

1. Definitions

- 1.1 Seller: The company that uses these conditions
1.2 Buyer: The counterparty of the Seller.

2. Realisation

- 2.1 The agreement between the Seller and the Buyer is realised and binding upon the Seller only if this is confirmed in writing by the Seller or if the Seller actually implements the agreement.
2.2 The drawings, sketches, descriptions, models and samples created or provided by the Buyer are furnished only by way of clarification. They are only binding upon mutual acceptance.

3. Prices

- 3.1 Unless a binding price has been agreed, the prices shown in Seller's price list shall apply on the date of delivery. The sales prices are exclusive of VAT, other taxes and charges, transport costs and insurance costs.
3.2 The Seller has the right to pass on any increase in factors affecting the cost price.

4. Delivery

- 4.1 Delivery always takes place ex warehouse/ex works at the Seller. All risks in respect of the delivered items are always borne by the Buyer after delivery.
4.2 The delivery times/dates are never deadlines whose non-observance constitutes a default. The Seller always has the right to deliver in batches.

5. Force majeure

- 5.1 Force majeure refers to any shortcoming that cannot be assigned to the Seller on the basis of fault, nor according to the law, legal action or general opinion.
5.2 Force majeure includes without limitation: war, war risk, call-up, fire, loss of theft of tools/materials etc., factory disturbance, strike, blockades, import or trade restrictions, shut-out, traffic disruption, disruption to the delivery of raw materials/semi-manufactured goods, staff illness, late or non compliance of sub-suppliers/contractors with their obligations.
6.1 In case of force majeure, the Seller is entitled without intervention by the courts to suspend compliance with or (partially) dissolve the agreement or any part thereof, without becoming liable for compensation.

6. Security

- 6.1 The Seller is at all times entitled to demand additional/extra security from the Buyer in order to comply with existing or future obligations. If the buyer refuses or fails to provide such security within the period set by the Seller, the Seller has the right to dissolve the agreement, without becoming liable for compensation.
6.2 If the Seller has already delivered items to the Buyer, the Buyer is required to return these to the Seller no later than 2 working days after being requested to do so. Furthermore, the Buyer is required to make good all damage that the Seller suffers due to any refusal or negligence.





7. Payment

7.1 All invoices must be paid within 30 days.

7.2 The Buyer will be charged interest on late payments at a rate equivalent to 1.5% per month on the full amount of the invoice from the moment that payment falls into arrears.

7.3 If the Seller initiates collection proceedings, the Buyer is required to reimburse all out-of-court costs incurred due to the collection fee imposed by the Nederlandse Orde van Advocaten (Netherlands Bar Association), subject to a minimum amount of € 150.00 excl. VAT. The Buyer is also required to reimburse the costs of judicial collection, such as the costs of confiscation and the costs of a bankruptcy petition.

7.4 With regard to the financial scope of the mutual obligations arising from agreements concluded with the Seller, the administrative data of the Seller are in principle final, subject to counterproof by all possible means.

7.5 If the Buyer is late in complying with any payment obligation in respect of the Seller, the Buyer shall be in default in respect of all claims, including those that are not yet claimable. In this case, the Seller shall also have the right to part with the claims that are not yet claimable.

7.6 In case of liquidation, bankruptcy, suspension of payment or application of the statutory debt collection scheme, all obligations of the Buyer shall be claimable with immediate effect.

8 Retention of title

8.1 All items delivered by the Seller shall remain the property of the Seller until such time as the Buyer has complied with all its obligations in respect of the Seller.

8.2 If a new item is formed from items delivered by the Seller, the Seller shall retain title over the newly formed item. The Buyer will then hold the newly formed item for the Seller. Ownership shall transfer to the Buyer only when the retention of title lapses due to the Buyer having complied with all obligations, in particular with all payment obligations.

8.3 The Buyer undertakes to keep all items delivered by the Seller apart and separate from other items and to store and keep them identifiable as delivered by the Seller, so as to avoid any mixing and so that the Seller can exercise its retention of title at all times.

8.4 The Buyer shall treat the delivered items as a good caretaker/guardian. The Buyer shall insure items against all disasters on the basis of the invoiced value. The Buyer shall furnish the Seller with the names and addresses of the insurers and copies of the policies on demand. Furthermore, the Buyer shall, on demand, secure a silent lien to the claims arising against the insurer to the benefit of the Seller.

9. Quality and complaints

9.1 The Seller guarantees the quality of the delivered items and the materials used for a maximum period of 6 months after delivery, subject to the items being used in a normal, careful way in accordance with the instructions and for the purpose for which they are manufactured.

