

General Delivery and Sales Terms and Conditions Secapp Buizen in Oosterhout

Article 1	General
1.1.	These general terms and conditions shall apply to all agreements that Secapp Buizen B.V., hereinafter referred to as "seller," enters into with the other party, hereinafter referred to as "buyer," which acts to practice a profession or operate a business, as well as to all negotiations preceding the closing of an agreement. Deviation from these terms and conditions is possible by mutual agreement, provided it is confirmed in writing by the seller.
1.2.	These terms and conditions shall apply to all seller's agreements in which seller undertakes to provide goods and/or services.
1.3.	Any purchase or other terms and conditions used by buyer shall not be binding to seller, unless and insofar as these have been expressly accepted by seller in writing.
1.4.	Trade definitions, used in offers, order confirmations or otherwise, must be explained in accordance with the international regulations for the explanation of trade definitions, prepared by the International Chamber of Commerce (ICC Incoterms) such as these are in effect at the time the agreement is closed, all this insofar as these are not contradictory to the general delivery and sales terms and conditions.
Article 2	Agreement
2.1.	Offers, price lists and other notices from seller do not bind seller.
2.2.	If an order is placed with one of seller's employees orally (including over the phone), then an agreement has been reached if this is confirmed as such in writing by the seller or if it may be concluded from the seller's action that it agreed to the delivery in question.
2.3.	In the event of a discrepancy between the buyer's order and the seller's written confirmation, then solely the seller's confirmation shall be binding. The Viennese Purchase Treaty is expressly rejected.
2.4.	If in seller's reasonable opinion the buyer's financial situation gives cause for this, seller has the right to request advance payment or security deposit and to suspend fulfillment of the agreement in whole or in part pending receipt thereof. In case this prepayment is not made or this security deposit is not provided in accordance with the seller's reasonable wishes, then seller has the right to dissolve the agreement upon single written statement to that effect and without judicial intervention, without prejudice to seller's right to damages, if there are grounds for this, and without buyer being able to lay any claim to damages.
2.5.	If seller cannot reasonably be expected to fulfill its delivery obligations as a result of circumstances beyond the seller's control, then seller shall have the right to suspend the delivery. If these circumstances should last longer than two months, then both parties shall have the right to dissolve the agreement with regard to the goods affected by such circumstances beyond their control by means of a single written statement for the future. Circumstances beyond one's control shall always include but not be limited to: <ol style="list-style-type: none">company disruption or business interruption of any nature, and irrespective of how that may have come about;delayed or too late delivery by the suppliers of the seller or one of these;transport difficulties or obstructions of any nature which hinders or prevents transport to the seller's company or from seller's company to buyer;import and export restrictions of any nature whatsoever;inaccurate provision of information by the seller's or buyer's supplier of any nature whatsoever.
2.6.	All additions, changes and further arrangements to the agreement are valid only if these have been agreed in writing.
2.7.	The goods are sold and delivered subject to the accepted tolerances for measurements, quantities and weights, unless expressly agreed otherwise.
2.8.	Seller is not liable for errors in representation, measurements, weights, quality or price (lists).
2.9.	Seller has the right to change the price at any time and without prior notice to buyer, regardless of whether this change was already foreseeable at the time the seller made the offer. A price increase up to 15% does not give the buyer the right to dissolve the agreement and/or the right to damages and/or discount.
Article 3	Delivery
3.1.	The agreed delivery dates are always approximate and never a deadline.
3.2.	Without prejudice to that which is set forth in Article 2 under 5 and also outside of a case of force majeure, exceeding the approximate delivery period shall not give buyer a right to dissolve the agreement and/or a right to damages, unless buyer proves gross negligence or intention of the seller.
Article 4	Quality and guarantee
4.1.	Seller deals only in materials that for various reasons have been rejected and that therefore do not meet usual quality standards. Seller therefore accepts no guarantee obligation whatsoever with regard to the quality of the sold and delivered goods. As is customary in agreements regarding such "rejected goods," upon leaving the warehouse, the goods are irrevocably purchased and accepted in the condition in which they are at that time, without prejudice to that which is stated in point 4.2. below.
4.2.	Buyer should check the delivered goods immediately upon delivery for any variations from the agreement. Any complaints must be submitted to seller in writing within 10 business days following the delivery date. Upon expiration of this term, the delivered goods shall be considered to be irrevocably and unconditionally accepted by buyer.
4.3.	If buyer makes a legitimate complaint pursuant to that which is stated above, then buyer has the option of choosing between redelivery or dissolution of the agreement in whole or in part insofar as seller has an attributable failure to perform despite written notice of default from the buyer. The buyer must keep the inadequate goods available to seller at no cost.
4.4.	Seller does not guarantee and is never deemed to have guaranteed or warranted that the purchased good is appropriate for the purpose for which buyer wishes to finish, process, distribute or use it. Various matters with due regard for that which is under 4.1. are stipulated. Samples are provided only as an indication.
4.5.	Seller, nor its employee(s) or third parties contracted by seller are ever, on any account whatsoever, liable for any damages to the buyer or any third party with regard to any obligation to deliver, delivering the goods, the delivered goods themselves or the use thereof, or for any work or advice.

