

General Terms and Conditions of Chr. Muller Touw BV

Registered office in Elst, filed at the registry of the Court in Arnhem on May 2018 under no 21/2018

1. General

- 1.1 These general terms and conditions ("Terms of Delivery") are applicable to all legal relationships of Chr. Muller Touw acting as (potential) seller of goods ("Goods") or as service provider.
- 1.2 Supplementary or conflicting stipulations or conditions are explicitly rejected, unless Chr. Muller Touw accepted these in writing; such deviating conditions apply only to the agreement in respect of which they are accepted.
- 1.3 All offers of Chr. Muller Touw are without obligation, unless agreed otherwise. Chr. Muller Touw is bound when it has accepted the order and/or the offer of the other party in writing or after it has commenced execution of the order. Any prior agreements which have not been confirmed in writing shall be deemed to have lapsed. All other agreements are binding upon Chr. Muller Touw provided they are confirmed in writing by Chr. Muller Touw.
- 1.4 Technical data, sizes, depictions, drawings, weights, tensile strengths, prices, etc. in price lists, offers and other documents shall not be binding upon Chr. Muller Touw, and are subject to the usual margins. Slight deviations shall not entitle the other party to dissolve the agreement, suspend its (payment) obligations or to demand compensation.
- 1.5 In case of a dispute between the Dutch text of these Terms of Delivery and translations thereof, the Dutch version will prevail over any translations of this text.
- 1.6 In the event a specific agreement between Chr. Muller Touw and the other party is concluded to which these Terms of Delivery apply, the provisions of such specific agreement shall prevail in case of a conflict between the provisions of such specific agreement and the provisions of the Terms of Delivery.
- 1.7 In the event an agreement between Chr. Muller Touw and the other party is concluded electronically, Chr. Muller Touw is not obliged to confirm the receipt of the statements of the other party and the other party is not allowed to dissolve the agreement based on the absence of such a confirmation of receipt.

2. Prices

- 2.1 All quotations and prices charged are ex works or ex warehouse in Elst (unless agreed otherwise), as the case may be, exclusive of VAT and any other costs ensuing from the agreement, in Euro (and inclusive of reels and (other) packing), unless otherwise explicitly stated.
- 2.2 The prices are based on the current cost price of materials, wages, import and export, duties, levies, taxes, freight and insurance and other factors at the time on which the agreement is concluded. Increases in the aforementioned cost prices after the date of conclusion of the agreement may be passed on by Chr. Muller Touw. The preceding terms shall also apply if the increases of the cost prices were to be expected at the moment the agreement was concluded.
- 2.3 In the event that payment in a foreign currency is agreed upon, Chr. Muller Touw shall be entitled to change the price accordingly in the event of a change in the exchange rates to Chr. Muller Touw disadvantage after the agreement has been concluded.

3. Changes and samples

- 3.1 Chr. Muller Touw reserves its right to change, as the occasion arises, the construction of the Goods which it delivers or the materials which the Goods are made of, however, not without prior consultation of the other party.
- 3.2 The other party is not allowed to alter or cancel an order without prior consent of Chr. Muller Touw.
- 3.3 Samples, sizes, weights, colours and/or details of construction of the Goods provided to the other party serve only as an indication, to which the Goods to be delivered do not necessarily have to conform.

4. Delivery

- 4.1 If the net invoice value of a delivery exceeds Euro 500,-, delivery shall be made carriage paid to the house of the other party (DDP), unless otherwise agreed in writing. If the net invoice value should amount to less than Euro 500,-, delivery shall be made ex works or warehouse, as the case may be, in Elst (The Netherlands), unless agreed otherwise.
- 4.2 The times for delivery indicated are not of the essence, unless expressly agreed otherwise. Chr. Muller Touw will only be in default and be liable for possible consequences of the times for delivery being exceeded, after having received a written notice of default specifying a reasonable time for delivery and after it has failed to comply with such specified time. The other party cannot derive from this any rights to either dissolve the agreement, to claim for damages or to suspend his obligations under this agreement.
- 4.3 In the event that the other party has not taken up the Goods within the agreed delivery time or in the event that Chr. Muller Touw cannot deliver these Goods on time due to circumstances beyond its control, the Goods shall be held at the disposal of the other party, stored at its expense and risk. In this case, Chr. Muller Touw may demand payment as if delivery had taken place, without prejudice to the right of full compensation.
- 4.4 Chr. Muller Touw shall have the right to deliver an order partially. The other party must take up orders (on call) within the term agreed. Failure to do so shall entitle Chr. Muller Touw to deliver the Goods ordered all at once, whereupon the entire amount of the order shall become payable, and/or pass on any price increases.
- 4.5 The receipt of the Goods which is signed by the other party or by its legal representative serves as evidence of delivery.
- 4.6 Delivery outside the Netherlands shall take place Ex Works (EXW) Elst Incoterms, Edition 2000, unless one of the other Incoterms is agreed upon.

