

GENERAL TERMS AND CONDITIONS

version 2, of MEES VAN DEN BRINK HAAKSBERGEN B.V., established in Haaksbergen at Tolstraat 26 filed on 13-04-2021 with the Chamber of Commerce in Enschede under number 06054287.

Article 1. Applicability of these terms and conditions

These terms and conditions shall apply to every offer - whether or not expressed on the website or webshop (hereinafter also referred to collectively as: the 'website') - of MEES VAN DEN BRINK HAAKSBERGEN B.V., hereinafter referred to as: MEES, offers made by MEES, any legal relationship between MEES and client, as well as to any agreement between MEES and a client, insofar as these terms and conditions have not been expressly deviated from by the parties. Terms and conditions of the client (including but not limited to clients, suppliers, customers, etc.) are hereby expressly rejected.

These conditions were originally drawn up in the Dutch language. In the event of ambiguities and differences in interpretation and/or explanation between the Dutch version and a version in another language of these terms and conditions, the Dutch version shall at all times be decisive.

Article 2. Quotations and offers

1. Offers made by MEES are without obligation unless they contain a deadline for acceptance.
2. If an offer contains a non-binding offer and it is accepted by the client, MEES has the right to revoke the offer within 2 working days of receiving the acceptance.
3. The prices stated in an offer and on the website are exclusive of VAT, other government levies and taxes and shipping costs, unless otherwise stated.
4. All offers shown on MEES' website are valid for the period that they are shown and for the duration that the items in question can be supplied by MEES, unless expressly stated otherwise.
5. All items shall be delivered without accessories, connecting pieces and assemblies however named as well as without support from MEES in the assembly and/or mounting thereof, unless expressly stated and/or agreed otherwise.
6. The information, photographs, videos and/or drawings shown in the quotation and/or on the website relating to the items and/or accessories, connectors and assemblies, however called, to the items in question are for illustrative purposes only and customer cannot derive any rights therefrom, unless expressly stated and/or agreed otherwise.
7. MEES makes every effort to ensure that all the information shown on the website - including, but not limited to, prices, specifications, photos, videos, drawings, delivery periods, response times, accessibility times, other periods or times, etc. - (hereinafter referred to as: the 'content') is displayed as accurately as possible, but MEES does not guarantee that this content is at all times correct, complete and current. MEES expressly reserves the right to correct any errors in writing and printing with respect to the content. If the content contains obvious mistakes or errors, such to be at the sole discretion of MEES, this content does not bind MEES.
8. MEES is permitted to change the content displayed on the website at any time. Client can never derive any rights from the content shown on the website.
9. All delivery periods, response periods, accessibility times and all other periods or times shown on the website are indicative. Such deadlines cannot therefore be regarded as fatal deadlines, unless expressly agreed otherwise in writing.

Article 3. Account webshop

1. Customer must have an account with login name and password to place orders through the webshop, unless otherwise specified. MEES is never obliged to create an account for the customer. MEES is also entitled at any time to block the customer's access to the account - without giving reasons - immediately and/or to delete the account. Customer cannot derive any rights from the account. MEES is not liable for any damage that the customer may suffer as a result of not creating an account and/or blocking or deleting the account by Mees.
2. MEES is never obliged to accept any changed contact information and/or other data regarding the client's account and is entitled to terminate the account at any time. MEES is not liable for any damage the client may suffer as a result.

Article 4. Formation of Agreement

1. If the customer places an order on the webshop through his/her account, the agreement is concluded when the customer sends his/her order on the webshop to MEES.
2. In the event that the customer requests a quotation, the agreement is concluded at the moment that the customer has accepted (in writing) the quotation provided by MEES.

Article 5. Delivery

1. Unless otherwise agreed, delivery is made EXW (Ex Works / Ex Factory) (Incoterms) from MEES in Haaksbergen.
2. If one of the 'Incoterms' has been agreed upon as a condition of delivery, the most recently published Incoterms at the time the agreement is concluded will apply.
3. The customer is obliged to take delivery of the purchased goods at the time they are made available to him according to the agreement, or at the time they are delivered to him. If the customer refuses to take delivery or fails to provide information or instructions necessary for delivery, the goods will be stored at the customer's risk. The customer shall in that case be liable for all additional costs, including in any case storage costs.
4. MEES is permitted to deliver sold goods in parts. If the goods are delivered in parts, MEES is authorized to invoice each part separately.

