

GENERAL DELIVERY CONDITIONS

OF:

Skylla Europe BV
Tomeikerweg 10
6161 RD GELEEN
referred to below as 'the User'

Article 1 Definitions

1. Unless explicitly specified otherwise, the terms below have the stated meaning in these general conditions:

User: the user of the general conditions;

Buyer: the other party to the User, acting in the course of a profession or business;

Agreement: the agreement between the User and the Buyer.

Article 2 General

1. The provisions of these general conditions apply to every offer and every agreement between the User and a Buyer to which the User has declared these conditions applicable, insofar as the Parties have not explicitly deviated from these conditions in writing.

2. These conditions also apply to all agreements with the User whose performance requires the involvement of third parties.

3. The Buyer's general conditions apply only if it has been expressly agreed in writing that they apply to the agreement to the exclusion of these conditions. In that case, any conflicting provisions in the general conditions of the User and the Buyer will apply between the Parties only if and insofar as they form part of the User's conditions.

4. If one or more provisions of these general conditions are void or nullified, the other provisions of these general conditions will remain fully in force. The User and the Buyer will then consult to agree on new provisions to replace the invalid or annulled provision(s), considering the aim and purpose of the original provision(s) if and insofar as possible (also see: article-by-article explanation under 1).

Article 3 Offers and proposals

1. All offers are without obligation, unless the offer mentions a deadline for acceptance.

2. All proposals made by the User are without obligation; they are valid for thirty days, unless specified otherwise. The User is bound by proposals only if the Buyer confirms their acceptance in writing within thirty days.

3. Unless explicitly agreed otherwise, delivery periods specified in the User's proposals are indicative and do not entitle the Buyer to terminate the Agreement or to compensation if they are exceeded.

4. Unless explicitly stated otherwise, prices specified in offers and proposals exclude VAT and other government levies, as well as shipping and any transport and packaging costs.

5. If the acceptance differs on minor points from the offer in the proposal, the User will not be bound by it. The agreement will not come into effect in accordance with this deviating acceptance, unless the User specifies otherwise.

6. A combined quotation does not oblige the User to deliver part of the goods in the offer or proposal at a corresponding part of the quoted price.

7. Offers or proposals do not automatically apply to repeat orders (also see: article-by-article explanation under 2).

Article 4 Performance of the agreement

1. The User must perform the agreement to the best of its knowledge and ability and in accordance with high standards, all based on the latest state of the art.
2. If and insofar as required for properly performing the agreement, the User may have certain work performed by third parties.
3. The Buyer must ensure that all information which the User states is necessary or which the Buyer should reasonably understand is necessary for performing the agreement is provided to the User in due time. If the information required for performing the agreement is not provided to the User in due time, the User may suspend the performance of the agreement and/or charge the Buyer the extra costs resulting from the delay at its usual rates.
4. The User is not liable for damage, of whatever nature, because it has taken inaccurate and/or incomplete information provided by the Buyer as a basis, unless the User should have been aware of this inaccuracy or incompleteness.
5. If it has been agreed that the agreement will be performed in phases, the User may suspend performing those parts belonging to a subsequent phase until the Buyer has approved the results of the preceding phase in writing.
6. If the User or third parties engaged by the User perform work as part of the assignment at the Buyer's location, or a location designated by the Buyer, the Buyer must provide the facilities reasonably required by those workers free of charge.
7. The Buyer indemnifies the User against any claims from third parties who suffer damage relating to the performance of the agreement that is attributable to the Buyer (also see: article-by-article explanation under 3).

Article 5 Delivery

1. Delivery is ex-works/warehouse of the User.
2. Unless otherwise agreed, delivery is based on 'Incoterms (ex-works)' and the prevailing 'Incoterms' will apply when the agreement is concluded.
3. The Buyer must take delivery of the goods when the User delivers them or has a third party deliver them, or when they are made available to the Buyer under the agreement.
4. If the Buyer refuses to take delivery or fails to provide information or instructions needed for the delivery, the User may store the goods at the Buyer's expense and risk.
5. If the goods are delivered, the User may charge any delivery costs. These costs can then be invoiced separately.
6. If the User requires information from the Buyer for performing the agreement, the delivery period will commence after the Buyer has made this information available to the User.
7. If the User has specified a delivery period, this is indicative. A specified delivery period is therefore never a strict deadline. If a period is exceeded, the Buyer must give the User a written notice of default.
8. The User may make partial deliveries of goods, unless agreed otherwise or if the partial delivery has no independent value. The User may invoice the partial deliveries separately.
9. If it has been agreed that the agreement will be performed in phases, the User may suspend performing those parts belonging to a subsequent phase until the Buyer has approved the results of the preceding phase in writing.

