

GENERAL TERMS OF SALE

1. All assignments, orders or deliveries made to us shall be exclusively subject to the present general sales conditions, except if derogations have been expressly authorized by us in writing. Any purchase conditions from the Purchaser shall not affect these provisions, not even when they are not expressly contradicted by us.
2. Any modification or cancellation of the order shall be subject to a written consent from the Seller.
3. The delivery dates proposed by the Seller are indicative. An order shall never be cancelled on account of the indicated delivery period being expired, except in case of abnormal delay, to be attributed to the Seller as such. In that case the Purchaser shall be entitled to cancel the order within 30 days of the registered notification of a formal notice. The cancellation letter must also be sent by registered mail. The Purchaser may only qualify for damages in case of a serious error on the part of the Seller. If the Purchaser refuses to accept the offered goods, the Seller shall be entitled, without prejudice to any other compensations for damage and profit loss, to a compensation of 125 EUR/day for storage costs. This compensation is due as from the moment the Purchaser is summoned by the Seller to take the goods.
4. The goods will always travel at the Purchaser's risk, even if both parties agree that delivery shall be realized at the Purchaser's house and the transport is realized by order of the Seller. If the contract stipulates that the Purchaser is to collect the goods, the latter is to observe the agreed deadline.
5. A transport document/invoice that is signed by the Purchaser shall be considered by the Seller as a receipt for the definitive delivery of the goods.
6. If any complaint regarding the goods is not notified in writing within 8 days of delivery thereof, it shall no longer be valid. Also complaints regarding invoices must be notified in writing within 8 days of the invoice date; if not they shall no longer be valid. If a complaint regarding the goods would be accepted, the Seller shall limit his liability to the replacement of the rejected goods. Returned goods shall only be accepted by the Seller if presented in their original unlabeled package. Transport shall be organized by the Seller.
7. The invoices, as well as all bills, shall be payable in Oudenaarde. The debt is therefore portable.
8. In case of non-payment of the invoices by the Purchaser on the expiry date, an increase of 10% shall be due by way of compensation, automatically and without formal notice. At all times, this compensation shall be at least 500 EUR. In addition, automatically and without formal notice, an interest on arrears shall be due on the unpaid invoices as from the expiry date thereof, estimated by the parties at 10% a year.
9. In case of non-payment on the expiry date of one single invoice, the balance to be paid of all other invoices, even when these have not been expired, shall automatically become immediately payable.
10. When the Purchaser fails to fulfil his obligations, the sale may be cancelled automatically and without formal notice, without prejudice to the Seller's right to all kinds of damages and interests. We only need to transmit our intention to cancel by registered mail or e-mail.
11. The drawing and/or acceptance of bills of exchange or other negotiable documents shall not imply a novation of debt and shall not differ on the sales conditions.
12. If the Seller's confidence in the Purchaser's creditworthiness is shaken by legal acts taken against the Purchaser and/or any other apparent reasons, questioning the confidence in the correct fulfilment of the commitments made by the Purchaser and/or making it impossible, the Seller shall reserve the right, even if the goods were already sent as a whole or part thereof, to suspend the entire order or part thereof and to request proper guarantees from the Purchaser. If the Purchaser refuses to respond to this request, the Seller shall reserve the right to cancel the entire order, or part thereof. All of the above without prejudice to the Seller's rights to all kinds of damages and interests.
13. In case of cancellation and/or annulment of the order by the Purchaser, the latter (the Purchaser) shall have to pay a compensation of 30% of the contracted price (or order). The Seller points out to the Purchaser that aforesaid compensation is a fee arising from a cancellation clause or termination clause. Therefore, unlike any breach of contract, this is not subject to moderation. The cancellation or termination clause is also applicable to consumers and/or individuals. The latter is entitled, in case of cancellation or termination by the Purchaser, to a similar recourse, insofar as his case may be supported by documents attesting the damage. The fee may however be higher if the Seller proves that the prejudice incurred as a result of the cancellation is higher than 30% of the value of the ordered goods. Parties also expressly agree that, in the event of the customer cancelling one or several previous orders or failing to pay one or several invoices at the respective expiry dates, also the orders for subsequent deliveries shall be considered as cancelled by the customer ordering the goods. In this case the same compensation for cancellation shall be applicable as described hereinabove. In addition, the Seller will have the right to sell the goods to third parties and the Purchaser will indemnify, defend and hold harmless Seller and third parties from any allegations of intellectual property infringement related to the goods.
