

# GENERAL TERMS AND CONDITIONS - INTERHIVA B.V.

Registered office at Barneveld; Trade Register Arnhem no. 09066816

## 1. Definitions

1. The name of "Interhiva" in these Conditions is understood to mean "Interhiva B.V."

2. The word "purchaser" in these Conditions is understood to mean anybody who enters into an agreement with Interhiva.

## 2. Applicability

1. These Conditions shall apply to all and any of Interhiva's quotations and offers and to all agreements entered into with Interhiva.

2. Any stipulations deviating from these Conditions shall only be valid insofar as they have been explicitly agreed upon by parties in writing.

## 3. Quotations and offers

1. All quotations and/or offers shall be without any obligation.

All quotations and/or offers shall remain valid for thirty days, unless indicated otherwise.

## 4. Effect

1. An agreement shall be effected only by a written acknowledgement from Interhiva or by the actual performance of the agreement.

2. The substance of the written acknowledgement shall be considered to be complete and correct unless the purchaser files a protest against the written acknowledgement within a term of seven days.

## 5. Prices

1. Prices quoted by the vendor are exclusive of value added tax and other government levies.

2. Prices are "ex Interhiva" or "ex warehouse or factory of one of Interhiva's suppliers".

3. Prices stated by Interhiva in catalogues or otherwise shall have no binding effect upon Interhiva. After effecting the agreement, Interhiva shall be entitled to pass on price increases on the agreed prices in the event that prices are prematurely increased and/or additional charges are levied on freight, customs tariffs, goods and/or raw materials, taxes, wages or social security costs, in the event of a decrease in value of Dutch currency and/or an increase in value of foreign currencies and in the event of any government measures resulting in price increases.

4. Unless explicitly agreed otherwise, the costs of installation, assembly and connection are not included in the agreement and are therefore to be borne by the purchaser.

## 6. Alterations

Alterations in the agreement relating to design and/or number are open to discussion only in the case that the goods are not yet being processed or in the case that the goods have not yet been reserved for the purchaser. Interhiva shall pass on to the purchaser any costs resulting from agreed alterations made in the agreement.

## 7. Technical requirements

1. In the event that goods which are to be delivered in the Netherlands are meant for use in countries outside the Netherlands, Interhiva shall bear responsibility that the goods to be delivered shall fulfill the technical requirements or standards established by laws or provisions of the country where the goods are to be put into use, provided that the required use in a country outside the Netherlands is reported at the moment of purchase.

2. Any other technical requirements pertaining to the goods which are deviating from the norm and which the purchaser may deem necessary, must also be explicitly reported by the purchaser at the moment of entering into the contract of sale.

## 8. Samples, models and specimens

1. Any model, sample or specimen shown or provided by Interhiva is assumed to be shown or provided only as an indication; the qualities of the goods to be supplied may differ from the sample, model or specimen, unless it was expressly agreed that the goods supplied should be in conformity with the sample, model or specimen shown or provided.

## 9. Retention of title

1. Interhiva shall retain title to any goods supplied until the purchaser has fulfilled each of the obligations resulting from each and any agreement entered into with Interhiva, as follows:

- the considerations(s) with reference to the goods supplied or to be supplied;
- the considerations(s) with reference to services rendered by Interhiva by virtue of the agreement(s);
- any possible claims arising from non-fulfilment of the agreement(s) by the purchaser.

2. The resale of goods delivered by Interhiva, as included in the first paragraph under Retention of Title, is only permitted within the scope of normal business operations.

The purchaser is not authorized to establish a right of pledge or any other right upon the goods.

3. In the event that the purchaser does not fulfil his obligations or in the event that a reasonable fear exists that he shall not do so, Interhiva is authorized to remove or to have removed from the purchaser, or from a third party holding the goods for the purchaser, any goods which have been delivered and which fall under the provisions in the first paragraph under Retention of Title. The purchaser shall be under an obligation to render any necessary assistance in the event of a removal, under penalty of a fine amounting to ten per cent of the sum due daily.

4. In the event that third parties wish to establish or rely upon any title to the goods supplied under retention of title, the purchaser shall be under an obligation to inform Interhiva as soon as may reasonably be expected.

5. The purchaser shall be under an obligation to mark the goods delivered under retention of title as the property of Interhiva and to keep the goods marked in such a way.

6. Upon Interhiva's first demand, the purchaser shall be required

• to take out insurance against damage caused by fire, explosions and water and against theft for the goods delivered under retention of title and to submit the insurance policy for inspection;

• to pledge to Interhiva any claims the purchaser may have on insurers with regard to the goods delivered under retention of title, as provided in art. 3:239 BW [the Netherlands Civil Code];

• to pledge to Interhiva any claims the purchaser may acquire on his clients in the event of resale of the goods delivered by Interhiva, as provided in art. 3:239 BW;

• to render assistance in any way with any reasonable measures Interhiva may take with the object of protecting its title to goods insofar as these measures do not unreasonably impede the purchaser in the ordinary course of his business.

