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POLYMX

GENERAL TERMS AND CONDITIONS OF POLYMX BV



General Terms and Conditions of PolyMX

Filed with the Chamber of Commerce.

In these terms and conditions, the following terms are defined as stated below:

us: PolyMX B.V.

other party: the party who by signing a document or otherwise accepts the validity of these general terms and conditions.

products: all material objects which can be subject to human control, all forms of service provision, including software for computers or computer systems, whether or not as part of another object and regardless of the way in which the property rights and right of use have been regulated, all this insofar as the purport of these terms and conditions is not incompatible with this.

advice: All (technical) advice provided by us, which also includes support and service, in any form whatsoever.

transaction: each actual act or legal act, declaration or conduct that establishes a commitment, a right or an agreement.

General

Applicability

Art. 1. 1. These general terms and conditions apply to the contents, formation and performance of all our transactions and replace any previous general terms and conditions and/or general terms and conditions filed and/or customary terms between the parties. The applicability of stipulations, in particular special stipulations, which derogate from these general terms and conditions, are subject to our written confirmation.

2. With due observance of the above, the applicability of the general terms and conditions used by the other party is explicitly excluded.

3. In any case, these terms and conditions are supplemental to anything agreed between the parties.

Formation of the agreements

Art. 2. 1. All offers and quotations made or given by us are without obligation, also if these contain a time limit, unless explicitly stated otherwise. If no agreement is reached, we have the right to charge all costs, incurred by us in order to provide our offer, to the other party.

2. An agreement enters into effect after written confirmation on our part or after performance of the agreement has commenced. Written or verbal agreements, transactions, arrangements and/or stipulations made by our employees or intermediaries can be revoked within 5 working days by the persons authorised to represent us in accordance with the Trade Register.

3. The other party is bound by written confirmation from us, if it has not denied the correctness of the contents of such confirmation within 3 days of receiving it.

Performance term

Art. 3. 1. The terms for performance are an approximate only and therefore not regarded as deadlines, so that we must be given notice of default if these are exceeded. Default due to the performance term having been exceeded shall never entitle the other party to compensation or to dissolve the transaction.

2. We are entitled to adjust the performance terms if not all information required for the performance has been received by us in time.

Prices

Art. 4. 1. Unless agreed otherwise, our prices are in Euros ex works, excluding VAT, packaging, packaging material, shipment, transport documents, assembly/installation, inspection, insurance and any duties or taxes to be levied by the government.

2. A depreciation of the Euro as well as price rises that occur between the date of the instruction and payment permit us to change the agreed price correspondingly.

3. We can pass wages, social security contributions, taxes, import duties, levies and other charges introduced or increased after the offer or formation of the transaction to the other party.

4. Undeniable errors in pricing can be corrected and passed to the other party by us.

Continuing performance contracts

Art. 5. Unless explicitly agreed otherwise, a transaction that creates a continuous commitment between the parties shall apply for an indefinite period of time, subject to notice of termination. Notice of termination by the other party can only be given by means of a written notification to us and with due observance of a notice period of two months, not taking effect until the day after receipt of that notification.

Risk

Art. 6. 1. In the event of delivery duty paid, not including the unloading of products from any means of transport, the products shall travel at our expense and risk. In all other cases, the products shall travel at the other party's expense and risk. Time of delivery shall in such case be the time that the products have left our business location or when we have informed the other party that the products are ready for shipment.

2. Delivery conditions shall be interpreted in accordance with the most recently published "Incoterms", insofar as they do not deviate from the provisions of these terms and conditions and/or the arrangements laid down in writing between the parties.

3. War risk shall always be payable by the other party.

4. We shall only take out insurance at the other party's request and expense. The other party can never derive more rights from this provision than if it had taken out the insurance contract itself.

5. We may regard the address given as the current address, until we have been informed of a new address. All damage or losses resulting from this shall be payable by the other party.

Complaints

Art. 7. 1. Complaints must be lodged with us in writing by the other party within 8 days of compliance. Failing that, the other party is deemed to have approved of the transaction.

2. Complaints do not entitle the other party to postpone payment for the non-disputed element of the claim.

3. Each invocation of settlement is also excluded.

4. Exemption on the basis of hidden defects is excluded.

5. Minor, trade-customary or technically unavoidable deviations in terms of colour, dimension, finish, hardness, quantity and quality can never form a basis of a complaint.

