

# TERMS AND CONDITIONS

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of: **Mavé BV, Nautic & Industrial Engineering**, having its registered office at Loofklapper 14 (8256 SL) in Biddinghuizen. Hereinafter referred to as the *User*.

## Clause 1 Definitions

In these General Terms and Conditions, the terms below will be understood to have the following meanings, unless expressly stated otherwise.

User: the User of the General Terms and Conditions.

Buyer: the User's counterparty, acting in the performance of his/her profession or operation of its company;

Agreement: the Agreement between the User and the Buyer.

## Clause 2 General

1. The provisions of these General Terms and Conditions will apply to every offer and Agreement between the User and a Buyer to which the User has declared these Terms and Conditions applicable, insofar as the parties have not expressly deviated from these Terms and Conditions in writing.
2. The present Terms and Conditions will also apply to all Agreements with the User for implementation of which third parties must be engaged.
3. The Buyer's General Terms and Conditions will only apply if it has been expressly agreed in writing that same will apply to the Agreement to the exclusion of these Terms and Conditions. In that event, any conflicting provisions set out in the User's General Terms and Conditions and those of the Buyer will apply between the parties only insofar as same are part of the User's Terms and Conditions.
4. If the User concludes Agreements with the Buyer more than once, these General Terms and Conditions will apply to all subsequent Agreements, irrespective of whether or not they have been explicitly declared applicable.
5. If one or more provisions in these General Terms and Conditions are null and void or are nullified, the remaining provisions of these General Terms and Conditions will continue to apply in full. In that case, the User and the Buyer will negotiate to agree new provisions to replace the invalid or annulled provisions, with the aim and purpose of the original provision being taken into account if and insofar as possible.

## Clause 3 Offers and quotations

1. All offers will be free of obligation, unless a term for acceptance is stated in the offer.
2. Quotations made by the User will be without obligation; they will be valid for thirty days, unless otherwise indicated.
3. Delivery dates stated in quotations issued by the User must be deemed to be indicative and will not entitle the Buyer to dissolution or damages if same are exceeded, unless provisions to the contrary have been explicitly agreed.

4. If a natural person concludes an Agreement on behalf or at the expense of another natural person, he/she will be deemed to declare – by signing the Agreement – that he/she is authorised to do so. This person, in addition to the other natural person, will be jointly and severally liable for all obligations arising from the Agreement.
5. The prices stated in said offers and quotations will be exclusive of Dutch VAT and other government levies, as well as exclusive of dispatch, and possible transport and packaging costs, unless expressly stated otherwise.
6. If the notice of acceptance deviates from the offer contained in the quotation, the User will not be bound by same. In that case, the Agreement will not be concluded in accordance with that deviating acceptance, unless the User states otherwise.
7. A composite quotation will not oblige the User to supply part of the goods included in the offer or quotation for a corresponding part of the stated price.
8. Offers or quotations will not automatically apply to follow-up orders.

## Clause 4 Performance of the Agreement

1. The User will perform the Agreement to the best of its knowledge and ability and in accordance with the requirements of good workmanship based on the current state of the art on the relevant date.
2. If and in so far as required for a satisfactory performance of the Agreement, the User will be entitled to engage third parties for certain work.
3. The Buyer will ensure that all data which the User indicates are necessary or which the User should reasonably understand are necessary for the performance of the Agreement, are issued to the User on time. If the data necessary for the performance of the Agreement are not issued to the User on time, the User will be entitled to suspend the performance of the Agreement and/or to charge the Buyer for the extra costs arising from the delay in accordance with the usual rates.
4. The User will not be liable for damage, of whatever nature, resulting from the fact that the User has operated on the basis of incorrect and/or incomplete data provided by the Buyer, unless the User should have been aware of this incorrectness or incompleteness.
5. If it has been agreed that the Agreement will be performed in phases, the User may postpone the performance of those parts belonging to a subsequent phase until the Buyer has approved the results of the preceding phase in writing.
6. If in the context of the assignment work is performed by the User or third parties engaged by the User at the Buyer's location, or a location designated by the Buyer, the Buyer will provide any reasonable facilities desired by the employees of the User or the third parties free of charge.



are products from MAVÉ

Our terms and conditions are applicable to all quotations, supplies and services. On request these terms will be send free of charge.

