

GENERAL CONDITIONS OF DELIVERY AND SALE

of: Heynen Systems B.V., 31 Staalstraat, 8211 AH Lelystad, the Netherlands

Article 1. General

1. All our (Seller's) offers, agreements and their carrying out shall be subject exclusively to these General Conditions. Departures shall be expressly agreed with us (the Seller) in writing.
2. These General Conditions shall apply to all deliveries, services and other legal relations carried out or entered into between Heynen Systems B.V. (Trade Register No.: 39094705), its agents and representatives ("the Seller") and a third party ("the Buyer").
3. A general reference by the Buyer to other general conditions shall not lead to their being applied. The Seller expressly rejects the applicability of any general conditions from the Buyer.

Article 2. Quotations

1. All offers made by the Seller in any form whatever shall be free of obligation unless expressly agreed otherwise. General offers or estimates from the Seller in catalogues, brochures, during trade fairs or on the Internet, etc., shall not be binding on it and shall only apply as an invitation to the Buyer to place an order. An individual estimate to the Buyer shall bind the Seller only if this has been done in writing and if the Buyer accepts this within 60 (sixty) days in writing.
2. An agreement shall only be concluded between the Buyer and the Seller if and as far as the Seller has accepted an order from the Buyer in writing or if the Seller has started to carry out an order unless the Buyer can otherwise prove that the Seller has accepted the order from the Buyer without curtailment or conditions.
3. The Seller shall be entitled not to accept orders or to only accept them if delivery takes place subject to cash on delivery or advance payment. Used items (such as machines) shall only be offered subject to interim sale.

Article 3. Prices

1. Unless stated otherwise, our prices shall be:
 - a. ex-works (EXW, Incoterms 2000), excluding VAT, import duties, other taxes, levies and duties;
 - b. exclusive of the costs for packaging, loading and unloading, transport, insurance and customs clearance.
2. Exchange rate fluctuations of more than five per cent shall be passed on in the price. If the order involves contracting for work, this shall be based on the purchase prices, labour costs, social security contributions and insurance premiums applying when the quotation was made.

Article 4. Delivery

1. Delivery shall take place ex-works (EXW, Incoterms 2000) unless agreed otherwise.
2. The Buyer shall be obliged to accept the items purchased at the point at which they are offered to it or the point at which they are made available to it subject to this Agreement.
3. The items shall be stored at the Buyer's risk if the Buyer refuses to accept the items or is negligent in providing information or instructions necessary for delivery. The Buyer shall in that case be liable for all additional costs including in any case, storage costs and any freight charges.
4. An agreed delivery time shall not be binding unless expressly agreed otherwise in writing. The Buyer shall therefore place the Seller in default in writing if a delivery is not carried out on time.
5. The Seller shall be entitled to make partial deliveries of items sold. This shall not apply if a partial delivery has no independent value. If items are delivered in parts, the Seller shall be entitled to invoice separately for each part.

Article 5. Intellectual property

1. All intellectual property rights regarding the items delivered and work carried out by the Seller including the drawings and calculations produced and the associated information, details and know-how shall (continue to) rest with the Seller.
2. The Buyer shall not be entitled to publish, duplicate, process and so on without the Seller's approval. The Buyer shall respect the Seller's patent and trademark rights if applicable to the items.

Article 6. Warranty

1. The Seller shall provide a 12 (twelve) month warranty on newly delivered machines subject to the following restrictions.
2. Used machines shall only be sold in the condition in which they are and as known to the Buyer. No warranty shall be given on used machines unless this is agreed in advance in writing at the current rates and based on a maintenance subscription.
3. The Buyer shall be entitled to have the machine repaired for a period of 12 (twelve) months in the event of design, material or manufacturing errors. The Buyer may decide to have the item replaced if there are problems with repairs. The Buyer shall only be entitled to replacement if repair is impossible.

