

Cosito's General Terms and Conditions

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Article 1 – Definitions

1. Cosito's: Cosito's, located in Maarsssen, Chamber of Commerce number 91372038.
2. Customer: the person who has entered into an agreement with Cosito's.
3. Parties: Cosito's and Customer together.
4. Consumer: a customer who is also an individual and acts as a private person.

Article 2 – Applicability

1. These conditions apply to all quotations, offers, activities, orders, agreements, and deliveries of services or products by or on behalf of Cosito's.
2. Cosito's and the Customer can only deviate from these conditions if they have agreed to do so in writing.
3. Cosito's and the Customer expressly exclude the applicability of the general terms and conditions of the Customer or others.

Article 3 – Prices

1. Cosito's charges prices in euros, including VAT and excluding any additional costs such as administration or shipping costs, unless otherwise agreed in writing.
2. Cosito's may always change the prices of its services and products on its website and in other expressions.
3. Increases in the cost prices of products or parts thereof, which Cosito's could not foresee at the time of making the offer or the conclusion of the agreement, may lead to price increases.
4. The consumer has the right to dissolve an agreement because of a price increase in paragraph 3, unless the increase is the result of a legal regulation.

Article 4 – Samples and Models

1. When the Customer has received a sample or model of a product, they can derive no rights from it other than it being an indication of the nature of the product, unless it has been agreed in writing that the products to be delivered correspond with the sample or model.

Article 5 – Payments and Payment Terms

Article 6 – Right of Complaint

1. When the Customer is in default, Cosito's may invoke the right of complaint with respect to the unpaid products delivered to the Customer.
2. Cosito's exercises its right of complaint by a written or electronic communication to the Customer.
3. As soon as the Customer has been informed of the invoked right of complaint, they must immediately return the relevant products to Cosito's, unless otherwise agreed in writing.
4. The Customer pays the costs for retrieving or returning the products in paragraph 3.

Article 7 – Right of Withdrawal

Article 8 – Right of Suspension

1. Unless the Customer is a consumer, they hereby waive the right to suspend the performance of any obligation arising from this agreement.

Article 9 – Right of Retention

1. Cosito's can exercise its right of retention and, in that case, retain the Customer's products until the Customer has paid all outstanding invoices to Cosito's, unless the Customer has provided sufficient security for those costs.
2. The right of retention also applies based on previous agreements for which the Customer still owes money to Cosito's.
3. Cosito's is not liable for any damage the Customer may incur due to the exercise of its right of retention

Article 10 – Offset

1. Unless the Customer is a consumer, they waive their right to set off a debt to Cosito's against a claim against Cosito's.

Article 11 – Reservation of Ownership

1. Cosito's retains ownership of all delivered products until the Customer has paid all outstanding invoices to Cosito's related to an underlying agreement, including claims for breach of contract.
2. Until such time as mentioned in clause 1, Cosito's may enforce its reservation of ownership and reclaim the goods.
3. Prior to the transfer of ownership to the Customer, the Customer may not pledge, sell, transfer, or otherwise encumber the products in any way.
4. When Cosito's enforces its reservation of ownership, the agreement is thereby annulled, and Cosito's may demand compensation, lost profits, and interest from the Customer.

Article 12 – Reservation

1. If the Customer takes delivery of ordered products later than the agreed delivery date, the risk of any potential loss of quality is entirely on the Customer.
2. Any additional costs incurred due to early or delayed acceptance of products will be borne entirely by the Customer.

Article 13 – Warranty

1. The warranty on products applies only to defects caused by faulty manufacturing or construction or substandard materials.
2. The warranty does not cover:
 - a. Normal wear and tear
 - b. Damage resulting from accidents
 - c. Damage resulting from alterations made to the product
 - d. Damage due to negligence or improper use by the Customer
 - e. When the cause of the defect cannot be clearly determined
3. The risk of loss, damage, or theft of the products subject to an agreement between the parties passes to the Customer at the moment they are legally and/or physically delivered, or at least come under the control of the Customer or a third party receiving the product on behalf of the Customer.

Article 14 – Exchange

1. The Customer is allowed to exchange a purchased item, subject to the following conditions:
 - a. The exchange takes place within 14 days of the purchase, and the Customer must present the original invoice.
 - b. The product is returned in its original packaging with the attached original seal.
 - c. The product has not been used.
2. Discounted items, perishable products, custom-made items, or items specifically customized for the Customer cannot be exchanged

Article 15 – Indemnification

1. The Customer indemnifies Cosito's against all claims from third parties related to the products and/or services provided by Cosito's.