6. We reserve the right to make changes in the composition of the products. Defects caused by normal wear and tear, improper treatment or improper or incorrect maintenance and use, or those occurring after alterations or repairs made by or on behalf of the other party or by third parties, lead to the expiry of any claim by the other party.

7. The fact that a complaint is being dealt with does not mean that we regard it as having been received in time or that we feel it is justified.

8. The other party shall provide all necessary cooperation for investigating the complaint, among others, by providing us the opportunity to perform an investigation (or to have it performed) into the conditions of use, treatment, processing and/or installation.

9. Provided that a complaint has been lodged timely, correctly and in accordance with the provisions of this article and it has been sufficiently evidenced that the products and/or advices -do not fulfil what has been agreed on the matter, or -show material and/or construction errors, or -are not properly functioning and can reasonably be considered unsuitable for the purpose for which the product is intended, we shall have the choice to: deliver new products, free of charge, to replace the products that have been proven to be defective against the return of the defective products, to repair the products properly, to grant the other party a discount, to be determined by mutual agreement, on the purchase price or, as the case may be, to provide a new advice or to credit the other party in part for the advice that was charged to him. By fulfilling one of the aforementioned performances, we shall be fully discharged with respect to our obligations in this matter.

Liability

Art. 8. 1. We accept no liability for failure to perform, or late, incomplete or incorrect performance in any way, without prejudice to the provisions of Art. 3 and without prejudice to our right to still meet our obligations stipulated by the other party, where the law so permits and in compliance with the provisions of Art.27.

2. Liability for consequential damages is excluded.

3. Damages caused by or arising from products used by us from another supplier or services outsourced by us shall only be paid if and to the extent that the damage done by the supplier in question was paid to us and we have received this fee, less the costs we thereby incurred.

4. Advices, instructions, calculations, statements of results or user instructions by any name whatsoever, in connection with the use, treatment, processing, confirmation, etc., of our products are provided free of obligation and without any liability on our part.

5. We shall not be liable for anything the other party is obliged to do towards third parties, except for our direct obligation to the other party as a consequence of these terms and conditions. The other party shall indemnify us in this respect.

6. All our statements of numbers, dimensions, weights and/or other indications of the products and/or in the advices are made with care. However, we cannot guarantee that no deviations will occur.

Force Majeure

Art. 9. In the event of force majeure, that is, in cases described as force majeure in these terms and conditions, we are relieved from our contractual obligations towards the other party. Force majeure includes all circumstances, which must reasonably be regarded as hampering the fulfilment and/or timely fulfilment of the obligations resulting from transactions, such as fire, strikes or exclusion, war, mobilisation, a declaration of war or siege, riots, governmental measures that ban or hamper fulfilment, our supplier's non-fulfilment, or at least non-fulfilment under the conditions agreed with us, floods, operational failure both at our own company and at companies we purchase materials from or where we have materials processed, or other circumstances that make normal business operations impossible, both in the Netherlands and the country of origin and/or the transit of (base) materials.

Purchase and sale

Complaints upon purchase and selling

Art. 10. 1. The other party is responsible for checking the quantities. In derogation from the provisions in Art. 7 paragraph 1, the other party must have lodged a complaint about quantities as soon as possible and at least within 3 working days of receiving the products, failing which the quantities stated on the waybills, delivery notes or similar documents are deemed to have been accepted as correct. If, upon receipt of the products, no comments or suggestions regarding the packaging are noted on the waybill or note of receipt, this shall, subject to contrary proof, mean that the packaging was in proper and good condition upon delivery.

2. In the event of purchase and selling the complaint period starts after the products have been loaded or - in the case of delivery free domicile - after the products are ready for unloading.

3. Products that are processed or used in whole or in part shall, in any event, be deemed to be approved.

4. After establishing any defect, the other party is obliged to immediately discontinue the use, treatment, processing and/or installation of the products or the advice concerned and furthermore to do and leave everything reasonably possible in order to prevent (further) damage.

Return shipments

Art. 11. 1. Unless agreed otherwise, we do not take back any delivered and accepted products.

2. If and insofar the parties have agreed on returning products, we are entitled to credit them at the market prices as at the day on which the products are returned, and to charge the other party at least 20% of the invoice value of the products in compensation, without prejudice to our right to fulfilment and further compensations of damages.

Retention of title/reserving a pledge

Art. 12. 1. All delivered products shall remain our property until all obligations under this transaction or related transactions have been completely fulfilled, also if these products have been processed, used, consumed or incorporated in other products. In the event of blending, processing or incorporation in other products, we shall at all times acquire co-ownership in proportion to the value of the products that we delivered. Before payment, the other party is therefore not authorised to pledge the products, transfer the title thereto or transfer these on loan to third parties.

