



GENERAL TERMS AND CONDITIONS

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KHARMA INTERNATIONAL
Kalshoven 7
4825 AL Breda

Article 1 Applicability of the Present Terms and Conditions

1. The present terms and conditions shall apply to all our offers, agreements and all KHARMA INTERNATIONAL engagements – hereinafter to be referred to as “KHARMA INTERNATIONAL” – resulting therefrom with third parties, hereinafter to be referred to as “purchaser” or “client”.
2. Deviations from the present terms and conditions shall only be valid if they are drawn up in writing and shall only apply to the specific agreement to which the deviations relate. If KHARMA INTERNATIONAL has agreed in writing to the applicability of the deviating terms and conditions, the present terms and conditions shall remain in force for the rest, even without explicit confirmation.

Article 2 Offers

1. Our offers shall be valid for 30 days or as much longer or shorter as mentioned therein, but shall always be made without any engagement. They can be revoked at all times prior to acceptance.
2. In the event of an assignment without prior offer by KHARMA INTERNATIONAL, an agreement shall only come into being when KHARMA INTERNATIONAL confirms said assignment within 14 days from the day of receipt thereof and/or when KHARMA INTERNATIONAL actually proceeds to execute it.
3. The offers made by KHARMA INTERNATIONAL shall be valid for 30 days unless stipulated otherwise. KHARMA INTERNATIONAL shall only be bound by the offers if the buyer confirms the acceptance thereof in writing within 30 days. The prices given in an offer shall be exclusive of VAT, unless stipulated otherwise.

Article 3 Delivery

1. Unless otherwise agreed upon, delivery shall be made ex works. When one of the ‘Incoterms’ has been agreed upon as a term of delivery, the Incoterms applying the moment the agreement was concluded shall apply.
2. The customer shall be under the obligation to take possession of the goods purchased the moment they are delivered to him, or the moment they shall be made available to him in accordance with the agreement. If the customer refuses to take possession or fails to give the information or instructions required to deliver the goods when the goods have been offered to the customer to be taken possession of, the customer shall be in default without any further notice of default and the goods shall be stored for the customer’s risk. In that case, the customer shall owe KHARMA INTERNATIONAL all costs incurred by the latter in this respect, including the necessary storage costs and insurance premium costs, without prejudice to the other rights of KHARMA INTERNATIONAL concerning said failure on the part of the customer.

Article 4 Resale

1. If the customer sells on the products delivered and/or the services rendered by us in a way not agreed upon between KHARMA INTERNATIONAL and which causes or may cause damage to KHARMA INTERNATIONAL, KHARMA INTERNATIONAL shall be entitled to abandon further execution of the agreement and/or further delivery under the agreement concerned or agreements resulting therefrom.

Article 5 Delivery and Risk

1. The given terms of delivery shall never to be considered terms that can lead to any kind of penalty.
2. Our other party – non-consumer shall bear the costs of the risk for delivery, sending, collecting, storage and other activities carried out by the other party further to or on our instructions in connection with the agreement.

Article 6 Partial Deliveries

KHARMA INTERNATIONAL shall be allowed to make partial deliveries of goods purchased. If the goods are delivered in batches, KHARMA INTERNATIONAL shall be authorised to invoice each batch separately.

Article 7 Technical Requirements

All technical requirements imposed by the customer on the goods to be delivered that deviate from the usual requirements, shall have to be mentioned explicitly by the customer in writing the moment the contract of sale is concluded.

Article 8 Samples, Models and Examples

If KHARMA INTERNATIONAL has given or shown a sample, model or example, this shall be assumed to have been shown or given as an indication.

Article 9 Termination of the Agreement

1. The claims KHARMA INTERNATIONAL has on the customer shall be forthwith due and payable in case KHARMA INTERNATIONAL asked the customer when concluding the agreement to furnish security for compliance and said security does not materialise or is insufficient. In this case KHARMA INTERNATIONAL shall be authorised to suspend the further execution of the agreement, or to proceed to dissolve the agreement, all this without prejudice to the right of KHARMA INTERNATIONAL to claim additional damages.
2. If circumstances arise with respect to people and/or material KHARMA INTERNATIONAL calls on and/or uses or usually calls on and/or uses when executing the agreement, of such a nature that the execution of the agreement becomes impossible or difficult and/or disproportionately expensive to the degree that execution of / delivery under the agreement can no longer be demanded in all reasonableness, KHARMA INTERNATIONAL shall be authorised to dissolve the agreement.

Article 10 Retention of Title

The title of any goods delivered to the Customer shall remain with KHARMA INTERNATIONAL until the customer pays the invoice corresponding to those goods in full.

