

General Terms and Conditions of Sale and Delivery of Van Ommen B.V.

2015 Terms and Conditions of Delivery 3.1

Filed with the Chamber of Commerce in Apeldoorn, the Netherlands, under number 08038449

If the original Dutch terms are translated, the translation shall be for information purposes only. Any translation shall not constitute valid terms. In the event of any discrepancy, the Dutch terms shall prevail!

Article 1 General scope

1. All offers and contracts for the performance of deliveries and/or services, including all contracts or clauses in contracts intended for the transfer of ownership, are governed exclusively by the following conditions. Any reference by the Customer to its own purchasing conditions or other terms and conditions is explicitly rejected by the Supplier.
2. In these terms and conditions of sale and delivery, the following meanings shall apply:
 - Product: goods, acceptance of work, as well as services such as maintenance, assembly, advice and inspection.
 - In writing: document signed by both parties or letter, fax, email or online order or any other technical method agreed by Parties
 - Supplier: Import- en Groothandel Van Ommen B.V., the party which refers to these terms and conditions in its offer and/or in the confirmation of the order;
 - Customer: the party to whom the order and/or confirmation of the order is made out.

Article 2 Offers

1. Any offer made by the Supplier is without obligation and subject to contract.
2. Any offer is based on the Supplier's performance of the contract under normal conditions and during normal working hours.

Article 3 Contract

1. A contract shall only come into effect once the Supplier has accepted an order. If the contract is entered into in writing, it shall come into effect the day the contract is signed, or the day the Supplier sends confirmation of the order.
2. Verbal promises given by and agreements with the Supplier's employees shall only be binding on the Supplier after and insofar as it has confirmed them in writing.

Article 4 Price

1. Prices quoted by the Supplier do not include sales tax or other government levies applying to the sale and delivery and are based on delivery CPT (location within the EU as specified by the Customer) in accordance with the Incoterms in force on the date of the offer, unless stipulated otherwise in the terms and conditions.
2. If, after the date of the formation of the contract, one or more cost factors increase - even if this is due to foreseeable circumstances - the Supplier shall be entitled to increase the price agreed accordingly.
3. The Supplier retains title to all display cases and other display material it has given on loan and, after the agreed period of use, these must be returned to the Supplier in their original state. All display material made available by the Supplier is intended exclusively for products or marketing material of the Supplier.

Article 5 Drawings, images, calculations, descriptions, models and the like

1. Data mentioned in catalogues, price lists, leaflets, drawings, images, specifications of measurements and weights and the like are only binding if and insofar as they are expressly included in a contract signed by the Parties or a confirmation of an order signed by the Supplier.
2. The Supplier retains title to offers made by it, as well as drawings, images, calculations, descriptions, models, software and the like created or supplied by it, whether or not a charge has been made for them.
3. The Customer gives the assurance that the Information referred to above will only be copied, modified, shown to third parties, disclosed or used with the Supplier's written permission, except when in the performance of the contract.

Article 6 Delivery

1. The delivery period quoted is based on the circumstances valid at the time of the conclusion of the contract and on timely delivery of the purchased products. If, through no fault of the Supplier, a delay should occur as a result of a change in the circumstances referred to above or because the purchased materials and/or tools are not delivered on time, the delivery period shall be extended insofar as necessary.
2. Without prejudice to the provisions elsewhere in these terms and conditions with respect to the extension of the delivery period, the delivery period shall be extended by the length of the delay experienced by the Supplier as a result of the Customer's failure to comply with any of its obligations arising from the contract or to give the assistance required of it in respect of the performance of the contract.
3. Except when the Supplier has acted with intent or gross negligence, transgression of the delivery period shall not entitle the Customer to wholly or partially dissolve the contract, nor shall the Supplier be liable for the consequences of exceeding this period. Transgression of the delivery period - for any reason whatsoever - shall not entitle the Customer to carry out works or cause works to be carried out in performance of the contract without court authorisation.
4. Unless agreed otherwise in writing, all products, including those sold carriage paid, shall be delivered CPT customer's place of business within the EU in accordance with the Incoterms in force on the date of the offer. Obligations agreed with third parties shall not change this and are deemed to have been accepted in the Customer's interest and at the Customer's expense.
5. The Supplier shall be entitled to store products that are ready and cannot be transported to their destination for reasons beyond its control, or to cause them to be stored, at the Customer's expense and risk, and to demand payment. In doing so, the Supplier will have performed its obligation to deliver, without prejudice to its obligation to inform the Customer of this in writing.
6. The means of transportation shall always be chosen by Supplier. Obstacles or temporary impediments affecting the chosen means of transportation do not oblige supplier to choose another.

