

## **Article 1. Definitions**

1. Seller: Urbanflames B.V., (KvK NR 24438868), established and office-based at (5017 AN) Tilburg at the address Piushaven 6.
2. Buyer: the (intended) contracting party of Seller.
3. Agreement: the agreement concluded between Seller and Buyer.
4. Terms and Conditions: the present terms and conditions of sale and delivery.

## **Article 2. The Agreement**

1. These Terms and Conditions always apply to all offers and Agreements of Seller, with the express exclusion and rejection of all general terms and conditions that Buyers state on their letterheads, order and delivery forms and the like and/or have deposited or declared applicable elsewhere. By merely requesting an offer and/or placing an order with Seller, Buyer accepts these Terms and Conditions and thereby expressly waives the applicability of its own general terms and conditions.
2. In the event of a written offer or written order confirmation from Seller, this offer or order confirmation shall be deemed to reflect the entire Agreement and shall replace all prior written and verbal agreements, statements and/or conduct by the parties. Changes to/additions to the text of the offer or order confirmation only form part of the Agreement if this is explicitly acknowledged by Seller in writing, whereby in the event of any inconsistency the text of the offer or order confirmation shall prevail.
3. Seller reserves the right to unilaterally amend these Terms and Conditions. Buyer will be deemed to have accepted the amendments in question if Seller has not received a written objection from Buyer within 14 days of the written notification of the amendment.
4. Offers made by Seller shall have a limited validity of 15 working days, unless otherwise indicated in writing. Seller has the right at all times to revoke an offer accepted by Buyer within two working days of receipt of acceptance thereof. Buyer cannot derive any rights from information on offers, leaflets, advertising materials or from the website of Seller.
5. If, for any reason whatsoever, any provision of the Terms and Conditions is not valid, the other provisions will remain in force and the parties will negotiate the content of the new provision, which provision comes as close as possible to the purport of the original provision.

## **Article 3. The Performance**

1. If no specific standards or regulations have been agreed upon, Seller shall deliver in accordance with what Seller could reasonably assume.
2. The goods offered by Seller have those characteristics that Seller has made known with regards to the goods. Seller does not guarantee that the goods are suitable for the purpose Buyer wishes to use them, even if this purpose has been made known to Seller. The goods may deviate slightly from any samples, models or illustrations that Seller has made available or provided to Buyer.

## **Article 4. Price and Payment**

1. Unless otherwise agreed, prices are exclusive of VAT, transport and packaging.
2. Price increases resulting from additions and/or changes to the order and/or specification of the goods to be delivered, made at the oral or written request of Buyer, will be entirely at the expense of the Buyer.
3. All costs resulting from circumstances that Seller did not reasonably have to take into account when entering into the Agreement shall be borne by Buyer.
4. All payments by Buyer to Seller must be made to a bank account, without suspension or setoff, in Euros and no later than fourteen (14) days after the invoice date. This concerns a 'period determined for payment' within the meaning of section 6:83(a) of the Dutch Civil Code (*BW*).

5. If indicated by Seller, Buyer is entitled and obliged (as well) to pay in any other way than in cash, for example – but not limited to – by transfer of goods (tendering in payment).
6. In the absence of timely payment, Buyer shall be in default by operation of law with at least the following consequences:
  - a. Buyer will owe interests of 5% per month on the outstanding invoice/invoices;
  - b. Buyer will owe extrajudicial collection costs of 15% of the outstanding invoice/invoices with a minimum of € 250,00;
  - c. If Seller engages Buyer in legal proceedings in respect of its payment obligations, Buyer will also owe, in addition to the previous paragraphs, the actual costs incurred by Seller in this respect (such as lawyer's fees, bailiff's fees, court registry fees, etc.).
7. Payments made by Buyer shall first be deducted from all costs and interest owed and then from the longest outstanding invoices, even if Buyer states that the payment relates to (a) later invoice(s).
8. Seller will at all times be entitled to demand security and/or advance payment from Buyer for the performance by the Buyer of its obligations under the Agreement. This will in any event apply in the event that any term of payment is exceeded, or in the event of other failure in respect of this Agreement or in respect of other Agreements on the part of Buyer. Buyer will comply with this at the first request.

