

GENERAL TERMS AND CONDITIONS OF ESIN b.v.

1. Applicability of the General Terms and Conditions

The following terms and conditions shall apply to all offers and contracts relating to goods and services which are entered into with ESIN b.v.

2. Acceptance of orders

A purchase contract between the Buyer and ESIN b.v. takes effect once the order submitted by the client has been accepted by ESIN b.v. In the event that the order was made based on an offer on our website, and the order deviates from the offer, the contract will take effect once ESIN b.v. confirm acceptance of the order within one month after its receipt.

3. Warranty for material defects

3.1 Obvious defects

Obvious defects are to be reported by the customer to the supplier within 2 weeks after the acceptance or assumed acceptance of the goods or services, in writing, after detection. After the expiration of this time period, ESIN b.v. or our authorized agents and representatives will accept no warranty claims. If the customer is an entrepreneur, he is obligated to report any defects immediately upon delivery of the goods or services.

3.2 Non-obvious defects

The customer within our warranties must report not obvious defects. If the customer is an entrepreneur, the goods should be inspected immediately after receipt for possible defects, and the not obvious defect(s) must be reported in writing immediately upon the defect(s) becoming apparent. After the expiration of this time period, ESIN b.v. or our authorized agents and representatives will accept no warranty claims. The buyer is not entitled to cancel, or otherwise render the contract null and void, if the defect is insignificant []. The entitlement to compensation from ESIN b.v. remains unaffected.

3.3 Warranted defect

In the case of warranted defect claims, ESIN b.v. reserve the right to repair the defectively manufactured goods at our discretion, or to replace the same upon return of the defective goods, with goods free of defects. In the case that ESIN b.v. fail to fulfil our obligation to repair or replace the goods or if the repair or replacement of the goods fails, the customer may inform us with official notices of defect. At our discretion ESIN b.v. have the right to improve or repair unsatisfactory work as faultless work, against cancellation of unsatisfactory work. If we do not fulfil our obligation to make good the work or for the production of faultless work, or if the reworking of the unsatisfactory work failed, the contracting party can lower the cost or withdraw from the contract. A defect does not entitle the contracting party to withdraw from the contract, if it is only insignificant. The right to decrease the cost remains unaffected.

3.4 Exclusion of claims

Claims resulting from defect(s) of goods and services, and known to the customer at acceptance, can only be asserted, if the customer has reserved ?

3.5 Limitation of claims

All claims by the customer, irrespective of their legal basis, shall be subject to a limitation period of one year. If the work comprises an assembled structure, all claims of the customer shall be subject to a limitation of one year. In the event that the customer is an entrepreneur, all claims shall be subject to a limitation period of one year, except if the work is an assembled structure.

4. Advanced payments

If not agreed upon in individual contracts, the customer shall pay the purchase price in the following instalments:

50 % at the time of ordering, 40 % at the beginning of each installation, 10 % at acceptance and assumed acceptance

5. Terms of payment

Except for agreed instalment payments, payment is due and payable without the deduction of any discount, immediately after delivery of the goods and services and the acceptance by the customer and/or an assumed acceptance and after receipt of a simple invoice.

6. Formal acceptance

6.1 insignificant defects

The customer shall not reject the acceptance of the goods and services based on insignificant defects. The right to claims of warranty remains unaffected in as far as the customer has reserved the right hereto at the time of acceptance.

6.2 Assumed acceptance

In the event that [] formal acceptance is agreed upon, acceptance is assumed, [] if ESIN b.v. [] have twice requested acceptance of the goods and services, and in a reasonable manner. Acceptance takes effect two weeks after our second request, unless the customer expressly states a rejection of the acceptance. In the event that the Buyer is not an entrepreneur, ESIN b.v. is obligated to notify the Buyer about his/her failure to state acceptance.

7. Liquidated Damages

In the case that the Buyer terminates the contract prior to the manufacturing of the goods, ESIN b.v. reserve the right to demand 10% of the total contract price. The Buyer retains the right to prove lesser damages.

8. Default of acceptance

If the delivery of the goods and services was agreed to be inside the Buyer's premises or in an enclosed place, the Buyer is obligated to make these premises accessible for the [] agreed [] delivery date. Should the accessibility of the premises not have been arranged, the Buyer is in default of acceptance.

9. Technical Specifications

The Buyer shall be notified if maintenance work has to be performed on his/her part, especially concerning the fittings and the sliding and movable elements. These are to be inspected and possibly to be oiled or greased. External paint is to be touched up, depending on the lacquer or glaze and/or the influence of weather. This type of work [] is not within the scope of the order, if it has not expressly been agreed upon otherwise. Failure to maintain or to perform the necessary touch-up work can influence the durability and the function of the elements, without causing any right to claims for damages against ESIN b.v.

10. Insignificant deviations

Insignificant deviations regarding measurements and performance, such as colour and structure, especially concerning re-ordering, do not constitute a right for claim of damages as long as these are within the nature of the used materials and are customary.

11. Payments

Payments by way of draft or cheque shall only be accepted, if such [] payments were expressly agreed upon between the Buyer and ESIN b.v. These types of payments are not treated as cash payments and will only be accepted by ESIN b.v. in lieu of customary types of payment. All fees resulting from the issuing of drafts or cheques are to be paid by the Buyer.