7. Shipping costs will be confirmed and billed to the Customer separately.

Article 7 Inspection

1. If it is agreed that the Customer is to inspect the products or cause them to be inspected at the Supplier's warehouse and the Customer does not exercise this right within ten working days after having been notified of the opportunity to do so, the products shall be considered as having been definitively accepted by Customer.
2. The costs of this inspection shall be borne by Customer.

Article 8 Payment

1. Unless otherwise agreed in writing, payment must be made within 30 days after the date of the invoice.
2. So long as the Customer has not paid the price owed by it, insofar as such price is due and payable, the Supplier shall be entitled to suspend the fulfilment of its obligations.
3. If the Customer does not pay within the agreed term, the Customer shall automatically be deemed to be in default, and the Supplier shall be entitled, without any further notice of default being required, to charge the Customer interest from the due date at a rate that is 3 points above the statutory rate in force in the Netherlands, as specified in Article 6:119a and Article 6:120 para. 2 of the Civil Code of the Netherlands [*Burgerlijk Wetboek*], plus all court and other costs related to the collection of the debt. By virtue of Article 6:96 of the Civil Code of the Netherlands, the Supplier reserves the right to bill € 40 out-of-court expenses for invoices not settled within the agreed term.
4. The Supplier shall retain title to the products until the Customer has paid all sums owed to the Supplier by the Customer for goods delivered or works carried out, including interest and costs. Until full payment has taken place, the Customer is not authorised to pledge or transfer the ownership of the products to a third party. Should this occur, the Supplier is entitled to unimpeded access to the products. The Customer shall lend the Supplier every assistance to enable the Supplier to exercise its retention of title by taking back the products.

Article 9 Complaints/return shipments

1. Complaints concerning defects which are apparent on receipt must be submitted in writing as soon as possible after discovery, and at the latest within 14 days following receipt of the goods. Once this period has passed, all claims against the Supplier for such defects shall lapse. Legal action must be taken within 1 year following a timely complaint, on pain of forfeiture. Without prejudice to the provisions laid down in Article 10, the Supplier is not obliged to accept complaints and return shipments that reach it more than four weeks after the Customer has received the products.
2. Return shipments must first be requested on the website, following which the Customer will be given an RMA number. In the case of return shipments, products must be returned in perfect condition, in the original packing and carriage paid (without Customer's marks, stickers, etc.) and must always be accompanied by the delivery note or invoice. Otherwise, the return shipment may be rejected or a 10% return charge may be made, at the Supplier's discretion and option.
3. Non-standard items such as band saws welded to size and specials ordered or ground cannot be returned.
4. In the event that the Customer has a justified complaint - at the Supplier's discretion - the Supplier will repair the product as soon as possible, send the Customer replacement products or a credit note, at the Supplier's discretion.
5. The Customer may return items within 90 days following the original date of receipt, unless such items were produced specially for the customer ('specials'). For products received over 90 days previously, but within 1 year, an additional return charge of 10% shall apply. Items received more than 1 year previously cannot be returned.
6. Return shipments with a net purchase value of less than € 50 will not be processed.
7. The standard charge for processing returned items is € 5 and will be billed to the Customer by the Supplier.

