

General Terms and Conditions

Definitions

- Factor52: Factor52 B.V., established in Noordwijk, Chamber of Commerce no. 69902399.
- Customer: the person with whom Factor52 has entered into an agreement.
- Parties: Factor52 and customer together.

Applicability

1. These terms and conditions will apply to all quotations, offers, activities, orders, agreements and deliveries of services or products by or on behalf of Factor52.
2. Parties can only deviate from these conditions if they have explicitly agreed upon in writing.
3. The parties expressly exclude the applicability of supplementary and/or deviating general terms and conditions of the customer or of third parties.

Offers and quotations

1. Offers and quotations from Factor52 are without engagement, unless expressly stated otherwise.
2. An offer or quotation is valid for a maximum period of 2 weeks from its date, unless another acceptance period is stated in the offer or quotation.
3. If the customer does not accept an offer or quotation within the applicable time frame, the offer or quotation will lapse.
4. Offers and quotations do not apply to repeated orders, unless the parties have agreed upon this explicitly and in writing.

Acceptance

1. Upon acceptance of a quotation or offer without engagement, Factor52 reserves the right to withdraw the quotation or offer within 3 days after receipt of the acceptance, without any obligations towards the customer.
2. Verbal acceptance of the customer only commits Factor52 after the customer has confirmed this in writing (or electronically).
3. Only signed purchase orders will be processed.

Prices

1. All prices used by Factor52 are in dollars, exclusive of any other costs such as administration costs, levies and travel-, shipping- or transport expenses, unless expressly stated otherwise or agreed otherwise.
2. Factor52 is entitled to adjust all prices for its products or services, shown in its shop, on its website or otherwise, at any time.
3. Increases in the cost prices of products or parts thereof, which Factor52 could not foresee at the time of making an offer or the conclusion of the agreement, may give rise to price increases.

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Payments and payment term

1. The first two orders are delivered on prepayment.
2. All follow-up orders have a payment term of 30 days.

Consequences of late payment

1. If the customer does not pay within the agreed term, Factor52 is entitled to charge an interest of 1% per month from the day the customer is in default, whereby a part of a month is counted for a whole month.
2. When the customer is in default, he is also due to extrajudicial collection costs and may be obliged to pay any compensation to Factor52.
3. The collection costs are calculated on the basis of the Reimbursement for extrajudicial collection costs.
4. If the customer does not pay on time, Factor52 may suspend its obligations until the customer has met his payment obligation.
5. In the event of liquidation, bankruptcy, attachment or suspension of payment on behalf of the customer, the claims of Factor52 on the customer are immediately due and payable.
6. If the customer refuses to cooperate with the performance of the agreement by Factor52, he is still obliged to pay the agreed price to Factor52.

Right of recovery of goods

1. As soon as the customer is in default, Factor52 is entitled to invoke the right of recovery with regard to the unpaid products delivered to the customer.
2. Factor52 invokes the right of recovery by means of a written or electronic announcement.
3. As soon as the customer has been informed of the claimed right of recovery, the customer must immediately return the products concerned to Factor52, unless the parties agree to make other arrangements about this.
4. The costs for the collection or return of the products are at the expense of the customer.

Suspension of obligations by the customer

The customer waives the right to suspend the fulfillment of any obligation arising from this agreement.

Right of retention

1. Factor52 can appeal to his right of retention of title and in that case retain the products sold by Factor52 to the customer until the customer has paid all outstanding invoices with regard to Factor52, unless the customer has provided sufficient security for these payments.
2. The right of retention of title also applies on the basis of previous agreements from which the customer still owes payments to Factor52.
3. Factor52 is never liable for any damage that the customer may suffer as a result of using his right of retention of title.

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Settlement

The customer waives his right to settle any debt to Factor52 with any claim on Factor52.

Retention of title

1. Factor52 remains the owner of all delivered products until the customer has fully complied with all its payment obligations with regard to Factor52 under whatever agreement with Factor52 including of claims regarding the shortcomings in the performance.
2. Until then, Factor52 can invoke its retention of title and take back the goods.
3. Before the property is transferred to the customer, the customer may not pledge, sell, dispose of or otherwise encumber the products.
4. If Factor52 invokes its retention of title, the agreement will be dissolved and Factor52 has the right to claim compensation, lost profits and interest.

Insurance

Storage

1. If the customer orders products later than the agreed delivery date, the risk of any quality loss is entirely for the customer.
2. Any extra costs as a result of premature or late purchase of products are entirely at the customer's expense.