5. Complaints

- 5.1 Complaints must be submitted in writing within 8 days of delivery of the Goods or in any event within 8 days after the defects could reasonably have been established by the other party, with a specification of the complaints; in the event that the other party fails to comply, the Goods supplied shall be deemed to have been accepted and the right to guarantee shall cease to exist. Minor deviations in colour, structure etc. of the Goods delivered shall constitute no right to complain.
- 5.2 Complaints do not entitle the other party to suspend payment or to set-off the amount in question.
- 5.3 Defects in a part of the Goods delivered shall not entitle the other party to refuse or reject the entire order.
- 5.4 Returns shall only be accepted after prior written approval has been given by Chr. Muller Touw. Such returns shall be made carriage paid to the house of Chr. Muller Touw (DDP). The returned Goods must be undamaged and in their original packing.
- 5.5 The right of recovery lapses when the other party has used the Goods, even if the claim was initiated before such use.

6. Payment/Default

- 6.1 Chr. Muller Touw shall be entitled to invoice each consignment or delivery separately. Payment by the other party shall be made, without any discount or right to set-off, in cash at the offices of Chr. Muller Touw or by deposit into a (post)bank account to be indicated by Chr. Muller Touw within 30 days after invoice date, unless agreed otherwise. All costs with respect to payment, including but not limited to costs with respect to the provisions of security, shall be for the other party's account and expense.
- 6.2 Chr. Muller Touw reserves its right to demand payment in cash on delivery, payment in advance or a guarantee of payment, to collect on delivery, or to stipulate any other deviating terms of payment, regardless of whether payment shall be made in cash or whether a term has been set within which payment shall take place following delivery. If the other party should fail to comply, Chr. Muller Touw is entitled to suspend its obligations until the other party has complied with the obligations stipulated by Chr. Muller Touw or to dissolve the agreement.
- 6.3 In the event that the other party fails to pay within the agreed term or fails to fulfil its obligations in any other way, the other party shall be in default without any specific notification of default being required. All claims regarding the other party shall, irrespective of whether they are due, immediately become payable. In this case, Chr. Muller Touw shall have the right to suspend further execution of all current agreements between the parties until payment has been made or to declare the agreement dissolved without judicial intervention and to repossess the Goods concerned or to demand fulfillment, without prejudice to the right to punitive or alternative compensation. Any possible guarantee shall expire. Payment shall be made without the right to set-off, suspension or any discount, unless these rights are prescribed by mandatory law. Claims under a guarantee do not suspend the other party's payment obligations.
- 6.4 In the event that the other party fails to pay on the agreed date, interest is due. The interest rate shall be equal to the Dutch trade interest per month or part of a month commencing on the due date of the invoice concerned until the date of payment in full. The amount due will be increased by the costs of (extra)judicial collection, which costs will be calculated in accordance with the collecting rate of the Dutch "Orde van Advocaten".
- 6.5 In the event of late payment, any difference in exchange rates to the disadvantage of Chr. Muller Touw shall be borne by the other party. Reference dates in this respect shall be the due date of the invoice and the date on which payment is made.
- 6.6 Acceptance of a cheque or bill of exchange by Chr. Muller Touw shall be deemed to be effected under reservation of timely payment of the amount to the account of Chr. Muller Touw, failing which, all (legal) consequences of non-performance shall take immediate effect.

7. Retention of title/security

- 7.1 Chr. Muller Touw shall remain owner of the Goods delivered to the other party until such time as the other party has fulfilled his obligations under the agreement, has settled any possible claim for damages of Chr. Muller Touw by virtue of a breach of contract or until such time as payment for the activities performed or to be performed for the other party has taken place. The other party is obliged to diligently store the Goods delivered under retention of title and to clearly mark these as property of Chr. Muller Touw.

