



General conditions of sales & delivery

Hilarius Haarlem Holland BV

Hilarius Haarlem Holland BV

is established in Haarlem, the Netherlands at the address Emrikweg 7, 2031 BT Haarlem. Registered at the district Chamber of Commerce & Industry in Amsterdam under number 34.06.2390. HILCO is the registered trade-mark for products exclusively sold by Hilarius Haarlem Holland BV.

1.1 Our supplies and services - including long term contracts for serial deliveries - are exclusively carried out under these sales conditions in their current valid form. All reciprocal statements must be made in writing. Customers trading conditions or deviant counter confirmations are not valid. Specific customer regulations require a specific written recognition from us.

2.1 All our offers are subject to alteration without prior notice. All prices are net prices, stated in EURO currency. In principle, these apply ex works (EXW as per Incoterms 2000), excluding packaging and dispatch costs, any alloying surcharges and surcharges ensuing from price changes in primary products, raw materials, wages, taxes, freight rates, insurance rates as well as changes in currency exchange rates.

2.2 If we offer freight paid (FCA, FAS, FOB, CFR, CIF, CPT or CIP as per Incoterms 2000) all goods offered are meant to be shipped at the risk of buyers, even if the stipulations in shipping documents are stating the contrary. In such cases booking of freight and / or insurance are effected to the best of our knowledge but our liability is confined to the delivery of clean documents.

3.1. Our invoices are due for payment within 30 days from date of issue or from the date of dispatch advised to the customer, unless other terms are mutually agreed upon. The payment has to be carried out in net in cash or transfer free of costs via a banking institute in the Netherlands. Bills of exchange or cheques are only accepted on expressive agreement. Discount and collection fees are charged to the customer. In the event of an overdue amount we calculate delay charges at an interest rate of at least 7% higher than the tender-rate of the European Central Bank.

3.2. We are not obliged to fulfil the agreement as long as the customer does not fulfil his obligations in accordance with the agreement, especially by unsettled invoices. Offsetting of claims on the part of the customer by means of than other undisputed or judicially recognized demands of the customer as well as rights of refusal of service are not valid.

3.3. If the customer should become wholly or partly in arrears with a payment, if a bill of exchange or cheque is not submitted or in case we receive information to the effect that the guarantee of a credit would seem doubtful, or if an application is submitted for the opening of insolvency proceedings or if the customer makes an offer of extrajudicial settlement to his creditors, then we have the right to demand the immediate payment of all bills which are not yet due or have been delayed, and to demand cash in advance for all outstanding deliveries and services. We can also forbid the further disposal and processing of the delivered goods as well as demand the return at the customer's expense.

4.1. Our written confirmation of order alone, where such has been issued, is reference for content and range of our liabilities. In other cases our delivery notes are applicable. We reserve the right to make changes in the composition of our products as well as changes that can reasonably be made. If not otherwise agreed, our delivery period will be calculated from the date of the order confirmation. Otherwise an appropriate commercial delivery period will apply as agreed. The delivery period is considered as having been maintained when the goods are brought to dispatch before expiry of the agreed time or the customer is advised that they are ready for collection. We have the right to carry out partial deliveries.

4.2. Force majeure beyond our control such as warfare, civil or military unrest, accidents or disasters having a natural cause, traffic delays, lack of shipping space, energy shortages, operational delays to any kind, strikes and lock-outs in our own works or those of works involved in the fulfilment of the agreement or legal impediments through the intervention of official authorities or sanctions by international authorities release us from compliance with the agreed delivery dates, without the customer having any recourse to claim.

4.3. Should circumstances have changed to such an extent since closure to the agreement that, under the new circumstances the agreement would either not have been closed or under completely different conditions, we reserve the rights to refuse the fulfilment of the agreement or to demand an alteration of the agreement or of specific clauses of it in keeping with the changed circumstances, for example payment in another currency, payment under application of an escalator clause, change of the mode of delivery etc. The changes in circumstances can also be based on changes in the relationship to the customer.

5.1. If the customer should refuse acceptance of goods, then without prejudice to his payment obligations he has to bear all transport costs and costs of storage. In the event of refusal to acceptance, the purchase price will become due immediately. Instead of this, we have the rights to cancel the contract without a prior grant of a period of termination and to claim payment for damages for no fulfilment. Minor faults do not give the customer the right to refuse acceptance.

5.2. The customer takes over responsibility at that point in time when the goods leave our supply facility. If the dispatch is delayed at the request to the customer or for any other reason beyond our control, then responsibility passes over to the customer when we are ready to dispatch the goods. We will determine the type and method of dispatch and packaging. We may invoice the customer for any increases in freight costs between confirmation of the order and dispatch as a separate item. With orders for goods to be delivered on demand, the last day of the month following the advice of preparedness for dispatch is regarded as the final date of request.