Guarantee

1. The warranty relating to products only applies to defects caused by faulty manufacture, construction or material.
2. The warranty does not apply in the event of normal wear and tear and damage resulting from accidents, changes made to the product, negligence or improper use by the customer, or when the cause of the defect can not clearly be established.
3. The risk of loss, damage or theft of the products that are the subject of an agreement between the parties, will pass on to the customer when these products are legally and/or factually delivered, at least are in the power of the customer or of a third party who receives the product for the benefit of the customer.

Indemnity

The customer indemnifies Factor52 against all third-party claims that are related to the products and/or services supplied by Factor52.

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Complaints

1. The customer must examine a product or service provided by Factor52 as soon as possible for possible shortcomings.
2. If a delivered product or service does not comply with what the customer could reasonably expect from the agreement, the customer must inform Factor52 immediately.
3. The customer gives a detailed description as possible of the shortcomings, so that Factor52 is able to respond adequately.
4. The customer must demonstrate that the complaint relates to an agreement between the parties.

Giving notice

1. The customer must provide any notice of default to Factor52 in writing.
2. It is the responsibility of the customer that a notice of default actually reaches Factor52 (in time).

Joint and several Client liabilities

If Factor52 enters into an agreement with several customers, each of them shall be jointly and severally liable for the full amounts due to Factor52 under that agreement.

Liability of Factor52

1. Factor52 is only liable for any damage the customer suffers if and insofar as this damage is caused by intent or gross negligence.
2. If Factor52 is liable for any damage, it is only liable for direct damages that results from or is related to the execution of an agreement.
3. Factor52 is never liable for indirect damages, such as consequential loss, lost profit, lost savings or damage to third parties.
4. If Factor52 is liable, its liability is limited to the amount paid by a closed (professional) liability insurance and in the absence of (full) payment by an insurance company of the damages the amount of the liability is limited to the (part of the) invoice to which the liability relates.
5. All images, photos, colors, drawings, descriptions on the website or in a catalog are only indicative and are only approximate and can not lead to any compensation and/or (partial) dissolution of the agreement and/or suspension of any obligation.

Expiry period

Every right of the customer to compensation from Factor52 shall, in any case, expire within 6 months after the event from which the liability arises directly or indirectly. This does not exclude the provisions in article 6:89 of the Dutch Civil Code.

Dissolution

Factor52 has the right to dissolve the agreement with the customer, if the customer does not fully or timely fulfill his obligations under the agreement, or if circumstances give Factor52 good grounds to fear that the customer will not be able to fulfill his obligations properly.

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Force majeure

1. In addition to the provisions of article 6:75 Dutch Civil Code, a shortcoming of Factor52 in the fulfillment of any obligation to the customer cannot be attributed to Factor52 in any situation independent of the will of Factor52, when the fulfillment of its obligations towards the customer is prevented in whole or in part or when the fulfillment of its obligations cannot reasonably be required from Factor52 .
2. The force majeure situation referred to in paragraph 1 is also applicable - but not limited to: state of emergency (such as civil war, insurrection, riots, natural disasters, etc.); defaults and force majeure of suppliers, deliverymen or other third parties; unexpected disturbances of power, electricity, internet, computer or telecoms; computer viruses, strikes, government measures, unforeseen transport problems, bad weather conditions and work stoppages.
3. If a situation of force majeure arises as a result of which Factor52 cannot fulfill one or more obligations towards the customer, these obligations will be suspended until Factor52 can comply with it.
4. From the moment that a force majeure situation has lasted at least 30 calendar days, both parties may dissolve the agreement in writing in whole or in part.
5. Factor52 does not owe any (damage) compensation in a situation of force majeure, even if it has obtained any advantages as a result of the force majeure situation.

Changes in the general terms and conditions

1. Factor52 is entitled to amend or supplement these general terms and conditions.
2. Changes of minor importance can be made at any time.
3. Major changes in content will be discussed by Factor52 with the customer in advance as much as possible.

Transfer of rights

1. The customer can not transfer its rights deferring from an agreement with Factor52 to third parties without the prior written consent of Factor52 .
2. This provision applies as a clause with a property law effect as referred to in Section 3:83 (2) Dutch Civil Code.

Consequences of nullity or annulability

1. If one or more provisions of these general terms and conditions prove null or annulable, this will not affect the other provisions of these terms and conditions.
2. A provision that is null or annulable shall, in that case, be replaced by a provision that comes closest to what Factor52 had in mind when drafting the conditions on that issue.

Applicable law and competent court

1. Dutch law is exclusively applicable to all agreements between the parties.
2. The Dutch court in the district where Factor52 is established is exclusively competent in case of any disputes between parties, unless the law prescribes otherwise.