

## **GENERAL TERMS AND CONDITIONS OF WINDECK B.V.**

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## **ARTICLE 1 DEFINITIONS AND APPLICABILITY:**

### **1. CUSTOMER**

Each enterprise/legal entity that has been listed in the trade register of the town/city of its registered office and that has opened a business account at Windeck, with whom Windeck enters into an agreement or to whom Windeck makes an offer. Windeck sells and delivers exclusively to the business market. Private customers cannot place any orders at Windeck.

### **2. DAY**

Calendar day.

### **3. ENTREPRENEUR**

The private company with limited liability under Dutch law Windeck B.V., also trading under the name Windeck Shipfloors, with its registered office and its principal place of business at Admiraal Trompstraat 9, 3115 HK in Schiedam, registered with the Chamber of Commerce under number: 82659400.

### **4. AGREEMENT**

Each agreement that is formed between the Entrepreneur and the Customer, all amendments or additions thereto, as well as all (legal) acts for the preparation and the performance of that agreement.

### **5. PRODUCT**

Every item offered, to be supplied or delivered by the Entrepreneur under the Agreement or any product considered equivalent according to currently prevailing opinions. The Entrepreneur is mainly active in the supply of products intended for covering shipfloors and in this connection supplies subfloors, skirting boards, floor covering, cleaning agents and specialised tools, among other things. In general, the products are IMO-certified, with the exception of categories of products (such as tools) for which this is unusual. The Entrepreneur is working on the expansion of its product range with other soft furnishings for ships.

### **6. TERMS AND CONDITIONS**

These general terms and conditions.



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## 7. WEBSITE AND WEBSHOP

1. The website of the Entrepreneur is [www.windeckshipfloors.com](http://www.windeckshipfloors.com). This site is publicly accessible, but does not contain any quotes. After creating a business account, the Customer will be given access to the webshop, on which the products have been priced and quotations can be requested for any bulk supply and/or transport.

2. The Terms and Conditions apply to every offer, quotation and agreement between the Entrepreneur and a Customer, insofar as these Terms and Conditions are not expressly derogated from in writing by the parties.

3. The applicability of any purchase conditions or other conditions of the Customer is expressly rejected.

4. If at any time one or more provisions of these Terms and Conditions are wholly or partially void or are nullified, the other provisions of these Terms and Conditions will continue to apply in full. In that case, the Entrepreneur and the Customer will enter into consultations in order to agree new provisions to replace the void or nullified provisions, while taking the purpose of the original provisions into account as far as possible.

5. If there is a lack of clarity with regard to the interpretation of one or more provisions of these Terms and Conditions, the interpretation shall be in accordance with the spirit of these provisions.

6. If a situation arises between the parties that is not covered by these Terms and Conditions, this situation shall be assessed in accordance with the spirit of these Terms and Conditions.

7. If the Entrepreneur does not always require strict compliance with these Terms and Conditions, this does not mean that their provisions would not apply or that the Entrepreneur would to any extent lose the right to require strict compliance with these Terms and Conditions in other cases.



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## **ARTICLE 2 THE OFFER**

1. Every offer by the Entrepreneur on the Website and/or in the Webshop is without obligation.
2. Apparent mistakes or errors in the offer do not bind the Entrepreneur.
3. Every offer contains such information that the rights and obligations associated with acceptance of the offer are clear to the Customer.  
In particular, this concerns:
  - the price exclusive of taxes such as VAT, unless agreed otherwise;
  - the costs of delivery;
  - the manner in which the Agreement will be formed and what acts are required for this;
  - the manner of payment, delivery or performance of the Agreement;
  - the period for acceptance of the offer, or the period of validity of the price.

## **ARTICLE 3 ORDERS/QUOTATIONS**

1. Quotations by the Entrepreneur are stated on its Website/in its Webshop with specification of conditions, which conditions are leading. If the Customer wants to make deviating arrangements, the Customer can specify such deviations to the Entrepreneur in writing. The Entrepreneur will only be bound by a deviating quotation if the Entrepreneur has confirmed this to the Customer in writing.
2. A quotation will lapse if the product to which the quotation relates has become no longer available in the meantime.
3. A requested quotation is valid for a period of 30 days after issue by the Entrepreneur. The request is given the order status within 1 working day of receipt of the order confirmation by the Entrepreneur.
4. Delivery of the products takes place at the location and the time at which the products are made ready for dispatch to the Customer. The Entrepreneur aims to deliver the products to the Customer in a single delivery wherever possible. However, the order may be delivered in multiple deliveries.
5. If the acceptance deviates from the offer included in the quotation, on minor points or otherwise, the Entrepreneur will not be bound by such deviations. In such cases, the Agreement will not be formed in accordance with this deviating acceptance, unless otherwise indicated by the Entrepreneur.



