

General Terms and Conditions and Payment Conditions of the Private limited company Capi Europe BV - Asteriastraat 17-19, 5047 RM Tilburg.

1. GENERAL
- 1.1. These conditions are applicable to all offers, quotations, accepted orders, orders, arrangements and/or other agreements, and also on all negotiations undertaken by Capi Europe BV, hereinafter referred to as "Capi Europe", whether or not with the intervention of an authorised person, with a third party, hereinafter referred to as "customer", with the exclusion of other terms and conditions, unless Capi Europe has given emphatic written notification that such other conditions shall be applicable. The applicability of any other such conditions shall exclusively cover that specific agreement. Derogations from those conditions can only be agreed in writing. A customer who has purchased from Capi Europe once under the applicability of these conditions is deemed, for any further orders placed by that customer or during any negotiations undertaken, tacitly to agree to the applicability of these conditions, regardless of whether these have been confirmed in writing or not. Also anyone who acts as authorised party for Capi Europe is also bound entirely by these conditions.
2. OFFERS AND AGREEMENTS
- 2.1. All quotations by Capi Europe, including particulars and price schedules contained therein, regardless of the form in which they are made, are completely subject to contract and are not binding on Capi Europe unless emphatically agreed otherwise in writing. Without the order confirmation from Capi Europe or without the agreement being signed in writing by Capi Europe, the order or the assignment, as the case may be, of the customer can never be deemed to have been accepted by Capi Europe. Orders placed by the customer by telephone or email are only effectuated after written confirmation by Capi Europe.
- 2.2. The agreement between Capi Europe and the customer only comes into effect after Capi Europe has accepted the order and the customer agrees to it. The order confirmation by Capi Europe is deemed to have been complete and accurate, unless the Customer emphatically notifies Capi Europe to the contrary in writing within three days of the reception of the order confirmation. In any case, the agreement is also deemed to have come into effect if Capi Europe undertakes the execution of the order in connection with the emergency nature of the order. In that case, the invoice that Capi Europe submits to the customer for this shall qualify as order confirmation. The customer does then not have any possibility for objecting to the order confirmation.
- 2.3. Commitments, offers and agreements made by the customer with third parties engaged by Capi Europe, including emphatically staff of Capi Europe, only commit Capi Europe if they are confirmed in writing by Capi Europe itself.
- 2.4. Changes of and additions to concluded agreements only come into force if they are emphatically agreed by Capi Europe and the customer in writing. After the acceptance of the order, changes, in writing or clear wording and/or descriptions given by the customer, shall only be implemented by Capi Europe if they are confirmed in writing by Capi Europe. If Capi Europe, for reasons of its own, does not wish to implement the changes, the customer shall never be entitled to terminate the agreement, either fully or partially, and the customer remains fully liable for payment of any costs already incurred by Capi Europe and also the amount as part of Capi Europe's loss of profits. Changes in an order that has already been accepted by Capi Europe made by the customer can lead to change in the originally agreed delivery term. Capi Europe is entitled to charge the customer for any additional work arising from changed or supplemented activities, executed at the request of or for the customer (as the case may be) of the customer where this is, in the opinion of Capi Europe, strictly necessary.
- 2.5. Capi Europe is in no way liable and in no way bound if that supplied differs in any way from images, drawings, sketches, prototypes, models, whether or not appearing in brochures or printed material or on the website of Capi Europe, and equally not for the colours, dimensions, weights and other specifications and particulars stated thereby. Copyright on the printed material and on the brochures and the website of Capi Europe, together with all prototypes, illustrations, drawings, sketches, models etc. rests with Capi Europe. It is not permitted to reproduce or publish them without the explicit written permission of Capi Europe. At the request of Capi Europe, all brochures, images, drawings, sketches, prototypes, models etc. shall be returned by registered mail to Capi Europe and all copies that were made for personal use shall be destroyed.
- 2.6. Capi Europe reserves the right to apply changes to the articles that are depicted in its catalogue, brochures and other printed material and also on its website, and to remove articles depicted therein or thereon from the range.
- 2.7. The customer grants Capi Europe non-exclusive permission if this should prove to be necessary to use the agreed parts and, in this case, to invoice the customer for each individual part. Each sub-delivery counts as an individual delivery in respect of these conditions.