Article 11 Ownership of Parts Replaced

In case of replacement of parts the parts being replaces will become the property of KHARMA INTERNATIONAL since pricing of repair parts is based on the defective goods being returned to the factory.

Article 12 Defects, Complaint Terms

1. The customer shall have to inspect (to have) the goods purchased (inspected) upon delivery – or as soon as possible afterwards. When doing so, the customer shall have to verify whether,, among other things, the following comply with the agreement:
 - whether the right goods are delivered;
 - whether the goods delivered correspond to what has been agreed upon in terms of quantity (for instance the number and quantity)
 - whether the goods delivered meet the quality requirements agreed upon; whether they meet – in the absence of quality requirements – the requirements that may be imposed for normal use and/or trade purposes
2. The check of the quantity of the goods delivered shall be on the customer. If he does not file a complaint as soon as possible and at any rate within 48 hours following receipt of the goods delivered, the quantities as mentioned on the consignment notes, the delivery notes, the invoices or similar documents shall be deemed to be correct.
3. Visible defects or shortcomings other than those referred to in paragraph 2, the customer has to state to KHARMA INTERNATIONAL in writing within 8 days from receipt of the goods delivered. This term shall be imposed because otherwise KHARMA INTERNATIONAL will not be able to properly fulfil its obligations with respect to the defects.

4. The customer shall have to report non-visible defects to KHARMA INTERNATIONAL in writing within 3 days from the day they were detected but not later than within 3 months following delivery.
5. Even in the event the customer files his complaint in due time, his obligation to pay and take possession of other delivery agreements other than the one under which the customer files his complaint, shall continue to exist.
6. Goods can only be returned to KHARMA INTERNATIONAL following prior consent in writing of KHARMA INTERNATIONAL

Article 13 Price Increases

1. The prices given shall be based on the cost-determining factors the moment the offer is made. KHARMA INTERNATIONAL shall reserve the right to charge all changes to the cost-determining factors on to the other business party. KHARMA INTERNATIONAL will give written notice about this at least 30 days prior to the price increases. In case of agreements between KHARMA INTERNATIONAL and a natural person not acting in the course of a profession or a business, the latter shall have the right to dissolve the agreement if, following the offer or the order confirmation, KHARMA INTERNATIONAL shall be forced to increase prices due to changes to the cost-determining factors.
2. Costs of additions and/or changes to the assignment or the agreement shall always be for the account of the other party.
3. If the price increase amounts to more than 20 %, the customer shall have the right to dissolve the agreement.

Article 14 Payment

1. If delivery is made in batches, each batch can be invoiced separately by KHARMA INTERNATIONAL
2. The term of payment shall always be 30 days from the date of invoice.
3. If the customer fails to pay within said term, KHARMA INTERNATIONAL shall have the right to charge an interest as from the day of expiry of 13 % on an annual basis, without prejudice to the other rights vested in KHARMA INTERNATIONAL in this respect.
4. All extrajudicial costs to be incurred by KHARMA INTERNATIONAL to bring about the fulfilment by the customer of his obligations, shall be for the account of the customer. Said costs shall be calculated in accordance with the collection rates used by the "Nederlandse Orde van Advocaten" (The Netherlands Bar), with a minimum of EURO 100.-, all this without prejudice to the right of KHARMA INTERNATIONAL to claim the higher damages actually sustained.
5. Payment shall have to be effected at the office of KHARMA INTERNATIONAL or into an account in The Netherlands to be indicated by KHARMA INTERNATIONAL
6. Payments effected by the customers shall always first serve to pay for all interest and costs and subsequently to pay for the longest outstanding invoices that are due and payable, even if the customer states that the payment concerns an invoice of a later date.

7. Set-off shall not be allowed unless KHARMA INTERNATIONAL has wholly and unconditionally acknowledged the counterclaim.
8. In case of winding-up, bankruptcy or suspension of payment on the part of the customer, the obligations of the customer shall forthwith become due and payable.

Article 15 Credit Limitation

KHARMA INTERNATIONAL shall be entitled to charge a credit limitation of 2 % if the customer fails to pay within 30 days from the date of invoice.

Article 16 Exoneration

1. In case of imputable non-delivery, overdue or incomplete delivery of whatever nature, KHARMA INTERNATIONAL shall have fully fulfilled its obligation to pay the damages by delivering and/or repairing and/or improving as yet the goods the purchaser has bought and/or has ordered, all this at the discretion of KHARMA INTERNATIONAL. In case the above is not possible, KHARMA INTERNATIONAL shall take the goods delivered back against reimbursement of the purchase price.
2. The liability of KHARMA INTERNATIONAL shall explicitly be limited to the stipulations of paragraph 1, in such manner that KHARMA INTERNATIONAL shall never be liable for any (further) damage, including consequential damage, and KHARMA INTERNATIONAL shall therefore never be held to compensate trading loss, loss of profits, damage as a consequence of personal accidents.

