



TERMS OF DELIVERY OF E & P SUPERYACHTWEAR BV

FILED WITH THE CHAMBER OF COMMERCE IN UTRECHT, NETHERLANDS

DEFINITIONS

1. 'General Conditions' are understood to mean the stipulations at issue.
2. 'The user' is understood to mean the person who uses these conditions.
3. 'The other party' is understood to mean the party which contracts c.q. aims at contracting with the user.
4. 'Offer' is understood to mean all oral or written offers of the user to enter into a contract with him.
5. 'Goods' are understood to mean all material objects the contract between the user and the other party refers to, and as the occasion arises, also works or services to be carried out or rendered by the user.
6. 'Delivery' is understood to mean the actually putting at the disposal by or on behalf of the user of things to the party or to a third party appointed by him.

CONTRACT NEGOTIATIONS

1. The user can break off negotiations about an agreement to be established at any moment he wishes.
2. In case of broken negotiations, the other party can never demand that the negotiations be continued, or that the user reimburse any costs made and/or any damage incurred or to be incurred of the nature of this damage.

OFFERS/ESTABLISHMENT OF AGREEMENTS

1. All offers of the user are free of obligations and can be revoked by him at any moment, also if they contain a term of acceptance.
2. Offers can only be accepted in writing; the user has nevertheless the right to accept an oral acceptance as if it were made in writing.
3. If the other party accepts an offer, the user has nevertheless the right to revoke the offer within 8 days after the receipt of the acceptance (orally or) in writing, in which case no agreement has been established between the parties.
4. Oral offers are automatically cancelled, except if the user stipulates otherwise, if they are not accepted in writing by the other party within 8 days.

AUTHORIZATION

1. Oral offers, arrangements and stipulations are binding upon the user only after and as far as they have been confirmed in writing by the management or by agents authorised for this matter.

COMMUNICATIONS

1. Unless stipulated otherwise, any communication by the other party regarding the (execution of) the arrangement must be done in writing.
2. Demands for observance and proof of default by the other party must be made by registered mail and must clearly indicate what is demanded and within which term.
3. The stipulations of the second paragraph also applies to the establishment of any term and to the making of an appeal to the cancellation of the agreement. An appeal to cancellation must clearly indicate the grounds for that.

PRICES

1. All prices used by the user are based on the price-determining factors known at the moment the offer is made.
2. The user has the right to readjust the prices or parts of the prices for not yet delivered and/or paid goods or services to possible changes in price-determining factors, such as the prices of raw materials, wages, exchange rates, if after the conclusion of the agreement three months have elapsed.
3. The user is always authorised to readjust the prices without delay if a legal price-determining factor gives occasion for it.
4. Based on the above-mentioned facts, the prices may be raised to a maximum of two times the originally agreed price.

MOMENT OF DELIVERY

Delivery periods given and/or agreed upon are never (must never be considered) fatal terms, unless it has been expressly agreed otherwise. In case of a delivery in arrear the user must be informed about this in writing, respecting a reasonable term.

DELIVERY COSTS/ASSURANCE

E & P works according to the ICC Incoterms ®2010. Depending on the situation of delivery, the best fitted Incoterm will be chosen.

TRANSITION OF RISK

1. All risks regarding the things to be delivered by the user pass to the other party at the moment the (purchase) agreement is established, or at the moment of delivery if that takes place earlier.

PLACE OF DELIVERY

1. The place of delivery is in all cases, except in case of a different written arrangement, the actual registered office of the user (c.q. his registered office with which was contracted).

RESERVATION OF OWNERSHIP

1. The ownership of the goods delivered to the other party only passes to the other party if the latter has paid everything the user should have to claim by virtue of all purchase agreements established with the other party and by virtue of the services or works carried out as part of those agreements.
2. The user does not lose his (reserved) ownership if and/or because the other party processes or treats goods received from the user. The other party will in any case automatically keep the goods intended for the user.
3. If the user, notwithstanding the stipulations of the previous paragraph, loses the ownership, the other party will, at the first request of the user, render all collaboration necessary for the establishment of a right of distraint, whether propertyless or not, on the goods at issue for the purpose of the user.
4. The other party is, notwithstanding the stipulations of the first paragraph, authorised to sell goods he has received from the user as part of its normal business activities. A condition for this is, however, always that the other party has informed in writing its purchasing other party on time, previous to the establishment of any purchase agreement, of the full contents of this article.
5. The user always has the right to demand from the other party that the latter only sells and delivers after a propertyless right of distraint has been established on the person concerned, for the purpose of the user. As soon as the user informs the other party of this

demand, the authorisation as intended in this paragraph is automatically cancelled. It revives – with retroactive effect – if the other party has after all fulfilled its back obligations.