- 2.8. Capi Europe is entitled to have the establishment and also the execution of the agreement partly or wholly undertaken by agents, who are entitled to enter into agreements with customers on behalf of Capi Europe. The agent is responsible to notify the customer, no later than the moment of establishment of an agreement with the customer, with these general Terms and Conditions; failing to do so shall render the agent liable for damages towards Capi Europe.
- 2.9. Agreements that are achieved through the mediation of representatives or agents of Capi Europe, are only binding for Capi Europe after these agreements are confirmed in writing by Capi Europe or Capi Europe has effected delivery.
- 2.10. The customer shall ensure that all details that Capi Europe, in its opinion, requires for an adequate performance of the given order and/or details with regard to specific wishes, are made available to Capi Europe on time. If Capi Europe decides, for reasons it considers founded, that the specific demands of the customer shall not be executed, Capi Europe shall inform the customer of this effect. The customer cannot hold Capi Europe liable for this and Capi Europe is not bound in any way.
- 2.11. The customer shall ensure that the necessary permits stipulated by the authorities are available on time, unless a decision to the contrary has been made in writing. Capi Europe is entitled to postpone the performance of the order until the moment that the customer has fulfilled the obligations stated in the previous paragraph.
3. DELIVERY
- 3.1. The delivery times stated by Capi Europe only commence after Capi Europe has confirmed the order. If the order confirmation does not explicitly state a delivery date, Capi Europe shall deliver within a non-committal period of four weeks. All delivery periods stated are completely non-committal, although Capi Europe shall do everything possible to achieve the delivery within the agreed period. If a delivery cannot, for unforeseen reasons, take place in the indicated period, Capi Europe can never be held liable for this. If the agreed period of delivery is exceeded, the customer is never entitled to (partial) non-compliance with any obligation it has towards Capi Europe, emphatically including payment obligations, nor can he claim any compensation, unless there is wilful misconduct or gross negligence by Capi Europe, emphatically not including errors by its non-executive staff members.
- 3.2. Postponement of a delivery period at the request of the customer can only take place with the express written permission of Capi Europe, on condition that any costs and losses under the postponement are entirely for the account of the customer whereby the cost quotation issued by Capi Europe to the customer is binding for the customer.
- 3.3. The delivery takes place carriage forward and from factory in Tilburg, the Netherlands, unless expressly agreed otherwise in writing. All transport costs and the costs of the transport insurance are for the account of the customer. From the moment the delivery of Capi Europe leaves the factory, the matters being delivered are for the risk of the customer. In addition to the price for the goods, the customer is also liable for the additional costs, including but not restricted to insurances, taxes, duty, shipping costs, handling costs. From the moment the delivery leaves the factory, the items being delivered are for the risk of the customer.
- 3.4. In the event that the customer fails to cooperate in the acceptance of the goods when these are presented for the first time by Capi Europe, Capi Europe is entitled to store the items at the expense and risk of the customer, as Capi Europe sees fit, and the customer shall, during 13 weeks from the date on which the customer is informed of the storage, be given the opportunity to accept the stored goods and to collect them on appointment, on condition that the customer then pays all storage and handling costs in cash, together with the interest owed, with a fine, passed by the operation of law, of 1% of the agreed fee, such notwithstanding the right of Capi Europe to compensation and/or nullification of the agreement. Capi Europe is entitled to suspend the delivery of the items until the customer has met his obligation
- to pay for the damage suffered by Capi Europe and payment of the storage costs and also of the interest and the fines.
- 3.5. Should the agreement state delivery carriage paid to the domicile of the customer, any necessary vertical transport, connections and all constructional activities are expressly excluded, which exceptions are in their entirety for the cost and risk of the customer.
- 3.6. Should Capi Europe and the customer have agreed a delivery on a call-off basis, then the conditions of payment apply that the items purchased on this basis are always spread equally over the period provided in the agreement, both for the quantity of the items to be delivered and also the periods. Here again, the call-off periods are non-committal and that, should a certain call-off period not be respected, Capi Europe can never be held liable for this and that not adhering to the agreed call-off period never gives the customer the right to (partial) non-compliance with any obligation it has towards Capi Europe, emphatically including payment obligations, nor can he claim any compensation, unless there is wilful misconduct or gross negligence by Capi Europe, emphatically not including errors by its non-executive staff members.
