



TIMBERLINE

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SALES & DELIVERY TERMS AND CONDITIONS OF SUPPLY AND PAYMENT OF THE PRIVATE LIMITED COMPANY TIMBERLINE INTERNATIONAL BV., WHICH HAS ITS CORPORATE SEAT AND ITS PLACE OF BUSINESS IN SCHIJNDEL, THE NETHERLANDS

1. GENERAL

- 1.1 All our bids, contracts for the sale and/or delivery of our goods and/or services, as well as the performance of these contracts are governed solely by these present terms and conditions. Departures must be expressly agreed in writing with us. These terms and conditions likewise govern agreements with us for the performance of which we need to engage the services of third parties.
- 1.2 In these terms and conditions "the client" means any natural or legal person that has concluded a contract of sale, a building or other contract with us, either directly or through third parties or through the agency of third parties, or who wishes to do so, and apart from this person his representative(s), authorized agent(s), successor(s) in title and heirs.
- 1.3 If we have concluded a contract with the client and it has been agreed that these terms and conditions apply, they shall likewise apply to any further orders issued by the other party by word of mouth, telephone, telegraph or telex or by any other means, irrespective of whether we have confirmed them in writing or not.
- 1.4 Unless we have expressly agreed to them in writing, the Standard Terms and Conditions employed by the other party shall not apply.

2. TENDERS

- 2.1 Unless they contain an acceptance period all tenders made by us are non-binding. The other party remains bound by his order until we have rejected it.
- 2.2 All price lists, brochures and other information furnished with a tender are as accurate as possible. They are only binding on us if this is expressly confirmed in writing. We cannot be held to the aforesaid information if the client had reasonable cause to believe that the information contained a manifest error or slip of the pen.
- 2.3 Our tenders are based on the information furnished by the client in his inquiry (if any), which information we may assume to be accurate.
- 2.4 If the acceptance differs (on minor points or otherwise) from the offer made in the proposal or bid, we will not be bound by it. A contract will in that case not be formed in compliance with this differing acceptance unless we expressly state otherwise.

3. CONTRACT

If a proposal contains a non-binding offer and this is accepted, we have the right to revoke this offer in any event within two working days of receipt of the acceptance.

If a contract has been formed, we may confirm the order in writing, which order confirmation will be deemed to accurately reflect the contract unless notice to the contrary is received immediately from the client.

We have the right to demand from the client on or after entering into the contract and prior to its execution/further execution security for the performance of both the client's payment and his other obligations.

If we consider it necessary or desirable, we have the authority to engage the services of others for the proper performance of the contract. We will at all times confer with the client in advance on this, and will furnish the client in advance with a statement of the costs that will be passed on to the client. The costs of all woodworking procedures, e.g. drying, painting, planing, milling and sawing, as well as the transport of the wood are payable by the client, unless expressly agreed otherwise in writing.

4. PRICES

Unless stated otherwise all quotations are subject to price changes.

Unless stated otherwise our prices are:

- based on delivery ex works, ex warehouse or a place to be specified by us;
- exclusive of Dutch value added tax (BTW);
- based on the prices of materials, freight charges, wages, insurance premiums, work performed during normal working hours and other price determinants current on the day the proposal was sent or the contract formed.

In the event of an increase in one or more of the cost-price determinants we have the right, at our discretion, either to charge the client a proportional increase or, if it has not been executed, to cancel the contract without notice of default and without any right to compensation, on the understanding that the client acting in his capacity as a consumer has the authority at all times to cancel the contract if the price we stipulated is increased within three months of the contract being concluded.

Agreements relating to price increases and/or decreases are binding only following our written consent.

In the case of composite proposals there is no obligation to supply a part in return for a corresponding part of the full price quoted.

