

**Article 1 – General**

- 1.1 These terms and conditions apply to every offer or tender from or agreement with MARO Fasteners B.V., with its registered office in Papendrecht, (hereinafter referred to as: MARO) and the Other Party. These terms and conditions are filed at the Chamber of Commerce in Dordrecht. These will be forwarded free of charge upon the request from the Other Party.
- 1.2 If parties expressly derogate in writing from the provisions of these terms and conditions, these derogating arrangements will replace the provisions of these terms and conditions. These terms and conditions will remain in effect with regard to the other, unaffected provisions.
- 1.3 The applicability of the terms and conditions of the Other Party, or other (standard) terms and conditions, is expressly rejected.
- 1.4 In the event that one or more provisions of these terms and conditions are null and void or are declared void, whether or not partially, the other provisions of these terms and conditions will remain applicable. Such null and void or voided provisions, situations that are not arranged in these terms and conditions, and/or any unclear or incomplete provisions, will be interpreted in the light of these terms and conditions.

**Article 2 – Offers, tenders and agreements**

- 2.1 All offers and tenders from MARO are entirely without obligation, unless these contain a period for acceptance. If no acceptance period has been set out the Other Party cannot derive in any manner whatsoever any rights from the offers or tenders from MARO.
- 2.2 An agreement between parties will only come into effect by means of confirmation in writing from MARO. The contents of an assignment or order placed by the Other Party therefore only has effect if this order is confirmed by MARO by means of a confirmation of the assignment in writing.
- 2.3 Amendments of the agreement will only have effect if these are agreed in writing between MARO and the Other Party. In the event that amendments result in a delay or increase of the costs parties will agree in writing to a change of the purchase price, which will correspond with the change.
- 2.4 The prices included in offers or tenders are excluding turnover tax, import duties, surcharges and any other government charges imposed on the sale or delivery. The prices are based on the manner of delivery agreed between parties.

**Article 3 – Products**

- 3.1 Any sample or model provided by MARO with the offer are only an example of the product to be delivered and do not include any obligation with regard to the goods ultimately ordered and delivered.
- 3.2 The products delivered by MARO are provided with the certificates or standardisations set out in the offer, which have been requested by the Other Party in advance and subsequently issued by the manufacturer. MARO therefore does not accept any responsibility for the accuracy of the certificates and standardisations.
- 3.3 In the event that the Other Party orders modified products on the basis of drawings made available by the Other Party, MARO retains the right within the usual tolerances concerning the goods, to allow derogations in the length, width, scope, raw materials, colours, etc. of the products ultimately delivered.
- 3.4 Unless parties agree otherwise MARO does not guarantee that the goods will be suitable for the application for which the Other Party intends to use the goods, also in the event that this application has been made known to MARO.
- 3.5 The Other Party guarantees the accuracy of the drawings and calculations provided by the Other Party.
- 3.6 MARO retains the right to deliver and charge 10% more or less for the specially generated products than that which is set out in the offer.

**Article 4 – Payment**

- 4.1 Unless agreed otherwise the invoice amount will contain the price for the goods and the costs of delivery to the agreed location.
- 4.2 Unless parties have agreed otherwise the invoice amount must be paid by the Other Party within 14 days after the delivery of the goods. The Other Party is not permitted to deduct any amount from the invoice amount on the basis of a counterclaim against MARO.
- 4.3 If the Other Party makes use of the offer by MARO to store the goods, as referred to in article 6, this will not affect the payment obligation of the Other Party.
- 4.4 The right to setoff of the payments made by the Other Party against other, still outstanding invoices and against other costs incurred by MARO related to the Other Party, accrues to MARO.
- 4.5 In the event that the Other Party, after notice of default with a period of 7 days, still fails to fulfil his/her payment obligations, MARO will be entitled to regard the agreement as terminated. In that event the Other Party will be liable for the costs incurred by MARO. These costs consist inter alia, but not exclusively, of the costs incurred by MARO for the purchase of goods, lost profit and the costs incurred for transport or storage.
- 4.6 If MARO is compelled to take extrajudicial measures the costs thereof will be at the expense of the Other Party. This concerns the costs over the principal sum in accordance with the Extrajudicial Collection Costs (Fees) Decree dated 1 July 2012.