Article 6. Delivery Time

1. An agreed delivery time is not a deadline, unless expressly agreed otherwise. The delivery times indicated on the website relate exclusively to deliveries within the Netherlands, Belgium, Luxembourg and Germany, unless otherwise indicated.
2. MEES is not liable for exceeding delivery deadlines.

Article 7. Repairs

Should Mees, at the request of Customer, carry out repairs to goods owned by Customer and/or third parties, both the repair itself and the storage/storage of the goods at/on the premises of Mees shall take place expressly at Customer's own risk, unless expressly agreed otherwise in writing. If necessary, Customer will insure itself for theft and/or (fire) damage. Unless explicitly agreed otherwise in writing, Mees shall provide no guarantees regarding the soundness and usability of the goods repaired by it. Customer shall accept the goods repaired by Mees 'as is'.

Article 8. Technical Requirements Abroad

If the goods to be delivered are to be used outside the Netherlands, MEES will make reasonable efforts to ensure that the goods to be delivered meet the technical requirements or standards set by laws or regulations of the country where the goods are to be used, but expressly only insofar as the use abroad and the technical requirements and standards applicable there were reported by the client at the time the purchase was concluded. Any other technical requirements imposed by customer on the goods to be delivered which deviate from normal requirements must also be expressly reported by customer at the time of conclusion of the purchase agreement.

Article 9. Samples, Models and Examples

If a picture, sample, model or example is shown or provided by MEES - whether or not via the website - it is presumed to have been shown or provided only by way of indication: the qualities of the goods to be delivered may deviate from the picture, sample, model or example, unless it is expressly stated that delivery will be made in accordance with the shown or provided sample, picture, model or example.

Article 10. Changes in the goods to be delivered

MEES is authorized to deliver goods that deviate from what has been agreed upon if it concerns changes in the packaging or the accompanying documentation, which are required to comply with applicable statutory regulations or if it concerns a minor change to the goods that, according to objective standards, represent an improvement.

Article 11. Termination of the agreement

1. The claims of MEES on the client are immediately due and payable in the following cases:
 - a. if after the conclusion of the agreement MEES learns of circumstances that give MEES good reason to fear that the client will not fulfil its obligations;
 - b. if MEES asked the client to provide security for fulfilment when the agreement was concluded and this security is not provided or is insufficient.

In the aforementioned cases, MEES is authorized to suspend further performance of the agreement or to dissolve the agreement, without prejudice to MEES's right to claim compensation.

2. If circumstances occur regarding persons and/or materials which MEES uses or tends to use in the performance of the contract which are of such a nature that the performance of the contract becomes impossible or so onerous and/or disproportionately costly that compliance with the contract can no longer reasonably be required, MEES is authorized to dissolve the contract.
3. In the event of the dissolution of the contract, if at the time of the dissolution of the contract, the client has already received, in whatever manner, performances in the execution of the contract, these performances and the related payment obligation - without prejudice to the other provisions of these general terms and conditions - will not be the object of undoing, unless the client proves that MEES is in default with respect to the essential part of those performances. Amounts that MEES has invoiced before the dissolution in connection with what it has already duly performed or delivered for the execution of the contract will remain due in full with due observance of the provisions of the preceding sentence and will become immediately payable at the time of the dissolution. Any fees already paid by Customer at the time of dissolution shall in any event not be subject to cancellation.

Article 12. Warranty

The guarantee obligations of MEES do not extend beyond the fact that the delivered item must comply with the agreement and in that connection possess the properties that the client could expect on the basis of the agreement. MEES only accepts warranty obligations if it has expressly and in writing committed itself to do so.

