

Terms and Conditions Mayves

KvK 51956217 The Hague, The Netherlands,
dd. 04-09-2012 , te Oegstgeest, The Netherlands

Article 1. General

1. These Terms and Conditions apply to every offer, quotation, and every distance contract closed between Mayves, henceforth "Seller", and another Party to which the seller has declared these terms and conditions applicable, insofar as parties have not deviated from these conditions expressly and in writing.
2. These terms and conditions also apply to agreements with the Seller for the performance of which the Seller is required to involve third parties.
3. The applicability of possible purchase conditions or other terms and conditions on the part of the Other Party is expressly rejected.
4. Prior to the closing of a distance contract the text of these Terms and Conditions shall be made available to the Other Party. In the event that this is not reasonably possible, the Other Party shall be notified that the General Terms and Conditions are available for inspection at the Seller, and that they will be sent to the Other Party free of charge and as soon as possible at the Other Party's request.
5. If the distance purchase is made electronically, as a departure from the previous paragraph and prior to the distance purchase being made, the text of these General Terms and Conditions can be made available to the Other Party in such a way that the Other Party can easily save it on a permanent data carrier. If this is not reasonably possible, then prior to the distance purchase being made the Other Party shall be notified of where they may learn of these General Terms and Conditions electronically and that they will be sent to the Other Party free of charge electronically or in another way.
6. In the event that one or more stipulations in these Terms and Conditions are at any time completely or partially void or become voided, the remaining part of these General Terms and Conditions remain entirely applicable. The Seller and the Other Party shall then consult with one another in order to agree to new stipulations to replace the void or voided stipulations, taking into consideration as much as possible the objective and aim of the original stipulations.
7. If there is any uncertainty concerning the interpretation of one or more stipulations in these General Terms and Conditions, the stipulation or stipulations in question should be interpreted in the spirit of these stipulations.
8. In the event that a situation arises between parties which has not been provided for in these Terms and Conditions, the situation is to be evaluated in the spirit of these General Terms and Conditions.
9. If the Seller does not consistently insist upon strict observance of these Terms and Conditions, this does not mean that the stipulations in these Terms and Conditions do not apply or that the Seller should to any degree relinquish the right to require strict observance of the stipulations of these Terms and Conditions in other cases.

Article 2. Quotations and offers

1. All quotations and offers by the Seller are subject to a term of acceptance of two weeks. A quotation or an offer lapses if a product which is the subject of the quotation or the offer has become unavailable during the term that the quotation or offer is valid.
2. The Seller cannot be held to their quotations or offers if the Other Party can reasonably understand that the quotations or offers, or any part of these, contain a manifest mistake or typing or writing error.
3. The prices quoted in a quotation or offer are excluding VAT and other government levies, as well as possible expenses to be incurred as a part of the agreement, including travel and accommodation expenses, shipping and administrative expenses, unless otherwise indicated.
4. If acceptance deviates – either or not on minor points – from the offer which has been included in the quotation or offer, the Seller is not bound by such acceptance. The contract will not be concluded in accordance with this divergent acceptance, unless the Seller indicates otherwise.
5. A composite quote shall not oblige the Seller to perform a part of the commission at an equivalent past of the price quoted. Offers and quotations do not automatically apply to future orders.

Article 3. Delivery

1. The Other Party is obliged to check the order for whether it has been filled correctly and in the right amount immediately upon receiving the order.
2. All items are delivered with a security clause and a statement on the packaging concerning the quality and functionality of the material.
3. If a deadline has been agreed upon or stated for the delivery of certain items, this deadline shall never constitute a strict deadline. In the event the deadline is not met, the Other Party must give the Seller a written notice of default. This notice must grant the Seller a reasonable deadline for the performance of the contract.
4. The Seller is entitled to perform the contract in stages and to invoice each thusly performed stage separately.
5. If the contract is performed in stages, the Seller may defer the performance of those parts belonging to a next stage until the Other Party has approved in writing the results of the stage prior to that next stage.
6. If the Seller requires details from the Other Party for the performance of the contract, the term set for performance shall not commence before the Other Party has provided the Seller with the correct and complete details.
7. If it appears during the performance of the contract that proper performance requires the contract to be amended or supplemented, parties will proceed to make such amendments or supplements in a timely manner and by mutual agreement. If the nature, scope or substance of the contract is altered, either or not at the request or behest of the Other Party, the proper authorities, etcetera, causing the contract to change qualitatively and/or quantitatively, such changes may have consequences for that which was originally agreed upon. This may result in the agreed upon monetary amount being increased or decreased. To the extent possible, the Seller will quote a price beforehand. Amendment of the contract may alter the originally stated deadline for performance. The Other Party shall accept the possibility that the contract be amended, including a change in price and the deadline for performance.
8. If the contract is amended, a supplement also constituting an amendment, the Seller is entitled to perform the contract only after the authorized person within the Seller's organization has given approval for performance, and after the Other Party has agreed to the price quoted for performance as well as to other conditions, including the time of performance to be determined in that case. Non-performance of the amended contract, or not performing the amended contract immediately does not constitute breach of contract on the part of the Seller and is not grounds for termination of the contract by the Other Party.
9. The Seller can refuse a request to amend the contract without this resulting in the Seller being in default, if this could quantitatively and/or qualitatively have consequences for, for instance, the work to be carried out or the items to be delivered under those terms.
10. If the Other Party should find themselves in default towards the Seller with regard to the proper performance of the obligations under this agreement, the Other Party shall be liable for any and all resulting damage (including costs), either direct or consequential, suffered by the Seller.
11. If the Seller agrees to a certain price when closing the agreement, the Seller is nevertheless entitled to increase the price if any of the following circumstances occur, even if the price was not originally quoted with any reservation:
 - a) if the increase in price is a result of a change in the agreement;
 - b) if the increase in price is a result of a power granted to the Seller or an obligation to which the Seller is subject pursuant to the law;
 - c) in other situations, subject to the proviso that the Other Party is entitled to dissolve the agreement by way of a written declaration if the increase in price exceeds 15% and takes place within three months of the closing of the agreement, unless in that case the Seller is still willing to fulfill the agreement on the basis of the provisions originally agreed upon, or if it has been stipulated that delivery may take longer than two months.

