

General Delivery and Payment Terms and Conditions of:

Floran B.V.
Heeswijk 147
3417 GP Montfoort

Registration number with the Chamber of Commerce in Utrecht: 29022770

ARTICLE 1: APPLICABILITY

1. These terms and conditions are applicable to any and all proposals and any and all sale and purchase agreements of Floran B.V., having its registered office in Montfoort, hereinafter referred to as: the "user".
2. The client and/or buyer shall hereinafter be referred to as: the "other party". If these terms and conditions are applicable to the purchase of goods or services by the user then the seller or service provider in the said transaction is referred to as: the "other party".
3. Different terms and conditions are only part of the agreement concluded by and between the parties if and to the extent that both parties expressly agreed on that in writing.
4. The acceptance and keeping of an offer or order confirmation, where reference is made to these terms and conditions, by the other party without comments qualifies as consent to the applicability thereof.
5. The potential inapplicability of a (part of a) provision of these general terms and conditions does not affect the applicability of the other provisions.
6. If the other party also applies general terms and conditions then only the terms and conditions of Floran B.V. are applicable.
7. If these terms and conditions were applicable to a certain agreement between the user and the other party once then the lastly applicable version shall always apply to any and all subsequent agreements between the same parties, unless stipulated otherwise in writing.

ARTICLE 2: AGREEMENTS

1. Agreements only have binding effect after written confirmation by the user.
2. Additions to or changes of the general terms and conditions or otherwise changes of or additions to the agreement only have binding effect after written confirmation by the user.

ARTICLE 3: PROPOSALS

1. Any and all proposals, offers, pricelists, delivery times, etc. of the user are revocable, unless they include a time limit for acceptance. If an offer and/or proposal includes an offer subject to contract and this is accepted by the other party then the user is entitled to revoke the offer within 2 working days after receipt of the acceptance.
2. Demonstrated and provided samples, brochures and/or models and the like only apply by way of indication. Rights cannot be derived from this, unless the parties expressly stipulate otherwise in writing.
3. An offer or proposal expires if the product to which the offer or the proposal is related has meanwhile become unavailable.
4. The user cannot be bound by its offers or proposals if the other party can reasonably understand that the offers or proposals, or a part thereof, contain a manifest error or typographical error.
5. The prices specified in an offer or proposal are exclusive of VAT and other official duties, costs potentially incurred within the framework of the agreement, including travelling and subsistence expenses, shipping and administration costs, unless indicated otherwise.
6. If the acceptance differs (whether or not on subordinate points) from the offer or the proposal then the user shall not be bound by the same. The agreement is then not concluded in accordance with the different acceptance, unless the user indicates otherwise.

7. A combined quotation does not oblige the user to perform a part of the contract at a corresponding part of the specified price. Proposals and offers are not automatically applicable to future orders.
8. A. If changes are made by the official authorities and/or trade unions in wages, terms and conditions of employment, national insurance schemes and the like between the date of the conclusion of the agreement and the implementation of the agreement then the user is authorised to pass the increases on to the other party. If a new pricelist is issued by the user and/or suppliers and takes effect between the aforementioned dates then the user is entitled to charge the prices specified in the same to the other party.
 - B. If the other party is a natural person who does not act in the course of a profession or business then it is noted that price increases 3 months after the conclusion of the agreement as intended above can be passed on and/or charged. In case of price increases as intended in this article within a time limit of less than 3 months the other party is authorised to rescind the agreement.

ARTICLE 4: HIRING OF THIRD PARTIES

The user is authorised to hire third parties for the implementation of everything that was stipulated.

ARTICLE 5: DELIVERY AND DELIVERY PERIODS

1. Delivery takes place free on truck (FOT), unless the parties expressly stipulate otherwise in writing.
2. Specified time limits within which goods must have been delivered and/or activities must have been performed can never be qualified as a fatal deadline, unless expressly stipulated otherwise in writing. In case of late delivery the user must therefore be given written notice of default.
3. In case of delivery in instalments every delivery and/or phase is qualified as an individual transaction.
4. The risk regarding the delivered goods transfers to the other party at the time of delivery.
5. If it does not appear to be possible to deliver the goods to the other party or to perform the activities to be performed on account of a cause imputable to the other party then the user reserves the right to store the goods at the risk and expense of the other party. The user informs the other party in writing of the implemented storage and/or the impediment in the performance of the activities to be performed and also imposes a reasonable time limit when the other party must enable the user to resume the activities and/or to deliver the goods.
6. If after expiry of the reasonable time limit imposed by the user, as intended in the previous paragraph of this article, the other party still fails to comply with its obligations then the other party is due to the mere expiry of 1 (one) month, calculated from the date of storage and/or impediment in the performance of the activities to be performed, in default and this entitles the user to rescind the agreement, either in whole or in part, in writing and with immediate effect, without prior or further notice of default and without being liable to pay compensation for damages, costs and interest.
7. The above does not affect the obligation of the other party to pay the stipulated price and/or the payable price as well as potential storage costs and/or other costs.
8. The user is authorised to – in connection with compliance with financial obligations of the other party – require payment in advance or security from the other party, before proceeding with delivery.