4.6.	If seller shows or provides a model, then this model is assumed to be shown or provided merely as a means of indication. The qualities of the goods to be delivered may differ from the model or sample.
Article 5	Purchase, transport, or existence
5.1.	Sold goods are delivered ex warehouse (EXW, Incoterms 2000) unless parties have expressly agreed otherwise.
5.2.	If the goods, regardless of the agreed means of transport and delivery, are ready for purchase by buyer and seller has notified buyer hereof, then buyer is obliged to purchase immediately. Failure to comply with this obligation gives seller the right to store the goods or keep them stored at the expense and risk of the buyer respectively and to charge buyer without that payment can subsequently be refused due to purchase having not yet taken place.
5.3.	When transport takes place from seller, the goods are at seller's risk until the time of delivery at the agreed destination. As soon as the means of transport has arrived at buyer's location, the buyer is obliged to unload as quickly as possible. If buyer fails to meet this requirement, he is liable for damages arising there from, such as those of delays, storage elsewhere etc.
Article 6	Payment
6.1.	Buyer must make payment in Dutch currency, unless indicated otherwise by seller in writing.
6.2.	Buyer shall be considered to be in default of payments without a demand for payment or notice of default being required after expiration of the period referred to under 1 if no payment in full has been made within the period, or if buyer requests suspension of payments or is declared to be in bankruptcy before those periods expire.
6.3.	In the case mentioned in the preceding paragraph, buyer owes seller interest on the unpaid balance until the date of payment, at an interest rate of 2% above the promissory note discount rate of the Dutch Bank plus the additional bank charges on debit interest in effect at that time. If seller must take legal (or out-of-court) measures with regard to absence of timely payment, then all charges and costs associated with that shall be at buyer's expense, without prejudice to the right to damages.
6.4.	Seller has the right to credit all payments to the amounts owed to seller by buyer resulting from delivery, interest and/or fees in the order chosen by seller, regardless of provisions or payments to the contrary.
Article 7	Retention of title
7.1.	All delivered goods shall remain the exclusive property of the seller until which time buyer has met all its obligations stemming from or related to agreements in which seller has committed to delivery. Until that time, buyer is obliged to keep the goods delivered by the seller separate from other goods and to store them clearly identified as seller's property.
7.2.	The retention of title leaves intact the right of buyer or within the normal running of his business to sell the goods to customers as well as its right to process the goods, as long as the seller does not use his right to terminate these rights of the buyer due to buyer's non-fulfillment of its obligations to seller.
7.3.	Buyer undertakes to pledge to seller the claims stemming from the sale of goods delivered to it to third parties as security of the claim from seller to buyer. Buyer is obliged to cooperate fully with establishment of a legally valid pledge, even if its claims relate to adapted or processed goods.
Article 8	Liability
8.1.	Seller shall not be liable for direct or indirect damages respectively suffered by the buyer or by third parties, including but not limited to stagnation in any way associated with or caused by an error in the execution of the agreement by seller, with the exception of gross negligence or intention on the part of seller.
8.2.	Buyer indemnifies seller against all claims from third parties, whether direct or indirect, that pertain to fulfillment of the agreement. Buyer specifically indemnifies seller against claims from third parties due to damages caused by buyer having provided inaccurate or incomplete information to seller. To assess the provision of information from buyer to seller, the administration of the seller shall be conclusive.
8.3.	If buyer shows that he has suffered damages through gross negligence or intention from seller, then seller shall be liable for those damages only up to a maximum equal to the amount that buyer owed to seller pursuant to the agreement from which the damages resulted. The liability of seller is furthermore in any case limited to no more than the amount that in such case is paid out by liability insurance, plus the deductible in effect in this case.
Article 9	Shortened period of limitation
	All legal claims made by buyer to seller on the basis of the agreement or the law shall expire upon lapse of one (1) year after the term of prescription in accordance with the legal rules began.
Article 10	Disputes
10.1.	All seller's agreements shall be governed by Dutch law. If these general delivery and sales terms and conditions are also drawn up in a language other than Dutch, the Dutch text shall always be deciding in the event of a dispute.
10.2.	Any disputes that may arise between parties shall be adjudicated exclusively by the competent court in the Netherlands within whose jurisdiction the seller's place of business (also the place the agreement was executed) is located unless the law through imperative rules of law has declared another court to have jurisdiction.