

GENERAL TERMS AND CONDITIONS OF BELL RAIN B.V.

English translation of the Dutch general terms and conditions

Important: This document is an English translation of the Dutch general terms and conditions. In the event of any discrepancy or difference in interpretation between language versions, the Dutch text shall prevail.

1. APPLICABILITY

1. The following terms and conditions apply to all offers made by the Seller and to all agreements concluded or acts performed by the Seller.
2. Any instruction given or order placed by the Buyer with the Seller shall at all times be deemed to constitute acceptance by the Buyer of these general terms and conditions.

2. CONCLUSION OF THE AGREEMENT

1. An agreement shall only come into effect after an order from the Buyer has been confirmed in writing by the Seller.

3. DELIVERY AND TRANSFER OF RISK

1. Deliveries shall be made DDP/carriage paid to the Buyer's premises (Incoterms 2010), unless otherwise agreed in writing between the Buyer and the Seller. For deliveries from stock, the Seller may charge shipping costs.
2. Delivery periods shall never be regarded as strict deadlines unless otherwise agreed in writing between the parties. A delay in delivery, for whatever reason, shall not entitle the Buyer to suspend performance of any obligation owed to the Seller.
3. The delivery period shall be extended by the period during which the Seller is prevented by force majeure from fulfilling its obligations.
4. Force majeure on the part of the Seller shall exist if, after conclusion of the agreement, the Seller is prevented from fulfilling its obligations under the agreement or from preparing such performance as a result of force majeure circumstances as referred to in the Dutch Civil Code.
5. If, after confirmation of the order, it appears that all or part of the ordered goods cannot, for any reason whatsoever, be delivered within the stated period or cannot be delivered at all, both within and outside the force majeure situations referred to in paragraphs 3 and 4, the Seller shall be entitled to amend the agreement. In that event, the Seller shall not be liable to the Buyer for damages. The Buyer may choose either to terminate the agreement insofar as affected by the amendment or to accept the amended agreement. The Buyer shall be deemed to have accepted the amended agreement if the Buyer does not notify the Seller in writing, within five working days after being informed by the Seller, that the Buyer terminates the agreement insofar as affected by the amendment.

4. TITLE

1. Delivery shall take place subject to an extended retention of title. Title to the goods delivered shall remain with the Seller until all payment claims connected with the delivery of goods have been paid in full.

2. If the Buyer is late in making payment, or if there are reasonable grounds to assume that the Buyer will not pay or will pay late, the Seller shall be entitled to repossess all products delivered by the Seller which have remained the Seller's property pursuant to the preceding paragraph.
3. If the Seller claims goods as its property pursuant to this article and repossesses those goods, the Seller shall issue the Buyer with a credit note for the market value of the repossessed goods at the time of repossession.

5. PAYMENT

1. Payment of the purchase price shall be made into an account designated by the Seller.
2. Payment for orders within the Netherlands shall be made within 30 days of the invoice date, unless another payment term has been agreed in writing between the Buyer and the Seller.
3. If the Buyer fails to fulfil its payment obligations to the Seller, or fails to do so properly as referred to in paragraph 2 of this article, the Buyer shall be in default without any further demand or notice of default being required. The Seller shall then be entitled to charge the Buyer interest at the rate of 1.5% per month on the full invoice amount and the extrajudicial costs referred to below, calculated from the due date of the invoice until the date of payment in full. Part of a calendar month shall count as a full calendar month.
4. The Buyer shall not be entitled to set off any amount against the purchase price on the basis of an alleged counterclaim.
5. In the event of late payment, the Seller shall be entitled to reimbursement of extrajudicial collection costs. These costs shall be set at a minimum of 15% of the outstanding invoice amount including VAT, subject to a minimum of EUR 150.00 or the minimum required by the applicable statutory regime, without prejudice to the Seller's right to compensation for other loss. Payments received from a Buyer in default shall first be applied to these extrajudicial costs and interest, after which the remaining amount shall be applied to the oldest outstanding invoices.
6. If the Buyer fails to fulfil any obligation owed to the Seller under an agreement, a related agreement, or agreements concluded before or after it, or if the Seller may reasonably suspect that the Buyer will in future fail to fulfil any such obligation, the Seller shall be entitled to:
 - a. require advance payment, adequate additional security for payment, or immediate payment upon delivery for payment obligations under all current and future agreements;
 - b. suspend deliveries, including the manufacture or processing of goods intended for delivery, without prejudice to the Seller's right simultaneously or subsequently to require security for payment. Once the Buyer has fulfilled its obligations, the Seller shall have available as the delivery period the time required for manufacture or processing, taking account of the possibilities then existing within the Seller's business and/or the businesses of the Seller's suppliers;
 - c. terminate the relevant purchase agreement in whole or, insofar as it has not yet been performed, in part;
 - d. terminate one, more or all current purchase agreements in respect of which the Buyer is not in default, in whole or, insofar as they have not yet been performed, in part.
7. If an agreement is terminated because the Buyer has failed to fulfil its obligations, the Seller shall be entitled to damages fixed on a lump-sum basis at 50% of the amount to be invoiced or already invoiced.