Article 13. Retention of ownership

1. The goods supplied by MEES remain the property of MEES until the customer has fulfilled all of the following obligations under all purchase agreements concluded with MEES:
 - the consideration(s) relating to the good(s) delivered or to be delivered itself,
 - the consideration(s) with respect to services performed or to be performed by MEES under the purchase agreement(s),
 - the fulfilment of any claims MEES has against the customer due to the customer's non-performance of the purchase agreement(s).
2. If the customer receives from the goods supplied by MEES, which are subject to a retention of title, forms a new item, when forming it, it acts on MEES' instructions and starts to hold the item for MEES. The customer only becomes the owner at the time when the retention of title expires because all of MEES' claims have been paid.
3. Items delivered by MEES, which are subject to retention of title pursuant to paragraph 1, may only be resold in the context of normal business operations. The client is not authorized to pledge the goods or to establish any other right to them.
4. If the client does not comply with its obligations or if there is a well-founded fear that it will not do so, MEES is entitled to remove or cause to be removed from the client's premises or from third parties holding the items for the client the goods which are subject to retention of title as referred to in paragraph 1. The customer is obligated to provide all cooperation to this end on penalty of a fine of 10% of the amount it owes per day.
5. If third parties wish to establish or assert any right to the goods delivered under retention of title, the client is obliged to inform MEES as soon as may reasonably be expected.
6. At MEES' first request, the client undertakes to:
 - to insure and keep insured the goods delivered under retention of title against fire, explosion and water damage and against theft and to make the policy of this insurance available for inspection;
 - to pledge to MEES all claims of the client against insurers with respect to the goods delivered under retention of title in the manner prescribed in article 3:239 of the Dutch Civil Code.;
 - to pledge to MEES the claims that the customer acquires against its purchasers upon the resale of goods delivered under retention of title by MEES in the manner prescribed in Section 3:239 of the Dutch Civil Code;
 - to mark the goods supplied under retention of title as the property of MEES;
 - to cooperate in other ways with all reasonable measures which MEES wishes to take to protect its right of ownership with respect to the goods and which do not unreasonably impede the customer in the normal conduct of its business.

Article 14. Defects; complaint periods

1. Upon delivery, or as soon thereafter as possible, the customer must examine the purchased goods or have them examined. The customer must check whether the delivered goods comply with the agreement, namely
 - Whether the correct goods have been delivered;
 - Whether the delivered goods in terms of quantity (for instance the number and the amount) correspond to that which was agreed upon;
 - whether the delivered goods meet the agreed quality requirements or -if these are lacking the requirements that may be set for normal use and/or commercial purposes.
2. If visible defects or shortages are found, the client must report these to MEES immediately after delivery. This report must - if necessary, in deviation from the provisions in article 6:89 and 7:23 paragraph 1 of the Dutch Civil Code - must be confirmed to MEES in writing within seven days after delivery of the item.
3. Non-visible defects must be reported by the client to MEES in writing within 3 days after discovery, but no later than 30 days after delivery.
4. Upon request, the customer must prove that the detected damages or shortages occurred before delivery in accordance with the agreed delivery condition.

Article 15. Payment

1. Payment shall - without prejudice to the provisions of paragraph 2 of this article - be made within 30 days after invoice date:
 - by means of a legal tender at the office of MEES. or
 - by transferring the amount due to MEES' bank account.

After the expiration of 30 days after the invoice date, without payment having taken place, the customer is in default without (further) notice of default. Then, without prejudice to the (other) rights of MEES, from the date of default until the date of payment in full, the customer shall be liable for the on the amount due and payable, the statutory commercial interest pursuant to Article 6:119a of the Dutch Civil Code, as well as all the collection costs in accordance with the provisions of article 16, including also the costs for legal assistance in and/or out of court and/or extrajudicial, shall be due.

2. Orders via the webshop must be paid by the client immediately upon completion of the order in question, in which case the provisions of the preceding paragraph shall apply, unless MEES has indicated otherwise
3. In case of liquidation, bankruptcy or suspension of payment of the customer, the obligations of the customer shall be immediately due and payable.
4. The client is not entitled to setoff, unless MEES has previously agreed to this in writing. The customer is not entitled to suspend payments.
5. Payments made by the customer always serve in the first place to settle all interest and costs due, and secondly the longest outstanding payable invoices, even if the customer states that the payment relates to a later invoice.

Article 16. Collection costs

If the customer is in default or breach of one or more of his obligations, then all reasonable costs to obtain satisfaction out of court shall be at the expense of the client. In any case, the client shall owe with respect to the amount yet to be paid to MEES:

- over the first	€ 6.500,00	15%
- over the excess up to	€ 13.000,00	10%
- over the excess up to	€ 32.500,00	8%
- over the excess up to	€ 130.000,00	5%
- over the excess		3%

If MEES demonstrates that it has incurred higher costs, which were reasonably necessary, these are also entitled for compensation.

Article 17. Intellectual property

1. All intellectual property rights relating to the website, the content displayed on the website, the signs, logos, (trade) names used by MEES as well as the rights vested in the items offered by MEES offered, belong exclusively to MEES and/or its licensors. The Agreement expressly does not extend to full or partial transfer of these intellectual property rights.
2. The customer acknowledges all intellectual property rights of MEES and/or its licensors, as referred in paragraph 1, and shall refrain from any form of infringement of these intellectual property rights. The client indemnifies MEES for all damages and claims of third parties arising from infringements of these intellectual property rights by or on behalf of the customer.
3. The client is not permitted to remove or alter any indication regarding intellectual property rights.

