



Mercurius BV
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Web : www.mercurius-international.com
KVK .: 17058329

General Terms and Conditions of Delivery and Payment Mercurius B.V.

Clause 1. General

1. These Terms and Conditions are applicable to all offers, quotes and agreements for purchase and sale entered into with Mercurius B.V. in Eindhoven (hereinafter to be referred to as Mercurius B.V.).
2. By entering into an agreement with Mercurius B.V., the Other Party waives any terms and conditions used by them, referred to by whichever name, so that only the Terms and Conditions used by Mercurius B.V. are applicable.
3. Provisions varying from these Terms and Conditions only bind Mercurius B.V. if they have been agreed explicitly and in writing.
4. If any provision in these General Terms and Conditions is (partially) null and void or is voided at any moment, the other provisions of these Terms and Conditions will remain fully in effect. User and Other Party will consult with each other to agree new provisions to replace the void or voided ones. In doing so, the purpose and meaning of the original provisions will be taken into account as much as possible.
5. In these General Terms and Conditions, Other Party is taken to mean: every legal or natural person, who has entered into an agreement with Mercurius B.V., or wishes to enter into an agreement respectively and apart from him/her, his/her representative(s), authorised representative(s), successor(s) and heir(s).
6. Each agreement entered into between Mercurius B.V. and Other Party is fully binding for both parties.

Clause 2. Quotes and Offers

1. All offers and quotes made by Mercurius B.V., in which the contrary is not explicitly stated, are fully without obligation and subject to price change. Slight colour differences and/or interim model changes cannot be excluded.
2. Mercurius B.V. has the right to refuse an assignment without stating the reasons.
3. Mercurius B.V. cannot be held to its quotes or offers if the Other Party can reasonably understand that the quotes or offers, or part thereof, contain an obvious mistake or error in writing.
4. Price increases resulting from supplements and/or changes to the agreement are to be paid for by the commissioning party.
5. In case the Other Party should appear not sufficiently creditworthy for the fulfilment of the agreement in Mercurius B.V.'s opinion, Mercurius B.V. shall be entitled to suspend all its contractual obligations, without prejudice to Mercurius B.V.'s right under the terms of the law or these Terms and Conditions.
6. The models, images, drawings and dimensions, which were shown with, added to or communicated with the quotes, provide a general representation of the items offered. Changes to the construction, due to which the actual version deviates slightly from the models, images, drawing or dimensions referred to, but due to which no essential change is made to the technical and aesthetic version of the items, do not oblige the seller to any reimbursement and do not give the purchaser the right to refuse receipt or payment of the goods delivered.

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Clause 3. Delivery

1. The delivery period stated by Mercurius B.V. can never, even after notice of default, give claim to compensation or dissolution of the agreement, the latter except if parties, considering the duration of the transgression, decide on dissolution by mutual agreement.
2. The delivery takes place to the Other Party's domicile or warehouse, unless explicitly agreed in writing otherwise. Unless explicitly agreed otherwise, the standard dispatch rates for delivery are charged to the Other Party.
3. If Mercurius B.V. needs details from the Other Party to fulfil the agreement, the fulfilment term shall not commence sooner than the Other Party has made these available to Mercurius B.V. correctly and in full.
4. Delivery shall take place from one of Mercurius B.V.'s warehouses. The purchaser is obliged to take delivery of the items at the moment they are made available to him. If the purchaser refuses to take delivery or fails to supply information or instructions that are necessary for the delivery, Mercurius B.V. is entitled to store the items or have them stored for the purchaser's account and risk.
5. Mercurius B.V. has the right to have particular work performed by third parties.

Clause 4. Prices and Rates

1. All prices are excluding VAT, any transport costs and other government levies, unless explicitly agreed otherwise.
2. If Mercurius B.V. agrees a fixed price with the Other Party, Mercurius B.V. shall nonetheless be entitled to raise the price at all times without the Other Party in that case being entitled to dissolve the agreement for that reason, if the price increase ensues from a right or obligation as a result of the law or regulation or is caused by a price increase for raw materials, wages etcetera or by other reasons that could not be reasonably foreseen upon entering into the agreement.