Article 7. Suspension and dissolution

1. The Seller shall be entitled to suspend the fulfilment of obligations or to dissolve this Agreement if:
 - a. the Buyer fails to comply or comply fully with the obligations under this Agreement;
 - b. after concluding this Agreement, the Seller acquires knowledge giving it grounds to believe that the Buyer shall fail to fulfil its obligations;
 - c. if on concluding this Agreement, the Seller has requested security from the Buyer for fulfilment of its obligations and this security has not been provided or is insufficient. As soon as security has been provided, the entitlement to suspension shall lapse unless this has unreasonably delayed this compliance.
2. The Seller shall also be entitled to dissolve this Agreement (or have it dissolved) if circumstances transpire that are of such a nature as to render impossible the carrying out of this Agreement or if its continuation can no longer be demanded according to standards of reasonableness and fairness or if other circumstances transpire that are of such a nature that the unchanged continuation of this Agreement cannot be reasonably expected.
3. All demands from the Seller against the Buyer shall be due with immediate effect if this Agreement is dissolved. The Seller shall retain its claims under the law and this Agreement if it suspends the carrying out of this Agreement.
4. The Seller shall at all times reserve the right to claim compensation.

Article 8. Repair, assembly, installation, unloading

1. In-house repairs and assembly works shall be carried out based on express order by the Buyer.
2. In-house assembly work shall be carried out following information sent to the Seller (drawings, etc.), which the Buyer shall ensure is accurate. If the Buyer wishes to make additions or changes to the agreed repair, in-house and/or assembly work, this shall be regarded as additional work for which the Buyer shall be charged separately.
3. If the installation of one or more machines in the Buyer's business is offered, this shall be exclusive of unloading the truck, transport within the Buyer's business, electrical connection and/or compressed air.
4. The Buyer shall bear all transport and subsistence costs for (personnel of) the Seller.
5. The power connections to the machine(s) shall be of sufficient capacity. The Buyer shall have electrical and/or compressed air connections to the house installation carried out by a qualified fitter at its own expense. This connection shall take place on delivery or while the respective machine is being set up and in the case of presence of the Seller or a subcontractor appointed by the Seller.

6. The Buyer shall ensure the necessary cranes, (a) sufficiently heavy fork lift truck(s) and free access for the maximum size of the machine(s) up to the actual installation location.
7. The Buyer may be charged for the costs of delays in delivery, unloading and setting up the machine(s) arising from the failure to fulfil one or more of the elements in these conditions.

Article 9. Technical requirements

1. All items to be delivered that come under the European Machinery Directive shall be tested by the Seller according to EC norms and provided with EC markings and declarations.
2. If items to be delivered in the Netherlands are to be used outside the Netherlands, the Buyer shall be obliged to have a translation of the Dutch handbook to hand and to submit this to the user.
3. All other technical requirements placed by the Buyer on the items to be delivered and which depart from the requirements of the Machinery Directive shall be stated by the Buyer when concluding this Agreement and be included in this Agreement in writing.

Article 10. Claims

1. The Buyer shall examine the items purchased (or have them examined) on delivery or as soon as possible thereafter. The Buyer shall check whether the items delivered comply with this Agreement, namely:
 - a. whether the correct items have been delivered;
 - b. whether the quantity of the items delivered complies with what has been agreed;
 - c. Whether the items delivered comply with the agreed quality requirements or if these do not apply, the requirements that may be placed for normal use and/or commercial purposes.
2. The Buyer shall notify the Seller of any visible defects or deficiencies in writing within 10 days of delivery.
3. The Buyer shall notify the Seller of any invisible defects in writing within 10 days of discovery and no later than six months after delivery.
4. Even if the Buyer makes a claim on time, it shall remain obliged to pay for and accept completed orders.
5. Items can only be returned to the Seller following prior written approval.