4. WARRANTY
- 4.1. Every single Capi product comes with a warranty. Our Made in Holland collection comes with a lifetime warranty on manufacturing defects when the products are being used properly (<https://www.capi-europe.com/en/guarantee/>). The rest of our collection comes with a 5 or 10 year warranty on manufacturing defects. These warranty rules only apply when the products are being used properly (<https://www.capi-europe.com/en/guarantee/>).
- 4.2. If defects occur in the items supplied within the period stated in the first paragraph of this article, exclusively as a result of the soundness of the material supplied by Capi Europe, the customer shall either replace the articles or components (as the case may be) at its own expense or undertake repair activities. All other costs, including emphatically yet not exclusively costs in connection with the removal of the non-functioning components and placing/mounting of the supplied materials and components and labour costs and man-hours are emphatically for the account of the customer. If Capi Europe has replaced an item supplied during the warranty period, the initial date of the warranty remains valid and does not lead to an extension of the warranty.
- 4.3. The warranty expressed in the previous paragraphs is only applicable if the items falling under the warranty have been used normally, if good maintenance has been carried out, no user errors are ascertained by Capi Europe and the manual and installation instructions from Capi Europe have been followed. If use is made of the warranty, the customer cannot make any claim to the warranty described in the previous paragraphs. Nor can any claim be made under the warranty for repairs or replacement of items or parts that are worn or broken, if this is the result of normal use.
- 4.4. The warranty stated in the previous paragraphs only applies if and to the extent that Capi Europe has received a similar warranty from its supplier or from the manufacturer of the item. Capi Europe shall inform the customer if there is such a warranty, and if it is lacking, the customer cannot make any claim to the warranty stated in the previous paragraphs.
- 4.5. If the item under warranty is repaired or if any part of the item has been replaced or repaired (as the case may be) by anyone other than Capi Europe or by a repairer designated by Capi Europe, the customer cannot make any claim to the warranty described in the previous paragraphs. Nor can any claim be made under the warranty for repairs or replacement of items or parts that are worn or broken, if this is the result of normal use.
- 4.6. Should a defect reveal itself within the term stated in the first paragraph of this article and should the item not longer appear in the range of Capi Europe, Capi Europe is entitled to replace the item for the item that adopted the place in the range of the item that was supplied, without the customer being able to claim a refund or compensation.
- 4.7. Capi Europe is entitled to change unilaterally the conditions for the warranty stated here, but the customer must be notified of the changes in writing.
- 4.8. The warranty period stated in the first paragraph begins at the moment of delivery of the items. If the customer does not pay the amount of the amounts invoiced by Capi Europe within the term of payment, the warranty obligations lapse immediately after the payment term has elapsed and the customer can no longer appeal to them.
5. SERVICE
- 5.1. Complaints regarding the quality, quantities, composition, dimensions, weights, type or totals of the items delivered or concerning defects – also to the packaging – shall only be handled by Capi Europe if and to the extent that these complaints are received within eight days of receipt by the customer of the items delivered by Capi Europe by registered letter, whereby notification must be given of the moment of delivery, the type of product and a further description of the complaint, whereby Capi Europe must be given the opportunity to notify the customer of the complaint. Complaints for which quality, quantity, width, size, finish, colours and the like that cannot be avoided technically, or deviations that are, according to the customs of the branch, generally accepted cannot give rise to any grounds for a complaint. Warranties concerning the quality, composition, application possibilities, characteristics, treatment and other technical properties of the items and regarding exclusivity are only in force if these are confirmed in writing by Capi Europe to the customer. Complaints in the form of a complaint or a label. Complaints shall not be accepted that are changed by or associated with actions or omissions of the customer and by any third parties that customer may have involved, or alternatively if these items are completely or partially damaged, or alternatively show a fault as a consequence of use that is other than normal, or alternatively as a result of intent, recklessness or not heeding instructions and/or the manual and/or (safety) instructions from Capi Europe or alternatively as a consequence of abnormal working conditions or incorrect use. If the complaint relates to a defect that arises from drawing, sketch, design or specification that is submitted by the customer, Capi Europe is not bound to handle the complaints. If the complaints proved grounded, Capi Europe has the choice of replacing the items concerned at its own expense or alternatively to carry out repair activities or alternatively to repay the amount paid in this matter to the customer without Capi Europe being bound to do more. The customer should accept a tolerance accepted throughout the branch of law with regard to totals, dimensions and weights.