7. The Buyer shall indemnify the User against any claims of third parties that may incur damage in connection with the Agreement's performance and which damage is attributable to the Buyer.
8. The User will not be liable for consequential loss.

#### Clause 5 Delivery

1. Delivery will be made ex User's works, unless the parties agree otherwise.
2. If delivery is effected on the basis of the 'Incoterms', the Incoterms that apply at the time of the Agreement's conclusion will govern the Agreement.
3. The Buyer will be obliged to take delivery of the goods at the time that the User delivers same to it or has same delivered to it by third parties, or at the time at which the goods are made available to it pursuant to the Agreement.
4. In the event that the Buyer refuses to take delivery of the goods or fails to provide information or instructions necessary to effect delivery, the User will be entitled to store the goods at the Buyer's expense and risk.
5. If the goods are delivered, the User will be entitled to charge any delivery costs, which will then be invoiced separately.
6. If the User requires information from the Buyer in the context of the Agreement's performance, the delivery period will commence after the Buyer has made such information available to the User.
7. If the Buyer does not take delivery of the goods within the term stated in paragraph 3, the User will be entitled to sell the goods to another party. If it is unable to do so, the User will be entitled to destroy the goods. The loss incurred by the User due to such resale or destruction of the goods will be borne by the Buyer.
8. If the User has stated a delivery period, such delivery period must be considered indicative. A stated delivery date may therefore never be considered a firm deadline. If a term is exceeded, the Buyer must give the User written notice of default.
9. The User will be entitled to deliver the goods in parts, unless provisions to the contrary have been set out in the Agreement or such partial delivery would not have any independent value. The User will be entitled to invoice such deliveries separately.
10. In the event that it has been agreed that the Agreement will be performed in phases, the User may postpone performance of those parts belonging to a subsequent phase until the Buyer has approved the results of the preceding phase in writing.

#### Clause 6 Samples and models

1. If the Buyer has been shown or provided with a sample or model, same will be assumed to be provided as an indication only, without the good having to correspond to same, unless it has been expressly agreed that the good will correspond.

#### Clause 7 Inspection, complaints

1. The Buyer will be obliged to inspect the supplied goods, or have third parties inspect same, at the time of delivery/transfer, though in any event within as short a term as possible. In so doing, the Buyer must investigate whether the quality and quantity of the delivered goods correspond with the Agreements made, or in any event meet the requirements expected in that respect in standard business practice.
2. Any visible defects or shortfalls must be reported to the User in writing within three days of delivery. Any invisible defects or shortfalls must be reported within eight weeks of delivery.
3. If a timely complaint has been lodged in accordance with the preceding paragraph, the Buyer will remain obliged to take delivery of and pay for the purchased goods. If the Buyer wishes to return defective goods, such will take place following the prior written permission of the User and in the manner prescribed by the User.
4. The Buyer must enable the User to inspect the goods sold upon request in order to verify the accuracy of the complaint.

#### Clause 8 Payments, price and costs

1. In the event that the User and the Buyer have agreed on a fixed sales price, the User will nevertheless be entitled to increase that price.
2. The User may pass on price rises – among other things – in the event that, between the time of the offer and the delivery, significant price changes have occurred with respect to, for instance, exchange rates, wages, raw materials, semi-manufactured goods or packaging materials.
3. The prices applied by the User will be exclusive of Dutch VAT and any other levies, as well as any costs to be incurred in the context of the Agreement, including shipment and handling charges, unless stated otherwise.

#### Clause 9 Amendment of the Agreement

1. If during the performance of the Agreement it proves necessary to amend or supplement the work to be carried out for a proper performance, the parties will adjust the Agreement accordingly in mutual consultation and good time.