Article 11. Liability

1. The Seller shall not be liable for any damage to the Buyer of any kind unless this damage is the direct and exclusive result of a shortcoming attributable to the Seller. The Seller's liability shall at all times be limited to an amount equal to the invoice amount for the items or services provided by or work carried out by the Seller to which liability relates. Compensation shall only apply to damage for which the Seller is insured or should reasonably have been insured. The Seller's liability shall at all times be limited to the amount that the Seller itself is able to recoup from its insurer.
2. The Buyer shall only be entitled to assert (warranty) claims against the Seller if the warranty obligations regarding the items delivered by the Seller have not been accepted by third parties (such as manufacturers). The Seller's liability shall in that case be limited to defects resulting from manufacturing and material defects.
3. If items delivered by the Seller should be defective, the Seller's liability towards the Buyer shall be limited to that stated in these General Conditions under "Warranty".
4. In the event of a claim, if the Seller upholds the claim, with respect to the quality and if the Seller is liable subject to paragraphs 1 and 2, the Seller shall only be liable, at the Seller's discretion for:
 - a. repairing the defects (free of charge);
 - b. delivering replacement goods or parts on receipt of the defective items or parts;
 - c. repaying the purchase price/credit entry for the invoice issued to the Buyer with dissolution of the concluded agreement without legal intervention as far as the purchase price, the invoice and the agreement relate to the defective items delivered.
5. The Buyer shall bear any travel and subsistence costs if a fitter is required for replacing or repairing the defective items or parts.
6. All warranty obligations on the part of the Seller shall lapse if the Buyer has carried out or has had carried out any repairs and/or changes to the items without prior, express approval in writing.
7. Apart from any obligations on the part of the Seller under the above conditions, the Seller shall never be obliged to pay any compensation to the Buyer and other parties except in the case of intent or culpability by the Seller (by the party holding the Seller liable and able to provide evidence of this). If the item purchased fails to work properly during the agreed warranty period, the Seller shall also never be liable for:
 - subsequent and/or trading losses, direct or indirect loss of any kind, loss of earnings downtime losses included – as incurred by the principal, its subordinates and third parties employed with or for it due to the full or partial (re-) delivery of items, delayed or defective delivery or non-delivery of items or by the items themselves;
 - damage done to items (including moveable and immoveable items) or persons while carrying out installation, assembly and/or repair work;
 - damage or injury inflicted on persons and/or property due to the Buyer and/or its subordinate(s) using the item, working on it or handling it in any other way during the installation, assembly, maintenance and/or repair period unsupervised by the Seller;
 - damage occurring due to failure to adhere to the operating regulations/instructions;
 - damage occurring due to the item delivered by the Seller having been used for another purpose than for which it was intended or for which it is unsuitable;
 - damage occurring while loading the items ex-works, warehouse or Seller's storage location after the Seller has made the item available to the Buyer in accordance with article 4, paragraph 1;
 - damage occurring while unloading the items if the Seller has had the items transported to the Buyer's address at the Buyer's request;
 - damage occurring or caused by actions with or (assembly) work to the item, carried out by the Buyer or by or on behalf of third parties engaged by the Buyer.
8. The Seller shall not be liable for damage that comes to light 12 (twelve) months after the event leading to the damage.
9. From the point of delivering the items to the Buyer, the Seller shall be released from all third party claims including the payment of compensation, irrespective of whether the damage occurred as a result of the composition and/or manufacturing errors or for other reasons.
10. If the Buyer holds the Seller liable for compensation based on a demand taken over by a third party whereby the Seller was in any way directly or indirectly involved in causing the damage, the Seller may also appeal to the above conditions with respect to the Buyer. The above conditions shall apply with respect to persons who are in any way involved in carrying out the Seller's obligations towards the Buyer.
11. The Buyer shall not be entitled to return the items for which there is no justifiable claim. The Buyer shall bear all costs of returning the items if this nevertheless takes place without valid grounds. The Seller shall in that case be entitled to store the items with third parties at the Buyer's expense and risk.

Article 12. Reservation of ownership

1. The items delivered by the Seller shall remain the Seller's property until the Buyer has complied with all obligations under all the sales agreements concluded with the Seller. These obligations shall be:
 - a. the consideration regarding the thing(s) itself/themselves done or to be done by the Seller under the sales agreement(s);
 - b. the consideration regarding the services carried out or to be carried out by the Seller under the sales agreement(s);
 - c. any demands due to non-compliance by the Buyer of (any) sales agreement(s).
2. Items delivered by the Seller that come under the reservation of ownership may only be sold in the context of normal business.
3. The Buyer shall not be entitled to pledge the items or to attach any other rights to these before full payment for these has taken place.
4. If the Buyer fails to comply with its obligations or if there is a well-founded fear that the Buyer shall fail to do so, the Seller shall be entitled to recover (or have recovered) any items delivered that are subject to reservation of ownership from the Buyer or third parties holding the items for the Buyer. The Buyer shall be obliged to offer every assistance on penalty of a forfeit of 10 per cent of the sum owed by it, per day.
5. If third parties wish to attach rights to the items delivered subject to reservation of ownership, the Buyer shall be obliged to inform the Seller as soon as may reasonably be expected.
6. The Buyer shall be obliged on first request from the Seller to:
 - a. insure and keep insured the items delivered subject to reservation of ownership against fire, explosion, water damage, loss and theft (and to submit the insurance policy for inspection);
 - b. pledge to the Seller all claims from the Buyer against the insurers regarding the items delivered subject to reservation of ownership;
 - c. pledge to the Seller the demands acquired by the Buyer from its customers by selling on the items subject to reservation of ownership delivered by the Seller;
 - d. label as the Seller's property the items delivered subject to reservation of ownership;
 - e. provide assistance in other ways in all reasonable measures the Seller wishes to take to protect its property rights regarding the items and which do not unreasonably hinder the Buyer in the normal carrying out of its business activities.