- 5.2. Capi Europe is not bound to deal with a claim if the customer leaves any invoice for items delivered unpaid. A claim does not discharge the customer from complying with the agreed payment obligations.
- 5.3. The customer undertakes, if Capi Europe believes this desirable, to give Capi Europe the opportunity to verify the verification made in the grounds of the complaint by an expert designated by Capi Europe; if such a verification is not made, any right to claim lapses. The conclusion of the designated expert shall be binding for both parties. The costs of the appraisal will be charged entirely to the customer, should the complaint lodged by the customer prove to be entirely or alternatively partially unfounded.
- 5.4. Capi Europe cannot be held liable for errors made by the customer in his orders and for the inability of the customer to sell the products delivered by Capi Europe to the customer to that customer's end-users/clients.
- 5.5. Complaints with regards to invoices sent can only be accepted if these are submitted in writing within 14 days of the date of the invoice of Capi Europe. If this term is not respected, the customer is bound to pay the invoiced amount. If the complaint proves founded, Capi Europe may adapt the invoiced amount. Here again, Capi Europe is not bound to deal with a complaint if the customer leaves any invoice for items delivered unpaid and the complaint does not discharge the customer from complying with the agreed payment obligations.
- 5.6. It is not permitted for the customer to return delivered items to Capi Europe without the prior emphatic written permission from Capi Europe and shall not be dealt with by Capi Europe. Items returned wrongly to Capi Europe by the customer shall be sent back to the customer at his expense, the costs of which, according to a specification drawn up by Capi Europe, shall be binding, unless there is evidence to the contrary.
- 5.7. The customer is bound towards Capi Europe to count, measure, weigh and to check the delivered goods for defects immediately on delivery - also the packaging - before the customer stores, uses or sells them.
- 5.8. Items that have been delivered may only be returned by the customer to Capi Europe if Capi Europe agrees and has approved the method of shipping in writing. The items remain at all times at the risk and expense of the customer.
6. LIABILITY
- 6.1. Capi Europe is, in the event of an attributable non-compliance or a wrongful act, only bound to pay compensation to a maximum amount of the agreed invoice amount charged to the customer, excluding VAT and excluding other costs relating to the item causing the damage. Capi Europe is not liable for compensating any damage if the customer, at the moment at which the event intended here occurs, is in default in meeting any obligation it may have towards Capi Europe. The previous sentence does not apply if there is intent or conscious recklessness on the part of Capi Europe itself when effectuating the agreement, which does not include its non-executive employees. Capi Europe is not liable for indirect damage, expressly including trading loss, lost income, demurrage, consequential damages (also with third parties) and other forms of capital damage, including all possible claims from third parties, in the widest sense of the words, including but not restricted to end-customers and consumers, and also the employees of the customer, and equally not for injury, damage to movable or alternatively immovable property, losing delivered added value as a consequence of recklessness by Capi Europe itself, not including its non-executive employees. The liability for damage in the widest sense of the word, whether or not it has been caused by wilful misconduct or gross negligence by the non-executive employees and by third parties involved by Capi Europe in the performance of assignments granted to it is completely excluded. The Customer is also bound to indemnify Capi Europe emphatically, also in respect of claims from third parties, emphatically including but not exclusively, the employees of the customer, emphatically including but not exclusively end-customers and consumers, regarding alleged damage, also pursuant to product liability, for whatever reason, in the widest sense of the word, that arise through or in connection with the items delivered, unless the damage is attributable to wilful misconduct or gross negligence by Capi Europe itself in the execution of the agreement, not including its non-executive employees.
- 6.2. The indemnity stated in article 6.1 also implies that the customer shall pay Capi Europe all costs of legal and other assistance which Capi Europe must make to defend itself from a claim from such a third party.