2. If the parties agree that the Agreement will be amended and/or supplemented, the performance completion time may be influenced as a result. The User will inform the Buyer of such as soon as possible.
3. If the amendment and/or the supplement to the Agreement has financial and/or qualitative consequences, the User will inform the Buyer of such beforehand.
4. If a fixed rate has been agreed, the User will indicate to what extent the amendment or supplement to the Agreement will result in the fixed rate being exceeded.
5. In contrast to the above provisions, the User will not charge any additional costs if the amendment or supplement is the result of circumstances that may be attributed to the User.

#### Clause 10 Payment

1. Payment must be made within 30 days following the invoice date in a manner to be designated by the User in the currency in which the invoice is drawn up. Objections to amounts stated in invoices will not suspend the corresponding payment obligation.
2. If the Buyer fails to pay within the 30-day period, the Buyer will be in default by operation of law. The Buyer will then owe interest of 1% per month, unless the statutory interest is higher, in which case the statutory interest will apply. The interest on the exigible amount will be calculated from the time that the Buyer is in default until the time of full payment.
3. In the event of winding-up, involuntary liquidation, attachment or a suspension of payments on the part of the Buyer, the User's claims against the Buyer will be exigible forthwith.
4. Any payments made by the Buyer may first be used by the User to reduce costs, then to reduce any interest due and finally to reduce the principal sum and the accrued interest. The User, without being in default as a result, may refuse an offer to pay if the Buyer designates another order for the payment allocation. The User may likewise refuse complete discharge of the principal sum, if such does not include the settlement of any interest due and accrued interest, as well as the costs.
5. The User will be entitled to charge a late payment surcharge of 2%. This surcharge will not be payable if payment is made within 30 days of the invoice date.

#### Clause 11 Collection Costs

1. In the event that the Buyer is in breach of contract or has defaulted in the performance of one or more of its obligations, then all costs reasonably incurred in obtaining payment extra-judicially will be borne by the Buyer. If the Buyer remains in default of timely payment of a certain amount, it will forfeit an immediately due and payable penalty of 15% of the outstanding amount, subject to a minimum of EUR 350.

2. If the User has incurred higher costs which were reasonably necessary, those costs will also qualify for compensation.
3. Any reasonable court costs and enforcement costs will also be borne by the Buyer.
4. The Buyer will owe the User interest with respect to the collection costs incurred.

#### Clause 12 Retention of title

1. All goods supplied by the User, including any designs, sketches, drawings, films, software, files, electronic or otherwise, etc., will remain its property until the Buyer has fulfilled all the ensuing obligations arising from the Agreements concluded with the User.
2. The Buyer will not be allowed to pledge or encumber in any other way the goods covered by the retention of title.
3. If third parties levy attachment on the supplied goods covered by the retention of title or wish to create or enforce rights with respect to those goods, the Buyer will be obliged to inform the User thereof as soon as may reasonably be expected.
4. The Buyer undertakes to insure and keep insured the goods supplied under retention of title against fire, explosion and water damage and against theft, and to allow inspection of the insurance policy in question at the User's first request.
5. Goods delivered by the User that are subject to retention of title by virtue of the provisions of paragraph 1 of this article, may only be resold in the context of normal business operations and may never be used as a means of payment.
6. Should the User wish to exercise its retention of title rights as specified in this Clause, the Buyer hereby grants unconditional and irrevocable permission to the User or any third parties to be designated by the User to enter those places where the User's goods are located and to recover those goods.

#### Clause 13 Warranty

1. The User warrants that the goods to be supplied will meet the usual requirements and standards which may be imposed in respect of same and are without any defects whatsoever.
2. The warranty referred to in paragraph 1 of this clause will also apply if the goods to be supplied are intended to be used abroad and the Buyer explicitly notified the User of this intended use in writing at the time of the Agreement's conclusion.
3. The warranty referred to in paragraph 1 of this Clause will apply for a 24-month period following delivery.

4. If a Good supplied is not in accordance with this warranty, the User will, at its discretion and within a reasonable term of the Good's receipt, return the relevant good or, if return shipment is not reasonably possible, provide the Buyer with written notification of the defect that the Buyer must either cure or for which it must provide a replacement Good. In the case of replacement, the Buyer undertakes in advance to return the replaced good to the User and provide the User with title thereto.
5. The warranty referred to above will not be valid if the defect is the result of unprofessional or improper use or if the Buyer or third parties have made alterations or have attempted to make such without the written permission of the User, or have used the good for purposes for which it was not intended.
6. If the warranty issued by the User relates to an item produced by a third party, the warranty will be limited to the warranty issued by the producer for the item.

