

General Terms of delivery and payment

Pinarci Port Equipment B.V. in NIJKERK, THE NETHERLANDS

Article 1. Applicability

1. These general terms and conditions apply to all our offers and to all our agreements entered into, irrespective of what said documents are called. These terms and conditions apply in particular to agreements (initiated by us) concerning the delivery of goods to our buyers.

2. Whenever the term "buyer" is mentioned in these general terms and conditions, it refers to any natural person or legal entity who has a contractual relationship with us based on a purchase agreement between us, or some other type of agreement.

The term "buyer" in particular means the party that placed the order and is responsible for payment.

3. Any deviation from these general terms and conditions shall only be accepted if done so expressly in writing.

4. If the buyer also refers to (its) general terms and conditions, the terms and conditions of the buyer are not applicable. The terms and conditions of the buyer are only relevant for so far as they do not contradict our own general terms and conditions. Any other agreement in the terms and conditions of the buyer does not alter the above.

5. Where "delivery (of goods)" is mentioned in these general terms and conditions, it means the delivery of services and work of any nature whatsoever.

Article 2. Quotes

1. All our quotes should be considered as an invitation to our potential buyer to make an offer. We are in no way bound by the quotes, unless it is explicitly and unambiguously stated in writing in the quote itself. The order received by us is deemed to be an offer by the buyer, which is only accepted by us after we give a written confirmation (the so called order confirmation).

2. A quote includes: designs, drawings, models, samples, descriptions, illustrations and the like, as well as possible attachments and other items which are related to our quotes. All of this, just as the tools made for this contract, remains our property and must be returned to us on request. None of the above may be copied or/and given to third parties without our explicit written permission. We retain all rights flowing from our intellectual and industrial property.

3. Should the order (with regards to the quote) not be placed within 3 weeks after the day that we have produced our quotation, we can claim the costs from the buyer. These costs are for producing the quotation and for producing the tools which were mentioned in the previous paragraph.

Article 3. The contract comes into being

1. A contract with us comes into being only after we have accepted in writing an order which was placed with us. The moment at which a contract with us comes into being is when we have received the total amount of the pro forma invoice on one of our bank accounts.

2. The buyer is legally bound to his order, no matter how it was placed, after accepting our quote or after the date on which the order was signed or after placing the order (when it concerns a verbally placed order). A request by the buyer to cancel or change the order after full payment of the invoice, does not change the fact that a contract was entered into based on the (original) order, if we accept/confirm the order within this period of 8 days.

3. The order confirmation or the pro forma invoice, which is send to the buyer by us, is deemed to represent the contract accurately and in full. The buyer is deemed to be in agreement with the content of our order confirmation or the pro forma invoice, unless he notifies us in writing within 8 days after the signing by us of the order confirmation or the pro forma invoice that he is not in agreement with the content.

4. Additional agreements and/or promises made by our employees, or made on behalf of us and/or other persons acting as our representatives are only legally binding if said agreements and/or promises were confirmed in writing by our managers who are authorised to represent us.

Article 4. Prices

1. Our prices exclude value added tax and unless specified explicitly in writing, exclude: packaging; transport costs and any other costs.

2. The prices in quotations, contracts and order confirmations are based on the cost factors as they were at the time when the contract came into being. These cost factors include: exchange

rates; manufacturer prices; prices of raw materials and other materials, labour and transport costs, insurance premiums, taxes, import duties; other taxes and charges imposed by the State.

3. We reserve the right to bill the buyer for any increases in the cost factors, if such an increase occurred after the date that the contract came into being, but before the delivery date.

Furthermore we have the right (in similar circumstances) to annul the contract in whole or part without further legal intervention. This buyer also has this right, but only if we, within 3 months after the contract came into being, determine that the price of the contract will increase due to a change in the cost factors. If the buyer exercises this right, he should terminate the contract by registered letter, within 5 days after receiving the appropriate notification from us.

Article 5. Delivery and Supply periods

1. The delivery times supplied by us are valid from the day that we have received the total amount of the pro forma invoice, provided that all information relevant for processing the order is in our possession. The delivery times supplied by us should never be seen as a deadline, unless explicitly stated otherwise in the individual agreement. When delivery is not made in time, we should be notified in writing that we are in breach of contract. If an individual contract specifies a penalty for not delivering in time, this penalty is not payable if the late delivery is due to a force majeure (Act of God) as described in article 10 of these General Terms.

2. Delivery of goods is ex-works, unless stated otherwise in the order confirmation. Furthermore goods are expedited at expense and risk of the buyer. Delivery of goods for foreign buyers is ex-works, unless stated otherwise in the order confirmation. Furthermore goods are expedited at expense and risk of the foreign buyer. Custom clearance is arranged by us, but it is to be paid by the buyer.