9.2 The Buyer shall do everything necessary upon delivery to ascertain that what has been delivered agrees with what was ordered by the Buyer. Items that are put into use are deemed to fulfil the agreement. Counterproof lies expressly with the Buyer.

9.3 Where the nature of the items permits and in other cases, complaints about quantities, dimensions, weights, quality and other faults must be submitted to the Seller in writing within 14 days of delivery of the items.

9.4 If a delivered item appears to have an invisible fault that cannot be easily ascertained within 6 months of delivery, a complaint about the fault must be submitted in writing within 14 days of the fault being discovered.

9.5 The Buyer must accept an industry-standard tolerance of 10% on the scope of delivery or any other agreed tolerance.

9.6 Items can only be returned to the Seller if the Seller is in agreement and has approved the shipping method. The items remain at the risk of the Buyer.

9.7 Complaints can never be used to suspend the payment obligations of the Buyer.

**10. Limitation of liability/product liability risk**

10.1 Without prejudice to the provisions of Article 6:185 of the Dutch Civil Code, the Seller is not required to compensate the Buyer beyond repairing or replacing the delivered items or reimbursing the invoiced amount exclusive of VAT.

10.2 Except in case of malice or deliberate recklessness, the Seller is not liable for the damage, consequential damage, business damage or intangible damage suffered directly or indirectly by the Buyer or by third parties, damage caused by unskilled assistants and/or subcontractors – even if due to their negligence and/or gross fault – or damage caused by the use of resources.

10.3 The Seller's liability is in any event limited to the invoiced amount of the delivered items exclusive of VAT or, where coverage is provided by the Seller's insurer, to the amount that the insurer pays out in the case in question.

10.4 If the Buyer resells the delivered items or forms new items from the items delivered by the Seller and resells these, the Buyer is required to take out adequate insurance against the product liability risk of Article 6:185 of the Dutch Civil Code. A copy of the relevant policy will be sent on demand.

10.5 All further liability is expressly ruled out. The Buyer shall also protect the Seller from all claims brought by third parties.

11. Dissolution

11.1 Each time the Seller dissolves an agreement with the Buyer by means of a written declaration, the Buyer is required to make good all damage, costs and lost profit. The Buyer must also return all delivered items to the Seller. The items remain at the risk of the Buyer until the Seller has received and approved them.

11.2 The obligation contained in 11.1 shall not apply if the Seller dissolves the agreement on the basis of the stipulations of Article 5.

12. Infringement of third party rights

12.1 If the Seller produces items under the agreement in accordance with instructions or drawings or with the help of moulds or forms of the Buyer, the Buyer guarantees that there shall be no infringement of the intellectual property rights of third parties. Any infringement shall entitle the Seller to dissolve the agreement.

12.2 The Buyer shall at all times protect the Seller against all claims of third-party right holders in connection with the infringement.

13. Special items

13.1 Unless expressly agreed otherwise, the Seller is also entitled to produce special items, which are made for the Buyer, for third parties.

13.2 The Buyer must approve samples of special items within 14 days of dispatch. If the Seller does not receive a rejection report after 14 days, the samples will be deemed approved.

13.3 Unless expressly agreed otherwise, all models, moulds, samples, forms, drawings and all other equipment and instructions involved with the making of special items are and shall remain the property of the Seller.

13.4 The Buyer is responsible for the costs of replacement, repairs and maintenance of the moulds.

13.5 Drawings, know-how and designs which the Seller places at the disposal of the Buyer may not be copied or passed to third parties for inspection or made public knowledge without the written consent of the Seller. They must be immediately returned to the Seller after use. If any of these terms and conditions is infringed, the Buyer shall pay the Seller an immediately collectable penalty of € 50,000.00 per instance and € 5,000.00 for each day that the infringement continues.

13.6 The Seller has the right to destroy moulds regardless of whether they are the property of the Seller or the Buyer if they have not been used for a period of 2 years. The Seller shall notify the Buyer of its intention to destroy such materials 3 months prior to expiry of the 2 year period.

14. Applicable law

14.1 Dutch law shall apply to all disputes that arise between the Seller and the Buyer.

14.2 All disputes will be tried by the competent courts of the place of establishment of the Seller, unless the law permits the Seller to choose another competent court.

15. Commencement

15.1 These General Terms and Conditions shall enter into force on 1 August 2009. There were deposited with the Chamber of Commerce in The Hague on 5 August 2009, bearing number 40407614.