#### Clause 14 Suspension and Dissolution

1. The User will be entitled to suspend performance of its obligations or to dissolve the Agreement if:
  - the Buyer fails to perform its obligations ensuing from the Agreement or fails to perform such in full;
  - circumstances that have come to the User's attention following the Agreement's conclusion give it good reason to fear that the Buyer will not perform its obligations. In the event that there is good reason to fear that the Buyer will only perform its obligations in part or will not perform such properly, suspension will only be permitted to the extent that such is justified by the relevant failure; and/or
  - the Buyer was requested to provide security upon the Agreement's conclusion for the performance of its obligations arising from said Agreement and such security has not been provided or is insufficient. As soon as security has been provided, the right to suspend performance will lapse, unless the performance has been unreasonably delayed as a result.
2. In addition, the User will be entitled to dissolve the Agreement or have it dissolved if circumstances arise of such a nature that fulfilment of the Agreement is not possible or can no longer be desired in accordance with the standards of reasonableness and fairness, or if any other circumstances arise of such a nature that continued unamended maintenance of the Agreement can no longer reasonably be expected.
3. In the event that the Agreement is dissolved, the User's claims vis-à-vis the Buyer will become immediately due and payable. If the User suspends fulfilment of its obligations, it will retain its rights by law and pursuant to the Agreement.
4. The User will at all times retain the right to claim damages.

#### Clause 15 Return of goods made available

1. If the User has made goods available to the Buyer in the context of the performance of the Agreement, the Buyer will be obliged to return such goods to the User within 14 days in their original condition, free from defects and complete. If the Buyer fails to perform this obligation, it will bear all ensuing costs.
2. If the Buyer, for whatever reason, following a letter demanding performance, remains in default of performance of the obligation mentioned in paragraph 1, the User will be entitled to recover any ensuing damage and costs, including the costs of replacement, from the Buyer.

#### Clause 16 Liability and indemnification

1. Save for the User's obligation pursuant to the warranty set out in Clause 13, the User is not liable for any direct or indirect material or immaterial loss or damage incurred by the Buyer or a third party in connection with or stemming from the negotiations conducted with the Buyer, an Agreement entered into with the Buyer, a mistake, shortfall, or default on the part of the User, a claim of *force majeure* on the part of the User, a service rendered by the User or Good supplied or a defective Good that has been repaired or processed by the User, for any reason whatsoever, unless
  - a. the User is insured against loss and a claim on that insurance is paid out, in which case the total liability will always be limited to the amount paid out by the insurance company in the case concerned;
  - b. the principal or relevant third party demonstrates that the loss is attributable to intentional conduct or recklessness of one more of the members of the User's Executive Board; or
  - c. the User is liable pursuant to Book 6, Section 3:3, of the Dutch Civil Code [BW].
2. In all cases in which the User invokes a provision in this Clause, any employee(s) who are held liable can also invoke said provision if the relevant employee(s) agreed to the contents of said provision.
3. Upon the User's request, the Buyer will fully indemnify the User for all third-party claims against the User in connection with any fact or event for which these Terms and Conditions exclude liability.

#### Clause 17 Passing of risk

1. The risk with respect to the loss of or damage to the products that are the subject of the Agreement will pass to the Buyer at the point in time at which said products are legally and/or actually delivered to the Buyer and therefore come under the Buyer's control or under the control of third parties designated by the Buyer.

2. In the event and to the extent that the User undertakes to provide for the transport, storage, dispatch, packaging or similar services, the User will determine the manner in which this is effected if the Buyer has issued no further instructions to the User. Unless otherwise agreed, the Buyer will assume all risks, including the risk of any negligence or omission on the carrier's part.
3. Any specific wishes of the Buyer regarding transport, dispatch or storage will be performed only if the Buyer has stated that it will bear the corresponding additional costs.

