

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF BERTUS GROOTHANDEL & DISTRIBUTIE B.V. THAT HAS ITS REGISTERED OFFICE IN ROTTERDAM

1. General

These general terms and conditions shall apply to all our offers, contracts of sale, assignments and to the deliveries and the acceptance of work resulting from them. Any applicability of general terms and conditions used by the other party is hereby excluded explicitly. Any divergences from these general terms and conditions shall only be binding on us if we will have confirmed such divergences in writing. The other party cannot derive any rights with respect to future transactions from any divergences agreed upon. The Dutch text of these general terms and conditions is the authentic text and shall prevail over any translations of these general terms and conditions. 'In writing' and 'written' in these general terms and conditions shall be understood to include: by letter, by fax or electronically.

2. Formation of agreements

Our offers, made orally or in writing, shall be without any engagement. We shall only be bound after we have accepted an order and/or assignment in writing, or by means of an invoice, even if we have made an offer in writing. We reserve the right to revoke our offer, after acceptance of the offer by the other party, within two working days. Only our Board of Directors may enter into binding agreements, except where that Board has granted an explicit authorisation to another party to do so.

The agreement is always entered into on the suspensive condition that the information gathered by us in our opinion evidences sufficient creditworthiness of the other party. Samples, models, representations, documentation and other specifications shown or made available are only indicative, and the good in question need not comply with them.

3. Rights of intellectual property

We reserve all rights of intellectual property with respect to the data in our offers and/or agreements, and/or the models, samples, drawings, representations and/or instructions for use made available by us. We shall not be liable for any infringements of rights of intellectual property of third parties, made in connection with the execution of an agreement between us and the other party. The other party shall be obliged to indemnify us against any and all claims from third parties in connection with any infringement of rights of intellectual property made in connection with the execution of the agreement with us.

4. Differences in data

We shall not be responsible for any slight differences between the actual numbers, types, measurements, amounts, colours, representations and/or other actual data and those listed by us, unless such differences lead to a substantial change in the technical and/or aesthetic characteristics of the goods. The other party shall be obliged to accept the goods delivered. We shall not be liable for any damage or loss resulting from such slight differences. Divergences of less than 10 (ten) percent shall in any case be considered to be slight.

5. Prices

We shall have the right to charge and pass on all changes in one or more cost-determining factors such as costs of transport, the prices of (raw) materials, currency exchange rates, import duties, turnover tax, that relate to the performance agreed upon and that occur after the date of our offer, or after the formation of the agreement, but before the delivery, to the other party. The prices of the goods offered or sold by us are calculated on the basis of delivery ex works, Capelle a/d IJssel, The Netherlands (EXW, Incoterms 2010), exclusive of VAT, import duties and other levies and taxes imposed by the government, unless indicated otherwise in writing.

6. Payment

If no advance payment has been agreed upon, the amount(s) of the invoice must have been paid not later than on the due date mentioned in the invoice. Applying a discount, deduction, or set off to a payment, or suspending a payment by the other party is not allowed. Payments made by the other party shall serve primarily as payment of all interests and costs that are due, and secondly as payment of those payable invoices that have been outstanding for the longest time, even if the other party states that the payment concerns a later invoice. If the other party fails to pay the amount owed by it timely, it shall owe, without any notification of default being required, the statutory commercial interest on that amount with effect from the date on which the amount has become due. If the other party fails to pay the amount owed by it timely, the other party shall also be obliged to pay all (extra-)judicial costs in connection with the collection. The extra-judicial costs are determined to amount to 15 (fifteen) percent of the amount of the invoice with a minimum of € 250.00 (two hundred and fifty euros).

The other party shall be obliged to provide (additional) personal or real security for the performance of its (payment) obligations towards us at our first request or after having entered into the agreement.

A refusal of the other party to provide the desired security, shall give us the right to suspend performance of our obligations and shall eventually entitle us to terminate the agreement fully or partially, without any notification of default or judicial intervention being required, without prejudice to our rights to claim compensation for any damage or loss suffered by us.

7. Retention of title

We shall retain the title to all goods delivered by us to the other party until the full purchase price, inclusive of interests and costs, for such goods shall have been paid in its entirety. If we carry out work for the other party to be paid by that other party within the framework of these contracts of sale, the aforementioned retention of title shall also apply until the other party will have also fully paid those amounts that are due. The retention of title shall also apply to amounts that may become due and payable by the other party because of a failure on the part of the other party to perform one or more of its obligations towards us. For as long as we shall own the goods, the other party shall not have the right to dispose of the goods delivered by us, and/or to sell and/or encumber them, and/or to process them. However, the other party shall be allowed to use, or, as the case may be, to sell the goods within the normal conduct of its business, it being understood that we shall acquire the rights of the other party towards its buyers until the other party shall have fully paid the goods and shall have performed its other obligations towards us under similar agreements. In that case the other party shall assign such rights to us, in as far as necessary, which assignment is accepted by us. However, the other party shall not be allowed to alienate the goods within the framework of the normal conduct of its business when the other party has applied for a moratorium or has been declared to be in liquidation.

