

Article 1. Applicability of these conditions

These conditions are valid for every offer and every agreement between Colson Europe B.V., hereafter mentioned as Colson and a purchaser, on whom Colson has declared the applicability of these conditions, as far as parties have not deviated from these conditions explicitly. Oral agreements are only binding between parties as far as confirmed later on in writing.

Article 2. Offers

All offers from Colson, orally or in writing, are not binding. Information with regard to the products offered, as appears from models, samples, catalogues, prospectus, technical documents, advertisements and price lists, are only provided by way of reference. All said data are not binding, unless these explicitly form part of an irrevocable offer. Prices mentioned in the offer are exclusive of VAT, unless otherwise mentioned.

Article 3. Delivery

3.1 Unless agreed otherwise, delivery in the Benelux and Germany takes place free domicile and delivery in other countries ex-works. In so far one of the "Incoterms" has been agreed as a condition for delivery, the Incoterms valid at the date of the conclusion of the agreement will be applicable.

3.2 The purchaser is obliged to receive the goods purchased, the moment on which these goods are delivered or the moment on which these according to the agreement have been made available to him. In the event the purchaser refuses the delivery or fails to provide information or instructions, necessary for the delivery, the goods will be stored for the risk of the purchaser. The purchaser will then be due in that case all additional costs, under which is to be understood at least the costs for storage.

3.3 When ordering products which do not form part of the standard manufacturing programme of Colson, Colson will be free to reduce or to exceed the agreed quantity by a maximum of 10%.

3.4 Colson reserves the right to send on cash-on-delivery terms.

Article 4. Time of delivery

The time of delivery is reckoned to commence on the day on which Colson order as such has been accepted. An agreed delivery time is not a statutory limit, unless otherwise explicitly has been agreed. In the event of a considerable delay in the delivery time, purchaser firstly has to declare Colson in default.

Article 5. Partial delivery

Colson is allowed to deliver the sold goods in parts. Such is not valid in the event a partial delivery does not have a substantial value. In the event the goods are delivered in parts, Colson is allowed to invoice each part separately.

Article 6. Technical requirements etc.

It is the responsibility of Colson that the goods to be delivered meet the technical demands or standards which are defined by the law or regulations of the country in which the goods are to be used, as far as these facts are mentioned explicitly in writing by purchaser before entering into the sales agreement. Also any other technical demands required by the purchaser from the goods to be delivered and which deviate from the normal standards, must be mentioned in writing by the purchaser explicitly before entering into the sales agreement.

Article 7. Amendment within the goods to be delivered

Colson is entitled to deliver goods which deviate from what has been agreed upon in the event such refers to amendments in the goods to be delivered, the packaging or corresponding documentation required to fulfil the applicable legal requirements or in the event it concerns small amendments of the goods which mean an improvement.

Article 8. Termination of the agreement

8.1 Any claim from Colson on the purchaser is demandable immediately in the following cases: -in the event after the conclusion of the agreement Colson has been that the purchaser shall not meet his obligations;-in the event Colson has asked from the purchaser at date of conclusion of the agreement to provide security for the due fulfilment and such security is not provided or is insufficient. In the said cases Colson is entitled to suspend the further execution of the agreement, or to dissolve the agreement, one thing and another without prejudice to the right of Colson to claim for any damage compensation.

8.2 In the event of circumstances with regard to persons and/or material of which Colson makes use of for the execution of the agreement, which are of such a nature that the execution of the agreement will become impossible or such like difficult and/or unequally costly, that completion of the agreement in all reasonable becomes cannot be demanded anymore, Colson will be entitled to dissolve the agreement.

Article 9. Guarantees

9.1 Colson undertakes to repair or replace goods delivered or parts of those goods, which appear to be unusable, owing to defects in design, material or workmanship, on the condition that such an unusable good or part of it, is returned to Colson for the account and for the risk of the purchaser, for a further check or for repair or replacement, within one year as from the moment the good has been put into service and up to a maximum of fifteen months after delivery. Consequently, Colson is not obliged to pay for any other compensation for direct and/or consequential damage and/or any other financial loss, caused by the appeared unusableness of the goods delivered. The guarantee is further not valid for defects due to outside action, incorrect assembly, bad maintenance, overload, unsuitable lubrication, natural wear, incorrect choice of product and other circumstances beyond the control of Colson.

