

GENERAL TERMS AND CONDITIONS Enkido BV

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Definitions

1. Enkido BV: Enkido B.V., established in Hengelo, Chamber of Commerce no. 81644051.
2. Customer: the party which Enkido BV has entered into an agreement with.
3. Parties: Enkido BV and customer together.
4. Consumer: a customer who is an individual acting for private purposes.

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 Enkido BV.
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.

Prices

1. All prices used by Enkido BV are in euros, are exclusive of VAT and exclusive of any other costs such as administration costs, levies and travel-, shipping- or transport expenses, unless expressly stated otherwise or agreed otherwise.
2. Enkido BV 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 Enkido BV could not foresee at the time of making an offer or the conclusion of the agreement, may give rise to price increases.
4. The consumer has the right to terminate an agreement as a result of a price increase as referred to in paragraph 3, unless the increase is the result of statutory regulation.

Samples / models

If the customer has received a sample or model of a product, he cannot derive any rights from this other than that it is an indication of the nature of the product, unless the parties have explicitly agreed that the products be supplied conform to the sample or model.

Payments and payment term

1. Enkido BV may, at the conclusion of the agreement, require a down payment of up to 50% of the agreed amount.
2. The customer must pay invoices of Enkido BV within 14 days, unless parties have made other agreements about this or if the invoice has a different payment term.
3. Payment terms are considered as fatal payment terms. This means that if the customer has not paid the agreed amount at the latest on the last day of the payment term, he is legally in default, without Enkido BV having to send the customer a reminder or to put him in default.
4. Enkido BV reserves the right to make a delivery conditional upon immediate payment or to require adequate security for the total amount of the services or products.

Consequences of late payment

1. If the customer does not pay within the agreed term, Enkido BV is entitled to charge an interest of 8% per month for commercial transactions 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 Enkido BV.
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, Enkido BV 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 Enkido BV on the customer are immediately due and payable.
6. If the customer refuses to cooperate with the performance of the agreement by Enkido BV, he is still obliged to pay the agreed price to Enkido BV.

Right of recovery of goods

1. As soon as the customer is in default, Enkido BV is entitled to invoke the right of recovery with regard to the unpaid products delivered to the customer.
2. Enkido BV 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 Enkido BV, 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. Enkido BV can appeal to his right of retention of title and in that case retain the products sold by Enkido BV to the customer until the customer has paid all outstanding invoices with regard to Enkido BV, 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 Enkido BV.
3. Enkido BV is never liable for any damage that the customer may suffer as a result of using his right of retention of title.

Settlement

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

Retention of title

1. Enkido BV remains the owner of all delivered products until the customer has fully complied with all its payment obligations with regard to Enkido BV under whatever agreement with Enkido BV including of claims regarding the shortcomings in the performance.
2. Until then, Enkido BV 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 Enkido BV invokes its retention of title, the agreement will be dissolved and Enkido BV has the right to claim compensation, lost profits and interest.

Delivery

1. Delivery takes place while stocks last.
2. Delivery takes place at Enkido BV unless the parties have agreed upon otherwise.
3. Delivery of products ordered online takes place at the address indicated by the customer.
4. If the agreed price is not paid on time, Enkido BV has the right to suspend its obligations until the agreed price is fully paid.
5. In the event of late payment, the customer is automatically in default, and hereby he cannot object to late delivery by Enkido BV.

Delivery period

1. Any delivery period specified by Enkido BV is indicative and does not give the customer the right to dissolution or compensation if this period is not met with, unless the parties have expressly agreed otherwise in writing.

2. The delivery starts once the customer has fully completed the (electronic) ordering process and received an (electronic) confirmation of his order from Enkido BV.
3. Exceeding the specified delivery period does not entitle the customer to compensation or the right to terminate the contract, unless Enkido BV cannot deliver within 14 days after the customer has urged him to do so in writing or if the parties have agreed upon otherwise.

Actual delivery

The customer must ensure that the actual delivery of the products ordered by him can take place in time.

Transport costs

Transport costs are paid by the customer, unless the parties have agreed upon otherwise.

Packaging and shipping

1. If the package of a delivered product is opened or damaged, the customer must have a note drawn up by the forwarder or delivery person before receiving the product. In the absence of which Enkido BV may not be held liable for any damage.
2. If the customer himself takes care of the transport of a product, he must report any visible damage to products or the packaging prior to the transport to Enkido BV, failing which Enkido BV cannot be held liable for any damage.

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 cannot 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 Enkido BV against all third-party claims that are related to the products and/or services supplied by Enkido BV.

Complaints

1. The customer must examine a product or service provided by Enkido BV 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 Enkido BV of this as soon as possible, but in any case within 1 month after the discovery of the shortcomings.
3. Consumers must inform Enkido BV of this within two months after detection of the shortcomings.
4. The customer gives a detailed description as possible of the shortcomings, so that Enkido BV is able to respond adequately.
5. The customer must demonstrate that the complaint relates to an agreement between the parties.
6. If a complaint relates to ongoing work, this can in any case not lead to Enkido BV being forced to perform other work than has been agreed.

Giving notice

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

Joint and several Client liabilities

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

Liability of Enkido BV

1. Enkido BV is only liable for any damage the customer suffers if and insofar as this damage is caused by intent or gross negligence.
2. If Enkido BV 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. Enkido BV is never liable for indirect damages, such as consequential loss, lost profit, lost savings or damage to third parties.
4. If Enkido BV 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 cannot 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 Enkido BV shall, in any case, expire within 12 months after the event from which the liability arises directly or indirectly. This does not exclude the provisions in article 6:89 Dutch Civil Code.

Dissolution

1. The customer has the right to dissolve the agreement if Enkido BV imputably fails in the fulfillment of his obligations, unless this shortcoming does not justify termination due to its special nature or because it is of minor significance.
2. If the fulfillment of the obligations by Enkido BV is not permanent or temporarily impossible, dissolution can only take place after Enkido BV is in default.
3. Enkido BV 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 Enkido BV good grounds to fear that the customer will not be able to fulfill his obligations properly.

Force majeure

1. In addition to the provisions of article 6:75 Dutch Civil Code, a shortcoming of Enkido BV in the fulfillment of any obligation to the customer cannot be attributed to Enkido BV in any situation independent of the will of Enkido BV, 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 Enkido BV .
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 Enkido BV cannot fulfill one or more obligations towards the customer, these obligations will be suspended until Enkido BV 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. Enkido BV 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. Enkido BV 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 Enkido BV with the customer in advance as much as possible.
4. Consumers are entitled to cancel the agreement in the event of a substantial change to the general terms and conditions.

Transfer of rights

1. The customer cannot transfer its rights deriving from an agreement with Enkido BV to third parties without the prior written consent of Enkido BV.
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 Enkido BV 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 Enkido BV is established is exclusively competent in case of any disputes between parties, unless the law prescribes otherwise.

Attribution

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