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## **ARTICLE 4 THE AGREEMENT**

1. Subject to the provisions of paragraph 2, the Agreement is formed at the time of acceptance by the Customer of the offer and the conditions set in this offer are met.
2. If the Customer has accepted the offer by electronic means, the Entrepreneur will immediately confirm receipt of the acceptance of the offer by electronic means.
3. If the Agreement is formed through electronic means, the Entrepreneur will take appropriate technical and organisational measures to protect the electronic transmission of data and ensure a safe web environment. If the Customer is given the option of payment through electronic means, the Entrepreneur will observe appropriate security measures in this respect.
4. Within the statutory parameters, the Entrepreneur may make enquiries to find out whether the Customer will be able to fulfil its payment obligations and to ascertain all facts and factors that are important for entering into the distance Agreement in a responsible manner. If, on the basis of these enquiries, the Entrepreneur has good grounds for not entering into the Agreement, the Entrepreneur will be entitled to refuse an order or a request or to attach special conditions to the performance.
5. Each Agreement is entered into subject to the suspensive condition of sufficient availability of the relevant products.

## **ARTICLE 5 PRICE**

1. Except for price increases resulting from changes in the VAT rates, the prices of the products offered will not be increased during the period of validity stated in the offer.
2. In derogation from the previous paragraph, the Entrepreneur may offer products at variable prices if such prices depend on fluctuations on the financial markets and cannot be influenced by the Entrepreneur. If the prices depend on fluctuations and any prices quoted are guide prices, this will be stated in the offer.
3. Price increases within 3 months after formation of the Agreement are only permitted if they are the result of statutory regulations or provisions.
4. Price increases from 3 months after formation of the Agreement are only permitted if this has been stipulated by the Entrepreneur and: they are the result of statutory



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regulations or provisions; and the Customer is entitled to terminate the Agreement with effect from the day on which the price increase enters into force.

5. The prices quoted for products offered in the Webshop are exclusive of VAT. The product prices quoted in quotations are exclusive of VAT.

## **ARTICLE 6 PAYMENT**

1. Unless agreed otherwise, the Entrepreneur will send an electronic invoice (e-invoice) for the ordered products immediately after formation of the Agreement. This invoice shall be paid within 1 week of receipt, into the bank account indicated by the Entrepreneur. The Entrepreneur is not obliged to proceed to delivery before receiving any payment.

2. If agreed between the parties in advance, other payment terms may be applied.

3. In such cases, the Entrepreneur will be entitled to perform a credit check beforehand. If the result of this check is negative, the Entrepreneur will be entitled to request an advance payment from the Customer, failing which the Entrepreneur will not be required to proceed with delivery.

4. If any payment term is exceeded, the Entrepreneur will be entitled to charge a default interest of 1% per month over the outstanding amount.

5. If the Customer fails to fulfil its obligations or to fulfil its obligations in time, the Entrepreneur will be entitled to charge to the Customer the reasonable extrajudicial collection costs incurred, which have been communicated to the Customer in advance.

6. The Customer will never be entitled to set off any amounts owed by it to the Entrepreneur.

7. Objections to the amount of an invoice do not suspend the payment obligation.

8. The Customer is obliged to promptly inform the Entrepreneur of inaccuracies in payment details provided or communicated.



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## **ARTICLE 7 RETENTION OF TITLE**

1. All items delivered by the Entrepreneur under the Agreement remain the property of the Entrepreneur until the Customer has properly fulfilled all obligations arising from the Agreement or Agreements concluded with the Entrepreneur, including the purchase amount and any surcharges, interest, taxes, costs, and compensation owed under the Terms and Conditions or the Agreement.
2. The items delivered by the Entrepreneur that fall under the retention of title pursuant to paragraph 1 may not be sold on and may never be used as a means of payment. The Customer is not authorised to pledge the items that fall under the retention of title or to encumber them in any other way.
3. The Customer shall at all times do everything that may reasonably be expected from it to secure the property rights of the Entrepreneur.
4. If third parties attach the items delivered subject to retention of title or want to establish or exercise any rights thereon, the Customer must inform the Entrepreneur of this immediately.
5. In the event that the Entrepreneur wants to exercise its property rights referred to in this article, the Customer grants unconditional and irrevocable advance permission to the Entrepreneur and third parties to be designated by the Entrepreneur to access all those sites where the property of the Entrepreneur is situated and to take back such property.