6. The other party is never authorised to encumber and/or give on loan and/or give away goods delivered under reservation of ownership.
7. If the other party fails to observe its obligations or if there is justified suspicion that it will not meet its obligations, the user shall be entitled to pick up delivered objects to which the reservation of ownership mentioned in paragraph 1 applies at the other party's or a third party's storing the objects on behalf of the other party or to have these objects collected by a third party. The customer shall, notwithstanding the obligations mentioned in the previous sentence, under pain of punishment of a promptly payable administrative fine of 10 % per day on any amounts owed by him to the supplier, be obliged to provide full support

TERMS FOR CLAIMS/OBLIGATION OF EXAMINATION

1. The other party is always obliged to examine within a reasonable term, yet at the latest within 5 days of delivery of the goods, whether they answer to the agreement.
2. The other party must, on pain of the automatic cancellation of its rights, immediately after having discovered a flaw in the goods delivered, and at the latest within 5 days after the delivery, apply towards the user in writing to a failure in the feat performed by the user.

OBSERVANCE/WARRANTY

1. The user must perform a feat which answers to the agreement and guarantees reasonable quality demands, taking into consideration the nature of the feat.
2. In case of an inadequate observance the other party can demand that the user repairs the flaws/the defect, unless the other party itself is partly to be blamed for the defect intended. The other party can demand the replacement of the feat performed, if the aberration of this feat from the feat agreed upon justifies such a replacement and if the other party, as a good debtor, has provided the feat performed. An inadequate observance on the part of the user does not include in any case: a slight aberration in size, number and a slight difference in colour.

LIABILITY

1. The liability of the user towards the other party regarding:
The non-performance and the delayed and inadequate performance is limited to the invoice value of the delivery concerned plus the amount the third-party liability insurance taken out by the user may pay out.
The total liability of the user towards the other party, including the possible liability from an unlawful act, is limited to the above-mentioned amount plus the amount the third-party liability insurance taken out by the user may pay out.
2. The user is not liable for evil intent and/or flagrant fault of non-executive subordinates.
3. All the subordinates of the user can, on equal terms with the user, apply to the above-mentioned stipulations towards the other party, and if necessary also towards third parties.

INDEMNIFICATION

1. The other party indemnifies the user, as far as the law permits it, concerning the liability towards one or more third parties, which has arisen from and/or is connected with the carrying out of the agreement, regardless of whether the damage was caused or inflicted by the user or his assistant, auxiliary goods or delivered goods.
2. Likewise the other party indemnifies the user, as far as the law permits it, concerning the liability towards third parties, regarding a flaw in the products delivered by the user.
3. If the damage is also the result of a circumstance which can be attributed to the other party, the other party is always obliged to reimburse at least a proportional part of this damage.

4. The other party adequately ensures a security regarding:
The execution risk as intended in the first paragraph and the products liability risk as intended in the second paragraph for at least the selling value of the goods delivered to the latter;
The other party is obliged, at the first request of the user, to demonstrate that it has fulfilled this obligation.
5. The other party is always obliged to do everything to limit the damage.
6. In his relationship to the other party, the user is never obliged to pay a sum as a reimbursement to one or more third parties exceeding the invoice value of the delivery (-ies) concerned.
7. All the subordinates of the user can apply to the above-mentioned stipulations towards the other party, and if necessary also towards third parties, on equal terms with the user.

FORCE MAJEURE (NON-IMPUTABLE)

1. Force majeure of the user is in any case understood to mean :
 - Circumstances regarding persons and/or material, of which the user, during the execution of the agreement, makes use or usually makes use, which are of such nature that they cause the execution of the agreement to become impossible or so troublesome and/or disproportionately expensive that a reasonable observance of the agreement can not or not immediately be demanded from the user;
 - Strikes;
 - Circumstances in which the user can not perform a feat which is important in connection with the feat to be performed by himself, or if he can not perform this feat on time or adequately;
 - War;
 - Etc.
2. In case of force majeure the user is not obliged to pay a compensation.

EXCEPTIONAL CIRCUMSTANCES

1. If exceptional circumstances occur that the other party may not reasonably expect the observance of the agreement by the user, the judge can, at the request of one of the parties, change the agreement or partly or entirely cancel it.
2. Exceptional circumstances are in any case not understood to mean: slight differences in colour, slight aberrations in size and number.