Article 6 **Samples and models**

1. If a sample or model has been shown or provided to the Buyer, it will be presumed to have been provided as an indication only, without the final item having to comply with the sample or model, unless it is expressly agreed that the item will correspond to it.

Article 7 **Inspection, complaints**

1. The Buyer must inspect the delivered goods upon delivery or at least within the shortest possible period. The Buyer must examine whether the quality and quantity of the delivered goods correspond with what has been agreed, or at least meet the requirements that apply to them in normal commercial transactions.

2. Visible defects or shortages must be reported in writing to the User within three days of delivery. Hidden defects or shortages must be reported within three weeks of discovery but no later than six months after delivery.

3. If a complaint is made in due time under the previous paragraph, the Buyer remains obliged to take delivery of and pay for the purchased goods. If the Buyer wishes to return defective goods, this must be done with the User's prior written consent and in the manner indicated by the User (also see: article-by-article explanation under 4).

Article 8 **Payments, price and costs**

1. User is entitled to increase prices per year in accordance with the CPI index.

2. The User may pass on price increases, if it can demonstrate that significant price changes have occurred between the time of the offer and performance of the agreement regarding factors such as exchange rates, wages, raw materials, semi-finished goods, packaging materials or transport

3. If the price increase exceeds 10%, the Buyer may terminate the agreement, unless this price increase results from an amendment to the agreement or an entitlement to do so under the law.

4. The prices charged by the User exclude VAT and any other levies, as well as any costs to be incurred under the agreement, including shipping and administration costs, unless specified otherwise (also see: article-by-article explanation under 5).

Article 9 **Amendment of the agreement**

1. If it transpires during the agreement that altering or supplementing the work to be carried out is needed for proper performance, the Parties will promptly make those amendments in mutual consultation.

2. If the Parties agree that the agreement will be amended and/or supplemented, this may affect the time needed to complete the performance. The User must inform the Buyer of this as soon as possible.

3. If the amendment and/or supplement to the agreement has financial and/or qualitative consequences, the User must inform the Buyer of this in advance.

4. If a fixed rate has been agreed, the User must indicate to what extent the amendment or supplement to the agreement will cause the fixed rate to be exceeded.

5. Notwithstanding the provisions in this regard, the User cannot charge any additional costs if the amendment or supplement results from circumstances that can be attributed to it.

Article 10 **Payment**

1. Payment must be made within 30 days of the invoice date, in the manner designated by the User and in the currency in which the invoice has been issued. Objections against invoice amounts do not suspend the payment obligation.

2. If the Buyer fails to make payment within 30 days, the Buyer will be in default by operation of law. The Buyer will then owe interest of 1% per month, unless the statutory interest rate is higher, in which case the statutory interest rate will apply. The interest on the amount payable will be calculated from when the Buyer is in default until the date of payment in full.

3. If the Buyer is liquidated, declared bankrupt, subjected to an attachment of assets, or granted a moratorium on the payment of debts, the User's claims against the Buyer become immediately due and payable.

4. The User may apply the Buyer's payments firstly to reduce the costs, then to reduce the accrued interest, and lastly to reduce the principal sum and current interest.

The User may refuse an offer of payment, without being in default, if the Buyer stipulates a different order of allocation.

The User may refuse full repayment of the principal sum, if the accrued and current interest and costs are not also paid.

Article 11 Retention of title

1. All items delivered by the User, including any designs, sketches, drawings, films, software, electronic and other files, etc., will remain the User's property until the Buyer has fulfilled all the following obligations under all agreements concluded with the User.

2. The Buyer may not pledge or otherwise encumber the goods subject to the retention of title.

3. If third parties attach the goods delivered subject to retention of title or wish to establish or enforce rights to them, the Buyer must inform the User of this as soon as may reasonably be expected.