ARTICLE 6: PROGRESS OF DELIVERY

1. If the deliveries or activities cannot take place normally or without interruption due to causes beyond the control of the user then the user is entitled to charge the costs deriving from the same, including call-out charges, to the other party.
2. Any and all expenses that are incurred by the user at the request of the other party are fully at the expense of the latter, unless expressly stipulated otherwise in writing.

ARTICLE 7: TRANSPORT

1. Shipment of ordered goods takes place in a manner to be determined by the user, however at the expense and risk of the other party, unless the parties expressly stipulate otherwise in writing.
2. The user shall not be liable for damages, of any nature and any form whatsoever, that are related to the transport, whether or not inflicted on the goods.
3. The other party must take out adequate insurance against the aforementioned risks.
4. The other party guarantees proper accessibility of the place of destination and/or the unloading location and is responsible for the discharge and/or unloading.
5. Unaccepted orders and/or deliveries are stored by the user, at the risk and expense of the other party, all in conformity with the provisions set forth in article 5.

ARTICLE 8: PACKAGING

1. The packaging not meant for single use, in which goods are delivered, remains the property of the user and cannot be used by the other party for purposes other than for which it is meant.
2. The user is entitled to charge a returnable deposit to the other party for the said packaging. The user is held to take back the said packaging, provided returned carriage paid, at the price that was charged to the other party during a period after the delivery date determined by the user.
3. If packaging is damaged, incomplete or lost then the other party shall be liable for these damages and its right to repayment of the returnable deposit expires.
4. If it appears to be necessary – at the discretion of the user – then packaging is charged to the other party at cost and is not taken back.

ARTICLE 9: COMPLAINTS AND RETURN SHIPMENTS

1. The other party is held to immediately after receipt of the goods and/or the termination of the activities proceed with inspection of the same. If the other party observes visible errors, inaccuracies and/or defects then this must be recorded on the consignment note and/or accompanying slip and must immediately be communicated to the user or the other party must inform the user accordingly within 24 hours after receipt and/or completion of the activities, the latter followed by an immediate written confirmation of the same to the user.
2. Other complaints must be reported to the user by registered post within 8 days after receipt of the goods and/or completion of the activities.
3. Without prejudice to the provisions set forth in paragraphs 1 and 2 of this article, with regard to natural persons who do not act in the course of a profession or business the provisions set forth in paragraph 7 of article 10 are also taken into account.
4. If the aforementioned complaint is not communicated to the user within the time limits as intended there then the goods are deemed to have been received in a good state and/or the activities to be performed are deemed to have been performed properly.
5. Ordered goods are delivered in the wholesale packaging in stock at the user. Minor deviations in connection with indicated dimensions, weight, quantities, colours and the like do not qualify as a shortcoming on the part of the other party.
6. Complaints do not suspend the payment obligation of the other party.
7. The user must be given the opportunity to examine the complaint.
8. If a return shipment appears to be required for the examination of the complaint then this exclusively takes place at the risk and expense of the user if the latter expressly gave its prior written consent to the same.
9. In all instance a return shipment takes place in the manner to be determined by the user and in the original parcel and/or packaging. A return shipment takes place at the risk and expense of the other party, unless the user declares the complaint to be justified.
10. If the goods changed nature and/or composition after delivery, were fully or partly processed or treated, damaged or repackaged then each and every right to complain expires.
11. In case of rightful complaints the damages shall be settled pursuant to the provisions set forth in article 10.