2. Should the situation arise, we reserve rights of pledge in respect of all products that we deliver as additional security for the fulfilment of all obligations under this transaction or related transactions, insofar as permitted by law.

3. Until full payment has been made, the other party shall be obliged to insure the products against fire hazard and other risks to be insured and to keep such products with the necessary care and identifiability. Furthermore, the other party shall be obliged to pledge to us, upon first demand, all claims from the other party on the insurance companies arising from this as additional security for the payment of all obligations under this transaction and related transactions.

4. The other party undertakes to make products that have not yet been paid available to us upon demand, and hereby authorises the person to be appointed by us to at such time enter the space and take back those products.

5. If and as long as we own the products, the other party shall inform us immediately when the products have been (are threatened to be) seized under an attachment (due to bankruptcy) or if any other claim is made on (any part of) the products. If necessary, the other party shall immediately indicate to third parties that we are the owners of the products.

Delivery

Art. 13. If at the conclusion of a transaction no term has been agreed within which the other party must take delivery of the products, the other party must take delivery within a week of the products being ready for delivery. When the other party does not take delivery within the agreed period, in both cases, the other party shall be legally in default, meaning without warning or notice thereto. We shall then be entitled to demand, at our discretion, either compliance or termination of the transaction without the intervention of any judge, without prejudice to our right to damages against the other party.

Export

Art. 14. Without our prior written permission, which must be obtained for each individual delivery, export is not permitted.

Specifications

Art. 15.1. We guarantee that the products meet the specifications specified in writing by us, provided that the products are used and stored in the usual manner and with care in accordance with the rules of architecture and the normal rules of building, and that all instructions for the use of the products, as contained in the latest version of the documentation accompanying the products, and the latest version of product safety and data sheets issued by us or on our behalf and mentioned in the advices and offers, have been fully complied with in a timely manner.

2. The obligations with respect to the specifications do not extend to the result after the products have been processed.

3. Unless expressly and specifically for the other party confirmed by us in writing, we cannot vouch for the usefulness of the products for the purpose for which the other party wishes to use them.

Other provisions

Intellectual Property

Art. 16. All drawings, models, sheets, films, photographs, stamps, other picture, sound and data carriers or other tools and designs, including software, both in whole and in parts, remain our property and only at our disposal. The other party is obliged to refrain from any act that constitutes an infringement of a patent, copyright, trademark or license. Imitations, reprinting or reproductions in any sense whatsoever are prohibited.

Non-disclosure

Art. 17. The other party may not disclose any information originating from us, as well as any information that came to his knowledge in the context of the performance of the transaction or any developed information.

Payment

Art. 18. 1. If no other term is mentioned, an invoice or claim lapses 30 days after the invoice date or other date given. The other party is deemed to be in default by operation of law, i.e. without demand or notice of default, following the lapse of this term or other agreed date.

2. In the event that the other party fails to make the payment within the term set out in paragraph 1, we are entitled to charge interest, counting from the due date, without prejudice to our other rights. The calculation method is similar to that of the statutory rate. The percentage shall be equal to the statutory interest increased by 4.

3. We can demand payment of each of the other party's payment obligations in the event that the other party applies for a moratorium, is declared insolvent, liquidates its business or (partially) transfers it to third parties, is placed under guardianship or if an attachment is made against it.

4. Payments received by us shall first be applied to pay the (judicial and extrajudicial) costs stipulated in the next article, subsequently the interest due and finally the longest outstanding invoice or claim, even if indicated otherwise by the other party.

5. In the event of partial performance, we may invoice each part separately.

Costs

Art. 19. Any costs, including collection costs, bailiff's costs and lawyer's fees, both judicial and extrajudicial, incurred by us in order to effect the fulfilment of the other party's obligations, shall be payable by the other party. The extrajudicial costs amount to 15% of the claim, subject to a minimum of € 250.00, for which no proof needs to be submitted, without prejudice to our right to fulfilment and further compensation; these are payable from the moment on which the claim has been handed over to our lawyer, regardless of whether the other party is aware of that.