#### Clause 18 Force majeure

1. The parties will not be obliged to fulfil any obligation if they are prevented from doing so due to a circumstance which cannot be attributed to their fault, nor be for their account by law, a juristic act or generally prevailing opinion.
2. In these General Terms and Conditions, the term '*force majeure*' must be taken to mean, in addition to its meaning pursuant to the law and legal precedents, all external causes, foreseen or unforeseen, which are beyond the User's control, but as a result of which the User is unable to perform its obligations. Such will also include strikes at the User's business. The User will also have the right to invoke *force majeure* if the circumstance preventing performance or further performance arises after the User should have performed the relevant obligation.
3. The parties may suspend the obligations ensuing from the Agreement while the situation of *force majeure* lasts. If this period lasts more than one month, either party may dissolve the Agreement without being obliged to pay the other party any damages.
4. To the extent that the Parties can perform their obligations arising from the Agreement or are able to partly perform same throughout the *force majeure* period, and that part performed or to be performed has independent value, the User will be entitled to issue a separate invoice for the part performed or to be performed. The Buyer will be obliged to pay that invoice as though it pertained to a separate Agreement.

#### Clause 19 Indemnification

1. If the User has made goods available to the Buyer in the context of the performance of the Agreement, the Buyer will be obliged to return such goods to the User within 14 days, in their original condition, free from defects and complete. If the Buyer fails to perform this obligation, it will bear all ensuing costs.
2. If the Buyer, for whatever reason, following a letter demanding performance, remains in default of performance of the obligation mentioned in paragraph 1, the User will be entitled to recover any ensuing damage and costs, including the costs of replacement, from the Buyer.

#### Article 20 Intellectual property and copyrights

1. Without prejudice to the other provisions of these general terms and conditions, the User will retain the rights and powers to which it is entitled pursuant to the Dutch Copyright Act [*Auteurswet*].
2. The Buyer will not be permitted to modify goods, unless the contrary follows from the nature of the goods supplied or has been agreed in writing.
3. Any designs, sketches, drawings, films, software and other materials or electronic or other files created by the User in the context of the Agreement will remain the User's property, irrespective of whether same have been made available to the Buyer or to third parties, unless the contrary has been agreed.
4. All documents and goods made available by the User, such as designs, sketches, drawings, films, software, electronic and other files, etc., are intended for use by the Buyer only, and may not be reproduced, made public or disclosed to third parties by the Buyer without the User's prior permission, unless the contrary ensues from the nature of the documents.
5. The User will retain the right to use any knowledge acquired during the performance of the work for other purposes, to the extent that this does not involve making confidential information available to third parties.

#### Clause 21 Confidentiality

1. Each party shall be obliged to observe confidentiality regarding all confidential information that it receives from the other party or from some other source in the context of the Agreement. Information will be considered confidential if it has been designated as such by the relevant party or if its confidential nature ensues from the nature of the information.
2. If the User is obliged pursuant to a statutory provision or a judicial decision to provide third parties designated by law or by the competent court with confidential information and the User is unable to invoke a right to decline to give information acknowledged or allowed by law or by the competent court, the User will not be obliged to compensate the other party or pay it damages and the other party will not be entitled to dissolve the Agreement on the basis of any loss that may have been incurred as a consequence.

#### Clause 22 Disputes

1. The court in the place where the User has its registered office will be exclusively competent to take cognisance of any disputes, unless the Sub-District Court is competent. Nevertheless, the User will be entitled to submit the dispute to the court competent according to the law.

Clause 23      Applicable Law

1. All Agreements between the User and the Buyer will be governed by Dutch law. Applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is explicitly excluded.

Clause 24      Amendment, interpretation and location of the General Conditions

1. These General Terms and Conditions have been filed with the Lelystad Chamber of Commerce.
2. In the event of a difference of interpretation of the content and meaning of these General Conditions between a translation and the Dutch text, the Dutch text will always prevail.
3. In each case, the version which was filed most recently or the version as such applied at the time of the Agreement's conclusion will apply as appropriate.