

GENERAL TERMS AND CONDITIONS OF DELIVERY OF VALTO BV

Article 1. General Terms and Conditions

1. These General Terms and Conditions of Delivery of Valto BV (hereafter: "the Contractor") apply to any offer and/or contract to which the Contractor is a party, to the exclusion of any other general terms and conditions. The use or applicability of other general terms and conditions is expressly dismissed.
2. Where these General Terms and Conditions of Delivery are amended by the Contractor in the interim, the amended version thereof will form part of each contract concluded between the Contractor and the client from the date when the amendment becomes effective.
3. Conditions and/or provisions from the contract prevail over those in these General Terms and Conditions of Delivery in the event of any incompatibility.
4. If any provision from these Terms and Conditions of Delivery is invalid or is nullified, the other provisions from these Terms and Conditions of Delivery will remain in force in full, and the Contractor and the client will enter into consultation in order to agree new provisions in replacement of the invalid or nullified provisions, in which case the purpose and essence of the invalid or nullified provision is taken into account as much as possible.

Article 2. Contract

1. All offers of the Contractor will be valid for one month, unless otherwise is specified in the offer.
2. The contract is concluded as soon as its acceptance has reached the Contractor.
3. If the acceptance includes reservations or amendments as regards the offer, the contract will not be concluded until the Contractor notifies the client in writing that it agrees to these deviations in the offer, such in derogation of the provision of the preceding paragraph.
4. Unless otherwise expressly agreed in writing with the client, all prices and rates applied by the Contractor are exclusive of turnover tax, exclusive of any other government levies, exclusive of administrative, packaging, transport, dispatch and travel expenses and exclusive of any surplus products or materials delivered.
5. The calculation of prices by the Contractor is based on the assumption that the client ensures that there is ample safe space to walk and work while the work is taking place, that there is a free electrical grouping with a connection and that there is adequate clean water discharge and compressed air supply; in the absence of one or more of the aforementioned points the Contractor will be entitled to charge additional costs or charges to the client.
6. The client must properly secure the products, goods, pieces of equipment, materials, etc. of the Contractor (and its auxiliary staff) while the work is taking place and insure them against all occurring risks, such as fire or water damage and theft.
7. Payment by the client of the invoices sent by the Contractor must take place within 30 days of the invoice date, into a bank account or other account specified by the Contractor, unless otherwise expressly agreed. The payment deadline set by the Contractor is a strict deadline. If the payment deadline is exceeded by the client, the client will be obliged to pay the Contractor compensation for all legal and other costs incurred by the Contractor, of a minimum of 15% of the principal sum, to be increased by the statutory interest rate.
8. The client may not offset its payment obligations towards the Contractor, suspend them or apply a discount to them, without the express written permission from the Contractor.
9. The client must enable the Contractor, its staff and auxiliary staff, at its own expense, to perform the work in accordance with health and safety and other legislation, regulations and instructions in a safe working environment, and to comply with such legislation, regulations and instructions, which includes but is not limited to making available safe and protective equipment to the Contractor. Where the client fails to act in accordance with this provision or contravenes it, the Contractor will be entitled to suspend its own work, at the expense and risk of the client and with indemnification of the Contractor by the client.
10. The Contractor may engage third parties (such as auxiliary staff) for the purpose of the performance of the contract with the client.

Article 3. Deliveries

1. The Contractor delivers the products, goods and/or materials in accordance with the description in its offer (where relevant amended at a later stage) and any later modifications in the composition and/or design of the products/goods and their application. The Contractor is free to and reserves the right to perform and introduce (at its own initiative) modifications in the composition and/or design of the products/goods to be delivered and/or their application.
2. The Contractor does not guarantee that the products/goods and their application (which includes their application in practical tests) are/is suitable for the purpose for which the client wishes to use them, not even if that purpose has been communicated to the Contractor, unless the opposite has been agreed between the parties in writing.
3. Unless otherwise announced by the Contractor in writing, delivery of the products, goods and/or materials takes place by means of delivery at the location where the client's business activities take place. The client is responsible for and bears the risk for the products, goods and materials immediately from the moment they have been delivered.
4. The client is responsible for the use of the products/goods delivered by the Contractor; the products/goods are intended for use by the client. Any products/goods that are surplus to demand after their use by the client and cannot/will not be used by the client will be destroyed immediately by or on the instructions of the client at its own expense.
5. The client is expressly prohibited to supply products/goods delivered by the Contractor or to resell them or pass them on to third parties in any other way. If the client fails to comply with this provision, the client will be unconditionally and irrevocably obliged to pay all damages and costs arising from this to the Contractor promptly and in full on the Contractor's demand.