ARTICLE 10: LIABILITY AND WARRANTY

1. The user completes its duty as befits an undertaking in its industry. The user shall exclusively be liable for direct damages. A similar limitation applies with regard to members of staff or other third parties who are hired by the user for the performance of its activities.
2. Direct damages are exclusively understood as the reasonable costs for the establishment of the cause and the scope of the damages, to the extent that the establishment is related to damages within the meaning of these terms and conditions, the potentially reasonable costs incurred to have the defective performance of the user comply with the agreement, to the extent that this can be blamed on the user, and reasonable costs incurred to avoid or prevent direct damages within the meaning of these general terms and conditions.
3. The user shall never be liable for indirect damages, including consequential damages, lost profit, lost savings and losses due to business interruptions.
4. Without prejudice to the provisions set forth in the previous paragraphs of this article, the liability of the user – on any account whatsoever – shall be limited to the amount of the net price of the delivered goods and/or the performed activities. Compliance with this provision qualifies as the sole and complete compensation.
5. Without prejudice to the previous paragraph of this article, the user shall never be held to pay compensation exceeding the insured amount, to the extent that the damages are covered by insurance taken out by the user.
6. If errors, inaccuracies and/or defects occur in the delivered goods that must have already been present at the time of delivery then the user commits to repair or replace the said goods – at its sole discretion – free of charge. The user warrants the usual normal quality and sound condition of the delivered goods; the actual lifecycle can never be warranted.
7.
 - A. In all instances the time limit within which the user can be addressed for compensation for established damages is limited to 6 (six) months, calculated from the moment that the indebtedness of the compensation was established.
 - B. If the other party is a natural person who does not act in the course of a profession or business then a maximum time limit of 1 (one) year applies, calculated from the moment that the indebtedness of the compensation was established, within which the user can be addressed for compensation for established damages.
8. If goods delivered by the user are subject to a warranty provided by the manufacturer then the said warranty shall equally apply between the parties.
9. If the other party is a natural person who does not act in the course of a profession or business then the user observes the statutorily established warranty period.
10. The other party forfeits its rights vis-à-vis the user, shall be liable for any and all damages and indemnifies the user against each and every claim of third parties in connection with compensation if and to the extent that:
 - A. the said damages are the result of injudicious use and/or use in violation of instructions and/or recommendations of the user and/or injudicious keeping (storage) of the delivered goods by the other party;
 - B. the said damages are the result of errors or inaccuracies in data, materials, data carriers and the like that were provided and/or prescribed to the user by or on behalf of the other party.

ARTICLE 11: PAYMENT

1. Payment must take place to the bank account of the user within 30 days after the date of the invoice. In case of payment within eight days the other party is entitled to apply a discount of 2% to the invoice amount excluding turnover tax. The said payment terms apply unless the parties expressly stipulate otherwise in writing.
2. If an invoice has not been paid in full after the expiry of thirty days then the other party is in default and:
 - A. the other party shall be liable to pay the user default interest at 1% per month, or the statutory commercial interest pursuant to section 119a of Book 6 of the Dutch Civil Code, should this be higher, to be calculated cumulatively on the principal sum. For this purpose parts of a month are qualified as full months;

- B. the other party shall, after a corresponding demand by the user, be liable to pay 15% of the invoice amount with an absolute minimum of € 150.00 in connection with reasonably incurred costs in respect of extrajudicial collection;
 - C. the other party is liable to pay the user an amount of at least € 20.00 in connection with administration costs for each and every payment reminder, demand and the like sent to the other party.
3. In case of bankruptcy, suspension of payment, insolvency or liquidation of the other party the full invoice amount immediately falls due in full.
 4. At the discretion of the user, in the aforementioned or corresponding circumstances, the user can, without further notice of default or judicial intervention, rescind the agreement either in whole or in part, whether or not in combination with a claim for compensation.
 5. If the other party did not comply with its payment obligations in a timely fashion then the user is entitled to suspend compliance with its obligations vis-à-vis the other party regarding delivery and/or performance of activities until the payment took place or sufficient security was provided for the same. The same already applies to the moment before the default if the user has the reasonable suspicion that there are reasons to doubt the creditworthiness of the other party.
 6. Payments effectuated by the other party always extend to satisfaction of any and all payable interest and costs and then of claimable invoices that were outstanding the longest, unless the other party expressly indicated in writing with the payment that the satisfaction is related to a later invoice.
 7.
 - A. If the other party, on any account whatsoever, has or shall acquire one or more counterclaims vis-à-vis the user then the other party waives the right of setoff with regard to the said claim(s). The said waiver of the right of setoff also applies if the other party applies for suspension of payment or is declared bankrupt.
 - B. The provisions set forth under A of this paragraph are not applicable if the other party is a natural person who does not act in the course of a profession or business.

ARTICLE 12: RESERVATION OF TITLE

1. The user reserves the title of delivered and to be delivered goods up to the moment that the other party complied with any and all payment obligations vis-à-vis the user. The said payment obligations consist of the payment of the purchase price plus claims with regard to performed activities that are related to the relevant delivery as well as claims with regard to compensation on account of a failure to comply with obligations on the part of the other party.
2. If the user acquires another commercial claim vis-à-vis the other party then the reservation of title revives in respect of the already delivered goods of which the reservation was exhausted. In this respect the other party hereby already transfers the title of the said goods to the user.
3. As a result of the reliance of the user on the reservation of title the relevantly concluded agreement is rescinded, without prejudice to the right of the user to claim compensation for damages, lost profit and interest. The purchase price already received by the user inures to the user by way of compensation. In the capacity of owner the user can immediately dispose of the goods that are subject to the reservation of title.
4. The other party is held to immediately inform the user in writing of the fact that third parties are enforcing rights in respect of goods that are, in pursuance of this article, subject to reservation of title.