As long as we shall own the goods, we shall be allowed to take repossession of the goods delivered by us at the place where they are located at the expense of the other party, without any notification of default or judicial intervention being required. The other party shall be obliged to store the goods delivered by us with retention of title with due care and clearly identifiable as being our property. If the other party has its registered office in Germany or in Belgium and if the goods to be delivered by us are actually delivered to the other party in Germany or in Belgium, the legal consequences of the retention of title with respect to the ownership of the goods delivered or to be delivered to the German or Belgian other party shall be governed by German or Belgian law. In that case the preceding provisions of this clause 7 shall not apply. For the other party that has its registered office in Germany, they shall be deemed to have been replaced by the provisions of Annex 1 to these general terms and conditions. For the other party that has its registered office in Belgium, the following provisions shall apply: "In the event of failure to pay on the due date, the sale may be considered void by us by operation of law and without any notice being required. The goods shall remain our property until full payment of the price. All risks shall be for the account of the other party. Any advance payments made shall continue to have been acquired by us by way of compensation for possible losses in the event of resale".

8. Delivery

The delivery conditions shall be agreed upon for each transaction individually. All delivery conditions shall apply in conformity with Incoterms 2010. The other party shall be obliged to take receipt of the goods at the moment they are made available to it pursuant to the agreement. If the other party fails to take receipt of the goods, it shall be in default, and we shall be entitled, this at our sole discretion:

(a) to transport (or to have transported) the goods to the address of the other party by a means of transport of our choice for the account and risk of the other party, or to store the goods for the account and risk of the other party,

or

(b) to declare the agreement to have been terminated without any notification of default or judicial intervention being required, without prejudice to our right to claim compensation for the damage, loss, or as the case may be, the loss of profit suffered by us, to be increased by the statutory interest, to be calculated effective from the moment at which the claim is payable. The above shall apply without prejudice to the other rights to which we are entitled.

9. Term of delivery

A term of delivery listed by us shall always be of an indicative nature and shall never be a strict term. We shall only be in default with respect to the term of delivery after we will have been notified in writing by the other party that we are in default, and if the other party has given us the opportunity to deliver as yet within a reasonable term and we have failed to make use of that opportunity. The term of delivery shall only start to be effective after we have accepted an order and/or assignment in writing and after the other party has made available to us all data, or, as the case may be, all materials necessary for the execution of the agreement and after we will have received the advance payment from the other party that may have been agreed upon. If it becomes evident during the execution of the agreement that there is a delay in the delivery, then the term of delivery shall be extended by as many days as the delay has lasted. We shall not be liable for any damage or loss as a consequence of untimely delivery, if and in so far as that untimely delivery is due to circumstances for which we can not be blamed, inclusive of failure to perform (timely) by our suppliers. Only in the event of a substantial excess (more than 12 weeks) of the term of delivery agreed upon, the other party shall have the right to terminate the agreement, unless this excess is caused by force majeure. However, the other party shall never be entitled to any penalty payment or compensation for damage/loss. Failure to (timely) perform any payment obligation by the other party shall suspend performance of our obligation to deliver. We reserve the right to deliver by means of partial deliveries, in which case the (payment) conditions mentioned below shall also apply to each partial delivery.

10. Complaints;

The other party shall inspect the goods upon delivery to check whether they comply with the agreement. The other party is obliged to submit to us, in writing, any complaints about the goods delivered by us, within 8 (eight) days after delivery. This also applies to the articles not ordered but delivered in error. If it concerns an externally invisible defect, the other party shall submit to us, in writing, any complaints about the goods we delivered, within eight (8) days after the defect has been discovered, but in any case within 3 (three) months after delivery.

Any complaints shall be submitted by the other party, stating the packing slip number and our database number. Any complaints about invoices shall also be submitted in writing within 8 (eight) days after the date of the invoice.

Failing such a timely submission of complaints, any claims against us shall lapse. Returns of the goods will only be considered if the goods are in the original undamaged packaging. Articles not purchased from us or with (price) tags not attached by us cannot be returned. Return consignments must always be applied for in writing using the 'Bertus Return Authorization Form (B.R.A.F.)

Only return requests submitted with a B.R.A.F. will be processed by us.

The goods returned must be received by us no later than 1 (one) month after our authorization to return. Unless agreed otherwise, return consignments are at the risk and expense of the other party.