- 6.3. To the extent that the customer is a professional other party of Capi Europe, who sells and delivers the items of Capi Europe to third parties, the customer is bound to provide the (safety) instructions, manuals and instructions of Capi Europe to its own customers and to state to them that they are bound to follow the (safety) instructions, manuals and instructions carefully.
- 6.4. Capi Europe is not liable for the customer not adhering to (safety) instructions, manuals and instructions and for the use of auxiliary material.
- 6.5. Capi Europe is not liable for damage, in the widest sense of the word, arising from an over-run of the delivery term by Capi Europe.
- 6.6. Capi Europe is not liable for damage caused by inaccuracies in advice and data issued with respect to the products to be delivered by Capi Europe, except in the event of gross negligence and wilful intent on the part of the executives of Capi Europe.
- 6.7. Capi Europe is never liable for any damage, in the widest sense of the word, relating to the installation of its items, for which only the party that executed the installation can be deemed liable.
- 6.8. To the extent that the customer is a professional customer, who sells on and delivers the items to third parties, this customer is responsible for compliance with the local authority provisions and for obtaining the necessary permits.
- 6.9. The customer indemnifies Capi Europe for any claim by third parties with regards to the use of drawing, sketches, calculations, data, documentation, samples, models and the like supplied by or on behalf of the customer. Capi Europe is not responsible for the data, documentation, drawings, sketches etc. provided by the customer to Capi Europe and Capi Europe may assume the accuracy of these when executing the order given to it.
7. PRICES
- 7.1. All prices are, unless otherwise specifically mentioned, expressed in Euros and excluding VAT. The prices are exclusive transport costs, shipping costs, handling costs, unless emphatically agreed otherwise in writing. The prices are inclusive of standard packaging costs, whereby Capi Europe is free in the event of non-standard packaging. If, after sending the order confirmation or alternatively after the establishment of the agreement but before the delivery, one or more cost price factors for determining the price, such as purchasing prices for items, material and component prices, wage costs, taxes, currency costs, social or governmental contributions, packaging costs, insurances premiums and such like should rise, Capi Europe is entitled to adjust the sales prices accordingly. Capi Europe shall notify the customer as quickly as possible about the price adjustment. If the price increase is more than 20% of the original price, the customer is entitled to cancel the contract with Capi Europe within 7 days of receiving the notification by means of a notification in writing, unless this, considering the circumstances of the incident, would be clearly unreasonable. A dissolution pursuant to this article does not entitle the customer to any right to any damage whatsoever. In the event of a termination as intended in the foregoing sentence, Capi Europe is entitled to compensation if the agreement has been already executed in part.
- 7.2. For the performance of orders up to an amount of € 500.00 (excluding VAT), Capi Europe shall charge the customer handling costs to the amount of € 25.00 per order. For the performance of orders above the amount of € 500.00 (excluding VAT), no handling costs shall be charged.
8. FORCE MAJEURE
- 8.1. Force majeure, regardless of how this arises, including, emphatically, sickness among the staff of Capi Europe and among any third parties it involves, acts of war, "technical" company breakdowns, currency devaluation, fire, molestation, floods, strikes, lack of raw materials, governmental measures, blockades, import and export prohibitions, transport difficulties, material errors, not delivering the items or raw materials required for delivery to the customer, are entitled to dissolve the agreement, with the exception of which case Capi Europe does not owe any compensation. If, at the moment of the dissolution pursuant to this article, Capi Europe has already executed part of the agreement, the customer is bound to pay for that which has already been delivered, with due regard to the agreed purchase price, plus any costs Capi Europe may already have made.
9. DISSOLUTION
- 9.1. In the event that the customer fails to perform its obligations under this agreement, or does not perform them properly or in time, whether pursuant to the concluded agreement or otherwise and also in the event that the Customer requests suspension of payments or, at the request of third parties, is declared in a state of bankruptcy or alternatively is admitted to a debt repayment arrangement for natural persons or alternatively if in any way an attachment is served on his movable and/or immovable property or other goods, and also if the customer closes down or threatens to close down his business, or alternatively approaches his creditors in the context of a debt repayment arrangement/repayment arrangement, or alternatively if Capi Europe, in all reasonableness, may assume that any of the aforementioned situations could arise in the short term and informs the customer about this in writing, Capi Europe is entitled to suspend any further delivery of goods and also to suspend any possible payments and also to suspend partially or entirely any agreement concluded with the customer and to terminate any commenced negotiations by simply notifying the customer of this in writing, notwithstanding the rights due to Capi Europe to full compensation and/or repossession of items without Capi Europe being bound to any compensation or further warranty. The claim of Capi Europe is immediately due and payable.