Article 4. Reservation of ownership

1. The Contractor reserves the ownership - at the risk of the client - of all the products, goods and materials it has delivered to the client for as long as the client has not yet fully met its payment obligations and other obligations towards the Contractor under the delivery contracts or by making available items or products/goods and/or the performance of work and/or services, including any claims regarding the failure to comply with such contracts. In such case, ownership is not transferred until the client has met all its obligations towards the Contractor.
2. Until the ownership is transferred to the client, the client may not have the products, goods or materials at its disposal by - but not limited to - pledging them or granting any right to them to a third party. If the Contractor has serious doubts about the client's payment capacity, the Contractor will be entitled to suspend the delivery and/or use of products, goods and/or materials at the risk of the client, until the client has provided a guarantee for the payment. The client is liable for any damage suffered by the Contractor as a consequence of such delayed delivery and/or use.
3. The client hereby undertakes, where such event occurs, to create, immediately when requested by the Contractor, a non-possessory pledge on all items and products referred to in this article by signing these Terms and Conditions and registering them with the Tax and Customs Administration, should it become evident at any time that the client's reservation of ownership regarding these items and products has ceased to exist, or to provide another form of guarantee for the Contractor.
4. Rights are granted or transferred to the client in occurring cases, provided that the client makes the payments agreed for that purpose on time and in full.

Article 5. Protection of rights and confidentiality

1. All existing and potentially or possibly existing intellectual and industrial property rights regarding any samples, trials, trial products and other products, goods, equipment or materials such as analyses, designs, documentation, reports, offers as well as any relevant preparatory materials developed or made available under the contract are vested solely in the Contractor (and its licensors or suppliers). The client only obtains user rights that are granted expressly under these Terms and Conditions and the law. Any other or further-reaching rights of the client to the multiplication of samples, trial products and other products, goods, equipment or materials as aforementioned are excluded. Any user right of the client is non-exclusive and non-transferable to third parties.
2. The client is not permitted to remove or change any specification with regard to the confidential nature or concerning copyrights, trademarks, trade names or other intellectual or industrial property rights from the goods, equipment or materials as aforementioned.
3. The client undertakes to observe confidentiality with regard to all information made available that is of a confidential nature concerning samples, trials, trial products and other products, goods, equipment or materials such as analyses, designs, documentation, reports, offers as well as any relevant preparatory materials and materials concerning the method of use and the results of the Contractor's work, and will not communicate such information to third parties unless there is a legal requirement or court order to do so.
4. Using the Contractor's name for commercial purposes is permitted only after permission has been specifically granted in writing by the Contractor.
5. In the event that the client infringes one of the aforementioned provisions in this article, the client will owe to the Contractor (without court intervention) an immediately due penalty of € 100,000.00 for each infringement.

Article 6. Terms and force majeure

1. Any delivery terms and other terms mentioned or agreed by the Contractor have been defined to the best of the Contractor's knowledge on the basis of the data known to the Contractor at the time when the contract was concluded. The Contractor will make a proper effort to observe the agreed delivery terms and other terms as far as possible. All delivery terms and other terms applied by the Contractor are target terms and are therefore not strict deadlines.
2. The Contractor is entitled to suspend compliance with its obligations towards the client as long as the client has not met all its payment obligations and other obligations under any existing legal relationship with the client. This suspension applies until such time when the client has met its obligations towards the Contractor in full.
3. The Contractor is not bound by any delivery terms and other deadlines, whether or not these are strict deadlines, if these deadlines can no longer be met due to circumstances out of the Contractor's control which have occurred after the conclusion of the contract. Neither is the Contractor bound by any delivery term and other deadlines, whether or not these are strict deadlines, if the parties have agreed on an amendment to the content or scope of the contract (additional work, modification of specifications, etc.).

4. Force majeure is defined as any shortcoming in the performance of the contract that cannot be attributed to the client or the Contractor because the shortcoming is not due to the fault of the client or the Contractor and is not payable by the client or the Contractor by virtue of the law, a legal act or generally accepted practice. Force majeure also includes force majeure at the Contractor's suppliers and obligations of suppliers prescribed by the client to the Contractor that are not complied with properly, as well as faulty products, goods, equipment and materials of third parties or the client, the use of which is prescribed by the client to the Contractor.
5. In the event of temporary force majeure, including the situation where a product, item or article ordered by the client is temporarily out of stock, the Contractor will be entitled to extend the intended delivery term by the time during which the temporary force majeure continues.
6. In the event of permanent force majeure, making it impossible to deliver or make available the products, items or goods or to perform the work and/or services, the client or the Contractor will be entitled to terminate the contract extrajudicially and the Contractor will be entitled to payment of the costs it has incurred. In the event of force majeure, the client cannot claim any compensation from the Contractor for any damage suffered.