Article 10 Guarantee and liability

1. The Supplier guarantees the products supplied for a period of six months after commissioning, however for a maximum period of nine months after delivery or shipment, i.e. the Supplier will repair or replace (at the Supplier's discretion), free of charge, all parts that might present any defect during such period as a result of faulty construction, provided that it is notified of such defect immediately after it is discovered and, if the Supplier so wishes, the part in question is returned without delay, carriage paid. The guarantee period will be reduced if the machines are used for more than forty hours a week.
2. The guarantee mentioned above in respect of the repair or supply free of charge of a new part does not include any statutory levies on the part to be supplied free of charge, nor does it include import duties and sales tax; these will be at the Customer's expense. The cost of the intervention of a mechanic, in order to replace or repair the defective part, shall not be reimbursed.
3. If during the guarantee period, the Customer carries out any repairs or modifications or causes them to be carried out by others without the Supplier's prior permission, or does not fulfil its payment obligations, the Supplier's obligation under the guarantee shall lapse.
4. Except when the Supplier has acted with intent or gross negligence, the guarantee shall supersede any other liability of the Supplier, which is therefore expressly excluded.
5. Without prejudice to the provisions of paragraph 4 above and except when the Supplier has acted with intent or gross negligence, the Supplier shall never be liable for direct or indirect loss, such as that resulting from outage, delay, breakdown or any other business interruption on any account or of any nature whatsoever.
6. If and insofar as the Supplier cannot invoke paragraphs 4 and 5 of this article, the Supplier's liability shall always be limited at most to the price of the product in question, except when the Supplier has acted with intent or gross negligence.

Article 11 Force majeure

In these general terms and conditions, force majeure means any circumstance beyond the Supplier's control - even if such circumstance was foreseeable at the time of the formation of the contract - that permanently or temporarily obstructs the performance of the contract as well as, insofar as not included in these circumstances, war, threat of war, terrorism, civil war, attacks, riot, strike, lock-out, transport problems, fire and any other serious disruption to Supplier's business or that of its suppliers. In case of force majeure, the Supplier shall be entitled to postpone delivery for six months or cancel the contract wholly or in part without being liable to pay damages.

Article 12 Non-performance of the Customer

If the Customer fails to fulfil any of its obligations arising from this or any other agreement concluded with the Customer, or fails to do so in time or adequately, or if there is good reason to fear that the Customer is incapable of or unwilling to fulfil its contractual obligations, and if the Customer is declared bankrupt or bankruptcy proceedings have been instituted against the Customer, or if the Customer itself files for bankruptcy or a moratorium on payments, or decides to proceed to shut down or wind up its business, wholly or in part, as well as if any execution has been levied against the Customer, the Customer will automatically be deemed to be in default and the Supplier shall be entitled, without any notice of default or legal intervention being required, at its option and whether in combination or not:

- to suspend the performance of any, various or all obligations it has towards the Customer, on any account, and/or
- to demand cash payment for each performance of any of its obligations, even if this was not agreed to, and/or
- to cancel the contract(s) wholly or in part or declare the contract(s) to be dissolved, without the Supplier being obliged to provide any compensation, guarantee or other measures.

All this without prejudice to Supplier's right to compensation for loss, costs and interest.

Article 13 Privacy

The Supplier constantly strives to improve the quality of its customer service. Therefore, calls are recorded for internal training purposes. These recordings are kept for no longer than 1 month.

Article 14 Disputes

All disputes that arise in connection with a contract to which these conditions apply wholly or in part, or any subsequent agreements arising from such contract, shall be settled by the competent Dutch courts. If no Dutch courts have jurisdiction under the law, the district court for Supplier will have jurisdiction.

Article 15 Applicable law

Only Dutch law, valid for the European territory of the Kingdom of the Netherlands, is applicable to contracts to which these conditions apply wholly or in part. The Vienna Sales Convention does not apply.

August 2015

Import- en Groothandel Van Ommen B.V.

Voorste Kerkweg 4 - Postbus 28

7361 ET Beekbergen - 7360 AA Beekbergen – The Netherlands

Tel: +31 (0)555067600 Fax: +31 (0)555067601

www.vanommen.nl