Article 17 Force Majeure

1. A failure to fulfil an obligation on the part of KHARMA INTERNATIONAL, shall at any rate not be deemed to be imputable and shall not be for the risk of KHARMA INTERNATIONAL in the event of default and/or shortcoming due to or on the part of suppliers, subcontractors and/or haulers of KHARMA INTERNATIONAL, due to any reason beyond the reasonable control of KHARMA INTERNATIONAL including: fire, industrial action or a lock-out, riots or civil commotion, war, government measures including bans on export, export or transit, frost and all other circumstances of such a nature that KHARMA INTERNATIONAL can no longer be demanded to be bound by the agreement. In case of a failure as referred to in the present article, it shall serve as a justification for dissolution.
2. If KHARMA INTERNATIONAL has already partially fulfilled its obligations or can fulfil its obligations only partially when the circumstances of force majeure arise and this obligation can be abstracted from the other obligations of KHARMA INTERNATIONAL resulting from the agreement and therefore has an independent value, KHARMA INTERNATIONAL shall be entitled to invoice the goods already delivered and/or the deliverable batch separately. The other party shall be held to pay the invoice for the obligations that have been fulfilled, the batches already delivered and/or to be delivered that have an independent value and can be abstracted from the other obligations to deliver as if it were a separate agreement.

Article 18 Industrial and Intellectual Property

1. Copyrights, patent rights, model rights and all other industrial and intellectual property rights to all our products are vested in KHARMA INTERNATIONAL, even if they are made on instructions, drawing or by order. All this unless the customer explicitly agrees with us in individual cases that he shall be or remain the title holder in this respect.
2. If trademark rights or model rights vested in the customer attach to any product manufactured by us on the instructions of the customer, KHARMA INTERNATIONAL shall be entitled to sell said products to parties other than the customer or to market them via other parties, unless KHARMA INTERNATIONAL has agreed explicitly with the customer in individual cases that KHARMA INTERNATIONAL shall not be entitled to do so.

Article 19 Secrecy

The other party of KHARMA INTERNATIONAL shall be under the obligation vis à vis KHARMA INTERNATIONAL and its potential clients/buyers to keep all data that come to his knowledge or in his possession within the framework of the agreements with KHARMA INTERNATIONAL secret from third parties. Customer shall be prohibited to use such data himself other than within the framework of the agreements concluded with KHARMA INTERNATIONAL

For each violation as well as for each day the violation continues to exist, the other party shall owe KHARMA INTERNATIONAL an immediately payable penalty of EURO 2,500.--, unless the other party is a consumer.

Article 20 Choice of Domicile

1. With respect to all engagements to which the present terms and conditions apply, our other party shall explicitly and irrevocably choose domicile at the address given to KHARMA INTERNATIONAL
2. All communications destined for our other party, in any form whatsoever, including bailiff's notifications, can be sent in a legally valid manner to the domicile chosen mentioned in paragraph 1 of the present article.

Article 21 Continuation in Case of Continuing Performance Contracts

1. The agreements to which the present terms and conditions apply shall be entered into for a period of 1 year commencing on the date of commencement mentioned in the agreement unless the agreement concerned bears an incidental character.
2. Each time upon expiry of the duration of the continuing performance contracts referred to in paragraph 1, said agreement shall be tacitly extended for a period of 1 year, subject to previous cancellation in writing by either party not later than 3 months to expiry of the period of the agreement.

Article 22 Indemnification

1. KHARMA INTERNATIONAL shall never be liable vis à vis third parties for damage caused in the execution of the agreement to which the present terms and conditions apply in any other way than it would be liable vis à vis its customer.
2. In case the customer of KHARMA INTERNATIONAL is a consumer, the obligation to indemnify referred to in paragraph 1 shall apply exclusively to the extent the customer is under the obligation to take said damage for his own account in the mutual relationship with KHARMA INTERNATIONAL

Article 23 Several Liability

If KHARMA INTERNATIONAL concludes an agreement with two or more natural persons and/or two or more legal entities, each one of these natural persons and/or legal entities shall be jointly and severally liable for the full compliance with the engagements that result for them from said agreement.

Article 24 Settlement of Disputes

The usual statutory provisions shall apply to all disputes settled by the court in accordance to the Rules of London Court of International Arbitration conducted in London.
All disputes resulting from the agreements, can be settled by Arbitration conducted in London in accordance with the Rules of London Court of International Arbitration.

Article 25 Applicable Law

The rights and obligations of the parties under this Agreement shall not be governed by the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods; rather these rights and obligations shall be governed by the Law of England, exclusive of its rules on conflict of laws.