**Article 5 – Delivery**

- 5.1 The manner of delivery will be agreed by parties in writing and will be based on the Incoterms 2015. The obligations of both parties, the transfer of the risk, the arranging of insurances, permits and other formalities, and the allocation of the costs thereof will take place accordingly.
- 5.2 Changes to the date or manner of delivery required by the Other Party will only have effect if these have been confirmed in writing by MARO. The costs of a change in the delivery will be at the expense of the Other Party.
- 5.3 The delivery period will commence on the date specified by parties in the agreement. If parties have agreed that payment will take place prior to the delivery, the delivery period will commence on the day of the receipt by MARO of the agreed amount.
- 5.4 The agreed delivery period will be based on the circumstances applicable at the concluding of the agreement. If these circumstances change, or unforeseen circumstances occur, the delivery period will be extended accordingly insofar as necessary.
- 5.5 In the event that the Other Party does not (entirely) fulfil any obligation(s) ensuing from the agreement and/or does not provide cooperation to the performance of the agreement, the delivery period will be extended by the duration of this delay.
- 5.6 If there are obvious misgivings on the part of MARO with regard to the payment capacity of the Other Party, MARO will be furthermore entitled to postpone the delivery of the goods until the Other Party has provided security for the payment. The costs of the delivery delayed for this reason will be borne by the Other Party.
- 5.7 Any exceedance of the delivery period will not give the Other Party the right to (partial) termination of the agreement. If any exceedance of the delivery period amounts to more than 16 weeks, or if MARO has stated in writing that the delivery period will be exceeded by more than 16 weeks, the Other Party will be entitled to regard the agreement as terminated. In that event MARO will (only) have the right to compensation of the costs already incurred by MARO.

**Article 6 – Storage and dispatch**

- 6.1 In the event that the Other Party is not able to take receipt of the goods at the agreed time, MARO will insofar as possible, and upon the request from the Other Party, store the goods in its own warehouse, secure these and take all measures to prevent the deterioration of the quality of the goods.
- 6.2 The costs of the storage will be agreed between parties at the time of the request from the Other Party and will be at the expense of the Other Party.

**Article 7 – Transfer of risk and title**

- 7.1 The risk for the goods transfers to the Other Party at the time of delivery.
- 7.2 The ownership of the goods will only transfer to the Other Party at the time of the payment in full of the invoice amount and of any additional costs. In the event that the invoice amount has not yet been paid in full, but the goods have already been delivered to the Other Party, the latter-mentioned will endeavour to not process the goods and to clearly mark the goods as being the property of MARO.
- 7.3 In the event that the Other Party does not fulfil its obligations, or circumstances occur due to which MARO could reasonably expect that the Other Party would not fulfil its obligations, MARO will be entitled to claim the goods delivered subject to retention of title, and to collect (have collected) these goods from the Other Party. The Other Party will be obliged to provide full cooperation for this purpose, subject to a financial penalty of 10% of the invoice amount of the goods concerned.

**Article 8 – Force majeure**

- 8.1 There will be force majeure on the part of MARO if MARO, after concluding the agreement, is not (fully) capable of giving performance to the agreement due to strike actions, war or threat of war, riot, terrorism, breakdowns in the supply of gas, water and electricity, breakdowns in communication networks, transport difficulties, attributable failure, unlawful conduct, or interruption of deliveries from third parties, environmental disasters, epidemics, fire, extreme weather conditions, government restrictions (including import and export barriers), defects of machinery, in the business of MARO as well as in those of third parties from whom MARO must purchase the required materials, products, or raw materials (whether or not partially).
- 8.2 The delivery period referred to in article 5 will be extended by the period during which MARO is prevented from fulfilling its obligations due to force majeure.
- 8.3 In the event that the delivery period is delayed due to force majeure by more than 16 weeks MARO as well as the Other Party will be entitled to regard the agreement as terminated. In that event MARO will have the right to compensation of the costs already incurred by MARO.

