

LIENESCH BV, Haaksbergen
GENERAL TERMS AND CONDITIONS

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Article 1 Applicability

1.1.

All offers fall under the declaration of applicability of these general terms and conditions of delivery and payment, both on the offer and its acceptance and on the agreement entered into accordingly.

1.2.

These general terms and conditions apply to all offers and their acceptance on the side of the seller. Insofar the buyer refers to other conditions in his/her acceptance, the applicability thereof is explicitly rejected.

Article 2 Offer and Acceptance

2.1.

All offers are free of obligations unless they contain an acceptance period.

2.2.

The agreement is entered into the moment the acceptance of the offer has reached the seller. This acceptance means that the buyer agrees with the declaration of applicability of these general terms and conditions of delivery and payment and that he/she renounces a declaration of applicability of his/her own purchase conditions, if necessary.

2.3.

If the acceptance contains exceptions or changes with respect to the offer, in deviation of the previous paragraph, the agreement will only be entered into if the seller has notified the buyer of the fact that he/she agrees with these deviations in the offer.

Article 3 Alterations

3.1.

Alterations in the purchase agreement and deviations from these general terms and conditions of sale will only apply if they have been agreed upon by the buyer and seller in writing.

3.2.

If alterations lead to an increase or decrease of the costs, a change in sale price stemming from these alterations needs to be agreed upon between the parties in writing. In the event of failure to agree with respect to the change of the purchase price, a dispute between parties is the case, in which case article 16 of these general terms and conditions applies.

Article 4 Quality and Description

4.1.

The seller is obliged to supply the goods to the buyer in the description, quality and quantity as described in detail in the (possibly altered) offer.

4.2.

The seller is obliged to supply goods to the buyer that:

- a. have been manufactured from sound materials and are of sound design;
- b. are equal in all extents, for as much as possible, to possible samples or models that have been made available or provided by a seller and/or the buyer;
- c. perform as described in the offer.

4.3.

Slight deviations in quality, colour, finish, hardness, thickness, weight, sizes, the condition of the symmetric watermark, the number of refills and suchlike are insufficient reason for the customer to reject the performance. In order to assess whether the content of the performance delivered is outside the acceptable bounds, an average from the content of the delivery as a whole must be taken; an entire delivery cannot be rejected on the basis of a few deviating examples.

4.4.

The seller does not guarantee that the goods are suitable for the buyer's purposes, even if the seller was made aware of this purpose, unless the opposite has been agreed upon between the parties.

Article 5 Time of Delivery

5.1.

An agreed upon delivery time is not a final deadline unless explicitly agreed upon otherwise. In case of overdue delivery, the buyer needs to grant the seller a reasonable period to still make the delivery before the seller can be given a notice of default.

5.2.

If the actual delivery period exceeds the indicated period, the seller is not liable for any created damage. Exceeding the delivery period in no way justifies cancellation or termination of the purchase agreement.

Article 6 Packaging and Shipment

6.1.

The seller undertakes towards the buyer to package the goods properly, unless the nature of the goods prevents this, so that the goods reach the destination in good condition via normal transportation.

6.2.

The goods will be delivered by the seller or shipped to the agreed upon destination or destinations in the method as determined in the order or afterwards in writing between the parties.

6.3.

If the seller has provided materials or if a third party has done so on behalf of the seller for the packaging and transport, the buyer is obligated (unless it concerns one-time packaging material) to return these materials to the buyer at the indicated address in default of which the buyer owes the seller compensation.

Article 7 Storage

7.1.

If for whatever reason the buyer is not able to accept the goods on the agreed upon time and if they are ready for shipment, the seller will store and secure the goods and provide all necessary measures to prevent a decrease in quality at the buyer's request and if the seller's storage capabilities allow it until the goods have been delivered to the buyer.

7.2.

The buyer is obligated to pay storage costs to the seller in accordance with the seller's usual rate, in default of which, the buyer will compensate the seller according to the branch's common rate from the time the goods are ready for shipment or, if it is a later time, from the delivery date agreed upon in the purchase agreement.

Article 8 Transfer of Ownership and Risk

8.1.

Notwithstanding the provisions in paragraphs 2 and 4 of this article, the risk for the goods will transfer onto the buyer in accordance with Incoterms 2010.

8.2.

As long as the buyer has not paid the full sum of the purchase price with any additional costs or has furnished security, the seller retains ownership of the goods. In this case, ownership transfers to the buyer as soon as the buyer has met all his/her obligations towards the seller.

8.3.

If the seller has obvious misgivings regarding the buyer's capacity for payment, the seller is authorised to delay delivery of the goods until the buyer has furnished security for the payment. The buyer is responsible for damage to the seller as a result of this delayed delivery.

8.4.

If the seller delays delivery at the buyer's request in accordance with the provisions in article 7, the goods will remain the property of the seller at the seller's risk until the goods have been delivered to the buyer in the agreed upon location or locations.

8.5.

As long as ownership of the delivered materials has not transferred onto the buyer, he/she cannot pledge, encumber otherwise or give a third party rights to these materials notwithstanding the provisions in paragraph 6.

