

General Terms and Conditions BEDACH V.O.F.

Article 1 – General

1. These terms and conditions apply to every offer, quotation and agreement between BEDACH V.O.F. (hereinafter referred to as "BEDACH") and a counterparty, insofar as these terms and conditions have not been expressly and expressly deviated from in writing by the parties.
2. The applicability of any purchasing or other (general) terms and conditions of the counterparty is expressly rejected.
3. If one or more provisions of these general terms and conditions are at any time wholly or partially void or annulled, the remaining provisions shall remain fully applicable. BEDACH and the counterparty shall then consult with each other in order to agree on new provisions to replace the void or annulled provisions, whereby the purpose and intent of the original provisions shall be observed as much as possible.
4. If any ambiguity exists regarding the interpretation of one or more provisions of these general terms and conditions, the interpretation shall take place in accordance with the spirit of these provisions.
5. If a situation arises between the parties that is not regulated in these general terms and conditions, such situation shall be assessed in accordance with the spirit of these general terms and conditions.
6. If BEDACH does not always require strict compliance with these terms and conditions, this shall not mean that the provisions thereof are not applicable, nor that BEDACH in any way waives the right to require strict compliance with these provisions in other cases.

Article 2 – Offers and Quotations

1. Offers and quotations issued by BEDACH are valid for acceptance for a period of two months from the date of issue. Acceptance must be communicated to BEDACH in writing by the counterparty. Offers or quotations do not automatically apply to future orders.
 2. An offer or quotation shall lapse if the product to which the offer or quotation relates is no longer available in the interim.
 3. BEDACH shall not be bound by its offers or quotations if the counterparty could or should reasonably understand that the offer or quotation contains an obvious mistake or clerical error.
 4. Prices stated in an offer or quotation are exclusive of VAT and other government levies, as well as any costs to be incurred in connection with the agreement, including travel and accommodation, shipping and administrative costs, unless otherwise expressly agreed.
 5. If the acceptance deviates, whether or not on minor points, from the offer or quotation, BEDACH shall not be bound thereby. In such case, the agreement shall not be concluded in accordance with this deviating acceptance, unless BEDACH expressly indicates otherwise.
 6. If the counterparty cancels an order in whole or in part, all ordered or prepared goods, increased by any transport, delivery and handling costs and the labour time reserved for the performance of the agreement, shall be charged in full to the counterparty.
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Article 3 – Delivery

1. Any agreed or stated delivery term shall never be considered a strict or fatal deadline. In the event of exceeding a delivery term, the counterparty must always give BEDACH written notice of default, granting BEDACH a reasonable period to still perform the agreement.
 2. If BEDACH requires data or information from the counterparty for the performance of the agreement, the delivery period shall not commence until such data or information has been provided correctly and in full.
 3. The counterparty is obliged to take delivery of the goods at the moment they are made available. If the counterparty refuses acceptance or fails to provide information or instructions necessary for delivery, BEDACH is entitled to store the goods at the expense and risk of the counterparty.
 4. If the counterparty fails to properly fulfil its obligations towards BEDACH, including acceptance of the delivered goods and timely payment of the agreed price, the counterparty shall be liable for all damage and costs incurred by BEDACH directly or indirectly as a result thereof.
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Article 4 – Suspension and Termination of the Agreement