12. Payment set-off

A payment set-off shall only be permissible, if the claims have either not been contested by ESIN b.v. or have been determined permissible by law.

13. Passage of title

13.1 Retention of title

The title to all goods delivered by ESIN b.v. shall remain vested in us until the agreed upon purchase price is paid in full. If the Buyer is an entrepreneur, the title to all goods delivered by ESIN b.v. shall remain vested in us until all outstanding accounts, current and future, have been paid to ESIN b.v. in full.

13.2 Disposing of delivered goods

The Buyer is not entitled to sell, to give away, or to pledge as security any goods delivered by ESIN b.v., which are subject to retention of title.

13.3 Notification of attached lien

In the event that any goods delivered by ESIN b.v. under retention of title are or will be subject to the attachment of a lien, the Buyer is obligated to immediately notify ESIN b.v. in writing and at the same time notify the lien creditor of our entitlement to the goods.

13.4 Extended retention of title

The Buyer shall be entitled to sell the goods being subject to retention of title within the ordinary course of business to third parties. In case the Buyer sells the goods without receiving simultaneously the complete purchase price against transfer of the goods, he/she shall be committed to agree with his customer on retention of title according to these General Terms and Conditions. The Buyer herewith already assigns his/her claims and other rights based on such sale and agreement on retention of title to ESIN b.v. At our request, the Buyer is obliged to disclose the assignment to his customers and to provide ESIN b.v. with the appropriate information and documents necessary for the enforcement of his rights against such customers. We are entitled to notify the customer of the Buyer regarding the assignment of the claim, in as much as the Buyer is in default with the payment, or if insolvency proceedings with regard to the Buyer's assets are under way.

13.5 Installation as an essential component

In the event that goods subject to retention of title are installed on the premises of the Buyer, the Buyer, with effect from this date, assigns to ESIN b.v. any claims resulting from the sale of property rights in the amount of the invoice value for the goods delivered by ESIN b.v. under retention of title. We hereby accept the assignment of claims. We are entitled to disclose the assignment publicly, in the event the Buyer is in default with the payments or if insolvency proceedings with regard to Buyer's assets are under way. In the event that goods subject to retention of title are installed on the premises of a third party as an essential component, the Buyer, with effect from this date, assigns to ESIN b.v. any claims against third parties, in the amount of the invoice value for the goods delivered by ESIN b.v. under retention of title. We hereby accept the assignment of claims. ESIN b.v. does not accept claims, if [] defects result from materials that were delivered by the customer due to events or circumstances for which we are not responsible.

13.6 Connecting/blending/converting

In the event of the goods becoming part of or being converted into other products through the Buyer, the retention of title shall extend to the complete new product. In case of the goods becoming parts of or being converted into products of third parties, ESIN b.v. shall acquire the co-ownership of the new product in such percentage corresponding to the relation between the value of our products to the other products used by the Buyer, effective with our goods becoming part of or being converted into such other products.

13.7 Permission for disassembly

If the goods have not become an essential component of the premises, the Buyer grants ESIN b.v. permission to disassemble the goods in the event he has failed to fulfil his/her payment obligation, if the disassembly does not damage the goods. All costs of the disassembly shall be payable by the Buyer.

14 Copyright and related rights

We shall retain the copyright in drawings, sketches, cost estimates, and the documents attached to any offers or confirmation of orders. The Buyer may only be entitled to use them for the agreed purpose and may not reproduce or disclose them to third parties without our prior written consent. At our request, such documents and any duplicates must be rendered to ESIN b.v. immediately. In the event that the Buyer does not comply with our request, we are entitled to claim 10% of the purchase price for damages incurred. The Buyer retains the right to prove a lesser claim.

15 Disclaimer of liability

15.1 Liability for gross negligence

Claims for damages, irrespective of the cause in law, are excluded. We are only liable for damages incurred due to premeditation or gross negligence caused by ESIN b.v. or by persons, who are authorized by law to act as our agents or representatives or who have been contracted by ESIN b.v. within the scope of fulfilling our contractual obligations.

15.2 Liability due to injury to life, body, or health

This, however, is not applicable to damages [] which are due to injury to life, body or health. ESIN b.v. is only liable for damages incurred due to premeditation or gross negligence caused by ESIN b.v. or by persons who are authorized by law to act as our agents or representatives, or who have been contracted by us within the scope of fulfilling our contractual obligations.

15.3 Liability for main obligations

The liability for damages due to improper installation and/or assembly, improper use of materials, delayed deliveries, construction errors or [] the use of faulty materials, in as far as these were not provided by the Buyer, remains unaffected. The liability for these types of damages, however, is limited to [] typically foreseeable damages in this contract.

16. Miscellaneous

16.1 In the case of differences between the Dutch and English version of these Terms and Conditions only the Dutch version shall apply and be legally binding.

16.2 Location of delivery is off the premises of the appropriate place of business of ESIN b.v.

16.3 In the event that the Buyer is an entrepreneur, the place of jurisdiction is Tilburg, unless another place of jurisdiction has specifically been agreed to.

16.4 All legal relations between the Buyer and us shall be governed by Dutch law as applicable for legal relations of domestic contracting parties.

This version is deposited at the chamber of commerce in Tilburg.

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ESIN b.v

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