10. INDUSTRIAL AND INTELLECTUAL PROPERTY
- 10.1. All rights to industrial or intellectual property with regard to items derived from or developed or used by Capi Europe, computer programmes, designs, illustrations, photographs, working methods, patterns, opinions, models, drawings, patterns, prototypes, printed material, websites, catalogues, reports, schedules, samples, quotations and the like are and remain entirely and exclusively the property of Capi Europe, all rights of ownership of the share in the implementation thereof by the customer or by third parties involved by the customer, including Capi Europe's own staff. The operation of these rights - publication, transfer, reproduction, distribution of data, including giving in use, all in the widest sense of the word - is both during and after the performance of the order emphatically and exclusively reserved to Capi Europe. The items stated, with the exception of the items delivered
- must be immediately returned to Capi Europe on request.
- 10.2. The customer is not permitted, without the emphatic written permission of Capi Europe, to change the outer packaging of items delivered by Capi Europe or alternatively to remove the labelling or alternatively the labels and the distinguishing marks, as applied by Capi Europe, or alternatively the safety requirements, manual, instructions for use of the product is sold on.
11. PAYMENT
- 11.1. All invoices of Capi Europe show the same date as the one on which the items concerned are delivered to the customer. All payments must be made by remittance in cash to Capi Europe. Only if emphatically agreed otherwise in writing between Capi Europe and the customer may the payment take place within 14 days of the date of invoice into the bank account of Capi Europe, in which case the customer shall, at all times, have issued a standing order to its bank for the benefit of Capi Europe. Any costs attached to the payment transactions made by the customer are entirely for the account of the customer. Capi Europe is entitled at all times, if a payment term as stated here has been agreed, to amend this payment agreement unilaterally and, with immediate effect, without having to give any reason, to stipulate that, in future, payments must once again be made exclusively in cash to Capi Europe.
- 11.2. The customer undertakes to make payment of all it owes Capi Europe without any discount or compensation, whatever the name given to it, unless expressly agreed otherwise in writing. If discount has been granted to the customer by Capi Europe for goods to be delivered on a call-off basis, these discounts shall, if the customer, after a first or later call-off order, fails to take delivery of the (other) items, lapse in their entirety, so also for the items already delivered. Article 3.4 remains fully applicable.
- 11.3. In the event that the customer fails to pay the amount owed by him to Capi Europe within the stipulated term, the customer is automatically in default, without requiring a notification, warning or notice of default from the side of Capi Europe. If the customer fails to pay within the stipulated term, the customer then owes Capi Europe a contractual interest of 15% per month over the outstanding invoiced amount, whereby part of a month shall be considered a full month. It is exclusively at the discretion of Capi Europe whether the amount owed as a percentage of the invoiced amount is actually claimed.
- 11.4. Capi Europe is entitled to pass its claim for the unpaid invoice immediately to a third party for collection. All legal costs, together with all extrajudicial costs, which Capi Europe must make to collect the claim are emphatically entirely for the account of the customer, which extrajudicial costs are fixed at at least 15% of the amount owed, such with a minimum of € 500.00.
- 11.5. Capi Europe is entitled to refuse orders from and to suspend deliveries to the customer (and also the preparation or processing of the items intended for this) pursuant to concluded agreements until the customer has ensured that all it owes to Capi Europe has been paid.
- 11.6. Non-payment of the invoiced amount on the date due shall have the immediate consequence that all claims of Capi Europe on the customer become immediately due and payable, also those claims that, at the moment, would not be due and payable in the absence of a notification, warning or notice of default there-over from Capi Europe.