1. BEDACH is entitled to suspend performance of its obligations or to terminate the agreement if:
 - the counterparty fails to fulfil its obligations under the agreement, or does not do so fully or in a timely manner;
 - after conclusion of the agreement, circumstances come to BEDACH's attention which give good reason to fear that the counterparty will not fulfil its obligations;
 - due to delay on the part of the counterparty, BEDACH can no longer reasonably be expected to fulfil the agreement under the originally agreed conditions.
 2. BEDACH is also entitled to terminate the agreement if circumstances arise which are of such a nature that performance of the agreement is impossible or if circumstances arise which are of such a nature that unchanged continuation of the agreement cannot reasonably be required from BEDACH.
 3. If the counterparty fails to fulfil its obligations arising from the agreement and such failure justifies termination, BEDACH is entitled to terminate the agreement immediately and with immediate effect, without being obliged to pay any compensation or damages, while the counterparty remains obliged to compensate damages.
 4. If BEDACH proceeds to suspension or termination, BEDACH shall not be obliged to compensate any damage or costs arising therefrom. If the termination is attributable to the counterparty, the counterparty shall be obliged to compensate all damage and costs incurred by BEDACH, directly or indirectly.
 5. If the agreement is terminated, all claims of BEDACH against the counterparty shall become immediately due and payable without any notice of default being required. If BEDACH suspends performance of its obligations, it shall retain its rights under the law and the agreement.
 6. In the event of liquidation, application for or granting of suspension of payments, bankruptcy, attachment, debt restructuring or any other circumstance whereby the counterparty can no longer freely dispose of its assets, BEDACH shall be entitled to terminate the agreement or cancel the order immediately and with immediate effect, without any obligation to pay compensation or damages. All claims of BEDACH shall in that case become immediately due and payable.
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Article 5 – Force Majeure

1. BEDACH shall not be obliged to fulfil any obligation towards the counterparty if it is prevented from doing so as a result of a circumstance that is not attributable to fault and that does not fall under its responsibility by virtue of the law, a legal act or generally accepted standards.
 2. Force majeure includes, in addition to what is understood by law and case law, all external causes, foreseen or unforeseen, over which BEDACH has no control, but which prevent BEDACH from fulfilling its obligations, including strikes at BEDACH or third parties. BEDACH is also entitled to invoke force majeure if the circumstance preventing (further) performance of the agreement occurs after BEDACH should have performed its obligation.
 3. During the period of force majeure, BEDACH may suspend the obligations arising from the agreement. If this period lasts longer than two months, each party shall be entitled to terminate the agreement without any obligation to compensate damages to the other party.
 4. Insofar as BEDACH has already partially fulfilled its obligations at the time force majeure occurs or will still be able to fulfil them, and the fulfilled or to-be-fulfilled part has independent value, BEDACH shall be entitled to invoice this part separately. The counterparty shall be obliged to pay this invoice as if it concerned a separate agreement.
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Article 6 – Payment and Collection Costs

1. Payment must be made within 30 days after the invoice date, in a manner to be indicated by BEDACH. BEDACH is entitled to invoice periodically.
 2. If the counterparty fails to pay an invoice on time, the counterparty shall be in default by operation of law and shall owe statutory interest. Interest on the due amount shall be calculated from the moment the counterparty is in default until full payment of the outstanding amount.
 3. The counterparty shall never be entitled to set off amounts owed to BEDACH.
 4. If the counterparty is in default or breach of its (timely) obligations, all reasonable costs incurred to obtain payment out of court shall be borne by the counterparty. Extrajudicial costs shall be calculated in accordance with Dutch collection practice. Any judicial costs, including court fees and enforcement costs, shall also be borne by the counterparty. Statutory interest shall also be due on these costs.
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Article 7 – Retention of Title

1. All goods delivered by BEDACH under the agreement shall remain the property of BEDACH until the counterparty has fully and properly fulfilled all obligations arising from the agreement(s) concluded with BEDACH. In no event shall the delivered goods become the property of the counterparty or a third party by accession or processing.
 2. The counterparty shall at all times do everything that may reasonably be expected of it to safeguard BEDACH's ownership rights.
 3. If third parties attach the goods delivered under retention of title or wish to establish or assert rights thereto, the counterparty is obliged to inform BEDACH thereof immediately.
 4. In the event that BEDACH wishes to exercise its ownership rights referred to in this article, the counterparty hereby grants BEDACH and third parties designated by BEDACH unconditional and irrevocable permission to enter all places where the property of BEDACH is located and to take back such goods.
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Article 8 – Warranties, Inspection, Complaints and Limitation Period