5.3 The customer is entitled to a quality check of the goods prior to shipment, provided a written notice is given in advance. Following accomplishment of a possibly agreed quality control of goods prior to shipment the claiming of faults which would have been discernible is ruled out. This also applies where the customer has received our works certificate of compliance of delivery on relinquishing quality control. When quality control is not accomplished, or not accomplished on time, or not completely, following advice of our preparedness for acceptance, then the customer is in default of acceptance.

5.4 Goods sold for export may not be distributed within the Netherlands territory, processed, returned there or brought back to there, or supplied to any other than the country of destination stated in the order. The export by the customer, or his subsequent purchaser, of goods not sold expressly for export may only be carried out with our prior approval. When requested by us the customer is obliged to provide proof of the location or destination of the goods.

6.1. The supplied goods remain our property until payment of the purchase price (plus Value Added Tax, if charged) including, where necessary, all interest on arrears, reminder and collection charges as well as process costs. The customer is only permitted to distribute the reserved goods as part of normal trading. He is not authorized to carry out any other means of disposal, especially assignment as security or assignment by bill of sale as security. On interference by third parties with our rights as provisional owner, then he must take the necessary steps to guarantee our rights.

6.2 The customer hereby relinquishes all claims against his customers resulting from the assigned goods for the safeguarding of our claims against him. On our permissible request the customer has to announce the assignment of claims to his customer, and thus provide all information required and hand over necessary documents for the assertion of our claims. The customer is only authorized to collect outstanding debts resulting from resale when we do not claim the right to collect the debts ourselves.

6.3 The customer is entitled to process the sold goods. We remain joint owner of the goods in the ratio of the value of the assigned goods to the final product. When the customer does not pay the purchase price or does not fulfil other agreed commitments, we have the right to take back the sold goods without this being considered as withdrawal from the agreement. In this case we are only obliged to return the goods to the customer when the fulfilment of his agreed obligations is confirmed, especially when the payment of the purchase price including all reminder and collection costs as well as process costs has been accomplished.

7.1 The period of representation and warranty is three months. Normal commercial or minor or technically unavoidable deviations in quality, form, colour, weight or style of packaging do not constitute faults and can not be considered as a reason for a complaint. This also applies for deliveries according to specimen or samples.

7.2 Notification of defects must be precisely specified and advised immediately after receipt of the goods, with a maximum of 7 days after receipt. In case the claim is justified we are entitled to choose whether we replace the goods, to repair the goods involved or to withdraw them from the contract. The customer must ensure that the goods are in the same condition as when delivered. In the event of faults in the execution of wage work, we can be held liable only for an amount to the extent of the labour costs invoiced by us.

7.3 No obligations under warranty exist when the defect is due to normal wear and tear, improper treatment, lack of maintenance, unusual environmental influences or transport damage. No warranty is applicable when our goods are used or mixed with other goods which were not acquired from us or recommended by us.

7.4 Claims for damages due to slight faults, also due to negligence or gross negligence of subsidiary contractual obligations, especially consultancy or clarification are excluded. Also excluded are compensations for indirectly resultant damages and damages caused by defects and a compensation for the loss of profits. Information concerning the possible processing and application of our goods, technical advice and other specifications concerning suitability and use, weight, dimensions, forms, colours, performances and appearance are not legally binding.

7.5 The customer (buyer) waives all rights of recourse against us or our suppliers (sub-contractors) which he would be entitled to in accordance with Directive 2001/95/EC of the European Parliament and of the Council on general product safety. In the event of the passing-on of our products or of parts of our products by the buyer, then he is obliged to commit his client in full to this waiver, and in fact pass on this obligation to waive the rights of recourse to all further purchasers. The latter obligation also applies, if the purchaser or a further client uses our products for the manufacture of further products and offers these products for market. The agreements between our customer and his purchaser containing the waiver of recourse have to be drafted in such a way that we and our suppliers (sub-contractors) acquire directly the rights to be non-liable for a claim in accordance with the mentioned directive.

8.1 Place of performance of our deliveries and services is the site of our plant. Haarlem, The Netherlands is agreed as the place of performance for payment liabilities on the part of the customer and as place of jurisdiction. However we have the right to chose to bring action against the customer at his general place of jurisdiction. The customer is liable for the compensation of any reminder and collection costs as well as preliminary procedural costs emanating from the pursuance of our claims. Dutch law and Incoterms 2000 are exclusively applicable on all our transactions. The application of the United Nations Convention on Contracts for the international Sale of Goods (1980) is ruled out.

9.1 In the event of the invalidity of individual terms, the remaining terms shall remain applicable. If it is deemed to be desirable and/or necessary, we are entitled to alter these general conditions of sales & delivery.

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