Clause 5. Force Majeure

1. In the event of force majeure, either of a permanent or temporary nature, Mercurius B.V. shall be entitled to dissolve the agreement in full or in part or to suspend it temporarily without the Other Party and/or third party being able to enforce a claim and/or damages. Force majeure includes: strikes, boycott, interruption of operations, interruptions in traffic or transport, scarcity of raw materials, fire, machine breakdown and any other circumstances, under which full or partial fulfilment of the agreement cannot in reasonableness and fairness be required from Mercurius B.V.
2. If, due to force majeure, the delivery is delayed by more than two months, the Other Party, besides Mercurius B.V., shall also be entitled to dissolve the agreement in writing. In this case, Mercurius B.V. has a right to reimbursement of the costs it incurred.
3. If the force majeure occurs while the agreement has already been fulfilled in part, the Other Party shall be entitled, if the remaining delivery is delayed by more than two months due to force majeure, to either keep the already delivered part of the goods and to pay the purchase sum due on it, or to also consider the already fulfilled part of the agreement as dissolved, under the obligation of sending all that had already been delivered back to Mercurius B.V. for the Other Party's account and risk, if the Other Party can demonstrate, that the



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already delivered part of the goods cannot be used effectively anymore due to the non-delivery of the remaining goods.

Clause 6. Liability

1. Mercurius B.V. is not liable for any damage that could arise for the Other Party or for a third party as a result of using Mercurius B.V.'s products, unless the applicable statutory regulations and/or these Terms and Conditions explicitly state otherwise.
2. In all cases, Mercurius B.V.'s liability is limited to maximum the invoice amount of the items delivered.
3. Mercurius B.V. is never liable for any indirect loss, including consequential loss, lost profit, lost savings and damage due to business standstill.

Clause 7. Applicable Law and Disputes

1. All legal relationships in which Mercurius B.V. is party are exclusively governed by Dutch law, even if a commitment is performed abroad in full or in part or if the party involved in the legal relationship has its domicile there. Applicability of the Vienna Sales Convention is excluded. The court in Mercurius B.V.'s place of business has exclusive jurisdiction to take cognizance of any disputes, unless the law imperatively prescribed otherwise. Nevertheless, Mercurius B.V. has the right to submit the dispute to the court competent according to the law.
2. Parties shall only appeal to the court after they have made every effort to settle the dispute by mutual consultation.

Clause 8. Complaints and Right of Return

1. Complaints should be taken to mean all the Other Party's grievances concerning the capacity of the delivery.
2. The Other Party is obliged to check a delivery immediately upon delivery for visible damage, and report this to Mercurius B.V. in writing immediately.
3. Complaints in connection with visible damage must be made with the carrier by holding them liable within 48 hours.
4. The Other Party is obliged to check the consignment for accuracy and volumes within 3 working days, and to report any differences to Mercurius B.V. immediately.
5. If a defect is reported later, than stated in items 3 and 4, the purchaser shall no longer be entitled to repair, replacement or compensation.
6. If goods were delivered to the Other Party, not being furniture, and items especially ordered for the Other Party (being items of which Mercurius B.V. does not keep stocks) with right of return, the Other Party must communicate its wish to exercise its right of return within 5 working days from delivery, in writing or by telephone. Mercurius B.V. will then communicate how the goods should be returned. The goods to be returned must have been returned at the latest within 1 calendar month from delivery. The goods not yet returned then shall be considered as having been purchased.
7. Any complaints about delivered furniture, concerning guarantees, must be reported to Mercurius B.V. in writing immediately after establishment.

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8. In the event of a justified complaint, Mercurius B.V. shall be obliged to replace, repair or credit the goods objected to as soon as possible after receipt of the returned goods, without Mercurius B.V. being able to be held responsible for any damage suffered.
9. Returned goods are credited at maximum the previously calculated prices.
10. By lodging a complaint, the Other Party's payment obligation concerning the disputed goods is not suspended.

