

GENERAL CONDITIONS OF SALE, DELIVERY AND PAYMENT

of

THEO HENKELMAN SCHOENEN B.V.

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Article 1 - Applicability

- 1.1 These conditions shall apply to all offers and/or agreements made by Theo Henkelman Schoenen B.V. (hereinafter 'TH') to or with third parties (hereinafter the 'Customer') and to the performance of these.
- 1.2 It is expressly stipulated that any conditions of the Customer shall not apply. Differing terms and any general conditions of the Customer shall only apply if and insofar as they have been accepted in writing by TH in each individual case.

Article 2 - Offers, orders and agreements

- 2.1 All offers made by TH are without obligation. An agreement shall come into existence when TH has confirmed the acceptance of an offer in writing, or has begun performance. Furthermore TH shall only be bound by what it has accepted.
- 2.2 Any actual or claimed inaccuracies in TH's confirmation of acceptance of the offer must be notified in writing to TH within 5 days of the date of confirmation, on penalty of lapse of the right to rely on these.
- 2.3 TH shall not be bound by promises or agreements made by or through its staff except after and insofar as they have been confirmed in writing.

Article 3 - Accuracy

- 3.1 All information on numbers, measures, weights and/or other specifications issued by TH in relation to its products is prepared as carefully as possible. However, TH cannot guarantee that there are no inaccuracies in these. The Customer must check the accuracy of numbers, measures, weights and/or other specifications issued by or agreed with TH as much as possible on taking delivery of the products.
- 3.2 TH shall not be bound by pictures, descriptions, catalogues, advertising material or offers.

- 3.3 The Customer must make sure that the products it intends to order or has ordered and the accompanying documentation, packaging and/or other information comply with all official regulations applicable to them in the country of destination.

Article 4 - Prices

- 4.1 Prices quoted by or agreed with TH are net, and are therefore exclusive of VAT inter alia, and also exclude, except where otherwise stated, import and export duties, excise duties and other taxes or levies imposed or levied in relation to the products and their transportation, and shall only apply to the supply referred to in TH's offer or written confirmation of order.
- 4.2 Where TH takes on the packing, loading, transportation, dispatch, unloading or insurance of products without any price being expressly agreed for this in writing, it shall be entitled to charge the Customer the actual costs and/or TH's usual rates for this.
- 4.3 Where factors affecting prices including taxes, excise duties, import duties, exchange rates, wages, the prices of goods and/or services (whether or not sourced by TH from third parties) change after the offer is made and/or an agreement is entered into, TH shall be entitled to adjust the prices accordingly.

Article 5 - Delivery

- 5.1 Delivery times quoted are approximate and should never to be regarded as of the essence. The fact of delivery dates being missed shall not entitle the Customer to any additional or alternative compensation for loss, nor entitle it not to comply with any of its own obligations under the agreement. However, the Customer shall be entitled to dissolve the agreement by a written declaration, if and insofar as TH has still not delivered within a period laid down by the Customer of at least 6 weeks and at least as long as the delivery time originally indicated. In such cases TH shall not be liable to pay any compensation for loss.
- 5.2 Delivery shall be made ex works at the moment that the goods have been set aside for the Customer, unless otherwise agreed in writing. The goods shall be at the Customer's risk and expense from the moment of delivery. If the goods are delivered directly from the factory of a supplier of TH, the Customer shall bear the risk from the moment the goods leave the supplier's premises.

- 5.3 If it has been agreed that TH will be responsible for transportation of the products, TH shall determine how and by whom the goods are to be transported. The transportation shall be at the Customer's risk and expense. The Customer shall be obliged to take delivery of the products as soon as they have arrived at their destination. The Customer shall ensure conditions are adequate to allow loading and unloading to be carried out quickly.
- 5.4 If the Customer does not take delivery of the goods or does not come or send anyone to collect them, they shall be stored at the Customer's risk and expense for as long as TH deems it desirable or necessary. TH shall at all times be authorized in all such cases or in the event of any (other) (attributable) shortcoming on the part of the Customer, to demand performance of the agreement or to dissolve it without judicial intervention, at its option, all without prejudice to its right to compensation for the loss suffered and lost profit, including the costs of storage.
- 5.5 If no delivery time has been agreed, and the goods are to be delivered when called for by the Customer, the on-call order must be submitted to TH within four weeks of the agreement being entered into, and delivery must take place within 8 weeks of the agreement being entered into. If TH does not have the goods in stock, the on-call order must be received within 4 weeks of the goods coming in and delivery must take place within 8 weeks of the goods coming in. If these deadlines are not met, delivery shall take place as TH sees fit.
- 5.6 TH shall be authorized to perform an agreement in parts and to demand payment for that part of the agreement which has been performed.
- 5.7 TH shall not be obliged to acquiesce in a request from the Customer to repeat delivery or deliver further goods. Where TH does agree to do this, the costs involved shall be borne by the Customer.
- 5.8 Subject to evidence to the contrary, the goods shall be deemed to have been packed properly and in the correct manner. The submission of contrary evidence shall require at least a note of the complaint on the receipt or the consignment note.
- 5.9 The packaging used shall remain the property of TH. The Customer shall be obliged to make the undamaged packaging available to TH, after which the amounts charged for packaging will be reimbursed.