## **ARTICLE 8 DELIVERY AND PERFORMANCE**

1. The Entrepreneur will observe due care when receiving and implementing orders of products.
2. Unless express written confirmation is given of an alternative arrangement between the parties, all deliveries will be made at the address in Schiedam where the Entrepreneur has its registered office. The Entrepreneur is prepared to arrange transport of the products to an address to be stated by the Customer, at the Customer's expense, based on the cost price of transport and without any surcharge for the benefit of the Entrepreneur. The risk for the items transfers to the Customer as of the time the Entrepreneur informs the Customer by digital means that the products are ready for taking receipt.



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3. With due observance of the provisions of Article 2 of these General Terms and Conditions, the Entrepreneur will perform orders accepted by the company promptly, but no later than within 30 days, unless a longer delivery period has been agreed, with the Entrepreneur being deemed to have met the delivery period at the time the Entrepreneur states within this period that the products for the Customer are ready for taking receipt at the Entrepreneur's business address.

4. If there is a delay in the delivery or if an order cannot be performed or can only be performed in part within 1 month after the Customer has placed the order or within 1 week after the Customer has learnt of the delay, the Customer will be entitled to dissolve the Agreement without any costs.

5. If delivery of a product ordered proves to be impossible, the Entrepreneur will make efforts to provide a replacement product.

6. In the event of dissolution in accordance with the previous paragraphs, the Entrepreneur will pay back the amount paid in advance by the Customer as soon as possible, but no later than within 30 days of dissolution.

## **ARTICLE 9 COMPLAINTS AND RIGHT OF WITHDRAWAL**

1. The Customer is obliged to inspect the delivered items for defects immediately after the products are made available to it. During this inspection, the Customer must investigate whether the quality and/or quantity is in conformity with what has been agreed.

2. In the case of an incorrect number of products delivered, the Customer will promptly report this to the Entrepreneur, after which the Entrepreneur will make a subsequent delivery at its own expense as soon as possible, unless the Customer indicates that it does not want such subsequent delivery, in which case the Entrepreneur will immediately credit the Customer for the items that were not delivered and refund the payments made in this respect within 14 days.

3. In the case of defects related to the quality of the products delivered, the Customer will immediately provide the Entrepreneur with the opportunity to investigate the complaints. If the complaints are well-founded, the Customer may dissolve the Agreement within 30 days after the inspection referred to under 1.

Minor deviations in the colours of floor coverings and/or natural products will not be regarded as a well-founded complaint.

4. During this period, the Customer shall handle the product and the packaging with due care. The Customer will only unpack or use the product insofar as this is necessary for assessing whether the Customer wants to keep the product. If the Customer makes use of





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its right of withdrawal, the Customer shall return the product with all accessories delivered and -if reasonably possible- in the original state and packaging to the Entrepreneur, in accordance with the reasonable and clear instructions provided by the Entrepreneur.

5. If a defect is reported at a later time, the Customer will no longer be entitled to any repairs, replacement or compensation.

6. If the Customer submits a complaint in good time, this does not suspend the Customer's payment obligation. In such cases, the Customer will still be obliged to take delivery of and pay for any other products ordered.

## **ARTICLE 10 CONFORMITY AND MANUFACTURER'S WARRANTY**

1. The Entrepreneur warrants that the products and/or services comply with the Agreement, the specifications stated in the offer, the reasonable soundness and/or usability requirements, and the statutory provisions and/or government regulations applicable at the time of formation of the Agreement.

2. The Customer may rely on the manufacturer's warranty offered by the manufacturer of the products.

3. A warranty provided by the Entrepreneur, manufacturer or importer does not affect the statutory rights and claims the Customer may exercise in respect of the Entrepreneur under the Agreement.

4. The warranty does not cover defects to the items that have arisen as a result of normal wear and tear or of damage that is the result of circumstances that the Entrepreneur cannot influence, including weather conditions or damage arising during transport by the Customer (expressly including the transport to the Customer as referred to Article 8 of these Terms and Conditions).

5. Any form of warranty will lapse if the item is used incorrectly or negligently.

## **ARTICLE 11 LIABILITY**

1. The Entrepreneur is only liable for direct damage. Liability for indirect damage, including lost profit, consequential damage, missed savings and damage due to business interruption, is expressly excluded.

2. Direct damage is exclusively taken to mean the reasonable costs for establishing the cause and extent of the damage, insofar as this relates to damage within the meaning of these Terms and Conditions, any reasonable costs incurred for bringing the defective performance of the Entrepreneur in line with the Agreement, insofar as this can be attributed to the Entrepreneur, and



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any and all reasonable costs incurred for the prevention or limitation of direct damage as referred to in these General Terms and Conditions.