4. The Buyer undertakes to insure the goods delivered subject to retention of title and keep them insured against fire, explosion, water damage, and theft and to make the insurance policy for inspection immediately on request.

5. Goods delivered by the User, which fall under the retention of title in 1. of this article, may be resold only in the course of normal business operations and may never be used as a means of payment.

6. If the User wishes to exercise the ownership rights referred to in this article, the Buyer undertakes to grant the User, or third parties designated by the User, unconditional and irrevocable consent to enter all places where the User's property is located and to repossess those goods.

Article 12 Warranty

1. The User warrants that the goods to be delivered comply with the usual requirements and standards that can to be set with the buyer and are free from manufacturing and material defects also.

2. The warranty referred to under 1. also applies if the goods to be delivered are intended for use abroad and the Buyer explicitly notified the User in writing of this use when entering into the agreement.

3. The warranty referred to under 1. applies for six months after delivery.

4. If the delivered goods do not comply with these warranties, the User must replace them or arrange for their repair, at its discretion, within a reasonable period after receipt or, if returning them is not reasonably possible, after written notice of the defect by the Buyer. If goods are replaced, the Buyer undertakes to return and transfer ownership of the replaced item to the User.

5. The warranty referred to in this article does not apply if the defect has arisen because of injudicious or improper use or if the Buyer or third parties have made or tried to make changes to the item without the User's written consent, or have used it for purposes for which it is not intended.

6. If the warranty provided by the User concerns an item produced by a third party, the warranty is limited

to that provided by the producer of the item (also see: article-by-article explanation under 7).

Article 13 Collection costs

1. If the Buyer fails or neglects to perform their obligations in time, all reasonable costs incurred to obtain payment out of court will be payable by the Buyer. The Buyer at least owes the collection costs on a monetary claim. The collection costs are calculated in accordance with the collection fee as recommended by the Netherlands Bar Association in collection cases.

2. If the User has incurred higher costs that were reasonably necessary, these also qualify for reimbursement.

3. Any reasonable judicial and execution costs incurred are also payable by the Buyer.
(also see: article-by-article explanation under 8).

Article 14 Suspension and termination

1. The User may suspend the performance of the obligations or terminate the agreement, if:

- the Buyer does not or does not fully perform the obligations under the agreement.

- the User learns of circumstances after the agreement is concluded that give it good reason to fear that the Buyer will not perform the obligations. If there are good grounds to fear that the Buyer will perform their obligations only partially or improperly, suspension is permitted only insofar as the failure to perform justifies it.

- the Buyer was requested to provide security for the fulfilment of their obligations under the agreement when it was concluded and this security has not been provided or is insufficient. As soon as security has been provided, the right to suspend will cease to apply, unless this fulfilment has been unreasonably delayed as a result.

2. The User may further terminate the agreement, or have a third party terminate it, if circumstances of such a nature arise that performance of the agreement is impossible or can no longer be demanded under standards of reasonableness and fairness, or if other circumstances of such a nature arise that the unaltered maintenance of the agreement cannot reasonably be demanded.

3. If the agreement is terminated, the User's claims against the Buyer become immediately due and payable. If the User suspends the performance of its obligations, it will retain its claims under the law and the agreement.

4. The User always retains the right to claim compensation.

Article 15 Return of provided items

1. If the User has provided items to the Buyer during the performance of the agreement, the Buyer must return those items within 14 days in their original condition, free of defects, and in their entirety. If the Buyer does not comply with this obligation, all resultant costs will be at their expense.

2. If the Buyer remains in default of the obligation referred to under 1. after a demand to that effect, for whatever reason, the User may recover the resultant damage and costs, including the replacement costs, from the Buyer.

Article 16 Liability

1. If the User delivers defective goods, its liability towards the Buyer will be limited to the provisions of these conditions under 'Warranties'.

2. If the User is liable for direct damage, this liability will be capped at twice the invoice amount, or that part of the agreement to which the liability relates.

