

GENERAL SALES, DELIVERY, AND PAYMENT TERMS

of DUTCH TILES B.V.

Article 1 – Definitions

A. In these terms, Dutch Tiles B.V. is defined as

Dutch Tiles B.V., Robert Schumann domein 4, 6229 ES Maastricht (The Netherlands)

B. In these terms, **counterparty** is defined as the natural person (or legal entity) including any unincorporated association that wishes to conclude or has concluded an agreement with Dutch Tiles B.V.

Article 2 – Applicability of these terms

A. These terms apply to any offer by Dutch Tiles B.V. and to any agreement between Dutch Tiles B.V. and a counterparty to which Dutch Tiles B.V. has declared these terms to be applicable, in as far as deviation from these terms has not been expressly agreed by the parties. Reference by counterparties to their own terms is not accepted by Dutch Tiles B.V..

B. Counterparties, by contracting under these terms, thereby consent to the applicability of these terms to all subsequent agreements that may be concluded with Dutch Tiles B.V.

Article 3 – Offers

A. All offers and/or quotations are, except where expressly agreed otherwise, entirely subject to contract.

B. All agreements, including if and to the extent that they have been entered into by third parties that may or may not be in the service of Dutch Tiles B.V., come into force only once they have been confirmed expressly in writing or orally by an authorised representative of Dutch Tiles B.V. or have been fulfilled without prior confirmation of order.

C. A written confirmation of order is deemed to be correct and in conformity unless written objections are received within eight days after being sent by Dutch Tiles B.V.

Article 4 – Fulfilment of the agreement

A. Dutch Tiles B.V. determines the manner in which, in its view, the order should be fulfilled. It is obliged in this regard to inform the counterparty, in advance, of the manner of fulfilment.

B. Dutch Tiles B.V. is entitled, without the consent of the counterparty, to subcontract the order or parts of the order to or to have the order fulfilled by third parties not in its service, if, as a consequence, Dutch Tiles B.V. is furthering the effective or efficient fulfilment of the order, unless this is in conflict with the nature of the order.

C. An order agreed with Dutch Tiles B.V. is deemed to have been entered into for an indefinite period, no shorter, however, than one and a half years, unless otherwise agreed in writing. Termination by notice must be made in writing, provided that the notice period is at least three months; termination may be made only at the end of a year.

D. Dutch Tiles B.V. is entitled to determine a minimum purchase of products indicated by Dutch Tiles B.V. or be named at a future date.

E. After processing of the order, all documents issued by the counterparty that relate thereto will be returned to the counterparty, unless otherwise agreed.

F. If named documents are not taken receipt of by the counterparty within three months after termination of the order, they will be stored from that point onwards on the account and at the risk of the counterparty.

Article 5 – The counterparty's information provision and cooperation obligation

A. The counterparty will ensure that all information that Dutch Tiles B.V. could reasonably require for what is in its view a sufficiently effective fulfilment of the order in question is provided to Dutch Tiles B.V. in the form desired by Dutch Tiles B.V.. The delivery of said documents will take place in the manner to be determined by Dutch Tiles B.V.. Also, the counterparty will provide all other cooperation necessary for fulfilment of the order.

B. Dutch Tiles B.V. is entitled to defer fulfilment of the order until such time as the counterparty has fulfilled the obligations referred to in the previous paragraph.

C. The counterparty is obliged to provide indemnification in respect of the losses suffered by Dutch Tiles B.V. as a result of any such deferral.

Article 6 – Confidential information

The parties are obliged, subject to statutory obligations to make public certain data, to maintain confidentiality with regard to the information received from the other party and with regard to any results of a confidential nature obtained by processing such information. The parties will take all reasonable precautionary measures to this end.

Article 7 – The provision of security

A. Dutch Tiles B.V. is always entitled, prior to starting or continuing the activities and prior to delivery or continuing delivery, to demand sufficient security over the fulfilment of the counterparty's payment obligations.