Article 13. Payment

1. Payment shall be made strictly net within 30 days of the invoice date into an account indicated by the Seller unless agreed otherwise in writing.
2. In case of liquidation, bankruptcy or suspension of payment on the part of the Buyer, the obligations on the Buyer shall be due with immediate effect.
3. Payment shall take place without discount or settlement unless agreed otherwise in writing.
4. Payments made by the Buyer shall always initially be used to pay all interest due and costs and secondly the earliest invoices due even if the Buyer states that payment relates to later invoices.

Article 14. Interest and costs

1. If payment has not taken place with the deadline stated in the previous article, the Buyer shall be legally in default and liable from the expiry date of the invoice until the date of full payment for interest totalling one per cent per month or part of a month on the amount still outstanding.
2. If the Seller deems it necessary in the event of non-payment to outsource its demands, the Buyer shall bear the costs of this. The Buyer can at the Seller's discretion be charged for the costs for which the Seller itself is charged or for an amount equal to 15 per cent calculated over the principal sum owed to the Seller plus late payment interest with a minimum of EUR 500.00. The engaging of a third party by the Seller shall render the collection costs payable. If the Seller shows that it has incurred higher charges, which were reasonably necessary, these shall also be eligible for refunding.

Article 15. Force majeure

1. Force majeure shall be understood as circumstances that hinder the carrying out of the obligations and that are not attributed to the Seller. This shall include (if and as far as these circumstances render performance impossible or unreasonably hinder it) the following circumstances:
 - strikes, also in other businesses than those of the Seller, bankruptcies of suppliers, fire damage, national strikes, road blockages, boycott, import, export and production bans and other Government measures;
 - war, riots, hostilities of any kind, natural catastrophes and epidemics;
 - a general lack of the necessary raw materials and other items or services required for completing the agreed performance;
 - unforeseen stagnation with suppliers or third parties of which the Seller depends on and general transport problems.
2. The Seller's delivery and other obligations shall be suspended during force majeure. If the period of force majeure in which the fulfilment of the obligations by the Seller is impossible exceeds two months, both parties shall be entitled to dissolve this Agreement without this leading to any obligation to compensation.
3. The Seller shall also be entitled to claim force majeure if the circumstances hindering (further) fulfilment take place after the Seller should have fulfilled its obligation.
4. If the Seller on the commencement of force majeure had already fulfilled some of its obligations or can only fulfil some of its obligations, the Seller shall be entitled to invoice separately for what has already been delivered or can be delivered.

Article 16. Disputes

All disputes including those that are only regarded as such by one of the parties arising from or in connection with this Agreement to which these General Conditions apply or whether the respective conditions apply or the respective conditions themselves and their explanation and implementation both of an actual and legal nature shall be decided by the competent court in the jurisdiction of the district where the Seller has its registered office.

Article 17. Applicable law

1. All agreements between the Seller and the Buyer to which these General Conditions apply and all disputes flowing from or connected with these shall be governed by Dutch law.
2. Unless mandatory law stipulates otherwise and parties have still also not agreed on arbitration, the court in the district where the Seller has its head office shall be exclusively authorized to take cognizance of disputes arising between the Seller and the Buyer in relation to or in connection with legal relations between them and which cannot be settled amicably. The Seller shall however reserve the right to also summons the Buyer at its registered office.

Article 18. Partial invalidity

If one or more conditions of these General Conditions should be or become invalid, this shall not affect the validity of the remaining conditions. In the case of invalidity of conditions, the Buyer and the Seller shall be bound by a condition that comes as close as possible to the original condition that is not subject to invalidity.

Article 19.

This is a translation of our original Dutch General Conditions of Delivery and Sale. In the case of an actual dispute, the original Dutch General Conditions of Delivery and Sale shall prevail and Dutch law shall apply.