

GENERAL TERMS AND CONDITIONS OF ONLINE SALES (B2C)

Article 1: Definitions

1. fabfabrics, located in Amsterdam, the Netherlands, Chamber of Commerce no. 70331898, is in these General Terms and Conditions referred to as the Seller.
2. The Seller's co-contracting party is referred to in these General Terms and Conditions as the Buyer.
3. The Parties are the Seller and the Buyer together.
4. The Agreement means the Purchase Agreement between the Parties.

Article 2: Applicability of the General Terms and Conditions

1. The General Terms and Conditions apply to all quotations, offers, agreements and deliveries of services or goods by or on behalf of the Seller.
2. It is only possible to deviate from these General Terms and Conditions where specifically agreed in writing by the Parties.

Article 3: Payment

1. The full purchase price is always paid immediately in the shop. In certain cases, an advance payment may be expected for reservations. In that case, the Buyer will receive proof of the reservation and of the advance payment.
2. If the Buyer fails to pay in time, it will be in default. If Buyer remains in default, the Seller will be entitled to suspend the performance of its obligations until the Buyer will have complied with its obligation to pay.
3. If Buyer remains in default, the Seller will take action for collection. All collection costs regarding that collection will be borne by the Buyer. These collection costs are calculated on the basis of the Dutch Extrajudicial Collection Costs (Fees) Decree [*Besluit vergoeding voor buitengerechtelijke incassokosten*].
4. In the event of liquidation, bankruptcy, attachment or suspension of payments on the part of the Buyer, the Seller's claims against the Buyer will be immediately due and payable.
5. If the Buyer refuses to cooperate with the performance of the assignment by the Seller, it is still obliged to pay the Seller the agreed price.

Article 4: Offers, quotations, and price

1. Offers are without obligation, unless a deadline for acceptance is mentioned in the offer. In the event that the offer is not accepted within the set period, the offer expires.
2. Delivery times mentioned in offers are indicative only and where exceeded will not entitle the Buyer to dissolve the Agreement or claim any compensation, unless the Parties have expressly agreed otherwise in writing.
3. Offers and quotations do not automatically apply to future orders. The Parties have to agree thereon expressly in writing.
4. The prices specified on the offers, quotations and invoices consist of the purchase price inclusive of VAT and any other government levies.

Article 5: Right of withdrawal

1. The consumer is entitled to terminate the Agreement without giving any reasons within 14 days after the receipt of the order (right of withdrawal). The time starts to run when the consumer has received the (total) order.

2. There is no right of withdrawal when the products have been tailored to the specifications of the consumer or only have a limited shelf life.
3. The consumer may use the Seller's withdrawal form. Following the Buyer's request, the Seller is obliged to make this available to the Buyer without delay.
4. During the cooling-off period the consumer will handle the products and the packaging with due care. He/she will only unwrap or use the product to the extent that this is necessary for assessing whether he/she wishes to keep the product. In the event he/she uses his/her right of withdrawal, he/she will return the unused and undamaged product to the Seller with all accessories delivered and - if reasonably possible - in the original packaging, in accordance with the clear and reasonable instructions provided by the company.

Article 6: Amendments to the Agreement

1. If at any point during the performance of the Agreement it proves necessary for the proper performance of the order to change or supplement the work to be carried out, the Parties shall amend the Agreement accordingly, in a timely fashion and in mutual consultation.
2. If the Parties agree to amend or supplement the Agreement, this may affect the agreed or anticipated time of completion of the performance. The Seller will notify the Buyer thereof as soon as possible.
3. In the event that any such amendment or supplement to the Agreement has financial and/or quality-related consequences, the Seller shall inform the Buyer thereof in advance in writing.
4. If the Parties have agreed a fixed price, the Seller shall indicate to what extent the amendment or supplement to the Agreement will result in this price being exceeded.
5. Notwithstanding the provisions of the third paragraph of this article the Seller will not be able to charge additional costs if the amendment or supplement is the result of circumstances attributable to the Seller.

Article 7: Delivery and risk transfer

1. As soon as the Buyer takes receipt of the purchased items, the risk passes from the Seller to the Buyer.

Article 8: Inspection, complaints

1. The Buyer is supposed to inspect (or arrange for third parties to inspect) the delivered items at the time of delivery or, in any case, as soon as possible. In so doing, the Buyer should examine whether the quality and quantity of the items delivered correspond to the agreements made by the Parties, at any rate that the quality and quantity meet the requirements applicable thereto in normal (commercial) dealings.
2. Complaints in connection with damage, shortages or loss of delivered goods must be submitted by the Buyer to the Seller in writing within 10 working days after the date of delivery of the goods.
3. If the complaint is found justified within the stipulated time, the Seller will be entitled either to repair or to supply again, or not to deliver and send the Buyer a credit note for the relevant part of the purchase price.
4. Minor deviations and/or deviations that are acceptable in the industry and differences in quality, quantities, dimensions or finishing cannot be alleged against the Seller.
5. Complaints with regard to a specific product do not affect other products or parts forming part of that same agreement.
6. After the processing of the goods at the Buyer, complaints will no longer be accepted.

Article 9: Samples and models

1. If a sample or model has been shown or given to the Buyer, the assumption is that such has been given by way of indication only, without the item to be delivered having to comply therewith, except when the Parties have explicitly agreed that the item to be delivered will have to comply therewith.
2. In the event of agreements in respect of immovable property, specification of the surface area or other measurements and indications given will also be presumed to be indicative only, without the item to be delivered having to meet these.