ARTICLE 13: PLEDGE / WARRANTAGE

Up to the moment that the other party complied in full with its payment obligations vis-à-vis the user, the other party is not authorised to pledge delivered goods to third parties and/or establish a non-possessory pledge on the same and/or place the goods in the actual possession of one or more financiers for storage (warrantage) as this shall be qualified as an imputable failure to comply on the part of the same. As the occasion arises the user can immediately, without being liable to give any notice of default, suspend its obligations on account of the agreement, without prejudice to the right of the user to claim compensation for damages, lost profit and interest.

ARTICLE 14: BANKRUPTCY, NO POWER OF DISPOSITION and the like

Without prejudice to the provisions set forth in the other articles of these terms and conditions, the agreement concluded by and between the other party and the user is rescinded without any judicial intervention and without any notice of default being required, at the moment that the other party is declared bankrupt, applies for (provisional) suspension of payment, is affected by an executory attachment, is placed under administration or guardianship or otherwise loses the power to dispose and the legal competency with regard to its assets or parts thereof, unless the administrator or the receiver acknowledges the obligations from the agreement as estate debts.

ARTICLE 15: FORCE MAJEURE

1. If compliance with what the user is held to pursuant to the agreement concluded with the other party is not possible and this can be blamed on a non-imputable failure to comply on the part of the user and/or on the part of the third parties or suppliers hired for the implementation of the agreement or if another compelling reason occurs on the part of the user then the user is entitled to rescind the agreement concluded by and between the parties or to suspend compliance with its obligations vis-à-vis the other party during a reasonable period to be determined by the same, without being liable to pay compensation. If the aforementioned situation occurs when the situation has already partly been implemented then the other party is held to comply with its obligations vis-à-vis the user up to that moment.
2. Circumstances where there shall be question of a non-imputable failure to comply include, inter alia, war, riots, mobilisation, domestic and foreign disturbances, official measures, industrial action and lock-out by employees or threat of the same and similar circumstances; disruption of the currency exchange ratios existing at the time of the conclusion of the agreement; business interruptions due to fire, an accident or other events and natural phenomena, all regardless of the fact whether the failing or late compliance takes place at the user, its suppliers or third parties who were hired by the user for the implementation of the obligation.
3. If the other party fails to in any way whatsoever comply promptly with its obligations vis-à-vis the user, in case of discontinuation of payment, application for (provisional) suspension of payment, bankruptcy, executory attachment, assignment of estate or liquidation of the business of the other party then everything payable by the same to the user on account of any agreement immediately falls due in full.

ARTICLE 16: CANCELLATION AND RESCISSION

1. A. The other party waives any and all rights to rescission of the agreement pursuant to sections 265 ff. of Book 6 of the Dutch Civil Code or other statutory provisions, unless stipulated otherwise.
B. The provisions set forth under A of this paragraph are not applicable if the other party is a natural person who does not act in the course of a profession or business.
2. Rescission by the other party is only possible if the user agrees with this. As the occasion arises the other party is held to pay at least 30% of the purchase price and/or the stipulated price by way of compensation and to take receipt of the already ordered goods upon payment of the stipulated price but at least the cost price. The other party is liable for the damages of third parties that are recovered from the user as a result of the rescission and indemnifies the user against the same.
3. Amounts already paid by the other party are not repaid.

ARTICLE 17: COMPETENT LAW / COMPETENT COURT

1. Dutch law is exclusively applicable to the agreement concluded by and between the user and the other party. The disputes that derive from this agreement shall also be settled according to Dutch law.
2. Potential disputes shall exclusively be settled by the competent court at the District Court in Rotterdam.

3. If the other party is a natural person who does not act in the course of a profession or business then it is noted that within 1 (one) month after the user has informed the other party that the case shall be brought to the cognisance of the court, the other party can communicate that it elects for settlement of the dispute by the statutorily competent court.
4. With regard to disputes that derive from the agreement concluded with another party established outside the Netherlands, the user is entitled to act in conformity with the provisions set forth in paragraph 2 of this article or – at its sole discretion – to bring the dispute to the cognisance of the competent court in the country and/or the state where the other party is established.

ARTICLE 18: PURCHASE BY THE USER

The user expressly declares the provisions of the Vienna Sales Convention applicable to any and all purchases made by the same. The user elects for applicability of Dutch law to the agreement that the user concludes with another party outside the Netherlands, unless expressly stipulated otherwise in writing. The user expressly elects for settlement of each and every dispute by the competent court of the District Court in Rotterdam (the Netherlands), unless expressly stipulated otherwise in writing.