5. DELIVERY AND DELIVERY TIME

- 5.1 The delivery times quoted by us cannot be considered to be deadlines unless expressly agreed otherwise. So if we fail to deliver on time the client will need to serve written notice of default on us, granting us a reasonable period within which we can still meet our obligations.
- 5.2 The agreed delivery time commences on the date the contract was formed and we have the necessary documents, data, goods, etc., and following receipt of the sum payable by the client under the contract prior to commencement of the work.
- 5.3 In the case of orders subject to further instructions, approval or the provision of requisite products, materials and/or drawings, the delivery time will not commence until we have received the further instructions, approval or products and materials from the client.
- 5.4 Save as provided otherwise by written agreement, the client is under obligation to collect the goods processed by us within 7 days of notice that they are ready.
- 5.5 If the client has failed to collect the goods on expiry of the delivery time, we will serve notice of default in writing on the client and will grant him a reasonable period within which he may yet do so. If on expiry of that reasonable period the client has defaulted on taking delivery, we will store the goods at the client's expense and risk. If the goods in question are perishable or subject to rapid deterioration, or if their storage would involve great inconvenience or unreasonable expense, we have the right to sell these goods, privately or otherwise. The proceeds from the sale of the goods in question will then take the place of those goods, and we reserve the right to offset the losses and expense we have incurred as a result of the client's default against the proceeds of the sale. Without prejudice to our right to full compensation the client is liable to us for a fine of €100 per day or, if this is more, €1.50 per m³ per day for each day the client fails to collect or take delivery of the goods.
- 5.6 If circumstances beyond our control impede the normal performance of the work and/or delivery of the goods, we have the right to exceed the agreed time limit by as a minimum the duration of said circumstances.
- 5.7 Unless agreed otherwise in writing delivery will be made ex works.
- 5.8 If at the client's request we are required to make delivery at the client's or third-party premises, our delivery obligation will have been met as soon as the goods have been delivered at that place.
- 5.9 Unless agreed otherwise in writing the costs of consignment and carriage are payable by the client.