14. Prices are always free of commitment and may be calculated at the tariff applicable on the day of delivery, even without prior notice. Price lists shall not constitute offers. In case of currency depreciation the Seller shall reserve the right to adapt the contracted prices with the percentage of depreciation, even if prior offers or order forms have been drawn up, accepted and signed.
15. The Purchaser shall accept that product colors may vary. The Seller cannot be held liable for slight differences in color, if any.
16. Except if otherwise agreed, the price shall not include any costs for transport, customs clearance and other costs. Any and all other costs, taxes and expenses in the country of the buyer or delivery address will never be charged to the Seller.
17. In case of any dispute between the Seller and individuals (non-traders), depending on the value of the claim, the Court of First Instance of East Flanders, department of Oudenaarde or the Justice of the Peace of Oudenaarde-Kruishoutem, seat (department) of Oudenaarde shall have exclusive jurisdiction. If the dispute is between the Seller and traders, than the Commercial Court of Ghent, department of Oudenaarde, shall have jurisdiction.
International jurisdiction
With respect to jurisdiction towards foreign Purchasers belonging to a member state as referred to in Council Regulation (EC) no. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, parties (both the Seller and the Purchaser) refer to article 23.1. EEX – Regulation, stipulating : “ if the parties, one or more of whom is domiciled in a Member State, have agreed that a court or the courts of a Member State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have jurisdiction “. Parties (both the Purchaser and the Seller) agree that they have concluded an agreement in this respect to designate the competent Court, as mentioned in article 17. The present general sales conditions by the way imply that the Purchaser recognizes that such agreement (to designate the abovementioned competent courts) was concluded. For the sake of completeness the Seller also points out that he had already concluded prior commercial relations with the Purchaser, so that the Purchaser was already aware of this choice of forum clause, showing – according to the case law- a presumption of acceptance.
For the sake of completeness: Article 23 EEX Regulation shall have priority over article 5 EEX Regulation.
For the purpose of the provision, as contained in article 5 EEX Regulation (insofar as this provision should ever need to be enforced) the commitment for payment by the Purchaser, so in case of purchase and sale of movable tangible property, at Oudenaarde shall be considered as the place of execution of the commitment, instead of the place where the goods were delivered or should have been delivered.
18. The title in the goods shall pass to the Buyer only when payment in full has been received by the Seller for all goods whatsoever supplied (and all services rendered) at any time by the Seller to the Buyer. The Buyer shall permit the servants or agents of the Seller to enter on to the Buyer's premises and repossess the goods at any time prior thereto. As long as payment has not been effected the Buyer cannot sell, pledge or offer goods as guarantee or collateral security.
Should the goods (or any of them) be converted into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions, the conversion shall be deemed to have been effected on behalf of the Seller and the Seller shall have the full legal and beneficial ownership of the new products, but without accepting any liability whatsoever in respect of such converted goods in relation to any third party, and the Buyer hereby indemnifies the Seller in relation thereto.
In the case of non-payment at the due date and upon demand the Buyer must return forthwith to the Seller all merchandise unpaid for.
19. Ex-works customers shall have to indicate in advance the customs office en route and the customs office of destination (so that the T1 document can be drawn up).
20. Regarding to the purchased goods, the buyer acknowledges the existence and the validity of the intellectual property rights of the Seller. The sale of goods does not imply any transfer of intellectual property rights to the buyer. In case a third party accuses the Buyer of an infringement of his IP rights, the buyer has the obligation:
 - (1) to notify the Seller within 8 days after having received the claim with supporting documents
 - (2) in above-mentioned case, Parties shall immediately start consultations to arrive at a joint position. If such a joint position cannot be reached within 15 (fifteen) calendar days, each Party shall be entitled to take further (legal) steps in order to safeguard/assert its interests w.r.t. this claim.
 - (3) Under no circumstances the Buyer shall, without the written consent of the Seller, take whatever action (such as - but not limited to - entering into a settlement, making certain communications, starting a procedure) that may harm the rights of defense of the Seller.In case the buyer does not respect any of those obligations, the buyer loses the right to start a safeguard case against the Seller.