B. If security is not provided or if the security provided is insufficient, or if the counterparty's legal form changes, Dutch Tiles B.V. is entitled to dissolve the agreement in part or in full without judicial intervention and to require restitution of anything delivered, without prejudice to any rights that will fall to Dutch Tiles B.V. in the future on payment of sums due on termination of the agreement in relation to the costs incurred in carrying out activities and delivering goods.

Article 8 – Amendments to the agreement

A. If, after the order has been issued, further changes are required in the fulfilment thereof, these should be brought to the attention of Dutch Tiles B.V. in a timely manner and in writing. If changes sought are conveyed orally over the telephone, the risk in relation to due implementation of any such changes rests with the counterparty.

B. Dutch Tiles B.V. reserves the right to amend the price due to changes made to the order.

C. Amendments made to an order already issued can result in the lead time indicated by Dutch Tiles B.V. before the amendments were made being extended. Dutch Tiles B.V. accepts no liability for any such delay; full liability rests with the counterparty.

Article 9 – Modifications to the items to be delivered

Dutch Tiles B.V. is entitled to deliver items that deviate, to an immaterial degree, from the items described in the (purchase) agreement but that are identical therewith in terms of function.

Article 10 – Delivery

A. Dutch Tiles B.V. will determine the manner of delivery and/or despatch.

B. Unless otherwise agreed, anything purchased and/or ordered and/or delivered is at the risk of the counterparty once the (purchase) agreement has been concluded. Unless otherwise agreed, delivery is made to the home/business address of the counterparty. Carriage-paid delivery takes place only if and to the extent this has been agreed by Dutch Tiles B.V. with the counterparty and is indicated on the invoice or elsewhere. If an Incoterm has been agreed as a delivery condition, the relevant Incoterm will be applicable from the moment the agreement is concluded.

C. The counterparty is obliged to accept delivery of the items purchased and/or ordered and/or to be delivered at the moment these are supplied to him or at the moment these are to be made available to him under the agreement. If the counterparty refuses acceptance or fails to provide information or instructions required for delivery, the items will be stored at the risk of the counterparty. The counterparty will then be liable for all costs incurred, including transport and storage costs.

D. Dutch Tiles B.V. retains the right to refuse delivery if sums due from the counterparty remain outstanding for more than 60 days.

Article 11 – Delivery time

A delivery time indicated by Dutch Tiles B.V. does not constitute a deadline, unless expressly agreed otherwise. Even though Dutch Tiles B.V. does its utmost to deliver by the dates indicated, it accepts no liability for any losses arising from the failure to deliver by an agreed date.

Article 12 – Part-deliveries

Dutch Tiles B.V. is at all times permitted to deliver items purchased and/or to be delivered in batches. If items are to be delivered in batches, Dutch Tiles B.V. is authorised to issue separate invoices in respect of each part-delivery.

Article 13 – Faults; complaint period

A. Complaints concerning quality relate only to quality-assured items. With regard to seconds and other items, Dutch Tiles B.V. will not address any complaints.

B. The counterparty should check the items purchased and/or to be delivered on delivery, or, at the latest, within five working days after delivery, or should carry out this check after notification by Dutch Tiles B.V. that the items are at the counterparty's disposal. When carrying out this check, the counterparty should examine whether what has been delivered corresponds to what was agreed, namely:

- whether the right items have been delivered;
- whether the items delivered accord with what was agreed in terms of quantity (e.g. quantity or volume);
- whether the items delivered comply with the agreed quality requirements or – if there are no such requirements – with the requirements that could reasonably be made for normal use and/or commercial purposes.

C. If visible faults or deficiencies are identified, the counterparty should notify these in writing to Dutch Tiles B.V. within six working days after delivery, a failure to do so resulting in the counterparty being deemed to have accepted the items delivered in full.

D. Non-visible faults should be notified in writing to Dutch Tiles B.V. by the counterparty within five working days after discovery, but no later than four weeks after delivery, a failure to do so resulting in the counterparty being deemed to have accepted the items delivered in full.

E. Even if the counterparty makes a complaint in a timely manner, his obligation to make payment and to accept deliveries made remains.