- 7.2 The other party shall not be entitled to sell or process the Goods which are subject to retention of title, other than in the normal course of its business, nor to pledge these Goods or to infringe in any other way the proprietary rights of Chr. Muller Touw by establishing any limited right in rem, except with the prior written consent of Chr. Muller Touw.

- 7.3 Any payment effected by the other party shall be deemed to have been made first and foremost to settle any claims of Chr. Muller Touw concerning debts incurred by the other party which are not related to either Goods delivered or to be delivered, or to activities benefiting the other party, or to a debt incurred due to non-observance of any such agreements. Thereafter a payment shall be charged to the accrued interest and costs and after that to the oldest debts, irrespective of any indications made by the other party.

- 7.4 The other party undertakes to grant a first pledge to Chr. Muller Touw on all claims he has or will receive on customers relating to Goods supplied to him by Chr. Muller Touw as well as all claims which cannot be, subject to retention of title pursuant to article 3:92 sub 2 of the Dutch Civil Code, thus providing additional security as regards the settlement of debts incurred or to be incurred for whatever reason by the other party to Chr. Muller Touw. In order to realize this commitment, the other party will at Chr. Muller Touw's request, supply a statement (listing of pledges) detailing all claims the other party has on third parties.

- The other party shall confirm in the listing of pledges that he is entitled to pledge the claims stated therein and that they are not subject to pledges or usufructs of other parties, unless stated otherwise in the listing of pledges. The pledge shall be deemed to be accepted once Chr. Muller Touw has accepted this listing of pledges. The right to pledge shall be established by means of registration of the listing of pledges by Chr. Muller Touw.

- 7.5 If the other party works or processes the Goods delivered by Chr. Muller Touw and as a result of specification or due to any other cause the rights of Chr. Muller Touw to the Goods are lost and therefore the ownership of the Goods has passed to the other party, the other party hereby undertakes to establish an undisclosed pledge in advance on the thus created new Goods.

- The other party agrees to cooperate in the drawing up of a deed establishing the right to pledge in accordance with article 3:237 of the Dutch Civil Code. Chr. Muller Touw shall register said deed.

- 7.6 In the event of a breach by the other party of the above mentioned provisions under 1 up to and including 5, he shall be in default without any notification of default being required. In this case, Chr. Muller Touw shall have the right to suspend the further execution of all current agreements between the parties or to dissolve the agreement wholly or in part, without prejudice to its right to full compensation. The other party shall not be entitled to compensation or to any right of guarantee.

- 7.7 If the other party fails to fulfil any of its obligations under the agreement, either in full, not timely or not properly, Chr. Muller Touw is entitled, without prior judicial intervention being required, to repossess the Goods delivered. The other party herewith irrevocably authorizes Chr. Muller Touw to enter those premises of the other party where the Goods are stored and is obliged to cooperate; All costs related to repossession of the Goods shall be for the other party's account and expense.

- 7.8 The property law aspects of retention of title to the Goods shall be governed by Dutch law or, at the discretion of Chr. Muller Touw, by the laws of the country of destination of the Goods, provided that (i) the laws of such country in respect of retention of title provide better protection to Chr. Muller Touw than Dutch law and (ii) the Goods are actually imported into that country of destination.

- 7.9 The other party shall immediately notify Chr. Muller Touw in the event a third party levies execution against or makes a prejudgment attachment on the Goods subject to retention of title of Chr. Muller Touw. The other party shall also immediately notify the judgment creditor of the fact that the Goods are subject to retention of title.

8. Packing

- Reels and (other) packaging shall not be taken back or credited, as the case may be.

9. Guarantee

- 9.1 Chr. Muller Touw only guarantees that at delivery the Goods are fit to be used for normal use thereof. (This shall not affect the provisions of article 5, which state that complaints must be made on time, nor of article 10 (liability) which shall remain applicable in full.

- 9.2 If Chr. Muller Touw acknowledges material or manufacturing faults or hidden defects, Chr. Muller Touw shall, at its discretion either:

- repair these defects free of charge;
- reimburse the purchase price to the other party;
- deliver new Goods.

- 9.3 The guarantee shall not apply if the other party has itself altered or repaired the Goods delivered, or has had this carried out by third parties, or if the Goods delivered have been used for purposes other than normal business purposes, or have been a matter of normal wear and tear or have been, in the opinion of Chr. Muller Touw, improperly used or maintained.