9.2 Purchaser shall inform Colson as soon as possible within fourteen days after the date of delivery in writing with regard to facts as being unusable, as defined in paragraph 1. of this article, with reference to the reasons on which the conclusion as such has been based. In the event there are reasons on which one may assume that damage may have been caused because of the said unusableness, the claim must be mentioned to Colson in writing immediately.

9.3 Colson does not guarantee that the goods delivered are suitable for the purpose for which the purchaser wishes to use the same, not even in the event this purpose has been made known to Colson, unless the opposite appears from a separate agreement concluded in writing with purchaser. Technical advices are given to the best knowledge, however, beyond any responsibility of Colson.

9.4 Any goods or parts of them, which are sent to Colson for replacement by new ones, will become at the time of delivery of the new goods the sole property of Colson.

Article 10. Reservation of title

10.1 The goods delivered by Colson remain the property of Colson until purchaser has met all obligations mentioned below from all purchase agreements concluded with Colson:

-the counter obligation(s) with regard to the goods delivered or to be delivered,
-the counter obligation(s) with regard to services rendered by Colson or to be rendered by Colson because of the purchase agreement(s),
-any other claims because of the non-fulfilment by purchaser of one or more purchase agreements.

10.2 Goods delivered by Colson which fall under paragraph 1. of this article under the reservation of title, may only be sold through within the framework of the normal business activities. For the rest purchaser is not entitled to pledge the goods or establish any other right on these goods.

10.3 In the event purchaser does not fulfil his obligations or Colson may have valid reasons to fear that purchaser shall not do such, Colson is entitled to take away under the reservation of title as mentioned in paragraph 1. of this article the goods delivered from the purchaser or further parties who hold the goods on behalf of the purchaser. The purchaser is obliged to give in this respect full cooperation under penalty of a fine of 10 % per day of the amount of the invoice due by him.

10.4 In the event third parties wish to establish any title to the goods delivered under the said reservation of title, purchaser is obliged to inform Colson as fast as reasonably may be expected.

10.5 Purchaser is obliged at the first request of Colson:

-to insure and to keep insured the goods delivered under reservation of title against fire, explosion, and water damage and against theft and to show to Colson a policy of such insurance;
-to pledge all claims from the purchaser on insurance companies with regard to the goods delivered under the reservation of title, to Colson in the way as has been prescribed in article 3:239 Dutch Civil Code;
-to pledge to Colson all claims which purchaser receives towards his customers after the sale of the goods delivered by Colson under the reservation of title, in the way as has been prescribed in article 3:239 Dutch Civil Code;
-to mark the goods delivered under the reservation of title as the sole property of Colson; to provide cooperation in whatever other way to all reasonable measures which Colson wishes to take for the protection of its title of ownership with regard to the said goods, and which do not unreasonably hinder the purchaser in the normal course of business.

10.6 Also in the event the purchaser claims under the guarantee timely, his obligation for payment of the invoice and delivery of the goods ordered stays in existence. Goods can only be returned to Colson after approval in writing beforehand.

Article 11. Prices

In the event Colson agrees with the purchaser on a certain price, Colson however, is entitled to adjust the price up to the moment of delivery and in accordance with the general price list valid at date of delivery. In the event the price increase in percentage exceeds the increase of the 12-months index of imported goods + 3 - as published by the Dutch CBS, table 3.3.2 / 3558.700 (most recent publication) - purchaser is entitled to dissolve the agreement.

Article 12. Packaging

12.1 The way of packaging is defined by Colson. Any way of packaging deviating at the request of purchaser is charged separately. Packaging material is not taken back, except for returnable containers.

12.2 Purchaser is obliged to return the returnable containers within 30 days after date of invoice, empty and in good condition. In the event the purchaser does not meet his obligations with regard to the containers, all costs connected therewith are for his account. Such costs are a.o. costs which are connected to the late sending back and costs for replacement, repair or cleaning.

12.3 In the event the purchaser does not return the returnable containers within the agreed term, Colson is entitled to replace the same and to charge the costs thereof, after having advised the purchaser by summons in writing regarding the measures to be taken by Colson.

Article 13. Payment

13.1 Payment shall be effected 30 days after date of invoice, by transferring the amount due to our account number as stated on the invoices. After the lapse of 30 days after date of invoice, purchaser is in default; the purchaser is from the moment being in default on the amount of the invoice due an interest at the level of legal interest + 2%.