Article 14 – Guarantee

A. Dutch Tiles B.V. is not obliged to offer guarantees more extensive than or different in nature to those indicated on the items it has delivered and/or on any leaflets included therewith.

B. No claim may be made under a guarantee if the fault, the breakdown, or any loss arising in connection therewith is attributable to a failure to comply with the relevant installation instructions, to an extrinsic cause, to improper use, or to repairs carried out on or modifications made to the delivered items without our consent.

C. The following are excluded from the guarantee:

- normal wear and tear of materials or parts that are susceptible to wear and tear;
- more than slight differences in colour or shade, where the materials are or have been combined with other materials or with materials produced by another manufacturer.

Article 15 – Statutory requirements etc.

If the items to be delivered in the Netherlands are to be used outside the Netherlands, Dutch Tiles B.V. is responsible for the items to be delivered complying with the requirements or standards imposed under statutory or other regulations in the country where the items are to be used, if, on conclusion of the (purchase) agreement, use abroad is notified. In addition, all other requirements made by the counterparty in relation to the items to be delivered that deviate from standard requirements should be expressly notified by the counterparty on conclusion of the (purchase) agreement.

Article 16 – Samples, models, and specimens; tolerances

A. If Dutch Tiles B.V. displays or provides a sample, model, or specimen, these are only ever indicative; the specifications of the items to be delivered may differ from those of the sample, model, or specimen, and no rights may be derived therefrom on this account.

B. Indications as to the weight and dimensions of the items delivered and/or to be delivered by Dutch Tiles B.V. are only ever estimates; they may vary within the tolerances customary in the ceramic industry or as indicated on the order confirmation.

Article 17 – Copyright, industrial proprietary rights, rights of reproduction, and patent rights

A. Unless expressly agreed otherwise, the designs, images, descriptions, drawings, models, budgets, schedules, calculations etc. issued by or in the name of Dutch Tiles B.V. remain its property and should be sent back to Dutch Tiles B.V. at first request.

B. All rights established (copyright, model rights, etc.) in relation to designs, images, descriptions, drawings, models, schedules etc. are retained and should be respected.

C. If the provisions set out in Paragraphs A and B of this article are breached, the counterparty will be liable for a fine of € 1,200.00 per breach, payable to Dutch Tiles B.V., without prejudice to the possible recovery of actual losses.

Article 18 – Termination of the agreement

A. Sums due to Dutch Tiles B.V. from the counterparty fall due immediately in the following instances:
– if, after conclusion of the agreement, circumstances come to the attention of Dutch Tiles B.V. that give Dutch Tiles B.V. good cause to fear that the counterparty will not fulfil his obligations;

– if Dutch Tiles B.V. has asked the counterparty to provide security over fulfilment on conclusion of the agreement and this security is not provided or is insufficient.

In the above instances, Dutch Tiles B.V. is entitled to defer further fulfilment of the agreement or to dissolve the agreement, in either case without prejudice to Dutch Tiles B.V.'s right to claim damages.

B. If circumstances arise in relation to persons and/or materials actually or typically used by Dutch Tiles B.V. in fulfilment of the agreement that are of such a nature that the fulfilment of the agreement would become so problematical and/or disproportionately expensive that fulfilment of the agreement could no longer be reasonably demanded of Dutch Tiles B.V., Dutch Tiles B.V. is entitled to dissolve the agreement. In this instance, Dutch Tiles B.V. accepts no liability for any losses arising therefrom on the part of the counterparty.

Article 19 – Right of retention

Dutch Tiles B.V. is entitled to retain all items provided to it by the counterparty or all items that it has produced on behalf of the counterparty until payment of all sums due to Dutch Tiles B.V. from the counterparty, irrespective of the agreement under which the sums are due, unless the counterparty has provided satisfactory security in respect thereof.