#### **Article 5. Quality and complaints**

1. Immediately upon delivery (in any case within five (5) days after receipt) Buyer must check the delivered goods for quantities, quality, visible damage, properties or defects and report this to Seller in writing or by email, stating the order and/or invoice number and sending (a copy of) the waybill. After the expiry of the period, the goods shall be deemed to comply with the Agreement.
2. Buyer can no longer invoke defects other than those referred to in the previous paragraph if he has not complained Seller in writing within five (5) days after he has discovered the defect or should reasonably have discovered it.
3. If Buyer processes or has processed the goods in whole or in part, Buyer has approved the goods. In that case, all liability of Seller will lapse.

#### **Article 6. Delivery**

1. Deadlines applicable to Seller are not fatal, unless the parties have expressly agreed otherwise in writing in the Agreement. An agreed term applicable to Seller will not commence until after the Agreement has been concluded and Seller is in possession of all information necessary for the performance of the Agreement. An agreed delivery period applicable to Seller will be extended at least by the number of days that have lapsed between the time the Agreement is concluded and the time at which all information necessary for the performance of the Agreement has come into possession of Seller.
2. Unless otherwise agreed in writing, the delivery of goods shall take place at a (Dutch) business location of Seller.
3. Unless agreed otherwise in writing, the risk for the goods shall pass to Buyer at the time of delivery.
4. Seller may deliver the goods in partial batches (partial deliveries).
5. Buyer is obliged to take the delivery of the goods.
6. In the event of delivery at the business location of Seller, the obligation to take delivery commences at the moment that Seller notifies Buyer that the goods are ready to take delivery, after which Buyer must collect the goods within a period of seven (7) days at the latest.
7. In the event of delivery by means of delivery to the address of Buyer, the goods must be taken at the time that Seller offers the goods to Buyer on location. If a delivery address has not been explicitly agreed upon in writing, Seller may deliver the goods to the address of the Buyer that is known to Seller or as appears from the trade register.

8. If Buyer does not take delivery of the goods or does not take delivery on time, Buyer shall be in default without further notice of default being required. In that case, Seller shall be entitled a) to store the goods at the expense and risk of Buyer at 5% of the invoice value of the delivery per week with a maximum of € 250,00 per day or b) after having offered a final term for taking delivery of the goods within 5 working days, to sell the goods to a third party at a price Seller deems reasonable under the circumstances. If Seller sells the goods to a third party, Seller may decide to reduce the amount payable by Buyer with the net proceeds of the sale to that third party.

#### **Article 7. Retention of Title**

1. Delivery takes place under extensive retention of title. All goods delivered by Seller will remain the Seller's property until Buyer has fulfilled all its payment obligations under all purchase agreements concluded between the parties (including obligations to pay interests or (collection) costs). As long as Buyer has not fulfilled its payment obligations, Buyer undertakes vis-à-vis the Seller to treat the delivered goods with due care, to keep them insured and not to pledge, process them, transfer them or hand them over to third parties. In the event of non-performance of this obligation, the entire purchase price involved in the agreement will become immediately due and payable.
2. If Buyer fails to fulfill its obligations to Seller, Seller shall have the right to revendicate the goods of which ownership is reserved immediately. To the extent necessary, Buyer shall, at Seller's first request, provide Seller with immediate access to buildings and/or sites owned or managed by Buyer, so that Seller can revendicate its property(ies).
3. Payments made by Buyer will first and foremost and as far as possible be attributed to claims of Seller to which no retention of title applies.