- 11.7. Before delivery items, Capi Europe is entitled at all times, at its own choice, to demand either that the customer pays for the agreed items in advance or that the customer provides a guarantee accepted in the banking world, such as an irrevocable bank guarantee for compliance with all claims that Capi Europe has or may have on the customer, whereby pursuant to the agreement or for any other reason, if the customer does not comply with the request for provision of security or with any other obligation resting on the customer pursuant to the law, agreement or these general Terms and Conditions, then the customer is, without any form of notification, warning or notice of default, automatically in default.
- 11.8. Discounts or commissions are not given by Capi Europe unless agreed otherwise in writing with the customer.
12. RETENTION OF TITLE
- 12.1. The ownership of the items delivered by Capi Europe only pass to the customer after he has met all his obligations towards Capi Europe, covering the payment of the agreed quid pro quo/the purchasing price for the goods supplied or to be supplied, and also covering the payment of claims due to failure to comply with the agreements. If the customer has items on which Capi Europe can exercise retention of title, the customer is bound, when requested by Capi Europe, without legal intervention being required, to give the items to Capi Europe, so that Capi Europe can also bound to keep them concerned separately and to mark them as coming from Capi Europe. The items falling under the retention of title of Capi Europe may never be pledged or in any other way given to third parties as surety, hire purchase or instalment payment included here, nor may they be sold in any way or alternatively disposed of or moved to any place other than the one agreed. The costs of exercising the retention of title is for the risk and expense of the customer. The customer is bound to ensure that the items, that are still under Capi Europe's retention of title, are insured against risks for which insurance is usual (fire, theft, water and storm damage emphatically included here) or which Capi Europe considers desirable.
13. SAMPLES
- 13.1. Samples requested by the customer from Capi Europe or alternatively prototypes, shall be charged to the customer by Capi Europe at the moment of delivery. These samples shall be credited to the customer by Capi Europe in full, as long as these samples are returned, undamaged, to Capi Europe within 30 days after delivery to the customer. If the customer does not satisfy the conditions, the customer immediately owes the amount invoiced, together with the transport costs and turnover tax.
14. RESPONSIBILITY PROFESSIONAL CUSTOMER
- 14.1. A professional customer of items supplied by Capi Europe, who sells on and delivers such items to third parties, is at all times bound to follow and perform the (safety) conditions, manual, user instructions, (storage) instructions and other instructions, in the widest sense of the word, from Capi Europe.
- 14.2. The customer, if this is a professional customer that sells on and delivers items supplied by Capi Europe to third parties, shall ensure that the information for the labels of the products are written in the language of the country in which the customer sells the items. It is the responsibility of the customer that the labels, that will be delivered by Capi Europe after the information in the required language is supplied by the customer, are in compliance with the legislation and the rules in the country in which the customer trades the items. Capi Europe is entitled to postpone the execution of the delivery until the moment that the customer has provided the necessary information stated in the previous paragraph.
15. DISPUTES AND APPLICABLE LAW
- 15.1. The agreements governed by these terms and conditions and the agreements which may arise from them or are associated with them, is governed exclusively by Dutch Law concerning the Empire in Europe, which also applies fully to all negotiations, offers, quotations, accepts orders, assignments, regulations and the like.
- 15.2. All disputes, emphatically including those disputes that are only considered such by one of the parties, which relate to, are connected with or may arise from the performance or alternatively the interpretation of the agreements, offers, quotations, accepted orders, assignments, regulations and negotiations and the like, shall be submitted exclusively to the Court of Breda, unless the basis for the dispute belongs to the absolute competence of the Court, Canton Sector, and/or if the dispute, based on prescriptive rules, is reserved to the Court, Canton Section, in which events the case shall be submitted to the competent Court, Canton Sector.
- 15.3. This general Terms and Conditions have been drawn up by Capi Europe in several languages. In the event of a dispute in interpretation given in the various language versions, the explanation of the Dutch version shall be the only correct one, which Dutch version in any case is also given to the customer.
- 15.4. If one of these provisions in these general Terms and Conditions conflicts with an agreement concluded between Capi Europe and the customer and if a reconciling interpretation does not prove possible, then that which is agreed in writing in the agreement applies, notwithstanding that stated in these general Terms and Conditions, for that, yet only for that one situation.
- These general conditions are filed by Capi Europe with the Chamber of Commerce in Tilburg.