

# General Terms and Conditions | berg & maan

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## Article 1 - Definitions

The following definitions apply in these terms and conditions:

1. **Cooling-off period:** the period of time within the consumer can use his right of withdrawal;
2. **Consumer:** the natural person who does not act from profession or business and who enters into a distance contract with the company;
3. **Day:** calendar day;
4. **Duration transaction:** a distance agreement with regard to a series of products and/or services, the delivery and/or purchase obligation of which is spread over time;
5. **Sustainable data carrier:** any means that enables the consumer or company to store information that is addressed to him personally in a way that allows future consultation and unaltered reproduction of the stored information.
6. **Right of withdrawal:** the possibility for the consumer to cancel the distance agreement within the cooling-off period;
7. **Model form:** the model form for withdrawal that the company provides, that a consumer can fill in when he wants to make use of his right of withdrawal.
8. **Company:** the natural or legal person who offers products and/or services to consumers at a distance;
9. **Distance agreement:** an agreement whereby within the framework of a system for selling products and/or services organized by the company, until the conclusion of the agreement, is exclusively made use of one or more techniques for distance communication;
10. **Technology for distance communication:** means that can be used to conclude an agreement, without the consumer and trader being in the same place at the same time.
11. **General Terms and Conditions:** the present General Terms and Conditions of the company.

## Article 2 - Identity of the company

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### **Article 3 - Applicability**

1. These general terms and conditions apply to every offer from the company and to every distance agreement and orders between company and consumer.
2. Before the distance agreement is concluded, the text of these general terms and conditions is made available to the consumer. If this is not reasonably possible, before the distance contract is concluded, it will be indicated that the general terms and conditions can be viewed at the company and they will be sent free of charge as soon as possible at the request of the consumer.
3. If the distance contract is concluded electronically, contrary to the previous paragraph and before the distance contract is concluded, the text of these general terms and conditions may be made available to the consumer electronically in such a way that it is consumer can be stored in a simple way on a durable data carrier. If this is not reasonably possible, it will be indicated before the distance contract is concluded where the general terms and conditions can be read electronically and that they will be sent free of charge electronically or otherwise at the request of the consumer.
4. In the event that specific product or service conditions apply in addition to these general terms and conditions, the second and third paragraphs apply mutatis mutandis and in the event of conflicting general terms and conditions, the consumer may always invoke the applicable provision which, for him, most beneficial.
5. If at any time one or more provisions of these general terms and conditions are wholly or partially invalid or become void, the remainder of the agreement and these terms and conditions will remain in force and the provision in question will be replaced without delay by a provision that approached the scope of the original as much as possible.
6. Situations that are not regulated in these terms and conditions must be assessed 'in the spirit' of these terms and conditions.
7. Uncertainties about the interpretation or content of one or more provisions of our terms and conditions must be explained "in the spirit" of these terms and conditions.

### **Article 4 - The offer**

1. If an offer has a limited duration or is subject to conditions, this will be explicitly stated in the offer.
2. The offer is without obligation. The company is entitled to change and adjust the offer.
3. The offer contains a complete and accurate description of the products and / or services offered. The description is sufficiently detailed to enable a proper assessment of the offer by the consumer. If the company uses images, these are a true representation of the products and / or services offered. Obvious mistakes or errors in the offer do not bind the company.
4. All images, specifications, data in the offer are indicative and cannot give rise to compensation or termination of the agreement.
5. Images of products are a true representation of the products offered. Company cannot guarantee that the displayed colors exactly match the real colors of the products.
6. Each offer contains such information that it is clear to the consumer what rights and obligations are attached to accepting the offer. This concerns in particular:
  - the price including taxes;
  - the possible costs of shipment;

- the manner in which the agreement will be concluded and which actions are required for this;
- whether or not the right of withdrawal is applicable;
- the method of payment, delivery and implementation of the agreement;
- the period for accepting the offer, or the period within which the company guarantees the price;
- the level of the rate for distance communication if the costs of using the technique for distance communication are calculated on a basis other than the regular basic rate for the means of communication used;
- whether the agreement will be archived after its conclusion, and if so, how this can be accessed by the consumer;
- the way in which the consumer, before concluding the agreement, can check the data provided by him in the context of the agreement and, if desired, restore it;
- any other languages in which, in addition to Dutch, the agreement can be concluded;
- the codes of conduct to which the trader is subject and the way in which the consumer can consult these codes of conduct electronically; and
- the minimum duration of the distance agreement in the event of an extended transaction.