**Article 9 – Guarantee**

- 9.1 Unless otherwise set out in the offer, with regard to the goods sold and delivered with manufacturer, importer or wholesale guarantee, only the guarantee provisions issued by these suppliers will apply.
- 9.2 The Other Party will inspect the goods as soon as possible, but no later than within 7 days after delivery. If the Other Party does not report in writing any defects of the goods within this period, the (defects of) the goods will be deemed to have been accepted by the Other Party.
- 9.3 In the event that after the delivery and inspection of the goods a hidden defect appears, the Other Party will as soon as possible, but no later than within 2 weeks after the discovery of the defect, inform MARO of this in writing. If the complaint made by the Other Party appears to be well-founded and the defect is attributable to MARO, MARO will at its discretion proceed with repair, replacement or crediting of the goods concerned.
- 9.4 In the event that the Other Party requires specific changes or packaging of the goods delivered by MARO, the Other Party will be personally responsible for the impact thereof on any guarantee provisions issued by third parties.

**Article 10 – Liability**

- 10.1 MARO's liability is limited to fulfilment of the guarantee obligations described in article 9 of these terms and conditions.
- 10.2 MARO will be exclusively liable for direct damage. Lost profit, consequential loss, business interruption loss and other indirect loss therefore does not fall under MARO's liability.
- 10.3 MARO will not be liable for damage that is the result of the fact that the Other Party has used the goods in conflict with the instructions for use provided therewith, or otherwise makes an error when using the goods. MARO is also not liable for damage that is the result of incomplete or incorrect data provided by or on behalf of the Other Party.
- 10.4 MARO's liability is limited to the free of charge repair of defective goods or to replacement of the goods or a part thereof. Any liability of MARO for any damage whatsoever is furthermore limited to the invoice amount of the goods concerned.
- 10.5 Insofar as MARO's liability is excluded pursuant to these provisions, any liability of employees and auxiliary persons, who are involved in the agreement or the performance thereof, is also excluded.
- 10.6 The Other Party will indemnify or compensate MARO with regard to all claims by third parties for compensation of any damage whatsoever, which damage is not attributable to the actions of MARO and furthermore cannot be attributed to MARO.

**Article 11 – Intellectual property**

- 11.1 The calculations, drawings, designs etc. provided by MARO remain MARO's property at all times. MARO retains the rights and entitlements which accrue to MARO on the basis of the Copyright Act and other legislation and regulations concerning intellectual property.
- 11.2 The Other Party guarantees that the information referred to in the previous subclause will not be shown or provided to third parties and will not be copied, except insofar as necessary for the performance of the agreement.
- 11.3 The Other Party will indemnify MARO against all possible claims by third parties with regard to any infringement of the intellectual property rights of these third parties.

**Article 12 – Suspension and termination**

- 12.1 Without prejudice to the provisions of article 4, the agreement will be terminated without judicial intervention after receipt of a statement in writing at the time when, and detailing that, the purchaser has been declared insolvent, applies for provisional moratorium, or an application is granted by the court to declare the debt management scheme applicable, or due to attachment, placement under guardianship, or otherwise losing the power of disposition over his/her assets or parts thereof, unless the receiver or administrator acknowledges the obligations ensuing from this purchase agreement as estate debts.
- 12.2 Termination will make the mutually existing claims immediately due and payable. The Other Party will be liable for the damage suffered by MARO, inter alia consisting of lost profit and transport costs.
- 12.3 MARO will be entitled to suspend the delivery of goods during the time when the Other Party fails to pay invoice, or fails to fulfil other obligations under the agreement.

**Article 13 – Applicable law and disputes**

- 13.1 The law of the Netherlands exclusively applies to all offers from, and agreements and legal relationships with, MARO. If an agreement is wholly or in part executed abroad, this will not affect the applicability of Dutch law.
- 13.2 There will be a dispute between MARO and the Other Party if one of these parties states this to be the case. A dispute with regard to a specific cause of action must be made pending within one year after the arising of this claim, without prejudice to the possibility of earlier lapsing or time limits of claims in accordance with the law.
- 13.3 All disputes that might arise between MARO and the Other Party will be adjudicated by the Rotterdam District Court, unless mandatory rules on jurisdiction dictate otherwise.
- 13.4 The applicability of the Vienna Sales Convention is excluded.