Guarantee

Art. 20. 1. If we provide guarantee in the context of a transaction, this guarantee shall cover material and manufacturing defects, except in the event of a detailed written description. Our guarantee means that we will repair the defects at our expense or take back the supplied products wholly or partially and replace them with a new delivery. Upon replacement, damaged parts or products must be returned free domicile by the other party, after which we will take care of replacement. If products have been provided for processing, repairs etc., guarantee shall only be given for the adequacy of the performance of the commissioned operations. Our warranty shall not apply:

a. if the defects are the result of improper use or other causes than defective material or manufacturing defects.

b. if we supply used materials or used products after consultation with the other party.

c. if the cause of the defects cannot be clearly demonstrated.

2. For products or components, which we do not produce ourselves, we give no more guarantee as is provided by our suppliers.

3. Our warranty is void if:

a. it concerns defects which are wholly or partly the result of government regulations with regard to the quality or nature of the materials used or with respect to the manufacturing process.

b. the other party makes on its own initiative modifications and/or repairs to the delivered products (or others do on his behalf), during the warranty period.

c. the other party does not properly or timely fulfil any obligation arising from this transaction or any other transaction connected therewith.

Security and dissolution

Art. 21. In the event of non-fulfilment, late fulfilment or incomplete or incorrect fulfilment for whatever reason by the other party or if there is a justified reason to fear this, for instance when the other party applies for a moratorium, is declared insolvent, liquidises or (partially) transfers its business to third parties, is placed under guardianship or an attachment is made against it, we are for the term of the transaction entitled to suspend fulfilment of our obligations, to dissolve the transaction in question by a mere statement and without legal interventions, without prejudice to our right to further compensation, or to demand security for prompt fulfilment. If the other party fails to fulfil any of its obligations, including the one to furnish security, all invoices and/or claims are immediately due and payable, and we are, in addition to suspending our obligations, entitled to demand adequate security for further fulfilment.

Perpetual clause

Art. 22. In the event of a (partial) assignment and/or change of its business, the other party is obliged to impose these terms and conditions on its successors and/or partners, failing which the other party remains liable towards us for their defaults.

Multiple parties

Art. 23. If a transaction is concluded between us on the one hand and two or more parties on the other, they shall each be severally liable for full compliance thereof.

Legal force

Art. 24. These terms and conditions remain in full force in the event that our business fully or partially changes name, legal form or owner.

Applicable Law

Art. 25.1. All transactions, to which these terms and conditions apply, even in the case of foreign transactions, and the legal relations of parties arising therefrom shall be exclusively governed by Dutch law, prevailing for the Kingdom in Europe.

2. The provisions of the UN Convention on Contracts (CISG), signed in Vienna on 11 April 1980, apply only to the extent they are not inconsistent with the provisions of these terms and conditions.

3. In any case, parties agree that the place of our registered office shall be regarded as the place where all commitments resulting from these terms and conditions shall be fulfilled.

4. The headings of the respective articles of these terms and conditions are meant as a reference only and do not have any meaning for the interpretation of those articles.

Disputes

Art. 26. All disputes between parties, even those which are only considered as such by one of the parties shall be settled by the competent court of the place of our registered office, currently being Genderen, without prejudice to our right to choose the competent court by law or treaty.

Conversion

Art. 27. 1. If any provision referred to in these terms and conditions and applicable to the other party is void and nullified, this provision shall be replaced by a valid provision that is as close as possible to the purport of the void provision. The validity of the remaining provisions of these terms and conditions shall remain unaffected.

2. In the event that Art. 8 paragraph 1 cannot be applied under certain circumstances, it shall be substituted by the provisions below: In the event of failure to perform, or late, incomplete or incorrect performance in any way, without prejudice to the provisions of Art.

3, our obligation to pay compensation will be fulfilled in full by a subsequent performance in accordance with the stipulations of the other party. In the event that we are unable to perform at a later stage, our obligation to pay compensation will be fulfilled in full by payment of the actual costs incurred by the other party up to a maximum of 100% of the invoice amount of the transaction or, if the damage is caused by the performance of continuing contracts, to a maximum of 100% of the invoiced amounts relating to the continuing performance contract in the relevant calendar year.

Restricted application private individuals

Art. 28. 1. Articles 7 paragraph 3 and 26 shall not apply if the other party is a natural person residing in the Netherlands who is not acting in the exercise of profession or business. In this regard, the burden of proof rests with the other party.

2. If the other party meets the definition under paragraph 1 of this Article, the possibility of termination shall still be provided to him when an appeal to increase the price is made pursuant to Art. 4, within three months of completion of the transaction, and also in case of default for exceeding the compliance term under Art. 3.