Article 4. Suspension, dissolution and cancellation

1. The Seller is authorized to suspend the performance of the obligations or to dissolve the agreement forthwith and effective immediately, if:

- the Other Party fails to fulfill the obligations under the agreement, or fails to do so fully or by the stipulated date;
- after the closing of the agreement circumstances which have come to the attention of the Seller give good grounds to fear that the Other Party will not fulfill their obligations;
- upon closing the agreement the Other Party has been requested to furnish security for the fulfillment of their obligations under the agreement and such security is not furnished or is insufficient;
- due to a delay on the part of the Other Party the Seller can no longer be required to fulfill the agreement under the originally agreed upon conditions;
- circumstances occur of such a nature that performance under the agreement or unaltered maintenance of the agreement cannot reasonably be required of the Seller.

2. If the dissolution can be imputed to the Other party, the Seller is entitled to compensation for the damage, including the resulting costs, both direct and consequential.

3. If the agreement is dissolved, the Seller's claims against the Other Party are immediately due and payable. If the Seller suspends his fulfillment of the obligations, he will retain his claims pursuant to the law and the agreement.

4. In the event of liquidation, the (request for) a suspension of payments or bankruptcy, or attachment – if and to the extent that the attachment has not been lifted within three months – against the Other Party, rescheduling of debt or another circumstance causing the Other Party to no longer have the power to dispose of his capital, the Seller is free to terminate the agreement forthwith and effective immediately, or to cancel the order or the agreement, with no obligation on the Seller to pay any compensation or indemnification. In that case the Seller's claims against the Other Party are immediately due and payable.

5. If the Other Party cancels an existing order in full or in part, the items ordered or prepared for this order, plus any costs for supply, disposal and delivery involved as well as the labour hours reserved for the performance of the agreement, will be charged to the Other Party in full.

Article 5 No right of withdrawal

1. The Seller expressly excludes the right of withdrawal for items as referred to in paragraph 2 of this article.

2. Exclusion of the right of withdrawal is only possible for products:

- which have been created by the Seller according to specifications by the Other Party;
- which are clearly personal in nature;
- which cannot be sent back due to their nature;
- which may decay or age rapidly.

Article 6 Costs in case of withdrawal

1. If the Other Party as referred to above invokes the right of withdrawal, he shall not be charged more than the costs of return shipping.

2. If the Other Party has paid an amount, the Seller shall refund this amount as quickly as possible, though no later than 30 days after return shipping or withdrawal.

Article 7 Force majeure

1. The Seller is not obliged to perform an obligation towards the Other Party if he is prevented from doing so as a result of a circumstance which is not due to fault, and which cannot be attributed to him pursuant to the law, a juridical act or generally accepted practice.

2. In these Terms and Conditions force majeure is defined as, in addition to that which is included under the term in the law and in case law, any and all external causes which cannot be influenced by the Seller and which cause the Seller to be incapable of fulfilling his obligations. The Seller also has the right to invoke force majeure if the circumstance preventing (further) performance sets in after the Seller was to have performed his obligation.

3. During the period that the force majeure continues the Seller may suspend the obligations arising from the agreement. If this period lasts longer than one month, each of the parties is entitled to dissolve the agreement, without any obligation to pay compensation for damage to the other party.