8.6.

The buyer is permitted to sell and transfer the delivered materials to third parties subject to retention of title in the context of normal business practices.

8.7.

The buyer is obliged to store the materials that are subject to retention of title with due care and as recognisable property of the seller.

8.8.

If the buyer fails in meeting his/her payment obligations or any other obligations towards the seller or if the seller has proper grounds to fear that the buyer will fail in meeting the obligations, the seller is authorised to repossess the delivered materials that are subject to retention of title. After repossessing the materials, the buyer will be credited for the market value; the value of which will never be higher than the original purchase price reduced by the costs as a result of the repossession.

Article 9 Force Majeure

9.1.

The delivery period as intended in these general terms and conditions is extended by the period during which the seller is prevented from meeting his/her obligations due to force majeure.

9.2.

Force majeure is the case if the seller, after entering into the purchase agreement, is prevented from meeting his/her obligations in this agreement or the preparation thereof as a result of war, danger of war, civil war, terrorism, uprising, wilful damage, fire, water damage, flooding, job strike, sit-down strike, lockout, obstruction, government measures, defects to machinery, malfunction in the supply of power, all the above at the seller's company and at any third party company from whom the seller needs to partly or fully involve the necessary materials as well as for storage or during transport whether or not by the company itself and furthermore due to all other causes outside of the seller's fault or control.

9.3.

If the delay in delivery due to force majeure lasts longer than three months, both the seller and the buyer are authorised to consider the agreement to be terminated. In this case, the seller is only entitled to compensation of any reasonably costs made by him/her.

9.4.

If force majeure occurs while the agreement has been partially executed, the buyer is authorised to either keep the delivered part of the goods and meet the owed purchase price thereof or to consider the agreement to be terminated including the already executed part of the agreement under the obligation that what was already delivered to the buyer is returned at the buyer's costs and responsibility if the buyer can show that the already delivered part of the goods can no longer be used effectively by the buyer as a result of non-delivery of the rest of the goods at the seller's judgement if the rest of the delivery is delayed due to force majeure for longer than two months.

Article 10 Liability

10.1.

The seller's liability is limited to the free repair of a faulty good or to replacement of that good or parts thereof or replace the product or part thereof with a similar product or part thereof, at the seller's judgement if and insofar this liability is covered by his/her insurer up to the sum of the payment paid by the insurer.

10.2.

If the seller's insurer does not provide payment for any reason, the liability of the seller is limited to a maximum of the invoice sum.

10.3.

The seller accepts no liability for damage due to exceeding the agreed upon delivery period as a result of altered circumstances and/or force majeure and damage as a result of lacking cooperation, information or materials of the client.

Article 11 Objections

11.1.

The buyer inspects the goods delivered immediately upon delivery. The buyer checks both the quantity and the quality of the goods delivered. If the buyer identifies any defects, faults and/or damage to/in the goods during this inspection/check, it will inform the buyer thereof immediately, but by no later than five (5) working days after the delivery, by means of a detailed, written account. The buyer signs the form provided by or on behalf of the seller for this purpose as acknowledgement of receipt. The buyer notes any directly visible damage, including any damage to packaging, on the aforesaid form. If the above provisions of this article are not observed, the buyer will be deemed to have received the delivery in perfect and proper condition and any right of buyer to invoke non-conformity with respect to the performance will lapse.

11.2.

The buyer must inform the seller of any complaints due to hidden defects which could not reasonably have been ascertained on the basis of the obligation to inspect/check referred to in the previous article within five working days of identification, but by no later than six months after the delivery.

In case of transgression of the above-mentioned periods, the right to submit any objection has expired.

11.3.

Complaints regarding materials that have been processed or treated will not be accepted unless these complaints concern hidden defects subject to the provisions in the previous paragraph that have been demonstrably caused by the seller or are under the seller's control.

11.4.

Materials causing complaints need to be submitted by the buyer mentioning the batch number belonging to the materials.

11.5.

If a buyer lets the seller store processed materials, the aforementioned periods start from the date of sending the invoice by the seller to the buyer relating to these materials. The seller is obligated to let the buyer inspect the materials stored in the warehouse after prior request to that effect.

11.6.

If the buyer submits a complaint and the seller acknowledges it, the seller has the option, after deliberation with the client, to:

- a. either take back the materials for free reprocessing to improve the delivered materials;
- b. or pay compensation to the buyer of which the amount will never exceed the sum of the invoiced value.

11.7.

The seller is especially not liable for consequential damage and loss of profits, direct or indirect damage by whatever name, including lost profits and loss owing to stoppage suffered by the buyer, his/her subsidiaries and/or employees or third parties as a result of full or partial (re)delivery of materials, delayed or faulty delivery or the not occurring delivery of materials or as a result of the materials themselves.

11.8.

Goods returned by the buyer will only be accepted by agreement, in the condition they were received by the buyer, in the original packaging and stating the reason. Goods returns on the basis of an incorrect order on the part of the buyer will be credited after acceptance by the seller. This does not apply to additional goods produced; these will not be taken back. The seller may deduct an additional discount for costs incurred. Goods returned are transported at the expense of the buyer, except if due to an error on the part of the seller. In no case does the receipt of goods returned imply that the seller acknowledges the reason given by the buyer for the return.