Article 20 – Retention of title

A. The items delivered by Dutch Tiles B.V. will remain the property of Dutch Tiles B.V. until the counterparty has fulfilled in full all of the following obligations arising out of the (purchase) agreements concluded with Dutch Tiles B.V.:

– the provision of consideration in relation to the item(s) delivered or to be delivered;
– the provision of consideration in relation to the services rendered or to be rendered by Dutch Tiles B.V. under the (purchase) agreement(s);
– any sums due arising out of or in connection with any other (purchase) agreement(s) with the counterparty.

B. The counterparty is obliged to maintain the items delivered with the due level of care and as the recognisable property of Dutch Tiles B.V..

C. Items delivered by Dutch Tiles B.V. that fall within the scope of the retention of title provided for under the first paragraph may be resold only within the scope of normal commercial operations. Furthermore, the counterparty is not authorised to pledge the items or to create any other right over them.

D. If the counterparty fails to fulfil his obligations or there is a justifiable fear that he will not do so, Dutch Tiles B.V. will be entitled to remove or to arrange for the removal of the delivered items in respect of which retention of title as defined in paragraph A subsists from the premises of the counterparty or of third parties that are holding the items in question on behalf of the counterparty. The counterparty is obliged to provide all cooperation in this matter on penalty of a fine of 10% of the sum owed by him per day, subject to a minimum of € 2,500.00 per day.

E. If third parties wish to establish or invoke any rights over items delivered that are subject to retention of title, the counterparty is obliged to inform Dutch Tiles B.V. as rapidly as may reasonably be expected.

F. The counterparty undertakes, on first request by Dutch Tiles B.V.:

- to insure the delivered items that are subject to retention of title and to maintain such insurance against fire, explosion, water damage and theft, furthermore granting sight of the relevant insurance policy;
- to pledge to Dutch Tiles B.V. all claims that the counterparty may bring against its customers on the re-sale of items delivered by Dutch Tiles B.V. that are subject to retention of title, in the manner provided for under Article 3:239 of the BW [THE DUTCH CIVIL CODE];
- to label the items delivered that are subject to retention of title as being the property of Dutch Tiles B.V.;
- to provide cooperation in other ways in respect of all measures which Dutch Tiles B.V. wishes to adopt to protect its proprietary rights with regard to the items and which do not unreasonably hinder the counterparty in the normal operation of his business.

Article 21 – Prices

A. Except where otherwise indicated, our prices:

1. are based on delivery from the business address, warehouse, or other storage site of Dutch Tiles B.V.;
2. are exclusive of VAT, import duties, and other taxes, charges, and duties;
3. are exclusive of costs relating to packaging, loading, unloading, transportation, and insurance;
4. are indicated in euros; any fluctuations in exchange rate are recharged;

B. With regard to orders below a level published by Dutch Tiles B.V. in official price lists or in other documents prevailing on the date the agreement is concluded, order costs will be charged.

Article 22 – Increases in price

A. If Dutch Tiles B.V. agrees a certain price with the counterparty, Dutch Tiles B.V. is nonetheless entitled unilaterally to increase the price in the event of changes in relation to the materials, salaries and wages, and employer contributions, of whatsoever nature, necessary for the fulfilment of the agreement or in relation to taxes and/or other factors that determine the price of items purchased.

B. Dutch Tiles B.V. may charge the price prevailing on delivery in accordance with the price list prevailing at that time. If the price supplement is more than 10%, the counterparty will be entitled to dissolve the agreement.

Article 23 – Payment

A. Payment should be made within 30 days after the invoice date:

- in legal tender at the offices of Dutch Tiles B.V.; or
- by way of transfer of the sum due into a bank account held by Dutch Tiles B.V. in Maastricht, the account number of which is referred to in the agreement or on the invoice.

Once 30 days have elapsed [without payment] since the invoice date, the counterparty is deemed to be in arrears; the counterparty is liable to pay interest at the statutory rate plus 2%, to be calculated on the sum due from the moment of falling into arrears.

B. If the counterparty is wound up, enters into bankruptcy proceedings, or has a moratorium on payments granted, the counterparty's obligations fall due immediately.