Article 10: Delivery

1. Delivery will be made “ex works/shop/warehouse”. This means the Buyer shall bear all costs.
2. The Buyer will be obliged to accept the items at the moment that the Seller delivers them to the Buyer (or arranges for third parties to do so) or at the time at which the items are made available to the Buyer in accordance with the Agreement.
3. If the Buyer refuses acceptance or omits to furnish information or instructions necessary for the delivery, the Seller will be entitled to store the item at the Buyer's expense and risk.
4. In the event that the items are delivered, the Seller will be entitled to invoice for any delivery costs.
5. If the Seller requires information from the Buyer for the performance of the Agreement, the delivery time will start after the Buyer has provided the Seller with this data.
6. Delivery times stated by the Seller are always indicative. These times are never fatal deadlines. When such a time is exceeded, the Buyer must provide the Seller with a written notice of default.
7. The Seller is entitled to deliver the items in parts, unless the Parties have agreed otherwise in writing or partial delivery has no independent value. In the case of partial deliveries, the Seller will be entitled to invoice these parts separately.

Article 11: Force majeure

1. Should the Seller not be able to fulfil its obligations arising from the Agreement or to fulfil these in a timely or proper manner for reasons of force majeure, it will not be liable for loss suffered by the Buyer.
2. Force majeure is in any case understood to mean, according to the Parties, any circumstance which the Seller could not have taken into account at the time of entering into the Agreement and as a result of which it would not be reasonable for the Buyer to demand that the Agreement be fulfilled in the normal way. Such circumstances include: sickness, war or threat of war, civil war and riots, acts of war, sabotage, terrorism, power failure, flooding, earthquake, fire, sit-down strike, job strikes, lock-out of employees, altered governmental measures, difficulties of transport, and other disturbances in the company of the Seller.
3. Furthermore, according to the Parties force majeure includes the circumstance that suppliers, on which the Seller depends for the performance of the Agreement, do not comply with their contractual obligations towards the Seller, unless this is attributable to the Seller.
4. In the event that a situation referred to above occurs, as a result of which the Seller will not be able to meet its obligations vis-à-vis the Buyer, these obligations will be suspended for as long as the Seller will not be able to meet its obligations. If the situation referred to in the previous sentence has lasted more than 30 calendar days, the Parties will be entitled to terminate the Agreement in writing, either wholly or in part.
5. In the event that the situation of force majeure lasts longer than three months, the Buyer will be entitled to terminate the Agreement with immediate effect. Termination can only take place by registered letter.

Article 12: Transfer of rights

1. Rights of a Party under this Agreement cannot be transferred without the prior consent in writing of the other Party. This provision is considered to be a stipulation with effect under property law within the meaning of Book 2, article 83, paragraph 2 of the Dutch Civil Code.

Article 13: Retention of title and right of retention

1. All items and parts delivered or present at the Buyer remain the property of the Seller, until the Buyer will have paid the agreed price in full. Until such time, the Seller may invoke its retention of title and take the items back.
2. If the agreed amounts to be paid in advance are not paid in time or not at all, the Seller will be entitled to suspend execution of the work until the agreed part has been paid. This will constitute creditor's default. In these circumstances, a delay in the delivery cannot be alleged against the Seller.
3. The Seller is not entitled to pledge or otherwise encumber items under its retention of title.
4. The Seller undertakes to insure the items supplied to the Buyer under retention of title and to keep them insured against fire, damage caused by explosion or water, as well as against theft, and to allow inspection of the policy at the first request.
5. In the event that items have not yet been delivered but the agreed advance payment or price has not been paid in accordance with the agreements, the Seller has the right of retention. In this case, the items will not be delivered until the Buyer has paid in full and in accordance with the agreements.
6. In the event of liquidation, bankruptcy, attachment or suspension of payments on the part of the Buyer, the Buyer's obligations will immediately be due and payable.

Article 14: Liability

1. Any liability for damage resulting from or in connection with the performance of an agreement will always be limited to the amount which is paid out under the professional liability insurance(s) in the matter concerned. This amount will be increased by the amount of the excess according to the relevant policy.
2. Not excluded is the Seller's liability for damage resulting from wilful intent or deliberate recklessness on the part of the Seller or the executives under his management.

Article 15: Obligation to complain

1. The Buyer will be obliged to report any complaints regarding the work performed to the Seller immediately. The complaint includes a description of the failure that is as detailed as possible, so that the Seller is able to respond adequately.
2. If a complaint is justified, the Seller will be obliged to repair or replace the good.

Article 16: Guarantees

1. If any guarantees are included in the Agreement, the following applies: the Seller guarantees that the sold item meets the requirements of the Agreement, that it will function free of defects, and that it is suitable for the Buyer's intended use. This guarantee will be in force for a period of two calendar years following the receipt of the sold item by the Buyer.

2. The objective of the guarantee referred to is to bring about such a distribution of risks between the Seller and the Buyer that the consequences of a breach of any guarantee are always fully at the Seller's risk and expense and that the Seller may not invoke Book 6 , article 75 of the Dutch Civil Code in respect of a breach of a guarantee. The provisions of the previous sentence also apply when the Seller was aware or could have been aware of the breach by performing research
3. The guarantee referred to does not apply if the defect has been caused by injudicious or inappropriate use or in the event that the Buyer or third parties have applied or attempted to apply changes to the purchased item for purposes for which it was not designed, such without permission.
4. If the guarantee offered by the Seller relates to an item produced by a third party, the guarantee will be limited to the guarantee offered by that producer.

Article 17: Applicable law

1. This Agreement between the Seller and the Buyer is exclusively subject to Dutch law. The Dutch court is competent.
2. The applicability of the Vienna Sales Convention is excluded.
3. If in legal proceedings any provision of these General Terms and Conditions is considered to be unreasonably onerous, the validity of the remaining provisions will not be affected.

Article 18: Choice of forum

Any disputes arising from this Agreement will only be submitted to the competent court in Amsterdam.