The following goods cannot be returned:

- Deleted articles (at the time we process the request);
- Sale and overstock (cut-outs);
- Import, books, CD-Singles/Maxis, merchandise articles and Vinyl.

11. Guarantee; limitation of liability

With respect to the goods delivered by us, we shall only be liable for material and/or construction faults in the goods that must have been discovered within 3 (three) months after the date of delivery as referred to in clause 8, in as far as such faults reduce the soundness or quality of the goods to a major extent. Our liability under this clause shall be limited to the delivery of replacing (components of the) goods free of charge. We shall be entitled to repair the defective (components of the) goods or to take them back with simultaneous reimbursement of the relevant part of the invoice price, instead of delivering replacing (components of the) goods. With respect to goods delivered by third parties to us and subsequently delivered by us to the other party, we grant the other party, also if the goods delivered by us have been composed of goods delivered to us by third parties, the same guarantee but no further guarantee as the guarantee granted to us by our supplier(s). The other party can only invoke our obligations under this clause after the other party has performed all its obligations resulting from the agreement concluded with us. If we are liable on any account, our liability shall be limited to the amount equal to the invoice value of the goods in question, exclusive of taxes, it being understood that we shall be only liable up to a maximum amount of € 5,000.00 (five thousand euros) per damage/loss event. A series of damage/loss causing events shall be deemed to be one single damage/loss event for the application of this clause. We shall never be liable for immaterial damage/loss, business damage/loss, indirect damage/loss, loss of profit or other consequential damage/loss. The other party shall be obliged to indemnify us against all claims from third parties related to the goods delivered by us, or, as the case may be, to the work carried out by us.

12. Non-compliance

If the other party is in default because it fails to perform any obligation towards us, or if there are reasons to fear that the other party will be in default, as well as in the case of an application for a moratorium, the granting of a (provisional) moratorium, an application for liquidation, or the cessation of (part of) the business activities of the other party, we shall be authorised, without prejudice to our other rights and without any obligation to pay any compensation, to fully or partially terminate the agreement(s) with immediate effect without any notification of default or judicial intervention being required, or to suspend the (further) performance of the agreement(s).

13. Cancellation

In principle, an assignment cannot be cancelled by the other party. If the other party nevertheless cancels an assignment fully or partially, we shall be allowed, regardless of the cause of such cancellation, to charge all costs made in all fairness in view of the execution of the assignment (inter alia, costs of preparation, components, storage, and such), without prejudice to our right to claim a compensation because of loss of profit and other damage/losses. In the case of cancellation the other party shall also owe costs of cancellation. Those costs amount to 30% (thirty percent) to 100% (one hundred percent) depending on deliveries already made/ work already carried out by us, of the order amount, to be increased by VAT (where applicable).

14. Force Majeure

In the case of force majeure we shall have the right to do the following, this at our sole discretion: to either suspend the execution of the agreement until the force majeure event will have ended, or to terminate the agreement, in as far as not yet executed, fully or partially without any judicial intervention or payment of any compensation by us being required. A force majeure event shall be understood to include all that occurs in all fairness beyond our direct control, inclusive of, but not limited to, strikes, lockouts, blockades, riots, breach of the peace, power shortages, interruptions in the supply of power, transport prohibitions, fire, industrial accidents, war or threat of war, acts of God, floods. There shall also be a case of force majeure if the circumstance in question was foreseeable at the time of the conclusion of the agreement.

15. Applicable law; competent court

These terms and conditions and all our offers and/or contracts of sale and/or agreements of accepting work shall be governed by Dutch law, this with the exception of the provisions of clause 7 of these general terms and conditions. The applicability of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded explicitly. The competent court of Rotterdam shall be authorised to hear all claims instituted by or against us, this without prejudice to our right to submit disputes to another competent court if this is desired. The above does not prejudice our rights to solve disputes by means of arbitration proceedings before the International Chamber of Commerce in accordance with the Arbitration Rules of the International Chamber of Commerce by one arbitrator. The place of the arbitration proceedings shall be Rotterdam, The Netherlands. The arbitration proceedings shall be conducted in the English language.

16. Lapse

Claims and defences, based on facts that would justify the point of view that the good delivered does not comply with the agreement, shall lapse by the expiration of one year after the delivery.

17. Conversion

If and in so far any provision of these general terms and conditions can not be invoked in all fairness and reasonableness, that provision shall be changed to have a meaning which resembles the purport and contents of the original provision as closely as possible, which changed provision can be invoked.

These General Terms and Conditions of Sale and Delivery were deposited with the Chamber of Commerce in Rotterdam under number 24156512. The version deposited most recently shall apply.