4. If at the time the force majeure sets in the Seller has already partially performed his obligations arising from the agreement or will be able to perform these obligations, and the elements performed or to be performed represent a separate value, the Seller is entitled to invoice separately the elements performed or to be performed. The Other Party is

obliged to pay this invoice as if a separate agreement exists between parties.

Article 8 Payment and collection costs

1. Payment must always take place within 30 days of the invoice date, in the manner indicated by the Seller and in the currency indicated, unless the Seller has specified otherwise in writing. Upon placement of the order by the Other Party, the Seller has the right to ask for an advance payment on the invoiced amount prior to commencing performance, with the remainder of the amount to be paid upon delivery of the order. The Seller is and will remain entitled to invoice summarily.

2. If the Other Party continues to default on the timely payment of an invoice, the Other Party shall be in default by operation of law. In that case, the Other Party owes an interest of 10% per month, with a minimum amount of € 35, unless the statutory interest is higher, in which case the statutory interest is owed. The interest over the sum due and payable will be calculated from the moment the Other Party is in default until the moment of payment of the full amount owed.

3. The Seller has the right to apply the payments made by the Other Party first to reduce the costs, next to reduce the interest on overdue amounts and finally to reduce the principal sum and the currently accruing interest.

4. The Seller may, without it causing him to be in default, refuse an offer of payment if the Other Party designated a different order for the allocation of the payment. The Seller may refuse the full payment of the principal sum, if that payment does not also cover the interest on overdue amounts, as well as the accruing interest and the collection costs.

5. Objections against the amount of the invoice do not suspend the obligation to pay.

6. If the Other Party defaults or is in default in the (timely) performance of his obligations, all reasonable costs incurred to obtain an out-of-court settlement shall be charged to the Other Party. The extrajudicial costs are calculated based on the standards in collection practice in the Netherlands at that point in time, currently the calculation method according to the Voorwerk II report. However, in the event that the Seller has incurred higher costs for collection which were reasonably necessary, the actual costs qualify for compensation. Any judicial and enforcement costs that have been incurred will also be recovered from the Other Party. The Other Party also owes interest on the collection costs due.

Article 9 Retention of title

1. All goods delivered by the Seller under the agreement will remain property of the Seller until such time that all the obligations pursuant to the agreement(s) with the Other Party have been properly performed.

2. Goods delivered by the Seller, which are covered by the retention of title pursuant to paragraph 1 of this article may not be resold and may never be used as an instrument of payment. The Other Party is not authorized to pledge or otherwise charge any choses covered by the retention of title.

3. The Other Party shall always do all that which may reasonably be expected of him in order to secure the Seller's rights of ownership.

4. In the event that third parties attach choses delivered subject to retention of title or should seek to establish rights thereon or to assert rights thereon, the Other Party is obliged to notify the Seller of this immediately.

5. The Other Party is obliged to insure the goods subject to retention of title and to keep them insured against damage caused by fire, explosion and water, as well as against theft. The Other Party shall give the policy of such insurance to the Seller for inspection on the Seller's demand. The Seller is entitled to any insurance payment made.

6. To the extent necessary, the Other Party shall commit in advance to extending his cooperation to anything (that would prove to be) required or desired in this context.

7. In case the Seller wishes to exercise the right of retention of title referred to in this article, the Other Party shall in advance give his unconditional and irrevocable consent to the Seller and to third parties to be designated by the Seller to enter any and all locations where the property of the Seller is located and to take back those goods.

Article 10 Guarantees, inspection and complaint

1. The goods to be delivered by the Seller shall meet the usual requirements and standards which could reasonably be required of them at the time of delivery and for which they are intended during normal use in the Netherlands. The guarantee referred to in this article applies to the quality and functionality of the goods delivered by the Seller and which are intended for use within the Netherlands. For use outside of the Netherlands, the Other Party must verify for himself whether the nature of the goods renders them suitable for use there and whether the goods meet the requirements set for such use. In that situation, the Seller does not offer any guarantee other than has been described in this paragraph.

2. The guarantee of the product's quality and functionality referred to in paragraph 1 of this article is valid for a period of two years after delivery, unless the nature of the products delivered implies otherwise, or unless parties have agreed otherwise. If a guarantee given by the Seller concerns a product produced by a third party, the guarantee is limited to the guarantee issued by the producer of the product, unless otherwise stated. After expiration of the guarantee period all costs for repair or replacement, including administrative costs, shipping costs and call-out charges, will be charged to the Other Party.

3. All forms of guarantee become void if a defect is the consequence or result of inexpert or improper use of the product, incorrect storage or maintenance by the Other Party and/or third parties in the event that the Other Party or third parties, without written consent by the Seller, have made changes to the product or have attempted to make changes to the product, or other items were attached to the product which are not supposed to be attached to the product, or if such items were processed or adapted in any other manner than the manner prescribed. The Other Party is also not entitled to invoke the guarantee if the defect has been caused by or is the result of circumstances beyond the Seller's control, including weather conditions (including, but not limited to, extreme rain or extreme temperatures), etcetera.