#### **Article 8. Force majeure**

1. A situation of force majeure exists when Seller is unable to fulfil its obligations to Buyer due to a non-attributable shortcoming, Buyer will not be entitled to dissolve the Agreement and fulfilment of Seller's obligations will be suspended for the duration of the force majeure situation.
2. If any force majeure situation has lasted one (1) month, Seller will be entitled to dissolve the Agreement in whole or in part in writing.
3. In the event of a situation of force majeure, Buyer is not entitled to any compensation (for damages), not even if Seller could derive any benefit as a result of the force majeure.
4. In addition to what is understood in this respect by law and case law, force majeure includes all external causes, foreseen and unforeseen, on which Seller cannot exert any influence, as a result of which the fulfillment of its obligations towards Buyer is wholly or partly prevented or as a result of which the fulfillment of its obligations cannot reasonably be demanded of Seller, regardless of whether that circumstance was also foreseeable at the time the Agreement was concluded. These circumstances include: strikes, lockouts, fire, machine breakdowns, stagnation or other problems in production by Seller's suppliers and/or measures taken by any government authority (such as recall actions), as well as the absence of any governmental permit to be obtained.

#### **Article 9. Industrial and intellectual property**

1. Unless explicitly agreed otherwise in writing, Seller retains the copyrights, patent rights and all other industrial and/or intellectual property rights to goods sold, offers made, designs, images, drawings (trial) models, recipes, software, etc. it has provided.
2. Unless explicitly agreed otherwise in writing, the rights to the data mentioned in this article remain the property of Seller regardless of whether Buyer has been charged for the production thereof.
3. All information, whether orally or in writing, provided by Seller to Buyer, remains the property of Seller and may only be used by Buyer for the purpose for which it was provided.

4. Buyer will not provide the information of Seller to third parties in any way whatsoever, except insofar as this is reasonably necessary for the proper execution of the Agreement and then only after and insofar as a confidentiality obligation has been agreed upon.

#### **Article 10. Seller's liability**

1. Seller will not be liable for any indirect damage suffered by Buyer or a third party in connection with (the performance of) an Agreement or a good or service provided by Seller, including consequential damage, immaterial damage, business or environmental damage.
2. Any liability on the part of Seller will in any event be limited to a maximum of twice the invoice value of the order placed by Buyer with Seller, or at least to that part of the order to which the liability relates. If Seller is insured and actually pays out of its insurance as a result of the liability in question, its liability will be limited to that amount paid out.
3. The exclusion of liability in this Article will not apply if damage is caused by intent or gross negligence on the part of Seller or its executive staff.
4. Buyer may only invoke the obligations ensuing from this Article if it has itself fulfilled all the obligations vis-à-vis the Seller.
5. Any right of claim of Buyer against Seller, for whatever reason, expires at the latest one year after delivery of the goods sold to Buyer.

#### **Article 11. Suspension, setoff and dissolution**

1. In the following cases, Buyer will be in default by operation of law and Seller will be entitled to dissolve the Agreement in whole or in part – without any notice of default or judicial intervention being required – extrajudicially:
  - a. if Buyer applies for bankruptcy or (provisional) suspension of payments, or if Buyer is declared bankrupt, (provisional) suspension of payments is granted, or if Buyer is placed under administration, management or guardianship by virtue of a statutory provision;
  - b. if Buyer transfers, liquidates, discontinues or ceases (parts of) its undertaking or its activities;
  - c. if a prejudgment attachment or executory attachment is made against Buyer;
  - d. if Seller has good reason to fear that Buyer will fail to fulfill its obligations, or if Buyer has already failed to fulfill its obligations.
2. In the event of dissolution by Seller pursuant to the previous paragraph, Buyer will automatically owe Seller an amount equal to [75%] of the purchase price (including shipping costs) by way of damages.
3. The foregoing does not affect Seller's other rights.

#### **Article 12. Applicable law and disputes**

1. The Agreement is governed solely by Dutch law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
2. Only the court that has jurisdiction in respect of the municipality where Seller has its registered office will have jurisdiction to settle disputes arising from this Agreement, unless Seller opts for the court that has territorial jurisdiction.