#### **Article 5 - The agreement**

1. The agreement is concluded, subject to the provisions of paragraph 4, at the moment the consumer accepts the offer and meets the corresponding conditions.
2. If the consumer has accepted the offer electronically, the company immediately confirms receipt of the acceptance of the offer electronically. As long as the company has not confirmed receipt of this acceptance, the consumer can terminate the agreement.
3. If the agreement is concluded electronically, the company will take appropriate technical and organizational measures to secure the electronic transfer of data and he will ensure a safe web environment. If the consumer can pay electronically, the company will take appropriate security measures.
4. The company can - within the law - inform himself if the consumer can meet his payment obligations, as well as of all those facts and factors that are important for a sound conclusion of the distance agreement. If on the basis of this investigation the company has good reasons not to enter into the agreement, he is entitled to refuse an order or request or to attach special conditions to the implementation.
5. The company will send the following information with the product or service to the consumer, in writing or in such a way that it can be stored by the consumer in an accessible manner on a durable medium:
  - a. the visiting address of the establishment of the company where the consumer can go with complaints;
  - b. the conditions under which and the way in which the consumer can exercise the right of withdrawal, or a clear statement regarding the exclusion of the right of withdrawal;
  - c. the information about guarantees and existing service after purchase;
  - d. the information included in article 4 paragraph 3 of these terms and conditions, unless the trader has already provided this information to the consumer prior to the execution of the agreement;
  - e. the requirements for canceling the agreement if the agreement has a duration of more than one year or is of indefinite duration.
7. In the case of an extended transaction, the provision in the previous paragraph applies only to the first delivery.

8. Each agreement is entered into under the suspensive conditions of sufficient availability of the products concerned.

### **Article 6 - Right of withdrawal**

*When delivering products:*

1. When purchasing products, the consumer has the option of dissolving the contract within 30 days without giving any reason. This period commences on the date of receipt of the product by the consumer or a pre-designated by the consumer and the company announced representative.
  2. During the cooling-off period, the consumer will handle the product and packaging with care. He will only unpack or use the product to the extent necessary to assess whether he wishes to keep the product. If he exercises his right of withdrawal, he will return the product with all accessories supplied and - if reasonably possible - in the original condition and packaging to the company, in accordance with the reasonable and clear instructions provided by the company.
  3. If the consumer wishes to make use of his right of withdrawal, he is obliged to make this known to the company within 30 days of receiving the product. The consumer must make this known using the model form. After the consumer has indicated that he wants to make use of his right of withdrawal, the customer must return the product within 30 days. The consumer must prove that the goods delivered were returned on time, for example by means of proof of shipment.
  4. If after expiry of the periods referred to in paragraphs 2 and 3, the customer has not indicated that he wishes to make use of his right of withdrawal or resp. the product has not been returned to the company, the purchase is a fact.
- 1. Upon delivery of services:*
5. Upon delivery of services, the consumer has the option of dissolving the contract without giving any reason for at least 30 days, starting on the day of entering into the contract.
  6. In order to make use of his right of withdrawal, the consumer must comply with the reasonable and clear instructions provided by the company with the offer and / or at the latest upon delivery.

### **Article 7 - Costs in case of withdrawal**

1. If the consumer makes use of his right of withdrawal, the costs of the return shipment will be borne at most.
2. If the consumer has paid an amount, the company will refund this amount as soon as possible, but no later than within 14 days after cancellation. It is under the condition that the product has already been returned, or a conclusive evidence of complete return is submitted. Reimbursement will be made via the same payment method used by the consumer unless the consumer gives explicit permission for a different payment method.
3. In the event of damage to the product due to improper handling by the consumer himself, the consumer is liable for any depreciation of the product.
4. The consumer cannot be held liable for a reduction in value of the product if the company has not provided all legally required information about the right of withdrawal, this must be done before the conclusion of the purchase agreement.

### **Article 8 - Exclusion of the right of withdrawal**

1. The company can exclude the right of withdrawal of the consumer for products as described in paragraphs 2 and 3. The exclusion of the right of withdrawal only applies if the company has clearly stated this in the offer, at least in time for the conclusion of the agreement.
2. Exclusion of the right of withdrawal is only possible for products:
  - a. that have been established by the company in accordance with the consumer's specifications;

- b. that are clearly personal in nature;
- c. that cannot be returned due to their nature;
- d. that can spoil or age quickly;
- e. whose price depends on fluctuations in the financial market over which the company has no influence;
- f. for individual newspapers and magazines;
- g. for audio and video recordings and computer software of which the consumer has broken the seal.
- h. for hygienic products of which the consumer has broken the seal.