4. The Other Party is obliged to inspect (or to have inspected) the delivered product or products immediately at the moment that the products are placed at his disposal. In doing so, the Other Party must examine whether the quality and/or quantity of the goods delivered is in accordance with that which has been agreed and whether they meet the requirements parties have agreed upon. Any defects must be reported promptly to the Seller. The report must contain as detailed a description of the defect as possible, so that the Seller is able to respond adequately. The Other Party must give the Seller the opportunity to investigate a complaint, or to have the complaint investigated.

5. A timely complaint on the part of the Other Party does not suspend his obligation to pay. In that case, the Other Party also continues to be obliged to purchase and pay for any remaining goods ordered, unless no separate value can be attributed to these goods.

6. If a defect is reported later, the Other Party is not longer entitled to repair, replacement or compensation, unless a longer term ensues from the nature of the product or the other circumstances of the case.

7. If it is clear that a product is defective and a complaint has been made in a timely manner, the Seller will, according to his choice, upon receiving the returned products, or if such return is not possible, upon receiving the Other Party's written notification concerning the defect, either replace or repair the defective product or have the defective product repaired, or pay compensation in the amount of the product's replacement value. In the event the product is replaced, the Other Party is obliged to return the replaced product to the Seller and to give the Seller ownership of that product, unless the Seller indicates otherwise.

8. If it becomes clear that a complaint is unfounded, the costs originating from the complaint including costs or examination incurred by the Seller due to the complaint, will be charged in full to the Other Party.

Article 11 Liability

1. If the Seller should be liable, such liability is limited to that which has been provided for in this stipulation.

2. The Seller is not liable for damage of any kind which originated due to the Seller relying on incorrect and/or incomplete information provided by or on behalf of the Other Party.

3. The Seller is not liable for printing, typesetting or typing errors, or for a deviation from the colors or images in the goods delivered.

4. The Seller is never liable for direct and/or consequential damage.

5. Direct damage is defined as being exclusively:

- the reasonable costs to determine the cause and the scope of the damage, to the extent that such determination relates to the damage in the sense of these Terms and Conditions;

- any reasonable costs incurred to bring the Seller's faulty performance in line with the agreement, to the extent that these costs can be attributed to the Seller;

- reasonable costs incurred to prevent or limit damage, to the extent that the Other Party demonstrates that these costs have resulted in limiting direct damage as referred to in these General Terms and Conditions.

6. Consequential damage is defined as resulting damage, loss of profit, missed savings, and loss due to business interruption or other types of interruption.

7. If the Seller should be liable for any damage, the Seller's liability is limited to no more than the invoice amount of the order, or that part of the order which the liability concerns.

8. The Seller's liability is in any case always limited to the amount of the Seller's insurance payment where appropriate.

9. The limitations included in this article do not apply if the damage is due to intent or gross negligence on the part of the Seller.

Article 12 Limitation period

1. Notwithstanding the statutory limitation periods, the limitation period of all claims and defenses against the Seller and the third parties involved by the Seller in the performance of an agreement is one year.

2. The provisions in paragraph 1 do not apply to legal claims and defenses which are based on facts which would justify the assertion that the product delivered should not conform to the agreement. The period of limitation for such claims and defenses is two years after the Other Party has notified the Seller.

Article 13 Risk transfer

The risk of loss, damage or depreciation will transfer to the Other Party at the moment the goods are placed in the control of the Other Party.

Article 14 Indemnification

1. The Other Party indemnifies the Seller against any claims by third parties that suffer damage in connection with the performance of the agreement and the cause of which is another than is attributable to the Seller.

2. If the Seller should be held accountable by third parties on that account, the Other Party is obliged to assist the Seller both in and out of court, and to promptly do all that may be expected of him in that case. Should the Other Party continue to default where it concerns the taking of adequate measures, the Seller is entitled to take such measures himself without notice of default. All costs and damage caused to the Seller and any third parties as a result will be charged in full to the Other Party.

Article 15 Intellectual property

The Seller retains the rights and powers granted to him on the basis of the Copyright Act 1912 as well as other intellectual property legislation and regulations. The Seller has the right to also use any increased knowledge he has gained through the performance of an agreement for other purposes, insofar as this does not involve communicating any strictly confidential information of the Other Party to third parties.

Article 16 Applicable law and disputes

1. Only Dutch law applies to all legal relationships to which the Seller is a party, even if the agreement is performed abroad entirely or in part, or if the party to the legal relationship has his residence abroad. The Vienna Sales Convention does not apply.

2. Parties will only take matters to court after they have tried their utmost to resolve a dispute out of court by mutual agreement.