Article 12 Warranty

12.1.

The seller provides the following specific warranties, without prejudice to the legal rights of a consumer concerning the provisions of conformity and non-conformity.

12.2.

The seller warrants that the products delivered meet the provisions of Article 4 of these general terms and conditions for a period of 24 months.

12.3.

The warranty period takes effect upon delivery of the product by the seller to the buyer and the warranty period will not be extended by repairs to the product delivered or by replacement deliveries during the warranty period.

12.4.

In the event of a justified claim based on the present warranty provision, the seller shall, at the seller's discretion, repair the product delivered free of charge or replace the product or part thereof with a similar product or part thereof. The warranty does not cover any further right to damages in respect of the seller.

12.5.

The buyer may not rely on the aforesaid warranties in the event of:

- Normal wear and tear
- Improper use and/or not following the instructions for use
- Changes made to the product delivered by or on behalf of the buyer
- Damage resulting from intent or gross negligence
- External influences, such as transport damage, damage resulting from knocks or hits, damage caused by weather conditions or other natural phenomena
- Slight deviations with regard to samples provided or steel material
- Damage to materials caused by sun, condensation, acid rain, salt water, aggressive cleaning products or other harmful substances
- Repairs to the products delivered by the buyer, or by third parties engaged by the buyer, on its own initiative
- If the buyer has not met its payment obligation in full

Article 13 Price, Invoicing and Payment

13.1.

The agreed upon price is excluding VAT and other government levies. The costs of additional packaging, transport and the on-site delivery costs can be charged to the buyer by the seller.

13.2.

Invoicing will take place after delivery of the materials, unless the seller subsequently receives the order by the buyer to not deliver the materials, but to store them, in which case the contracted party is authorised to invoice the value of the stored materials to the buyer on the date on which the materials would have been delivered according to the agreement. The seller is authorised to attach an additional condition to the storage of materials and duration.

13.3.

The buyer is obligated to pay the purchase price as determined in the payment conditions in full without deducting any sum due to a counter-claim brought against him/her, while the buyer also does not have any right to a deduction.

13.4.

If the buyer does not meet his/her payment obligations in time and also does not respond to a notice of default with a term of one week, the seller is authorised to consider the purchase agreement to be terminated without judicial intervention. In this case, the buyer is liable for the damage suffered by the seller, among other things, consisting of lost profits, transport costs and the costs of the notice of default.

13.5.

If the buyer fails to make timely payment, the buyer will owe the seller, without further notice from the seller being required, interest of 2% per month or part of a calendar month over the outstanding amount from the

due date until the date of payment in full, which interest is immediately due and payable, without further notice of default.

13.6.

If in the event of default the seller decides to take extrajudicial measures, the costs thereof will be borne by the buyer, which costs will amount to a minimum of ten percent of the invoice amount, with a minimum of € 250, without prejudice to the seller's right to charge for further reasonable costs by virtue of Article 6:96, paragraph 2, subparagraph c, of the Dutch Civil Code. If the buyer is a natural person who is not acting in the context of a profession or company, the extrajudicial costs will be determined in accordance with the Extrajudicial Collection Costs (Fees) Decree [*Besluit vergoeding buitengerechtelijke incassokosten*].

Article 14 Legal Requirements

14.1.

The seller ensures that the design, composition and quality of the goods that have to be delivered on grounds of the order meet all applicable requirements in all extents that are set in laws and/or other regulations imposed by the government that are in effect at the time of entering into the purchase agreement.

14.2.

The provisions in paragraph 1 also apply to the normal use of the goods.

Article 15 Termination

15.1.

Notwithstanding the provisions in the article '**Price, Invoicing and Payment**', the purchase agreement is terminated without judicial intervention after a written statement of seller at the time in which the buyer is declared insolvent, applies for temporary suspension of payment or if a request from the buyer, natural person, is granted by the District Court for declaring the debt management scheme as applicable, or due to attachment, guardianship order or otherwise loses the power of disposition over the capital or parts thereof unless the curator or administrator recognises the obligations stemming from this purchase agreement as estate debts.

15.2.

The termination means that reciprocal standing claims become claimable immediately. The buyer is liable for the damage suffered by the seller, among others things consisting of loss of profits and transport costs.

Article 16 Applicable Law

16.1.

This agreement is subject to Dutch law.

16.2.

The applicability of the Vienna Sales Convention is herewith explicitly excluded.

Article 17 Disputes

17.1.

All disputes that could arise between the parties as a result of their agreement or of later agreements that are a result thereof or as a result of any other existing or future legal relationship, such as, for example, but not exclusive to unlawful acts, undue payment and unjust enrichment will be resolved by the District Court of Overijssel, location Almelo, notwithstanding mandatory rules on jurisdiction that could limit this decision.

17.2.

The seller remains authorised to summon the buyer according to the Convention on International Access to Justice.

17.3.

The dispute is considered to exist as soon as one of the parties declares it as such.