## 10. Delivery and liability

1. Delivery shall be "ex Interhiva" or "ex warehouse or factory of one of Interhiva's suppliers", unless Interhiva shall deliver the goods.

2. As soon as the goods have been delivered, the risk shall pass to the purchaser.

3. If it has been agreed that the goods are to be delivered by Interhiva, the risk shall pass to the purchaser the moment that the goods are unloaded from the vehicle.

4. In the event that any visible damage is caused to goods in transit and the transport risk concerning the consignment is for the expense of the purchaser, written notifications of the damage must be given within two times twenty-four hours at the latest. If applicable, an official report by the Dutch railroad authorities or a note in the consignment note of a barge line must be included, stating the nature and extent of the damage.

5. In the case that the insurer admits liability, the damaged, broken or lost components shall be repaired or re-supplied by Interhiva at Interhiva's expense, with the exclusion of any further obligation and exclusively limited to the scope of the admitted liability.

## 11. Delivery period

1. The delivery period shall be deemed to be agreed by approximation only, unless a firm date has expressly been agreed and determined in writing.

2. The delivery period shall become effective as soon as all information necessary for the execution of the agreement to be provided by the purchaser has been surrendered to Interhiva and the agreed down payment, if applicable, has been paid.

3. Interhiva undertakes to observe the delivery period to the best of its ability, but shall not be liable for the consequences in the event that the term of delivery is exceeded. If the term of delivery is exceeded, Interhiva shall not be under an obligation to pay any compensation, nor shall the purchaser have the right to dissolve the agreement. After expiry of the term of delivery, the purchaser shall have the right to demand in writing that Interhiva deliver within a reasonable period of time. In the event that this period of time is exceeded, the purchaser shall have the right to dissolve the agreement.

4. In the event that a term of delivery has been agreed and the goods are ready for shipment on or round this date, Interhiva has the right to demand of the purchaser to take delivery of the goods at once. In any case Interhiva shall be authorized to invoice the ordered goods as soon as they are at the purchaser's disposal. Interhiva shall also be authorized to charge a fee for storage and for other expenses Interhiva may have made with the object of keeping the goods at the disposal of the purchaser prior to delivery. The temporary storage of goods is at the risk of the purchaser.

5. Interhiva shall be authorized to deliver sold goods in consignments. This shall not apply if a partial delivery has no independent value. In the event that the goods are delivered in consignments, Interhiva shall be authorized to invoice each individual consignment.

## 12. Payment

1. Payment shall be effected cash on delivery without any discount or settlement, unless otherwise agreed upon in writing.

2. At any time, Interhiva shall be authorized to demand payment in advance of the total sum or to demand some other means of security for payment of the purchase price, prior to commencing or proceeding with the execution of the agreement.

3. In the event that the purchaser exceeds any term of payment, he shall be in default *de jure* and from that moment on, he shall be payable an interest of 1.5 per cent of the sum due each month or part of the month, notwithstanding any deferment of payment, if so agreed.

4. In the event that the purchaser still fails to fulfil any obligation arising from the agreement, the purchaser shall, in addition, be obliged to pay full compensation for collection charges both in and out of court, the level of which shall be at least 15 per cent of the total sum.

5. Payments made by the purchaser will be used to pay all interests and expenses due and subsequently to settle the oldest outstanding invoices due and payable, even if the purchaser states that the payment made relates to an invoice of a later date.

## 13. Suspension

In case of failure on the part of the purchaser to settle exigible debts within the agreed term of payment, Interhiva has the right to suspend further execution of any obligations resulting from all and any running agreements between Interhiva and the purchaser until the debts have been settled, without prejudice to any further rights to suspend performance ensuing from the law. In case of failure on the part of the purchaser to settle exigible debts, all claims Interhiva may have on the purchaser shall be forthwith fully due and payable.

## 14. Complaints

1. The purchaser must see to inspection of the purchased goods upon delivery or as soon as possible thereafter. This implies that the purchaser must inspect whether the delivered goods are in accordance with the agreement, that is to say:

- whether the correct goods have been delivered;
- whether the goods delivered are in accordance with the agreement with respect to quantity (e.g. number and amount);
- whether the goods delivered meet the agreed quality requirements, or - in the absence thereof - the quality requirements the goods may be expected to possess for normal and/or commercial usage.

2. In the event that the goods delivered are not in accordance with the agreement, the purchaser shall notify Interhiva thereof in writing within one week after he has perceived this or could reasonably have been expected to perceive this, whereafter the purchaser shall have no right of claim.

3. Any complaints with regard to the number of packages and the condition thereof must be stated on the waybill or receipt upon

delivery, or forthwith reported to Interhiva in writing. In case of failure to do so, every right to claims in this matter shall have lapsed.