TIMBERLINE

▪ INTERNATIONAL BV ▪

- 5.10 We reserve the right to deliver goods by instalments. On delivery by instalment the client is under obligation to settle the relevant invoice as if it were for a separate transaction.
- 6. CARRIAGE/RISK.**
- 6.1 The goods are carried at all times at the client's risk. Even if carriage paid has been agreed, the risk of goods in transit is for the client's account even if the carrier demands that waybills and the like carry the clause that all damage in transit is for the account and risk of the consignor. The client is required to take out proper insurance to cover this risk.
- 6.2 If it has been expressly agreed in writing that we are to bear the risk of goods in transit or, if for whatever reason reliance on clause 6(1) above should fail, we are under no obligation to pay any more in compensation than the amount we are reimbursed by the carrier or the insurer for the loss or damage in transit of the goods concerned.
If necessary we will, if the client so requests, cede our claim against the carrier or the insurance company to the client.
- 6.3 On arrival of the goods the client is required to ascertain their condition. If it then transpires that goods or materials have been damaged, he must take all necessary steps to obtain compensation from the carrier.
- 6.4 Goods in our possession that we have received from the client for processing are at all times stored with us at the client's risk. The client is required, if he so wishes, to insure these goods against the usual risks.
- 7. CONTRACT VARIATIONS**
- 7.1 We only have a duty to perform that work expressly stated in the order confirmation or that additional work confirmed by us.
- 7.2 All changes in the work stated in the order, whether given by special instruction from the client or as a result of changes in the design or because the information furnished did not correspond with the actual execution of the work, or because departures are made from estimated amounts must, if they result in additional expense, be deemed to be extra work, and to the extent they result in less expense, as a reduction in the agreed work.
- 7.3 Extra work will be charged on the basis of the price determinants current at the time the extra work is performed. Reductions in the agreed work will be offset on the basis of the price determinants current at the time the contract was concluded.
- 7.4 If the total amount of less work exceeds that of the extra work, we are entitled to an amount equal to 10% of the difference in the totals as compensation for costs incurred and profits lost.
- 7.5 Changes in the order or in the conditions for execution of the work will be agreed in writing. The lack of written instructions will not, however, prejudice our claims for the settlement of contract variations.
- 8. FORCE MAJEURE**
- 8.1 Force majeure means *inter alia* any circumstance beyond our control, even if foreseeable at the time the contract was formed, which temporarily or permanently prevents us from meeting our contract obligations. Force majeure shall in any event be understood to mean war, mobilization, riots, disasters, breakdowns, stagnation in the supply of goods or power, measures taken by the government; work stoppages, transport difficulties, fire and other disruptions (major or minor), in our company or that of our supplier.
- 8.2 If performance of the contract is prevented by force majeure, we have the right to demand, without having recourse to the courts, either that the contract be adapted to the circumstances or that all or part of the contract be cancelled, without the client being able to exercise any right on these grounds to compensation for costs, losses or interest.
- 8.3 In the event of force majeure we have the right to demand payment of the work performed in executing the relevant contract before the cause of the force majeure emerged.
- 9. LIABILITY.**
- 9.1 Our liability for direct or indirect losses suffered by the client or third parties is limited to a maximum of the amount we invoiced or, if this is higher, the amount for which we are insured or, given the practices in force in this branch of industry, for which we should reasonably have been insured.
- 9.2 We are not liable for the theft, damage or reduction in value of goods delivered to us. The client is required to take out insurance covering these goods.
- 9.3 We are not liable for losses caused through gross negligence or wilful intent on the part of persons under our control.
- 9.4 Consequential losses do not qualify for compensation. The client is required, if he so wishes, to take out insurance against these losses.
- 9.5 If the ratio of what is to be done by the client to the scale of the loss suffered by the client gives cause for doing so, the compensation we are required to pay will be adjusted.
- 9.6 Remarks made by us by word of mouth and/or in writing in regard to the treatment, properties, quality, composition, forms of use of the goods – in the widest sense of the word – shall only have any force as a warranty if they are made with this express intention.
- 10. COMPLAINTS.**
- 10.1 We will only consider any complaints if the client has notified us of a non-conformity in writing within 5 days of discovering it, or 8 days after he ought reasonably to have discovered it, specifying the nature and reason for the complaints as well as when and how the non-conformity was discovered.
- 10.2 Objections relating to invoices should likewise be made in writing within 5 days of the dispatch date of the invoices.
- 10.3 On expiry of these periods the client will be deemed to have approved the item delivered or the invoice, in which case complaints will no longer be considered.
- 10.4 The filing of a complaint does not relieve the client of his obligation to pay us.
- 10.5 We will only accept returns after first giving consent in writing.
- 10.6 (a) We will rectify free of charge work the client can demonstrate we have not properly performed, but subject to the restriction given in 10.6(c) below. We will likewise replace or repair goods the client can demonstrate have not been properly supplied, subject to the restriction given in 10.6(c) below. If rectification, repair or replacement free of charge is not possible, the compensation payable by us will be limited to the amount of our invoice or the amount invoicable.
- (b) Goods delivered to us by third parties or work carried out by third parties on our instructions are subject to no other warranty than the one we receive from the supplier concerned.
- (c) Our liability terminates immediately as soon as the goods delivered or processed by us are modified without our consent, and if they are processed. Defects arising as a result of injudicious use or maintenance are not covered by the warranty. Our liability is extinguished on failure by the client to meet the payment terms.
- 11. PAYMENT.**
- 11.1 Unless expressly agreed otherwise in writing invoices we have sent must be paid in the currency stated on the invoice within four weeks of the invoice date, with no deduction of discounts we have not expressly permitted. If deliveries are made on account, the client is bound by these entries in the sense that, unless he can prove otherwise, he will have to accept them as correct.