#### **Article 9 - The price**

1. During the validity period stated in the offer, the prices of the products and / or services offered are not increased, except for price changes as a result of changes in VAT rates.
2. Contrary to the previous paragraph, the company can offer products or services with variable prices that are subject to fluctuations in the financial market and over which the company has no influence. This link to fluctuations and the fact that any stated prices are target prices are stated in the offer.
3. Price increases within 3 months after the conclusion of the agreement are only permitted if they are the result of statutory regulations or provisions.
4. Price increases from 3 months after the conclusion of the agreement are only permitted if the company has stipulated this and:
  - a. they are the result of statutory regulations or provisions; or
  - b. the consumer has the authority to cancel the agreement with effect from the day on which the price increase takes effect.
5. The prices stated in the range of products or services include VAT.
6. All prices are subject to printing and typing errors. No liability is accepted for the consequences of printing and typesetting errors. In the case of printing and typing errors, the company is not obliged to deliver the product at the wrong price.

#### **Article 10 - Conformity and Warranty**

1. The company guarantees that the products and / or services comply with the agreement, the specifications stated in the offer, the reasonable requirements of reliability and / or usability and the legal provisions existing on the date of the conclusion of the agreement and / or government regulations. If agreed, the company also guarantees that the product is suitable for other than normal use.
2. A guarantee provided by the company, manufacturer or importer does not affect the legal rights and claims that the consumer can assert against the company on the basis of the agreement.
3. Any defects or incorrectly delivered products must be reported in writing to the company within 4 weeks of delivery. Return of the products must be in the original packaging and in new condition.
4. The guarantee period of the company corresponds to the factory guarantee period. However, the company is never responsible for the ultimate suitability of the products for each individual application by the consumer, nor for any advice regarding the use or application of the products.
5. The warranty does not apply if:
  - The consumer has repaired and / or modified the delivered products himself or had them repaired and / or modified by third parties;
  - The delivered products have been exposed to abnormal circumstances or are otherwise carelessly treated or have been treated contrary to the instructions of the company and / or the packaging;
  - The defectiveness is wholly or partly the result of regulations that the government has or will set with regard to the nature or quality of the materials used.

### **Article 11 - Delivery and implementation**

1. The trader will take the greatest possible care when receiving and implementing orders for products and when assessing requests for the provision of services.
2. The place of delivery is the address that the consumer has made known to the company.
3. Taking into account what is stated about this in paragraph 4 of this article, the company will execute accepted orders with due speed but at the latest within 30 days, unless the consumer has agreed to a longer delivery period. If the delivery is delayed, or if an order cannot or only partially be executed, the consumer will be notified of this no later than 30 days after he has placed the order. In that case, the consumer has the right to terminate the agreement without costs. The consumer is not entitled to compensation.
4. All delivery times are indicative. The consumer cannot derive any rights from any specified periods. Exceeding a term does not entitle the consumer to compensation.
5. In the event of termination in accordance with paragraph 3 of this article, the trader will refund the amount paid by the consumer as soon as possible, but no later than within 14 days after termination.
6. If delivery of an ordered product appears to be impossible, the company will endeavor to make a replacement item available. At the latest on delivery, it will be stated in a clear and comprehensible manner that a replacement item is delivered. For replacement items right of withdrawal cannot be excluded. The costs of a possible return shipment are at the expense of the company.
7. The risk of damage and / or loss of products rests with the company until the moment of delivery to the consumer or a representative designated in advance and made known to the company, unless explicitly agreed otherwise.

### **Article 12 - Payment**

1. Unless otherwise agreed, the amounts owed by the consumer must be paid within 7 working days after the commencement of the reflection period as referred to in Article 6 paragraph 1. In the case of an agreement to provide a service, it will be charged period after the consumer has received the confirmation of the agreement.
2. The consumer is obliged to immediately report inaccuracies in payment data provided or stated to the company.
3. In the event of a default on the part of the consumer, the company has the right, subject to legal restrictions, to charge the consumer reasonable costs incurred in advance.

### **Article 13 - Complaints**

1. The company has a sufficiently publicized complaints procedure and deals with complaints under this procedure.
2. Complaints about the implementation of the agreement must be fully and clearly described and submitted to the company within 7 days, after the consumer has found the defects.
3. Complaints submitted to the company will be answered within a period of 14 days from the date of receipt. If a complaint requires a foreseeable longer processing time, the company will respond within a period of 14 days with a message of receipt and an indication when the consumer can expect a more detailed answer.
4. If the complaint cannot be resolved in mutual consultation, a dispute will arise that is subject to the dispute settlement procedure.
5. A complaint does not suspend the obligations of the company, unless the company indicates otherwise in writing.
6. If a complaint is found to be justified by the company, the company will, at its option, replace or repair the delivered products free of charge.

**Article 14 - Disputes**

1. Dutch law applies exclusively to agreements between the company and the consumer to which these general terms and conditions apply. Even if the consumer is living abroad.
2. The Vienna Sales Convention does not apply.

**Article 15 - Additional or different provisions**

Additional or deviating provisions from these general terms and conditions may not be to the detriment of the consumer and must be recorded in writing or in such a way that they can be stored in an accessible manner on a durable medium by the consumer.