7. If the client is part of a group of companies in any way, 'client' referred to in (6) will include companies that are in any way part of that group.

16. Changes and cancellation

1. If the work or deliveries assigned to Lareka must be performed at a time other than the agreed time or performed in a different manner at the request of the client, Lareka will be entitled to adjust the agreed price with due observance of the rates and prices applicable at the time, or to dissolve the agreement without any need for legal intervention.

2. If the client wishes to cancel the agreement for any reason whatsoever, other than in the event detailed in Article 13 (3) of these General Terms and Conditions, and Lareka agrees to the cancellation, the client will owe Lareka a cancellation penalty of 20% of the agreed price or a proportionate part thereof if the agreement is cancelled in part, which penalty will not detract from Lareka's right to demand full damages.

17. Dissolution

1. If:
 - a. the client fails to perform any obligation it has vis-à-vis Lareka, fails to do so in good time or fails to do so properly, in particular the obligations contained in Articles 3, 5, and 15, or acts in contravention of Article 9 (2) or if the situation referred to in Article 9 (4) arises;
 - b. the client is declared insolvent or has submitted a request for that purpose, has requested or been granted suspension of payments, has requested or been granted application of the Netherlands Debt Rescheduling (Natural Persons) Act;
 - c. all or part of the assets of the client are subjected to (pre-judgment) attachment;
 - d. the client has become legally incompetent by court order or has been deprived of its freedom;
 - e. the client is dissolved or liquidated, or if it is hived off/split up or a merge takes place, or in the case of a natural person, in the event of death;
 - f. the client proceeds to cease operations or transfer its company or a significant part thereof, including the contribution of its company into another company;
 - g. the data which the client provided to Lareka turns out not to correspond with the actual situation, and the client has not yet complied with all its obligations vis-à-vis Lareka, Lareka will be entitled, through the mere occurrence of one of the aforementioned circumstances, without any notice of breach or legal intervention being required, either to consider the agreement to be dissolved and to demand the return of that which it has delivered as its own property in the manner provided in Article 8, or to demand in full any amount which the client owes to Lareka. In addition, Lareka is at all times entitled to demand compensation for damage from the client.
2. In order to enable Lareka to exercise the right to recovery of the objects referred to in the previous paragraph, the client grants Lareka authorisation now for then to enter the sites and buildings where the objects are located (or instruct third parties to do so). The costs of the return of the objects will be met by the client.
3. The provisions in this Article do not diminish the other possibilities for Lareka to dissolve or terminate the agreement, as referred to elsewhere in these General Terms and Conditions or in the agreement. The provisions in Article 12 apply in full in that respect.

18. Applicable law and competent court

1. All offers made by Lareka, all agreements concluded with Lareka and other commitments undertaken with Lareka and the performance thereof are governed solely by the law of the Netherlands, with the exclusion of the Vienna Sales Convention and/or any other international arrangement related to buying/selling movable, tangible objects, the effect of which can be excluded by contract.
2. All disputes related directly or indirectly to an offer or commitment to which these General Terms and Conditions are applicable, or concerning the General Terms and Conditions



themselves and their interpretation or the performance thereof, will be decided by the court having subject-matter jurisdiction (whether or not in preliminary relief proceedings) in the district of Den Bosch, unless mandatory rules of law oppose the same.

19. Deviations

Deviations from or additions to these General Terms and Conditions are only valid after Lareka has explicitly confirmed this to the client in writing, and are only valid once.