TIMBERLINE

▪ INTERNATIONAL BV ▪

- 11.2 We have the right at all times, before making or proceeding with delivery, to demand what we think is sufficient security for the client's performance of his payment obligations. This provision applies equally if credit has been negotiated. Refusal by the client to furnish the required security entitles us, in so far as the law permits, to consider the contract to be cancelled, without prejudice to our rights to compensation for costs incurred, consequential losses and loss of profits.
- 11.3 Setting off debts is at no time permitted. Objections to the size of an invoice do not suspend the obligation to pay.
- 11.4 Each payment made by the other party serves primarily to settle the collection and/or administrative charges we have incurred, then to settle the interest owed by the other party and finally to reduce the oldest outstanding invoices receivable.
- 11.5 The full purchase price or contract sum will in any event be payable immediately:
- if an agreed instalment is not paid punctually on the due date;
 - if the client is declared bankrupt;
 - if the client is granted court protection from his creditors;
 - if the client is placed under guardianship;
 - if an attachment is levied on any of the client's goods or receivables;
 - on the death of the client.
- 12. COSTS AND INTEREST.**
- 12.1 The payment periods referred to in the preceding clause are deadlines. The other party is therefore automatically in default on the expiry of the agreed payment period with notice of default not being required. As soon as the other party is in default he is liable for interest at the rate of 1.5% per month - part of a month being counted as a whole month for this calculation - on the outstanding amount from the due date until the day full payment is made. If the statutory rate of interest is higher, the statutory interest will be payable.
- 12.2 All costs we incur in or out of court are payable by the client. The out-of-court collection charges will be calculated in accordance with the rates charged by the Dutch Bar Association, with a minimum of €150. The court-related costs are fixed at the actual cost of proceedings we incur, including the fee for the litigation lawyer to be fixed in accordance with the customary rate.
- 13. RETENTION OF TITLE**
- 13.1 We retain title in the goods we have delivered and which are in the custody of the client until the client has settled all our invoices receivable in consideration of the goods we have delivered or will deliver to, or the work we have performed or will perform for the client under the contract. We likewise retain title in the goods we have delivered if the client fails to pay for the items delivered or work performed under the aforesaid contracts and has failed to settle claims we have against the client for breach of contract (including claims in respect of fines, interest and costs).
- 13.2 Until the client has settled the above claims he may not sell the goods we have delivered nor may he encumber them with a possessory or non-possessory lien. The client undertakes, when first asked by us, to declare to third parties wishing to create such a right that the client is not authorized to do so.
- 13.3 We have the right at all times to have the goods delivered removed from the client or his custodians if the client defaults on any obligation under this contract. If despite written demands the client refuses to cooperate in returning the goods delivered, he will be liable for a fine of €500 for each day he is in default or continues to default.
- 14. RIGHT OF RETENTION AND LIEN.**
- As insurance for the payment of all the client's debts to us on whatever grounds, now or in the future, we will have a right of retention and lien on all the client's goods and monies we have at any time in our custody. The lien is created simply by entering into a contract of sale, a building or other contract, or by placing goods in our power.
- 15. CANCELLATION AND SUSPENSION**
- 15.1 If the client defaults on any obligation incumbent on him by virtue of the law, these terms and conditions or the contract, we have the right to cancel the contract by giving the client notice hereof in a written statement, such without prejudice to our rights to compensation.
- 15.2 If the client:
- is declared bankrupt, assigns his estate, applies for court protection from his creditors or if all or some of his assets are seized;
 - dies or is placed under guardianship;
 - discontinues operations or transfers all or a significant part of his business, including incorporating his business into a company that is to be formed or into an existing company, or changes the objects of his business;
- we have the authority to suspend the performance of all or some of our obligations until the client has provided security for the performance of his obligations. If this security is not provided within a reasonable period fixed by us, we have the right to cancel the contract, such without prejudice to our right to compensation for losses, costs, interest and lost profits. The loss of profits is fixed at 10% of the sum payable for the entire work.
- 16. CHANGES IN TERMS AND CONDITIONS.**
- Any changes we make in these terms and conditions for the benefit of the client at any time or in any instance shall at no time entitle the client to rely on them in other instances.
- 17. GOVERNING LAW.**
- All our tenders, contracts and the performance of these are governed by the laws of the Netherlands only.
- 18. DISPUTES.**
- 18.1 All disputes, including those deemed only by one of the parties to be a dispute, arising from or in relation to the contract governed by these terms and conditions, or the relevant terms and conditions themselves and their interpretation or implementation, both factual and legal, will be settled by the court having jurisdiction in the place our business is registered. This choice of forum is made for our benefit only and we reserve the right to bring disputes before a different court.
- 18.2 If any stipulation of these standard terms and conditions should be nullified (which includes being held to be invalid or that we are otherwise unable to rely on it), the remaining provisions shall remain in full force and the consequences of this nullification will be regulated as follows. The contract shall be interpreted in such a manner that the stipulation will be replaced by a provision that in as far as possible preserves the tenor of the stipulation to the extent permitted by the provisions on the grounds of which the stipulation was nullified.