3. Goods are shipped (in our assessment) in a suitable manner and by an expediter of our choice, unless the buyer arranges his own shipping.

4. We will charge the buyer for costs incurred if he decides to have the shipping done in a different way than usual.

5. We reserve the right to consider every delivery as a separate transaction, if delivery takes place in stages.

6. The buyer is obliged to take over that, which he has purchased, within the agreed period of time. If the buyer does not fulfil these obligations, we have the right, at our own choosing, based on the definition in article 6:60 of the "Burgerlijk Wetboek" (Dutch Civil code) to demand: that the duly authorised and competent judge relieve us from our commitment of delivery of the agreed goods; without serving notice, to claim payment of the purchase price of non-delivered goods. If the buyer does not settle his payment obligation, we reserve the right to annul the contract without further legal intervention. If the buyer fails to pay when demanded, the goods will be considered to be delivered and we will store the goods at the expense and risk of the buyer as compensation for the costs resulting from this.

Article 6. Claims by the buyer

1. The buyer is legally responsible for the accuracy and the completeness of the information that he provides us. The buyer should take into consideration the accepted margin and small changes with regards to measurements, colour fastness and the like of delivered goods in the information provided by us in our quotation (or which concerns ex article 2 paragraph 2). In particular this is relevant to the accepted margins with regards to the contracted quantities. The goods delivered by us may therefore differ from the description in the order in as much as it concerns small differences in the measurements, quantities and minor changes.

2. Complaints of the buyer, which concerns defects of goods which are externally visible, have to be communicated by the buyer to us within 8 days after delivery (or else within 8 days after invoice date, if the goods were or could not be delivered). This has to happen by registered post with herein a clear and precise specification of the complaint and referencing the invoice, wherein the concerning goods were charged. The buyer has to carry out a precise and timely control.

3. Defects which were not externally visible at the time of delivery, nor were noticed during a precise and timely control, have to be communicated to us by the buyer within 8 days after discovering the defects. It should be communicated as mentioned in paragraph 2.

4. Each claim by the buyer on us concerning goods which are delivered by us, lapses when:

a. the defects were not communicated to us within the specified time period and /or way as described in paragraph 2 and 3;

b. the buyer gave no/insufficient cooperation in our investigation of the complaints;

- c. the buyer incorrectly set up, treated, used, stored or maintained the goods or used or treated the goods under circumstances or for purposes that we did not anticipate.
- d. the application of using the goods is being continued by the buyer in connection with the mentioned complaints;
- 5. In the event of a dispute about the quality of goods delivered by us, we will appoint a bureau of good repute to make a binding decision.

Article 7. Liability

1. When we deliver goods that have no guarantee from third parties (like manufacturers), the buyer can not make a (guarantee-) claim against us. Our liability will then be restricted to defects caused by faulty manufacturing or faulty material. The buyer purchases the goods AS IS.
2. If we are liable due to a claim about the quality, considering that we have ascertained the validity of the claim, we are obliged to exclusively, and at our own choice to:
 - a. repair the defects (free of charge);
 - b. delivery of replacement goods and/or parts, after the return of faulty goods and/or parts;
 - c. refund the received purchase price/ credit entry of the buyer's invoice, with annulment of the contract without further legal intervention, as far as the purchase price, the invoice and the contract are related to the faulty goods.;
 - d. by mutual agreement, the buyer is paid compensation in another form than mentioned above.
3. If the buyer, without prior, explicit written permission has carried out or does carry out repairs and/or changes of the goods, any guarantee obligations on our part are voided.
4. With the exception of our possible obligations concerning the situations mentioned above, we are in no way obliged to payment of any damages to the buyer and other people, unless there is malice aforethought or guilt on our part (this needs to be legally proved by those bringing the claim). We are also never liable for consequential or trading loss, direct or indirect damage, loss of profit (however it is called) and damage by standstill – suffered by the client, his workers and people who are set to work for him, or third parties caused; by complete or partial (re-)deliveries of goods, delayed or defective delivery, or that the delivery of goods keeps on being not delivered or by the goods itself.
5. The buyer is not authorised to return goods that have no justified claims. If this still happens without any valid reasons, then all the return costs will be billed to the buyer. In such a case we are at liberty to store the goods with third parties at the expense and risk of the buyer.
6. The buyer is required to indemnify us against all claims from third parties regarding the execution of the contract, in as much as it does not conflict with the law that damages and costs resulting from the claims are for the expense of the buyer.