Article 18. Privacy

1. MEES shall keep the personal data it obtains in the context of its business operations, including the performance of the agreement with the client, in accordance with the applicable privacy laws and regulations.
2. The personal data obtained by MEES in the context of the webshop shall be processed by MEES in accordance with the applicable privacy laws and in accordance with its privacy and cookie statement for the webshop. The privacy and cookie statement for the webshop can be found at:
<https://meesvandenbrink.nl//>
<https://meesvandenbrink.nl//>

Article 19. Liability

1. MEES is not liable for damage suffered by the client due to shortcomings of MEES and/or its (non-)subordinate assistants in the performance of any agreement entered into between the parties, unless the damage is the direct result of intent or conscious recklessness on the part of MEES. MEES is additionally not liable for (the consequences of) errors in and/or the non-functioning (or improper functioning) of the webshop as well as for (the consequences of) errors and/or deviations in the content displayed on the website and/or MEES not meeting the delivery periods, response times shown on the website, times and all other periods or times, unless the damage is the direct result of intent or deliberate recklessness on the part of MEES.
2. Liability of MEES for indirect damage, including - but not limited to - consequential damage, loss of profit, missed savings and damage due to business stagnation, is in all cases excluded.
3. In all cases in which MEES would nevertheless be liable, MEES' liability is limited to the amount of the financial consideration to which MEES is entitled for the services provided. The amount of this consideration is determined on the basis of the invoice value excluding VAT.

4. Also, in all cases in which MEES would nevertheless be liable unexpectedly, the liability of MEES is also limited to a maximum of the amount of the insurance payment MEES can claim in that respect. In that connection, MEES is not liable for damage for which it is not insured, nor - taking into account the customs applicable in the branch - should have been insured.

Article 20. Indemnification

The client is obliged to indemnify and hold MEES harmless from all claims of third parties which arise from or are related to 1) the agreement between MEES and the client, 2) (the consequences of) errors in and/or the non (proper) functioning of the webshop as well as 3) (the consequences of) errors and/or deviations in the content displayed on the website and/or MEES not meeting the delivery periods displayed on the website, response times, accessibility times and all other deadlines or times, except insofar as these claims are the result of intent or conscious recklessness of MEES.

Article 21. Force majeure

1. Any shortcomings of MEES in the performance of the agreement cannot be accountable if they are not due to its fault, nor pursuant to the law, the agreement or generally accepted views are for its account.
2. Force majeure means in any case:
 - the circumstance that MEES fails to deliver a service to be provided by its suppliers - which is of importance in connection with its own performance to be delivered to the client - is not, not timely or not properly delivered;
 - strikes and work stoppages;
 - traffic disruptions, including general transport problems;
 - electricity failure;
 - defectiveness of goods, equipment, software or materials of third parties, the use of which is prescribed by MEES by the client;
 - failure of internet, computer network or telecommunication facilities and/or the website, including hacking, malware, worms, computer viruses, trojan horses, logic bombs, denial of service tools (including DDoS attacks) and/or other types of viruses;
 - war;
 - epidemics and pandemics;
 - government measures that prevent MEES from fulfilling its obligations properly or on time;
 - a general lack of necessary raw materials and other items or services required for the performance agreed upon;
 - excessive absenteeism due to illness;
 - the unavailability of one or more members of MEES' personnel.
3. If performance is delayed by force majeure for more than one month, each of the parties, under exclusion of further rights, is authorised to dissolve the contract in accordance with the law, without MEES shall be obliged to pay any compensation for damages suffered by the client or third parties.
4. MEES shall also be entitled to invoke force majeure if the circumstance, which prevents (further) fulfilment, occurs after MEES should have fulfilled its obligation.
5. If MEES has already partially fulfilled its obligations when the circumstance of force majeure occurs, or can only partially fulfil its obligations, it is entitled to perform the part already supplied or the deliverable part separately and the customer is obliged to pay this invoice as if it were a separate contract. However, this does not apply if the part already delivered or the deliverable part has no independent value.

Article 22. Dispute resolution

Contrary to the legal rules regarding the competent court, any dispute between the client and MEES, in the event that the court is competent, shall be settled by the District Court of Overijssel. However, MEES remains competent to summon the customer before the court that is competent according to the law or the applicable international treaty.

Article 23. Applicable law

To every agreement and/or legal relationship between MEES and the client, exclusively Dutch law is applicable. The applicability of the Vienna Sales Convention is excluded.