- 9.4 The guarantee shall only be valid if the other party has fulfilled all its obligations (both financial and otherwise) towards Chr. Muller Touw.

10. Liability

- 10.1 Except in case of gross negligence and wilful intent of Chr. Muller Touw or its directors, the liability of Chr. Muller Touw shall be limited to the invoice amount paid for the delivered Goods which caused the damage.

- 10.2 Chr. Muller Touw is not liable for damage caused by gross negligence or wilful intent of its employees and/or its agents.

- 10.3 The other party shall indemnify and hold Chr. Muller Touw harmless against all loss, liability, damage, costs and expenses of third parties resulting from acts or omissions of Chr. Muller Touw and for which claimants the other party can be held liable unless the loss, liability, damage, costs and expenses are caused by gross negligence or wilful intent of Chr. Muller Touw.

- 10.4 Chr. Muller Touw shall never be liable for consequential losses, including but not limited to loss of profits, incurred losses, costs and loss of savings.

- 10.5 In the event that Chr. Muller Touw sells Goods to third parties (after assembly, processing or treatment or otherwise), which Goods have been manufactured and/or supplied wholly or in part by another supplier on Chr. Muller Touw orders, this other supplier shall be liable for any damage sustained by Chr. Muller Touw or third parties, in so far as the cause of the damage lies in the Goods manufactured or supplied by said other party. No damage may be claimed from Chr. Muller Touw for damage so suffered.

11. Force majeure

- 11.1 In the event of force majeure, Chr. Muller Touw shall be entitled to dissolve the agreement wholly or in part or to suspend performance of its contractual obligations without being liable to pay compensation.

- 11.2 All circumstances beyond Chr. Muller Touw's control or outside its sphere of influence, which could reasonably not have been expected at the moment of concluding the agreement and are of such a nature that the fulfillment of the agreement can no longer reasonably be required, shall be deemed to be force majeure. These circumstances include, for example, government measures, delays in supply, transport delays, strikes, lack of materials/stocks and/or labour force etc.

12. Redeliveries

- The other party shall be entitled to resell and redeliver Goods delivered by Chr. Muller Touw to third parties in the normal course of its business. The other party is obliged to include these Terms of Delivery in the agreement between the other party and the third party and to act in accordance with the clauses of these Terms of Delivery.

13. Dissolution

- Dissolution of the agreement in whole or in part shall be solely possible in the cases stated in these Terms of Delivery as well as if the other party is declared bankrupt, applies for a moratorium, in the event of attachment, if the other party is being placed under legal control or should in any other way lose the power of disposition of its property or part thereof, or if the business of the other party is being stopped or wound-up, without prejudice to the right of Chr. Muller Touw to claim full compensation. All claims of Chr. Muller Touw shall then become immediately due and payable. Article 7.7 applies mutatis mutandis.

14. Privacy

- The other party is aware that Chr. Muller Touw processes personal data of (contacts of) the other party. Chr. Muller Touw stores this data in a database that is used for the execution of the agreement. The other party is deemed to have taken note of the privacy statement of Chr. Muller Touw, as can be found on the website www.chrmullertouw.nl.

15. Competent Court

- 15.1 Except for article 15.2, all disputes arising out of or in connection with these Terms of Delivery the agreement concerned or out of any further agreements arising therefrom, shall be settled by the competent court.

- 15.2 Disputes between parties regarding the guarantee referred to in article 9 shall be decided by an expert to be appointed in mutual consultation, whose advice shall be binding. The party wishing to refer a matter to an expert on grounds of the provisions of this clause, shall notify the other party hereof in writing. If parties fail to come to an agreement within one month after the date upon which aforesaid notification was made, both Chr. Muller Touw and the other party will appoint an expert, after which the appointed experts will jointly appoint a third expert.

16. Applicable law

- These Terms of Delivery and all further agreements arising therefrom shall be governed by and construed in accordance with Dutch Law, except for the Vienna Sales Convention.

17. Conversion

- In the event that any of the provisions contained in these Terms of Delivery shall be (partly) invalid and/or unenforceable, the remaining provisions of these Terms of Delivery shall continue to be in force to the fullest extent permitted by law. Chr. Muller Touw and the other party shall replace the invalid or non-binding part by provisions which are valid and binding and the legal effect of which, given the contents and purpose of the Terms of Delivery, is, to the greatest extent possible, similar to that of the invalid or non-binding part.