6. NOTIFICATION OF COMPLAINTS

1. Samples and/or images in brochures, catalogues, advertisements and similar materials provide only an impression of the product and shall not be binding on the Seller.
2. Complaints concerning delivered goods shall be submitted in writing within 14 working days after the Buyer has received the goods, or in any event within 14 working days after the Buyer could reasonably have inspected the received goods.
3. Complaints concerning invoices shall be submitted in writing within 14 working days after the invoice date, failing which the invoices shall be deemed correct and undisputed.
4. The Seller shall subsequently investigate the merits of the complaints as soon as possible. Minor deviations considered acceptable in the trade, or deviations in quality, colour, size, weight, finish, design and similar characteristics that cannot technically be avoided, shall not constitute grounds for complaint. If a complaint is justified, the Seller may choose to repair or replace the goods or to grant a price reduction.
5. Returned goods must be sent carriage paid, at the Buyer's expense and risk, and shall only be accepted by the Seller after the Seller has given prior written consent.

7. LIABILITY

1. Except in the event of intent or gross negligence, the Seller's liability in respect of delivered goods shall be limited as follows:
 - a. If the Seller is liable for direct loss, that liability shall be limited to the amount paid by the Seller's insurer, or in any event to a maximum of 50% of the invoice amount.
 - b. Direct loss shall exclusively mean:
 - reasonable costs incurred to establish the cause and extent of the loss, insofar as the establishment relates to loss within the meaning of these terms and conditions;
 - any reasonable costs incurred to make the Seller's defective performance comply with the agreement, unless the defective performance cannot be attributed to the Seller;
 - reasonable costs incurred to prevent or limit loss, insofar as the Buyer demonstrates that those costs resulted in the limitation of direct loss as referred to in these terms and conditions.
 - c. The Seller shall not be liable for indirect loss, including but not limited to consequential loss, loss of profit, lost savings and loss resulting from business interruption.
 - d. The Seller shall not be liable for loss resulting from an overrun of an indicated delivery period, regardless of the cause, whether within or outside the force majeure situations referred to in Article 3 paragraphs 3 and 4.
 - e. The Seller shall not be liable for loss resulting from an order placed by the Buyer after expiry of an applicable final order date or deadline.
 - f. If the Buyer is itself held legally liable by a subsequent purchaser for loss resulting from defects in the goods and the Buyer wishes to recover that compensation from the Seller, the Buyer shall notify the Seller of the claim made against it within five working days, without prejudice to any defences available to the Seller. If the Seller is not notified within five working days, the Seller shall not be liable.
 - g. At the Buyer's request, the Seller shall transfer to the Buyer any rights the Seller may exercise against its suppliers in respect of the relevant defects and quality deviations.

8. COMPETENT COURT AND APPLICABLE LAW

1. The Amsterdam District Court shall have exclusive jurisdiction to hear disputes, unless mandatory law provides otherwise. The Seller shall nevertheless be entitled to submit the dispute to the court that has jurisdiction under the law.
2. This agreement and any agreements resulting from it shall be governed by Dutch law.
3. In the event of any difference in textual meaning between different language versions of these terms and conditions, the Dutch text shall always prevail.

Bell Rain B.V. | Gouwzeestraat 10-12, 1382 KD Weesp, The Netherlands | English translation