

GENERAL TERMS AND CONDITIONS OF NV GOMMAIRE

Article 1

The general terms and conditions of GOMMAIRE NV always take precedence over those of the customer, and constitute an integral part of the agreement, even if the order and/or general terms and conditions of the customer would state otherwise.

The general terms and conditions of the customer are not enforceable against GOMMAIRE NV, regardless of their designation and/or whether they (later) appear on order forms, order confirmations or other documents of the customer.

Article 2

2.1 Placing an order is always an unilateral offer to contract on the part of the customer, even if this order is in response to an offer by GOMMAIRE NV and/or is indicated on an order form (PO) of GOMMAIRE NV and/or signed by an employee or representative (agent) of GOMMAIRE NV. Orders as well as any other obligations recorded/entered into by its agents, representatives and/or employees shall only be deemed accepted by GOMMAIRE NV after written confirmation of acceptance (signature) by the management of GOMMAIRE NV, which is not required to justify a possible refusal.

2.2 Photographs, drawings, illustrations, dimensions, samples (among others of colours, materials), technical specifications, and the like are provided by GOMMAIRE NV for information purposes only and are approximate indications for which GOMMAIRE NV is liable only if it did not take all reasonable care due to serious or deliberate error.

Article 3

3.1 The delivery dates specified on offers, (final) order confirmations/acceptances and other documents of GOMMAIRE NV are only indicative and not strictly applicable.

The customer may in no circumstances invoke non-compliance with stated deadlines to claim damages or dissolution of the agreement, unless the lateness is exclusively the result of gross negligence or wilful misconduct on the part of GOMMAIRE NV.

3.2 The goods are delivered ex warehouse, with the risk transferring to the customer as soon as they leave the warehouse, even if GOMMAIRE NV handles transportation and/or insurance (on behalf of the customer).

3.3 The customer commits himself with respect to the goods purchased from GOMMAIRE NV :

(i) that he will not advertise and/or commercialize the same via online platforms as Amazon.com, Bol.com (not limitative examples).

(ii) that he will only advertise the same on his own website with the agreement of GOMMAIRE NV and in compliance with the directives of the latter, which may from time to time be adapted with prior notice.

(iii) that he will never commercialize the same via his own website.

Article 4

The customer acknowledges that GOMMAIRE NV is the exclusive owner of all copyrights, creations and/or any other intellectual property rights related to the delivered goods, materials and services.

Article 5

5.1 All invoices issued by GOMMAIRE NV are payable in cash unless different payment terms are accepted by GOMMAIRE NV. In any case, all invoices issued by GOMMAIRE NV must be paid in full before delivery/pick-up.

5.2 Payments shall be made to GOMMAIRE NV at Antwerp (B). Any amount that is not paid to GOMMAIRE NV in a timely manner will by operation of law and without prior notice be increased by fixed irreducible damage compensation equal to 10% of the outstanding amount, as well as by default interest equal to the interest rate foreseen in the Act of 2 August 2002 on combating late payments in commercial transactions calculated on the amount owed.

5.3 The late payment of one amount to GOMMAIRE NV shall by operation of law and without notice result in all outstanding, not yet payable amounts owed by the customer in question becoming immediately due and payable in full, and GOMMAIRE NV, without being obliged to pay any damage compensation, shall have the right to suspend further delivery and/or production for the customer in question until the latter has settled all outstanding amounts, and pending orders have been paid in advance.

5.4 In addition, in the case of late payment, GOMMAIRE NV has by operation of law the right to dissolve the agreement without prior notice at the expense of the customer. This dissolution takes place by notification by registered letter. The dissolution takes effect on the date indicated on the proof of posting of the registered letter.

5.5 In the case of dissolution of an agreement by GOMMAIRE NV at the expense of the customer, or in the case of unilateral breach of an agreement by the customer before the delivery of the goods, materials and/or services in question, the customer shall automatically and without prior notice owe GOMMAIRE NV a fixed damage compensation of 50% of the agreed price, without prejudice to the right of GOMMAIRE NV to demonstrate and claim greater compensation. After delivery, this damage compensation amounts to 100% of the agreed price, without prejudice to the right of GOMMAIRE NV to demonstrate and claim greater compensation.

The parties agree that the above damage compensation constitutes the actual minimum damage suffered by GOMMAIRE NV.

Article 6

Any dispute concerning an invoice sent, must be notified to GOMMAIRE NV by registered mail within eight days after the invoice date, under penalty of forfeiture.

Article 7

7.1 Verification of (i) the conformity of the delivered goods, materials and/or services with respect to quantity, quality, characteristics, etc. , as well as (ii) inspection for apparent/visible defects in the delivered goods, materials and/or services shall take place at the time of the pick-up/delivery/performance. The corresponding complaints must, under penalty of forfeiture, be expressly stated on the pick-up slip/packing slip/service order and subsequently confirmed by registered letter to GOMMAIRE NV within 24 hours after pick-up/delivery/performance.

The partial use or resale of the delivered goods or services also implies acceptance of the entirety. Defects in a part thereof do not entitle the customer to reject the entire order.

7.2 Each complaint relating to a non-apparent defect must, under penalty of forfeiture, be sent to GOMMAIRE NV by registered mail within eight days after discovery, and no later than one year from the pick-up/delivery/performance.

7.3 Within the usual tolerance limits for the sector, deviations in colour, materials, grain, dimensions, look, and the like [including those that are due to natural (raw) materials and/or modified production techniques on the part of the manufacturer] are allowed and shall not constitute grounds for (partial) refusal of the delivery, nor constitute grounds to claim damages and/or (partial) non-payment of the price.

7.4 If a complaint is substantiated, GOMMAIRE NV – at its option – shall resolve the complaint by repair and/or replacement of the non-conforming part of the delivery, unless the end customer opts for a corresponding price reduction after return of the non-compliant part.

Filing a complaint for any reason, even using the prescribed forms and within the prescribed deadlines, does not relieve the customer of its obligation to promptly pay by the due date.

Except for its warranty obligations indicated above, GOMMAIRE NV is not liable for direct and/or indirect damage (including loss of profit) resulting from defects in the goods sold and/or the services provided, except in cases of serious or deliberate error on its part.

Article 8

The delivered goods, materials and services remain by operation of law fully owned by GOMMAIRE NV until receipt by the latter of the full price of the goods, materials and services, eventually increased with any applicable interest, damage compensation and costs.

As long as GOMMAIRE NV retains ownership, the delivered goods, materials and services may never be used by the customer as a pledge or deposit for a claim of a third party.

Article 9

If the customer suffers loss or damage as a result of an error by GOMMAIRE NV for which its liability is not excluded, the latter shall be obliged to pay compensation in the amount of the invoice in question.

Article 10

The possible invalidity of one or more provisions of these terms and conditions shall not affect the validity of the agreement, these general terms and conditions as such, or the other clauses contained therein. The parties undertake to immediately replace in good faith any invalid clause by another clause that is as close as possible to the intention of the clause being replaced.

Article 11

In case of dispute, only the justice of the peace and courts of the registered office of GOMMAIRE NV have jurisdiction. Only Belgian law is applicable to the agreements and disputes between the parties, with exception/exclusion of Belgian international private law . The application of the Vienna Convention on contracts for the international sale of goods is also explicitly excluded.