PAYMENT

1. All payments due by the other party must be received by the user in cash or by transfer to one of his (whether or not indicated) accounts within one month after the invoice date. If the other party fails to do so, it is automatically in default and it must pay an interest of 1% per month over the sum he is still due as from the last mentioned date.
2. Payments of the other party always serve first as a deduction of costs and interest accrued (in this order) and then as a deduction of sum totals, in which old claims come before new ones.

COSTS

1. The other party is obliged to pay all (extra) judicial costs the user has to make in connection with the fact that the other party fails to fulfil its obligations on time and adequately.
2. Extra judicial costs shall, as a minimum, correspond to the collection rate stipulated by Nederlandse Orde van Advocaten, the Dutch law society located in 's-Gravenhage with a minimum charge of €100.00.

3. If the judge or an arbitrator/binding advisor, regardless of the provisions in the first or second paragraph, pronounces a judgement to pay costs lower than the actual (extra) judicial costs, the user has the right to still claim the difference from the other party.

SUSPENSION

1. If the other party is in default with the correct and/or timely fulfilment of one or more of its obligations:
 - a. The obligations of the user to fulfil his own obligations are automatically and immediately suspended until the other party has completely paid the sum it was claimably due;
 - b. The user can demand a full payment or a sufficient security from the other party, for example in the form of a bank security issued by a Dutch banking firm with a good reputation, regarding the obligation by the other party.
2. The other party is not allowed to postpone her obligations towards the user.
3. The user has the right to demand, before observing his own obligations, the full payment and/or sufficient security for the observance by the other party, if it is acceptable that the other party will not (be able to) fulfil its obligations correctly and/or on time.

DEDUCTION

1. The other party is never authorised to deduct an obligation, whether or not claimable, from an obligation of the user unless the parties have expressly agreed a current account basis.

RIGHT OF COMPLAINT

1. The user can, if the other party is in default to pay the purchase price of a delivered good, also if the user is not the owner of that good anymore, in case of bankruptcy or suspension of payment of the other party, re-claim the delivered good within six weeks after the purchase price has become claimable, or sixty days to be counted from the day in which the good is stored under the other party or under someone appointed by him, by means of a written declaration addressed to the other party.
2. By this declaration the purchase agreement is cancelled and all rights of the other party and/or of its legal successor(s) with regard to the goods at issue, end.

CREDIT WORTHINESS

1. If a third party to be determined by the user to whom the users rights are pledged for collection or ceded is unwilling to provide interim financing for the contract between the user and the other party, for example on the grounds of insufficient credit worthiness or negative payment experience with the other party in the common method, the user shall any time be entitled to annul the contract with the user (translator's note: should probably 'other party') without incurring an obligation to pay damages. In this case, the other party undertakes to compensate the user for any damage caused by annulment.
2. If the user has good cause for suspecting that the other party will fail to meet its obligations, i. e. if bankruptcy proceedings have been commenced against it, if respite was granted to it, if it was legally incapacitated, if it was placed under receivership, if the other party is said to undergo reorganisation or if an application therefor is pending or if a resolution to dissolve or merge the other party with or into another company was taken or if part of its property has been or will be retained as security or pledged, any amounts payable by the other party to the user under the current contracts now or in future shall promptly fall due without prior announcement having to be made and notice of default having to be given. In this case, the user shall without prior announcement be entitled to suspend and/or annul current contracts without incurring an obligation to pay damages.

CONVERSION

1. If a stipulation from our general conditions is void, this stipulation is automatically (legally) replaced by a valid stipulation which answers as much as possible to the intent of the void stipulation. The parties are obliged to discuss reasonably about the text of this new stipulation. In that case the other stipulations in general conditions keep their validity as much as possible.

DISSOLUTION OF RIGHTS

1. The other party must make its right from the agreement valid within one year after they have been established, by instituting proceedings, in failure of which its rights automatically expire.
2. The user is authorised to prolong the term if he wishes to.
3. The above-mentioned stipulations do not alter other stipulations from these general conditions based on which one or more rights of the other party have expired earlier.

APPLICABLE LAW

1. All legal relations between the user and the other party are governed by Dutch law.

DISPUTES

1. All disputes, including summary proceedings, connected to and/or resulting from these general conditions and/or agreements to which these conditions are applicable, will exclusive of any other judge, be tried by the competent judge in Haarlem, The Netherlands. The user, however, maintains the right to commence an action with the judge who would be competent according to the law.

EXCLUSION

The General Conditions of E & P Superyachtwear BV are applicable to all legal relationships between E & P Superyachtwear BV and the other party. General Condition, if any, used or referred to by the other party are emphatically rejected and shall never be applicable to any legal relationship between E & P Superyachtwear BV and the other party as a result there of.