C. Payment should be made by the counterparty without discount or offset.

D. Payments made by counterparties will in all cases be applied firstly to settle all interest and costs owed and then to settle invoices due, starting with those that have remained unpaid the longest, even if the counterparty has stated that payment is to be in settlement of a later invoice.

Article 24 – Credit restriction

Dutch Tiles B.V. is entitled to charge a 'credit restriction supplement' of 2%, which does not fall due in the case of payment within eight days after the invoice date.

Article 25 – Debt collection costs

A. If the counterparty is in breach or in arrears with respect to one or more of his obligations, then all reasonable costs incurred in obtaining satisfaction extrajudicially will be borne by the counterparty. In any case, the counterparty is liable to pay a sum of at least 15% of the gross invoice value (subject to a minimum of € 120.00), plus an administration charge of € 25.00.

If Dutch Tiles B.V. demonstrates having incurred excess costs that were necessary and reasonable, these will also be subject to reimbursement.

B. The counterparty is liable towards Dutch Tiles B.V. in respect of judicial costs incurred by Dutch Tiles B.V. at all levels of the court system, unless such costs are unreasonably high. This applies only if Dutch Tiles B.V. and the counterparty, with regard to an agreement to which these general terms apply, enter into judicial proceedings and a judicial decision comes into force under which the finding is fully or overwhelmingly against the counterparty.

Article 26 – Liability

Dutch Tiles B.V.'s liability towards the counterparty is limited exclusively to the following:

1. Dutch Tiles B.V. is exclusively liable if losses are caused intentionally or through gross negligence by Dutch Tiles B.V. or by its management staff;
2. Dutch Tiles B.V.'s liability is limited in scope exclusively to the invoice value.

Article 27 – Force majeure (non-attributable shortfall in performance)

A. *Force majeure* is defined as any circumstances that impede the fulfilment of an obligation and that are not attributable to Dutch Tiles B.V.. These include (if and to the extent that these circumstances make fulfilment difficult or impossible) official and/or unofficial strikes affecting Dutch Tiles B.V.'s operations and/or the operations of other firms, a shortage of the required raw materials and other goods or services required for due performance, production stoppages at suppliers or other third parties on which Dutch Tiles B.V. relies, and transport problems.

B. Dutch Tiles B.V. is also entitled to cite *force majeure* if the circumstance preventing (further) fulfilment arises after Dutch Tiles B.V. was obliged to fulfil its obligation.

C. Whilst a *force majeure* is operative, Dutch Tiles B.V.'s delivery and other obligations are deferred. If the period for which fulfilment by Dutch Tiles B.V. of its obligations is not possible due to *force majeure* lasts for more than two months, both parties are entitled to dissolve the agreement, without this giving rise to an obligation to pay damages.

D. If Dutch Tiles B.V., when a *force majeure* first takes effect, has already fulfilled its obligations in part or can only fulfil its obligations in part, it is entitled to invoice in respect of the portion already delivered and/or deliverable, and the counterparty is obliged to pay any such invoice as if it related to a separate contract. This does not apply, however, if the delivered and/or deliverable part has no independent value.

Article 28 – Limitation of action

All legal claims by the counterparty arising out of any agreement subject to these terms lapse due to limitation, subject to binding statutory provisions, after one year, to be calculated from the day on which the goods were delivered or should have been delivered or from the day on which the activities were completed or should have been completed.

Article 29 – Dispute resolution

In deviation from statutory rules concerning the jurisdiction of the civil courts, any dispute between the counterparty and Dutch Tiles B.V. will be heard before the competent courts of Maastricht. Dutch Tiles B.V.

remains entitled, however, to have the counterparty summonsed to appear before any court deemed competent under law or applicable international treaty.

Article 30 – Applicable law

Any agreement between Dutch Tiles B.V. and the counterparty is subject exclusively to Dutch law.

Article 31 – Modification of terms

Dutch Tiles B.V. is authorised to modify these terms. Any such modifications come into force on the stated validity date.

Dutch Tiles B.V. will send the counterparty the modified terms in a timely manner. If the validity date is not notified, the modified terms will be enforceable against the counterparty as soon as they are notified to him.