Article 6 - force majeure

- 6.1 If TH is prevented from performing the agreement by force majeure, TH shall be entitled to suspend performance of the agreement and consequently can no longer be held to the delivery time given. The Customer shall not be entitled to compensation for costs, loss or interest in such a case.
- 6.2 The following among other situations shall count as force majeure: war, danger of war, mobilization, riot, state of siege, strikes, industrial action involving lightning strikes or work-to-rules and lock-outs, fire, accidents or sickness of personnel, interruption of business operations, transport delays, disruption caused by legal regulations, limitations on imports or exports or other limitations imposed by the authorities, lack of raw materials, production or transport problems unforeseen by TH, as well as any circumstances not entirely within TH's control, such as third parties engaged by TH failing to supply goods or services.
- 6.3 In the event of force majeure, TH shall be authorized to dissolve the agreement as to those parts of it that cannot be performed, by a written declaration. If the force majeure lasts longer than two months, then the Customer shall also be authorized to dissolve the agreement as to those parts of it that cannot be performed, by a written declaration.
- 6.4 If when the force majeure situation arises, TH has already partly performed its obligations or can only perform its obligations in part, it shall be entitled to invoice for the part already performed or which can be performed separately, and the Customer shall be obliged to pay such an invoice as though it concerned a separate contract.

Article 7- Guarantee and complaints

- 7.1 TH guarantees the proper quality of the products it supplies in accordance with what the Customer is reasonably entitled to expect pursuant to the agreement. TH can however not guarantee patent leather or fancy leather.
- 7.2 The Customer must either check the products delivered itself as soon as they are received, or have them checked by someone else on its behalf. Any faults found must be noted on the consignment note. The Customer must also submit any complaints in writing without delay after receiving the products and in any event within 5 working days of receiving the products, on penalty of forfeiture of any claim howsoever arising.

- 7.3 If the Customer submits a complaint, he shall be obliged to give TH the opportunity to inspect the products or have them inspected in order to determine the fault.
- 7.4 If TH finds the Customer's complaints are well founded, TH shall be entitled to replace the products or to repair the products without charge, or to apply a reasonable price reduction, at TH's option.
- 7.5 The return to TH of products sold, for whatever reason, shall only be possible after prior written authorization and instructions on dispatch and/or other instructions from TH. The transport and all connected costs shall be at the Customer's expense. The products shall at all times remain at the Customer's risk and expense. TH shall reimburse the travel costs if it is ascertained that there is an attributable shortcoming on the part of TH.
- 7.6 All rights to complain shall be forfeited if the products are transported, handled, used, processed or stored by or on behalf of the Customer improperly or not in accordance with instructions given by or in the name of TH, or if the usual measures/regulations have not been observed, or if the Customer fails to perform any obligation to TH under the agreement, or to perform it properly or in time.
- 7.7 Complaints shall not suspend the Customer's obligations to make payment.
- 7.8 The Customer shall be under an obligation, after having found a fault in a product, to do everything to prevent or limit loss, expressly including immediately stopping the use, working or processing of and trading in the product.
- 7.9 If the Customer has made no written objection to the contents of any invoice, delivery voucher or other written document within five days of the date of its signature, the document concerned shall constitute conclusive evidence as against it.

Article 8 - Retention of title

- 8.1 TH shall retain title to the products delivered or to be delivered, until the Customer has satisfied all TH's claims in respect of the products delivered or to be delivered, including claims for failures to perform the agreements.
- 8.2 If the Customer is in breach of its obligations, TH shall be entitled to retrieve or have retrieved the products belonging to it, at the Customer's expense, from wherever they are located.
- 8.3 The Customer shall not be entitled to pledge products not yet paid for or to transfer title to them other than by way of normal business operations. In that case, the Customer shall be obliged to pledge or assign its claim to TH, on TH's first request and at its option.