4. In the event that the purchaser does lodge a complaint in due time, the obligation to pay and take possession of the goods ordered shall remain effective.

5. Goods may only be returned to Interhiva after prior written consent.

## 15. Guarantee

Interhiva provides a guarantee for manufacturing defects and faulty material as defined in the certificate of guarantee issued with the goods. The guarantee implies that goods shall be repaired or replaced at the option and at the expense of Interhiva. All replaced goods shall become the property of Interhiva. The guarantee shall not apply in the event that the defects have wholly or partially resulted from incorrect, negligent or injudicious use, or in the event of external causes such as fire damage or water damage, or in the event that the goods have been altered or are in maintenance by others than Interhiva. Claims under the warranty must be submitted in writing within the stipulated period of time and must state the nature of the defect. Furthermore, Interhiva must be given the opportunity to inspect the defect on the spot.

## 16. Liability

1. Without prejudice to the provisions of article 15 regarding the guarantee and without prejudice to the other provisions in these Conditions, Interhiva shall accept statutory obligations to pay damages insofar as this is in accordance with this article.

2. In the event of attributable failure in the performance of the agreement, Interhiva shall only be liable for alternative compensation, meaning reimbursement of the value of the faulty performance. Any liability of the vendor for any other damage is excluded, including punitive loss or damage in any form whatsoever, compensation for consequential loss or damage or damage as a result of lost profit.

3. The compensation to be paid by Interhiva for attributable failure in the performance of an agreement shall in no case exceed the sums invoiced and to be invoiced pursuant to the contract (excluding value added tax).

4. In the event that Interhiva or Interhiva's employees should commit an unlawful act for which Interhiva may be deemed liable by law, Interhiva shall be liable only for compensation of any damage insofar as the damage was caused by gross negligence or intention. In these cases, the compensation shall not exceed the sum of € 450,000,- for every harmful event, whereby a series of related events shall be deemed to be one event.

5. Any liability on the part of Interhiva for damage due to an unlawful act, other than as referred to in the preceding paragraph, shall be explicitly excluded. If reliance hereupon should be untenable, the compensation for each event, whereby a series of related events shall be deemed to be one event, shall in no case exceed the sum (excluding value added tax) stipulated at the time of the agreement between the parties and within the scope of which the event has occurred, or, in the absence of such an agreement, the agreement in force between the parties at the time the damage is caused.

6. Any right to compensation shall only exist on the condition that the purchaser has notified Interhiva of the damage in writing as soon as is reasonably possible after the occurrence thereof.

## 17. Packaging

1. In the event that goods are returned, the sum charged for packaging shall be fully credited on the condition that goods are returned in a good state, free warehouse, to Interhiva at Barneveld within one month after the invoice date, or, upon Interhiva's instructions, free warehouse or works of one of the suppliers.

## 18. Cancellation

1. In the event that the purchaser fails to fulfil any obligations with regard to any agreement entered into with Interhiva or with regard to any petition for suspension of payment or with regard to (involuntary) liquidation of the purchaser's company or branch, Interhiva shall be authorized to cancel the running agreements without prior notice of default or judicial intervention and without any right on the part of the purchaser to compensation.

## 19. Force majeure

1. None of the parties is obliged to fulfil any agreement in the event that they are impeded in doing so by circumstances beyond their control for which they cannot take responsibility either under the law or by legal acts or according to generally accepted standards. Interhiva is also authorized to rely upon force majeure in the event that the circumstances impeding further fulfilment occur after Interhiva should have fulfilled its obligations.

2. Interhiva cannot be deemed to take responsibility for the following circumstances, among others: failure of Interhiva's suppliers to fulfil obligations, strikes of road transport, air transport, railway traffic or sea carriage, strikes in companies other than Interhiva, wildcat strikes or political strikes within Interhiva, a general lack or shortage of required raw materials and other goods or services necessary for the fulfillment of the agreed performance, unforeseen delays on the part of suppliers or other third parties on which Interhiva is dependent, and general problems of transport.

3. In the event that Interhiva has already fulfilled part of its obligations at the occurrence of force majeure, or in the event that Interhiva can only partially fulfil its obligations, Interhiva shall have the right to invoice the goods which have already been delivered or, as the case may be, to invoice the goods that can yet be delivered separately. In that case, the purchaser is obliged to pay the invoice as if it were a separate contract. However, this shall not apply if the goods delivered or, as the case may be, the goods that can yet be delivered, have no independent value.

## 20. Conflicts

1. Any agreements entered into with Interhiva shall be governed only by the laws of the Netherlands. Any conflicts shall in the first instance be settled by the competent court at Utrecht, unless Interhiva gives preference to the court at the purchaser's place of establishment or domicile and unless imperative rules of law prescribe otherwise.

## INTERHIVA B.V.

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