Article 8. Assertion of Ownership and Certainty

1. The goods delivered by us remain our property right up to the moment of full payment of that which the buyer owes us with regards to, related to or resulting from the goods delivered by us. If we consider that it is needed, we have the right to demand from the buyer that he gives us certainty with regards to meeting his obligations.
2. The buyer does not have the right to pawn or pledge the unpaid goods; to establish un-propertied right of distraint; or to establish on some other business or person rights on behalf of a third party.
3. Without prejudicing the provisions in this article, the buyer is allowed to sell the goods to a third party, but only if this is part of his normal trading. In that case the buyer is obliged to transfer the received amounts to us without delay. If the received amount is a claim, then this should also be transferred to us without delay.
4. If our right of ownership, on the goods delivered by us, is lost as a result of processing or rework by the buyer, the buyer is obliged to grant us an un-propertied right of distraint on the processed or reworked goods.
5. We are, at all times, entitled to repossess goods of which we have ownership, which are located at the buyer (or third party), as soon as we can reasonably assume that there is a real chance that the buyer will not meet his obligations. This in no way diminishes our common law rights; specifically we also reserve the right to claim damages from the buyer after repossessing goods of which we have ownership.
6. The buyer is required to insure unpaid goods against the risk of fire and theft and must be able to produce proof of this insurance upon request.

Article 9. Payment

1. Payment should be settled in Euro, unless agreed otherwise; cash (without any deduction or cash discount) at the location where our offices are located; money transfer into our bank- or giro account, in both cases directly after acceptance of the quote and receiving the pro forma invoice. Payment can only be made otherwise if agreed to explicitly in writing.

When paying by bank- or giro, the day on which the money is credited to our bank- or giro account will be considered as the day of payment.

2. If the buyer does not make full payment on time, he is in default of payment without notice thereof having to be served. In that case we are entitled, if there is a sufficient relationship with the default of the buyer, to suspend meeting our obligations with regards to all contacts with the buyer, without prejudicing our common law rights.

3. Furthermore, we are entitled to require payment in cash, or a guarantee of timely payment for all deliveries still to be carried out. Furthermore we are entitled in that case to annul the agreement without further legal intervention, whereupon the buyer is required to return the delivered goods or else revert anything we have accomplished for the buyer, without prejudicing our right to claim for damages. If the buyer persists in default of timely payment, then he forfeits to us, or the credit insurer of the seller, without any specific legal notification on our part, commencing from the settlement date until the day of full payment, an interest payment equal to the legal interest rate plus 4% per year, calculated over the unpaid amount, which interest payment is immediately claimable, without further notice of default. The debtor is liable for all costs concerned with the collection of the invoiced amounts (including extrajudicial collection costs). The extrajudicial collection costs will be a minimum of 15% of the principal amount and a minimum of €500, -- all exclusive of value added tax. In addition, all adverse consequences of an exchange rate loss, or otherwise resulting from late payment or non-payment is for the expense of the buyer, even if the buyer met his payment obligations according to the rules and regulations of his own country; or circumstances or measures beyond his control that caused a transfer of funds to us to be disadvantageous to us.

4. The extent of payments are in accordance with article 6:44 of the "Burgelijk Wetboek" (Dutch Civil code); the costs referred to in paragraph 3; the due interest and finally the principal amount and current interest payments.

5. If the financial position of the buyer deteriorates substantially after the contract comes into being, but before delivery of the goods, we are entitled to annul the contract in part or in full or to demand a change in terms of payment.

6. The seller can transfer his claims with regards to all transactions, to a credit insurer of his choice.

7. Reservations are valid when the buyer commits himself with a downpayment of minimum 15% of the full invoice amount. This will give the buyer the rights on reservation for a period of 14 days. In all circumstances that the buyer cannot come up to his obligations as well declining the order he will lose his rights on the refund of the downpayment. These rates and time terms are valid if not mentioned otherwise on the invoice.

Article 10. Force Majeure ("Act of God")

Force Majeure is understood to mean all circumstances which are beyond our control and of which we cannot in all reasonableness be expected to honour our obligations in terms of the contract (not imputable shortcomings in compliance). Force Majeure includes: war, riots and hostility of types, blockade, boycott, natural disasters, epidemics, shortage of raw materials, obstruction and interruption of transport, failures/malfunctions in our company, import and export restrictions or prohibitions, impediment caused by regulations, laws or decisions of international, national and regional (government-) authorities.

If, due to Force Majeure, we are unable to deliver; deliver properly or on time, we are entitled, at our own choosing, to annul the contract or to annul the unexecuted part of the contract; suspend the contract for a determined or undetermined time. In the event of Force Majeure the buyer cannot claim damages from us.

Article 11. Applicable law

All our quotes and agreements entered into by us are exclusively applicable to and governed by Dutch law (Kingdom of the Netherlands).

Article 12. Settling disputes

All disputes in any form whatsoever being connected with or resulting from agreements entered into by us; deliveries executed by us, will be adjudicated by a duly authorised and competent judge in the Netherlands.