8.4 The Customer shall have no right of retention of the goods delivered by TH.

Article 9 - Payment

- 9.1 TH's invoices must be paid immediately, unless otherwise agreed in writing. In that case the invoices must be paid within the period stated on the invoice and in the currency stated on the invoice, unless otherwise agreed in writing. TH shall at all times be entitled to demand advance payment in whole or in part and/or provision of security for payment in another way.
- 9.2 TH shall be entitled to invoice separately for partial deliveries.
- 9.3 If payment is not received on time, the Customer shall be liable without requirement for any notice of default, to pay interest of 1% per month on the invoice amount, calculated from the date payment was due up to and including the day of payment, where part of a month is treated as a whole month.
- 9.4 All collection costs, including inter alia the costs of extra judicial debt collection and pre-action costs, shall be borne by the Customer. The costs of extra judicial debt collection shall be at least 15% of the amount to be collected, with a minimum of NLG 500.
- 9.5 The Customer waives any right to the set-off of amounts owed by one party to the other. TH shall always be authorized to set off all it owes to the Customer against anything owed to TH by the Customer and/or businesses associated with the Customer, whether or not immediately due and payable or subject to conditions or time limits.
- 9.6 The whole invoice amount shall be due and payable immediately and in full if an agreed instalment is not paid on time on the due date, as well as if the Customer is put into involuntary liquidation/declared bankrupt, or requests a (provisional) suspension of payments, or if tutelage order is requested in relation to the Customer, or if any goods and/or claims of the Customer are attached, or the Customer dies, goes into liquidation or is dissolved. If one of the situations named above arises, the Customer shall be obliged to inform TH of it immediately.
- 9.7 Payments made by the Customer shall be applied firstly to costs owed, then to the interest due, and finally to those invoices due for payment which have been outstanding the longest, even if the Customer states that the payment is made in respect of a later invoice.
- 9.8 Members of purchasing combines shall be jointly and severally liable alongside the combine for the combine's obligations to TH.

Article 10 - Industrial/intellectual property rights

- 10.1 The Customer shall warn TH immediately if third parties violate or appear likely to breach TH's industrial or intellectual property rights, which shall include among others the brand rights in respect of Prentiss, Stoonies, TH Fashion, MacLean and Bottesini, or if third parties are of the opinion that products of TH breach their own industrial or intellectual property rights.
- 10.2 The Customer shall make sure that the goods supplied by TH do not breach any industrial or intellectual property right of a third party, if the country of destination is outside the Netherlands. The Customer shall have no right to compensation for loss or interest if claims are made against it by third parties.

Article 11 - Cancellation and indemnification

- 11.1 The Customer may not cancel an order once placed. If the Customer does nonetheless cancel an order placed, in whole or in part, it shall be under an obligation to compensate TH for all costs reasonably incurred with a view to filling that order, (costs of preparation, storage and similar), all without prejudice to TH's right to compensation for lost profit, as well as other loss arising out of the deliberate cancellation.
- 11.2 In the event of cancellation, TH shall in any event be entitled to demand indemnification of at least 25% of the total invoice amount, unless the loss suffered or still to be suffered, of whatsoever nature, exceeds this percentage. In that case the indemnification shall be equivalent to the total loss suffered by TH.

Article 12 - Liability

- 12.1 TH shall not be liable for any damage whatsoever, whether direct or consequential, including personal injury or damage to the property of third persons, howsoever arising, except in cases of gross negligence or deliberate fault on its part.
- 12.2 TH shall also not be liable in the sense above for the actions of its employees or other persons within its area of risk, including (gross) negligence or deliberate fault of such persons.

- 12.3 If TH decides to exercise its right to suspend performance or dissolve the agreement on the basis of facts and/or circumstances known to it at that moment, and it is later incontrovertibly established that the exercise of that right was not justified, TH shall not be liable for and shall not be obliged to pay any sort of compensation for loss.
- 12.4 In all cases where TH is under an obligation to pay compensation for loss, this shall never be higher than either the invoice value of the goods delivered and/or of the services by which or in connection with which loss has been caused, or, where the loss is covered by TH's business liability insurance, the amount actually paid out by the insurer.
- 12.5 Any claim against TH, except claims allowed by TH, shall lapse by the mere expiry of 12 months after the right of action arises.
- 12.6 The Customer shall indemnify TH, its employees and persons it engages to assist in performing the agreement, for any claim of third parties in connection with TH's performance of the agreement, regardless of the cause.

Article 13 - Representation

- 13.1 Where the Customer acts on behalf of one or several others, it shall be liable to TH as though it were the Customer itself, without prejudice to the liability of those others.

Article 14 - Void and Voidable Provisions

- 14.1 Where any provision of these conditions or of agreements to which these conditions apply is void or voidable, this shall be without prejudice to the validity of the other provisions.
- 14.2 TH and the Customer shall be obliged to replace provisions that are void or have been avoided with provisions which have the same effect as far as possible as the voidable or avoided provisions.

Article 15 - Disputes and applicable law

- 15.1 All disputes between TH and the Customer shall be adjudicated exclusively by the competent court at Roermond, all subject to the mandatory jurisdiction of a Dutch sub-district court, and unless TH gives preference to another court with competence other than by virtue of this article.

- 15.2 All agreements entered into by TH shall be governed exclusively by Dutch law.
- 15.3 All international treaties relating to the purchase of movable property capable of being excluded by agreement between the parties, are hereby expressly declared inapplicable and excluded. More particularly, the Vienna Sales Convention 1980 (CISG) is expressly excluded.
- 15.4 In the event of dispute as to the construction of these general conditions, the Dutch text shall be binding.