13.2 In the event of dissolution, bankruptcy, or suspension of payment of the purchaser, all obligations from the purchaser will be claimable immediately.

13.3 Payment is effectuated without any discount or compensation.

13.4 Payments made by the purchaser are deemed to be made in the first place for all interests and costs due, and in the second place for the oldest claimable invoices, even if the purchaser mentions that payment is for settlement of an invoice of a later date.

Article 14. Collecting fees

14.1 In the event purchaser is in default or does not fulfil one or more of his obligations, then all reasonable costs for the settlement outside of court are for the account of purchaser. The minimum obligation for the purchaser then will amount to;

-for the part exceeding EURO 3250,- 15 %
-for the part exceeding up to EURO 6500,- 10 %
-for the part exceeding up to EURO 16000,- 8 %
-for the part exceeding up to EURO 64500,- 5 %
-for the part exceeding 3 %

In the event Colson proves that higher costs had been spent, which reasonably were of necessity, these costs are also considered for compensation.

14.2 The purchaser is obliged towards Colson to pay all legal costs made by Colson at all instances, unless these are unreasonably high. This obligation is only valid in the event Colson and the purchaser have started a legal court case with regard to an agreement on which these general conditions are applicable and the court has decided against the purchaser completely or for the greater part.

Article 15. Liability

Colson is only liable towards purchaser as follows:

15.1 For damage as a consequence of faults in the goods delivered only the liability as ruled in article 9. of these conditions is valid.

15.2 Colson further is liable in the event damage has been caused by intent or extreme fault of Colson or its managing subsidiaries.

15.3 Colson is not liable under any circumstance for indirect damage caused by the damage-inducing characteristics of the goods delivered.

15.4 In the event of and as far as, despite of mentioning in the paragraphs 2. and 3. of this article, Colson is yet held liable by the authorized court, the liability of Colson is restricted to the amount of the payment to be made by the insurance of Colson as far as this liability is covered by its insurance.

15.5 In the event the insurance does not cover in any case or does not pay out compensation, the liability of Colson with regard to additional service is restricted up to the value of the invoice for the goods delivered.

15.6 To the extent product liability is imposed on Colson with respect to a third party, the purchaser is obliged to indemnify Colson to the same extent as Colson's liability in this respect is limited according to the previous paragraphs.

Article 16. Force majeure

16.1 Force majeure is understood as circumstances which hinder the fulfilment of the obligation, and which are not for the account of Colson. Under force majeure is also to be understood - (in the event of and as far as these circumstances - prevent the fulfilment of the agreement or hinder the same unreasonably) - : strikes in other companies than those of Colson, illegal strikes or political strikes within the company of Colson; a general shortage of raw materials and other goods or services necessary for the completion of the agreed products; non- foreseeable stagnation with sub-contractors or other third parties of which Colson is dependent upon and general transport problems.

16.2 Colson is also entitled to claim for force majeure, in the event the circumstance, which hinders the further fulfilment, occurs, after Colson had to fulfil its obligations.

16.3 During the force majeure the delivery- and other obligations of Colson are suspended. In the event the period in which because of force majeure the fulfilment of the obligations of Colson is not possible, exceeds the term of six months, both parties are entitled to dissolve the agreement, without existing in such case an obligation for compensation.

16.4 In the event Colson at the start of the force majeure already has fulfilled its obligations partly, or only can fulfil its obligations partly, Colson is entitled to invoice the parts already delivered or the part which can be delivered separately and the purchaser is obliged to pay this invoice in the same way as in the event of a separate agreement. This is however not valid in the event the part already delivered or to be delivered does not have any substantial value.

Article 17. Dispute resolving

In deviation of the legal rules for the authority of the civil court, any dispute between purchaser and Colson will be settled by the authorized court of the place of establishment of Colson. Colson however retains the authority to sue the purchaser for the court authorized according to the law or the applicable international treaty.

Article 18. Applicable law

Dutch law will be applicable on any agreement between Colson and the purchaser.

Article 19. Amendment of the conditions

Colson is authorized to amend these conditions. These amendments are coming into effect on the time of notice. Colson will send the amended conditions timely to the purchaser. In the event the time of effect has not been mentioned, the amendments are only valid towards the purchaser as soon as the amendment has been mentioned to him.