3. Direct damage exclusively means:

- the reasonable costs incurred to determine the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these conditions;
- any reasonable costs incurred to have the User's defective performance comply with the agreement, unless this defect cannot be attributed to the User;
- reasonable costs incurred to prevent or limit damage, insofar as the Buyer demonstrates that these costs have limited direct damage as referred to in these general conditions.

4. The User is never liable for indirect damage, including consequential damage, loss of profit, lost savings and business interruption loss.

5. The limitations of liability for direct damage in these conditions do not apply if the damage is due to intent or gross negligence of the User or its employees (also see: article-by-article explanation under 9).

Article 17 Risk transfer

1. Risk of loss of or damage to the products that are the object of the agreement passes to the Buyer when these products are legally and/or effectively delivered to the Buyer and thus brought under the control of the Buyer or a third party designated by the Buyer (also see: article-by-article explanation under 10).

Article 18 Force majeure

1. The Parties do not have to perform any obligation if they are hindered from doing so because of a circumstance for which they are not at fault and for which they are not accountable by law, a legal act, or according to generally accepted standards.

2. Besides what is understood by force majeure in statutory and case law, force majeure in these general conditions means all external causes, foreseen or unforeseen, over which the User has no influence, but which prevent it from performing its obligations. This includes strikes in the User's company.

3. The User may also rely on force majeure if the circumstance preventing any further performance occurs after it should have performed its obligation.

4. The Parties may suspend their obligations under the agreement during the period of force majeure. If this period lasts longer than two months, either Party may terminate the agreement, with no obligation to compensate the other Party's damage.

5. Insofar as the User has already partially performed the obligations under the agreement, or can still perform them when force majeure occurs, and insofar as an independent value can be attributed to the part already performed or still to be performed, the User may separately invoice the part already performed or still to be performed. The Buyer must then pay this invoice as if it were a separate agreement (also see: article-by-article explanation under 11).

Article 19 Indemnities

1. The Buyer indemnifies the User against third-party claims regarding intellectual property rights to materials or data provided by the Buyer, which are used in performing the agreement.

2. If the Buyer provides information carriers, electronic files, or software etc. to the User, the Buyer warrants that these information carriers, electronic files, or software are free of viruses and defects.

Article 20 Copyright and other intellectual property

1. Notwithstanding the other provisions of these general conditions, the User reserves the rights and powers to which it is entitled under the Copyright Act (*Auteurswet*). Unless there is intellectual property belonging to the buyer
2. The Buyer may not make changes to the goods, unless the nature of the delivered goods dictates otherwise or the Parties agree otherwise in writing.
3. Unless agreed otherwise, any designs, sketches, drawings, films, software, and other materials or electronic or other files made by the User within the context of the agreement will remain the User's property, regardless of whether these have been handed over to the Buyer or to third parties.
4. Any items provided by the User, such as designs, sketches, drawings, films, software, electronic and other files, etc. are intended exclusively for use by the Buyer and may not be reproduced, made public, or disclosed to third parties without the User's prior consent, unless the nature of the provided items dictates otherwise.
5. The User reserves the right to use any knowledge gained through performing the work for other purposes, insofar as no confidential information is disclosed to third parties.

Article 21 Confidentiality

1. Both parties must maintain the secrecy of all confidential information they have obtained from each other or another source within the context of their agreement. Information is considered confidential if this has been communicated by a Party or arises from the nature of the information.
2. If a statutory provision or court ruling obliges the User to provide confidential information to third parties designated by law or the competent court, and the User cannot rely on a right to refuse to give evidence that is recognised or permitted by law or the competent court, it will not have to pay any indemnification or compensation and the other party may not terminate the agreement because of any resultant damage.

Article 22 Disputes

1. The court in the User's place of business has exclusive jurisdiction to hear disputes, unless the subdistrict court is competent. The User may nevertheless submit the dispute to the competent court under the law.
2. The Parties will approach the court only after they have made every effort to settle a dispute by agreement
(also see: article-by-article explanation under 12).

Article 23 Applicable law

1. Dutch law applies to every agreement between the User and the Buyer. The Vienna Sales Convention is expressly excluded.

Article 24 Amendments and source of the conditions

1. These conditions have been filed at the office of the Chamber of Commerce in Roermond.

The most recently filed version or the version valid when the agreement was concluded always applies.