Article 16 – Complaints

1. The Customer must promptly inspect a product delivered by Cosito's or a service provided and identify any deficiencies.
2. If a delivered product or service does not meet the Customer's reasonable expectations, the Customer must notify Cosito's of this deficiency within 1 month after discovering it.
3. A consumer must notify Cosito's of such deficiency no later than 2 months after its discovery.
4. The Customer should provide a detailed description of the deficiency to enable Cosito's to respond appropriately.
5. The Customer must demonstrate that the complaint pertains to an agreement between the Customer and Cosito's.
6. When a complaint concerns ongoing work, the Customer cannot demand that Cosito's perform additional work beyond what was agreed upon.

Article 17 – Notice of Default

1. The Customer must communicate any notice of default in writing to Cosito's.
2. The Customer is responsible for ensuring that their notice of default reaches Cosito's in a timely manner.

Article 18 – Customer Liability

1. When Cosito's enters into an agreement with multiple Customers, each of them is jointly and severally liable for fulfilling the obligations in that agreement.

Article 19 – Cosito's Liability

1. Cosito's is only liable for damages incurred by the Customer if such damage is caused by intent or willful recklessness.
2. When Cosito's is liable for damages, it only applies to direct damages related to the execution of an underlying agreement.
3. Cosito's is not liable for indirect damages, such as consequential damage, lost profits, or damage to third parties.
4. When Cosito's is liable, this liability is limited to the amount paid by a (professional) liability insurance policy. If no insurance is in place or no amount is paid out, the liability is limited to the (portion of the) invoice amount to which the liability relates.
5. All images, photos, colors, drawings, descriptions on the website, or in a catalog are purely indicative and cannot lead to any compensation, dissolution, or suspension.

Article 20 – Expiration Period

1. Any right of the Customer to claim compensation from Cosito's expires 12 months after the event giving rise to the liability, whether directly or indirectly. This provision does not exclude the provisions of Article 6:89 of the Dutch Civil Code.

Article 21 – Dissolution

1. The Customer may terminate the agreement if Cosito's is in material breach of its obligations, unless such breach does not justify termination due to its particular nature or minor significance.
2. If it is still possible for Cosito's to fulfill its obligations, termination can only occur after Cosito's is in default.
3. Cosito's may terminate the agreement with the Customer if the Customer does not fully or timely fulfill its obligations under the agreement or if Cosito's becomes aware of circumstances that give it reasonable grounds to believe that the Customer will not fulfill its obligations.

Article 22 – Force Majeure

1. In addition to Article 6:75 of the Dutch Civil Code, it is stipulated that a failure by Cosito's cannot be attributed to Cosito's when there is a case of force majeure as defined below.
2. The force majeure situation in clause 1 includes, among others:
 - a. A state of emergency such as civil war or natural disasters
 - b. Non-performance or force majeure of suppliers, delivery personnel, or others
 - c. Power, electricity, internet, computer, or telecom outages
 - d. Computer viruses
 - e. Strikes
 - f. Government measures
 - g. Transportation issues
 - h. Adverse weather conditions
 - i. Work stoppages
3. In the event of a force majeure situation that prevents Cosito's from fulfilling one or more obligations to the Customer, those obligations will be suspended until Cosito's can fulfill them.
4. Once a force majeure situation has persisted for at least 30 calendar days, both the Customer and Cosito's may, in writing, terminate the agreement in whole or in part.
5. Cosito's is not required to pay any compensation to the Customer in a force majeure situation, even if Cosito's benefits from it.

Article 23 – Modification of Agreement

1. If it is necessary to amend a closed agreement for its execution, the Customer and Cosito's can make modifications to the agreement.

Article 24 – Amendment of General Terms and Conditions

1. Cosito's is allowed to amend these general terms and conditions.
2. Cosito's may always implement changes of minor importance.
3. For significant changes, Cosito's will endeavor to discuss them with the Customer in advance.
4. In the case of significant changes to the general terms and conditions, a consumer has the right to terminate the underlying agreement.

Article 25 – Assignment of Rights

1. The Customer cannot transfer rights from an agreement with Cosito's to others without written consent from Cosito's.
2. This provision is considered a clause with property law effect as per Article 3:83, paragraph 2 of the Dutch Civil Code.

Article 26 – Consequences of Invalidity or Voidability

1. If one or more provisions of these general terms and conditions are found to be void or voidable, it will not affect the other provisions of these terms.
2. In such a case, a provision that is void or voidable will be replaced by a provision that closely aligns with Cosito's intent when drafting the terms at that point.

Article 27 – Applicable Law and Competent Court

1. Dutch law applies to these general terms and conditions and to any underlying agreement between the Customer and Cosito's.
2. The court in the district where Cosito's is located has exclusive jurisdiction to settle any disputes between the Customer and Cosito's, unless the law prescribes otherwise.

Noted that these terms were drafted on January 1, 2024.