Article 7. Complaints and guarantee

1. Unless otherwise has been agreed, the client must notify the Contractor in writing of any complaints about the products, items or goods delivered or made available or any work and/or services performed within seven days of the delivery or making available of the products, items or goods or after commencement of the performance of the work and /or services, giving a clear description of the complaints. In the absence of such notification, the client will have no claim towards the Contractor with regard to the shortcomings in the products, items or goods delivered or made available or the performed work and/or services, insofar as the client would be able to make demonstrable claims by virtue of the contract anyway. It is entirely up to the Contractor to decide how it will handle a complaint.
2. If and to the extent that the Contractor gives a guarantee, the guarantee given by the Contractor to the client is limited at all times to the maximum amount of the guarantee obtained by the Contractor from its supplier in the relevant case.
3. Any guarantee provided ceases to apply forthwith by law if and as soon as there is a question of deviating, incorrect and/or inexpert use or application by or on behalf of the client of products, items and/or goods delivered, made available or recommended by the Contractor.

Article 8. Liability

1. The liability of the Contractor and any third parties (such as auxiliary staff) it has engaged is limited to demonstrable wilful misconduct or gross negligence on the part of the Contractor. This liability of the Contractor (and its third parties) is limited to the payment of direct damage only of a maximum amount that equals the price stipulated for the relevant work or the invoice value, where a series of related events are regarded as a single event. Any legal claim for compensation based on the liability of the Contractor (and/or its third parties) regarding shortcomings in delivered products, items or goods or performed work or services will lapse when one year has passed since the date of the delivery.
2. Any liability of the Contractor and any third parties (such as auxiliary staff) it has engaged for indirect or consequential damage (such as immaterial damage, cultivation/crop damage, lost profit/turnover etc.) is excluded.
3. The presence of any shortcoming with regard to products, items or goods delivered or made available or work and/or services performed will never give the client the right to suspend, reduce or offset its payment obligations towards the Contractor.
4. Moreover, the Contractor (and any third parties it has engaged) is not liable for damage of any kind and resulting from any cause which is the consequence of the incorrect and/or inexpert use of products, items or goods made available by or work and/or services performed by the Contractor.
5. Advice, support, analyses, reports, practical tests and samples and suchlike are provided and performed by the Contractor to the best of its knowledge and abilities, bearing in mind the scientific and technological situation of the client, and any liability of the Contractor in this respect is excluded. Any damage arising from incorrect advice, support, analyses, reports, tests and/or samples cannot be recovered from the Contractor, unless wilful misconduct or gross negligence can be demonstrated, in which case the Contractor's liability is limited to the maximum amount as aforementioned in this article.
6. The client unconditionally and fully indemnifies the Contractor and any third parties (auxiliary staff) it has engaged against any claims, damage and suchlike on the part of third parties (including an end user). The Contractor (and any third parties it has engaged) will be compensated in full by the client in any case.

Article 9. Termination

1. The Contractor is entitled to terminate the contract with the client extrajudicially - without paying compensation to the client - with immediate effect for the future by means of a written notification, without any further prior notice of default, if: a) the client fails imputably to meet any obligation to which it is subject, in spite of a proper default notice; b) the client is granted a suspension of payments (whether or not provisionally) or the client is declared bankrupt, the client submits a request for the application of a debt restructuring arrangement or the client is placed under guardianship or is put into administration; c) at the expense of the client its assets are seized, and/or d) the client halts its business operations in full or in part or liquidates them otherwise and/or radically changes its business activities or transfers them to a third party, without prior written permission from the Contractor.
2. In the event of the termination of the contract, all payments due by the client to the Contractor will become due and payable immediately and in full.
3. The Contractor will never be obliged to pay any compensation or make any payment on account of the aforementioned termination, without prejudice to the Contractor's right to full compensation on account of a breach by the client of its obligations as referred to above and without prejudice to the other rights to which the Contractor is entitled in this respect.

Article 10. Rules on the settlement of disputes

1. All contracts concluded by the Contractor with the client are governed exclusively by Dutch law.
2. Any disputes arising from or relating to a contract concluded by the Contractor with the client will be submitted exclusively to the competent judge of the court in the district of The Hague, unless such is incompatible with statutory provisions.