1. The goods to be delivered by BEDACH shall meet the usual requirements and standards that may reasonably be imposed at the time of delivery and for which they are intended under normal use. If the warranty provided by BEDACH concerns a product manufactured by a third party, the warranty shall be limited to the warranty provided by the manufacturer, unless stated otherwise. In all other cases, a warranty period of twelve months after delivery shall apply.
 2. Warranties do not cover finishing of plasterboards and installation of the goods delivered by BEDACH. Finishing and installation shall at all times be at the expense and risk of the counterparty.
 3. Any warranty shall lapse if:
 - a defect arises as a result of improper or incorrect use by the counterparty or third parties;
 - a defect arises as a result of incorrect storage or maintenance by the counterparty or third parties;
 - without prior written consent of BEDACH, changes have been made or attempted to be made to the delivered goods, other items have been attached thereto, or the goods have been processed or modified in a manner other than prescribed. Installation and finishing must at all times be carried out by a certified installer.
 4. The counterparty shall also not be entitled to any warranty if the defect is caused by circumstances beyond BEDACH's control, including weather conditions such as extreme rainfall or temperatures.
 5. The counterparty is obliged to inspect the delivered goods immediately upon delivery or after completion of the relevant work.
 6. Visible defects must be reported in writing to BEDACH within seven days after delivery. Hidden defects must be reported immediately, but in any event within fourteen days after discovery. The complaint must contain a detailed description of the defect.
 7. Timely complaints do not suspend the counterparty's payment obligation.
 8. If a defect is reported later, the counterparty shall no longer be entitled to repair, replacement or compensation.
 9. If a defect is established and reported in time, BEDACH shall, at its discretion, replace or repair the defective goods or provide compensation within a reasonable period.
 10. If a complaint is found to be unfounded, all costs incurred by BEDACH, including investigation costs, shall be borne by the counterparty.
 11. After expiry of the warranty period, all repair or replacement costs shall be charged to the counterparty.
 12. By way of derogation from statutory limitation periods, the limitation period for all claims against BEDACH and third parties engaged by BEDACH shall be twelve months.
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Article 9 – Liability and Transfer of Risk

1. If BEDACH is liable, such liability shall be limited to what is stipulated in this article.
2. BEDACH shall not be liable for any damage resulting from incorrect or improper installation or finishing, or if installation or finishing is not carried out in accordance with the installation instructions.
3. BEDACH shall not be liable for damage arising from incorrect or incomplete data provided by or on behalf of the counterparty.
4. BEDACH shall only be liable for direct damage. BEDACH shall never be liable for indirect damage, including consequential damage, loss of profit, loss of savings or business interruption.
5. BEDACH's liability shall in any event be limited to the amount paid out by its insurer.
6. The liability limitations do not apply in cases of intent or deliberate recklessness on the part of BEDACH.
7. The risk of loss, damage or depreciation shall transfer to the counterparty at the moment the goods are placed under the control of the counterparty.

Article 10 – Indemnification

1. The counterparty indemnifies BEDACH against claims of third parties who suffer damage in connection with the performance of the agreement, insofar as the cause is not attributable to BEDACH.
 2. If BEDACH is held liable by third parties, the counterparty shall assist BEDACH both in and out of court. All resulting costs and damages shall be borne by the counterparty.
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Article 11 – Intellectual Property

1. BEDACH retains all rights and powers granted under copyright law and other intellectual property legislation. BEDACH is entitled to use the knowledge gained from the performance of an agreement for other purposes, provided no strictly confidential information of the counterparty is disclosed.
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Article 12 – Applicable Law and Jurisdiction

1. All legal relationships to which BEDACH is a party shall be governed exclusively by Dutch law, even if the agreement is performed wholly or partly abroad. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
2. The court with exclusive jurisdiction shall be the competent court in the district of Maastricht, the Netherlands.