Clause 9. Guarantees

1. Mercurius B.V. guarantees the soundness, as well as the quality of the goods delivered and/or processed by it, all this with due regard for the provisions made elsewhere in these Terms and Conditions.
2. The guarantee period stated by the manufacturer is observed by Mercurius B.V.
3. Claims under guarantee only comprise the replacement or repair respectively of the goods involved. Any loss, both direct and indirect, that has arisen due to the not proper functioning of the goods delivered by Mercurius B.V., falls outside the guarantee.
4. Claims to guarantee are not acknowledged, if the factory instructions were not observed for use of the goods, if the delivered items are used for other than the normal purposes or have been treated, used or maintained in an improper manner.
5. If the delivered item is repaired or changed by the Other Party itself, Mercurius B.V. does not acknowledge any guarantee claims.
6. If the Other Party does not meet its obligations, Mercurius B.V. shall also be released from its (guarantee) obligations as a result of this.

Clause 10. Payment

1. Unless explicitly agreed otherwise, payments should be made to a bank account to be designated for this purpose by Mercurius B.V., in the same currency as in which Mercurius B.V. invoiced, without deduction or settlement, within 30 days from invoice date.
2. Besides the capital sum, Mercurius B.V. is entitled to claim from the commissioning party all costs, both judicial and extrajudicial, that have arisen due to non-payment or overdue payment.
3. In the event of partial delivery, the Other Party is obliged to pay the related invoice as if it concerned a separate transaction.
4. From the day following the day on which the payment term expired, the Other Party owes Mercurius B.V. for each transgression of the payment term by 30 days interest due to overdue payment to the amount of 2% of the payable amount.
5. Mercurius B.V. always has the right to require security for the payment both before and after the formation of the agreement, such under suspension of the fulfilment of the agreement by Mercurius B.V. until the security has been furnished; all this without prejudice to Mercurius B.V.'s right to fulfilment, compensation and/or partial or full cancellation of the agreement, all this without any judicial intervention and without Mercurius B.V. being obliged to pay any compensation in this connection.

Clause 11. Retention of Title

1. All delivered goods remain Mercurius B.V.'s property until they have been paid for in full. The Other Party is fully entitled to sell the goods on and/or process them in a normal manner. However, for as long as the



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payment for them has not taken place in full, the Other Party shall not be entitled to pledge the goods or furnish them to third parties as security in the broadest sense of the word. The Other Party is obliged to show the goods upon Mercurius B.V.'s first demand and to return them to Mercurius B.V. on request in the event of payment default and in the cases referred to in Clause 13 of these Terms and Conditions.

Clause 12. Intellectual Property Rights

1. Catalogues, calculations, models, specifications and such like supplied by Mercurius B.V. to the Other Party may not be multiplied or sold to third parties by the Other Party, except with explicit permission from Mercurius B.V.
Mercurius B.V. retains the explicit ownership of the productions referred to in this Clause.
2. Upon violation of the provision stated in subclause 1 of this Clause, the Other Party shall forfeit an immediately payable penalty which is not open to judicial mitigation of € 25,000, without prejudice to Mercurius B.V.'s right to recover the loss suffered and costs incurred by it from the Other Party.

Clause 13. Dissolution

1. Without prejudice to any other rights belonging to Mercurius B.V. and the provisions elsewhere in these Terms and Conditions, Mercurius B.V. can consider an agreement as dissolved, without judicial intervention and without any notice of default being required, in case the Other Party is or remains in default in the settlement of its payment obligations, the Other Party applies for suspension of payment, a petition for its liquidation is filed, the Other Party loses the power to dispose of its capital and/or income in full or in part or if any part of its possessions and/or assets is attached, or in case the Other Party sells or winds up its company.
2. If the purchaser cancels a placed order in part or in full, the items ordered or prepared for this, plus any related supply, removal and delivery costs and the working hours reserved for the fulfilment of the agreement, shall be fully charged to the purchaser.

Clause 14. Location of and Amendment to Terms and Conditions

1. These Terms and Conditions have been deposited with the Chamber of Commerce in Eindhoven.
2. Applicable shall always be the most recently deposited version or the version as was applicable upon the formation of the legal relationship with Mercurius B.V.
3. The Dutch text of the General Terms and Conditions shall always be decisive in the interpretation thereof.