3. Any liability of the Entrepreneur vis-à-vis the Customer for direct damage, on whatever ground, will for each event (with a series of connected events being regarded as one event) be limited to the invoice amount actually paid by the Customer to the Entrepreneur for the relevant order in which the damage occurred, including shipping costs.

4. The Entrepreneur is not liable for damage of whatever nature, which arises because the Entrepreneur has proceeded on the basis of incorrect and/or incomplete data provided by or on behalf of the Customer.

5. The limitations of liability included in this article do not apply if the damage was caused as a result of intent or gross negligence on the part of the Entrepreneur or its subordinates.

## **ARTICLE 12 INDEMNIFICATION**

1. The Customer indemnifies the Entrepreneur for any claims by third parties that suffer damage in connection with the performance of the Agreement and the cause of which can be attributed to any party or parties other than the Entrepreneur.

2. If the Entrepreneur is held liable by third parties on such grounds, the Customer will be obliged to assist the Entrepreneur in and out of court and to do promptly all that which may be expected from the Customer in such cases. If the Customer fails to take adequate measures, the Entrepreneur will be entitled to take such measures itself without notice of default. All costs incurred by and damage suffered by the Entrepreneur and third parties as a result thereof will be fully at the risk and expense of the Customer.

## **ARTICLE 13 FORCE MAJEURE**

1. The Entrepreneur will not be obliged to fulfil any obligation to the Customer if the Entrepreneur is prevented from doing so as a result of a circumstance for which the Entrepreneur is not to blame or accountable by law, legal act or according to generally accepted standards.

2. In these General Terms and Conditions, in addition to what it is taken to mean in Dutch law and case law, force majeure is taken to mean all external causes, foreseen and unforeseen, that the Entrepreneur cannot influence, but that prevent the Entrepreneur from fulfilling its obligations. The Entrepreneur will also be able to rely on force majeure if the circumstance that prevents (further) performance of the Agreement occurs after the Entrepreneur should have fulfilled its obligation.



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3. The Entrepreneur may suspend its obligations under the Agreement for the period during which the force majeure persists. If this period lasts for more than two months, each of the parties will be entitled to dissolve the Agreement without being obliged to pay compensation to the other party.

4. To the extent the Entrepreneur has fulfilled its obligations under the Agreement in full or in part or will be able to fulfil such obligations at the time of occurrence of the force majeure and the part performed or to be performed has independent value, the Entrepreneur will be entitled to independently invoice the part already performed or to be performed, respectively. The Customer is obliged to pay this invoice as if it concerned a separate agreement.

#### **ARTICLE 14 SUPPLY OF PRODUCTS ONLY**

The Entrepreneur expressly only supplies products and does not provide any services or advice. The Entrepreneur does not rule out that the Entrepreneur and/or its subordinates will be asked questions about installation and/or maintenance with regard to products to be ordered. Insofar as such questions are answered, they will be answered by the Entrepreneur and/or its subordinates to the best of their knowledge and with due observance of the specifications and further maintenance and other instructions from the manufacturer of the products concerned. However, as the Entrepreneur and its subordinates are not aware of local circumstances, their advice will be without any obligation.

#### **ARTICLE 15 MULTIPLE LANGUAGE VERSIONS OF THESE TERMS AND CONDITIONS**

For the sake of its international customers, the Entrepreneur has had these Terms and Conditions translated into English and Spanish, with the translators acting to the best of their abilities and knowledge. The Dutch version of these Terms and Conditions will remain leading and shall be applied in the event of any disputes related to the interpretation thereof.

#### **ARTICLE 16 APPLICABLE LAW AND DISPUTES**

1. Agreements between the Entrepreneur and the Customer to which these Terms and Conditions relate are subject exclusively to Dutch law, even if an obligation is entirely or partially performed abroad. The applicability of the Vienna Convention on Contracts for the International Sale of Goods is excluded.



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2. All disputes arising from offers or agreements, by whatever name, will be submitted to the judgment of the competent court in Rotterdam (the Netherlands).

3. The parties will only turn to the court after they have made every effort to resolve the dispute in joint consultation.

## **ARTICLE 17 AMENDMENTS TO THE TERMS AND CONDITIONS**

1. The Entrepreneur reserves the right to unilaterally amend these Terms and Conditions.

2. The version applicable at the time of formation of the relevant legal relationship with the Entrepreneur shall always apply. It is recommended that the Customer regularly checks the Terms and Conditions for amendments.