

## **GENERAL TERMS AND CONDITIONS OF SALE (BUSINESS TO CONSUMER)**

### **Clause 1. General**

- 1.1. These General Terms and Conditions shall apply to all offers by and agreements with Shop & Fly B.V. and its legal successors, as well as to associated companies or with said successors (together as well as individually hereinafter also called: the Company), relating to the delivery of goods by the Company to the party the offer is addressed to or the other party concerned (hereinafter: the Customer).
- 1.2. The applicability of the Customer's general terms and conditions is hereby explicitly rejected.
- 1.3. Variations from and/or supplements to these General Terms and Conditions shall only apply if they have been agreed in writing.
- 1.4. Visitors to branches of the Company are made aware of the existence of these General Terms and Conditions.
- 1.5. Copies of the General Terms and Conditions are available from the website and will be sent to the customer free of charge on request.
- 1.6. The Company reserves the right to amend and/or supplement these General Terms and Conditions from time to time.
- 1.7. The version of the General Terms and Conditions of Sale which is valid at the time the purchase agreement is entered into shall always apply.
- 1.8. If any provision of the General Terms and Conditions of Sale is null or proves to be invalid or unenforceable, the remaining provisions shall remain in force. In such cases, the Company and the customer will consult together in order to agree a new provision which will replace the original provision and which reflects the object and purpose of the null, invalid or unenforceable provision as much as possible.

### **Clause 2. Definitions and applicability**

In these General Terms and Conditions of Sale, the following definitions apply:

- a. **Customer:**  
Any natural person not acting in a professional or business capacity with whom the Company concludes an agreement or is conducting negotiations about an agreement.
- b. **Agreement:**  
Any agreement made between the Company and the customer, and any amendments or supplements to the agreement.
- c. **General Terms and Conditions of Sale:**  
These General Terms and Conditions of Sale.
- d. **Till receipt:**  
The original till receipt from the Company given to the customer upon a purchase. In certain cases the Company may, in lieu of a till receipt, accept a bank statement or a statement from a credit card company which shows where, when and at what price a particular product was purchased. Any other legally permitted method of proving where, when and at what price a certain product was purchased is also acceptable.

- e. **Non-conformance:**  
A product is non-conformant (i.e., defective) if it does not possess or no longer possesses the characteristics the buyer is entitled to expect under the purchase agreement. After the statutory and manufacturer's warranty periods, it is up to the buyer to provide proof of non-conformance; the buyer must also prove that the product was used in a normal way. Non-conformance can never be caused by normal wear and tear or external factors.
- f. **Period of liability:**  
The period of liability is understood to mean the lifespan of the product.
- g. **Force majeure:**  
Includes, in addition to the types of events contemplated by statutory and case law, all external causes, whether foreseen or unforeseen, which are outside the control of the Company, but as a result of which the Company cannot reasonably be required to fulfil its obligations.

### **Clause 3. Prices**

- 3.1. All prices are subject to printing and typographical errors. No rights can be derived from printing or typographical errors.
- 3.2. Prices are given in euros unless otherwise stated.
- 3.3. Prices include fixed waste-disposal charges, if applicable, or any other charges.

### **Clause 4. Retention of title**

The Company will retain title to all products which it supplies until all its claims against the customer relating to products supplied or to be supplied by it to the customer under an agreement, or relating to the customer's failure to perform such agreement(s) have been settled in full.

### **Clause 5. Payment**

- 5.1 The customer shall make full payment of the purchase amount at the relevant branch immediately after the agreement has been concluded.
- 5.2 Payment must be made in cash or by means of a debit or credit card. Payment by credit card without a chip/PIN code is only permitted if the customer provides valid proof of identity.

### **Clause 6. Supply, delivery, damage on delivery**

- 6.1 Unless otherwise agreed, products will be supplied at one of the branches of the Company.
- 6.2 The Company advises the customer to check, immediately upon delivery, if the products are the correct ones, are complete and if they show any external damage. This will enable the Company to quickly provide a supplementary or replacement delivery if the delivery is incomplete or incorrect or if the products are damaged.
- 6.3 The customer shall provide all assistance required in connection with the investigation of any damage claims, which includes giving the Company the opportunity to carry out an inspection of the circumstances of the use and/or installation of the products.

### **Clause 7. Return of purchased products**

- 7.1 A product purchased from the Company may be returned within fourteen days of the purchase, in which case the purchase price will be refunded. The Company shall only be obliged to refund the purchase price if the customer requests the refund or an exchange within fourteen days of the purchase and if the product is undamaged, and if the following conditions are also met:
- a. The customer must present the original till receipt at the same time.
  - b. The product must be packed in the original packaging, unopened, complete and undamaged.
  - c. The product must not have been used.
  - d. In the case of a CD, CD-ROM, DVD, Blu-ray or other sealed item, the seal must not have been broken.
- 7.2 The Company will not accept returns of the following products (among others):
- a. products which have been registered (by the customer) (for example: SIM cards);
  - b. phone cards;
  - c. gift cards;
  - d. products which have been used;
  - e. (personal) care products and batteries.

### **Clause 8. Warranty**

- 8.1 The Company complies with all the mandatory legal requirements that apply to warranties in the Netherlands.
- 8.2 The customer may invoke the warranty with the Company provided the product was bought from one of the Company's worldwide branches.
- 8.4 The warranty term commences at the time of delivery. The till receipt serves as proof of warranty.
- 8.5 The warranty shall not apply if an investigation, as referred to in clause 6.3, reveals that the defect was caused by illegal or incorrect installation of software.
- 8.6 Maintenance, modification or repair of products and software supplied by the Company which has not been performed by the Company, or usage other than as prescribed or not in accordance with generally accepted standards, or usage of consumer electronics for professional purposes and/or defects caused by disassembly, or defects due to external causes which are not attributable to the Company shall render any warranty null and void.
- 8.7. If the type or serial number of the product has been removed or altered, all warranty claims shall lapse.
- 8.8. The following (among other things) are excluded from warranty cover:
- a. regular maintenance or repair or replacement of parts due to normal wear and tear;
  - b. consumables supplied along with the item such as cells and batteries;
  - c. damage or loss relating to software, data or storage media;
  - d. damage caused by inadequate maintenance, repair or installation;

- e. damage relating to the circumstance that the product was not installed or used in accordance with the applicable technical standards or safety standards (or the instructions for installation and use);
- f. damage resulting from accident, lightning strike, fall, impact, sand, flood, fire, inadequate ventilation or any other cause beyond the control of the Company;
- g. damage caused by deficiencies in software;
- h. damage relating to misuse, negligence or commercial use on the part of the customer.

#### **Clause 9. Faulty products**

- 9.1 Faulty products may be returned to a branch of the Company anywhere in the world, on condition that the product was purchased from one of the Company's worldwide branches.
- 9.2 If a faulty product has not yet been returned in the manner indicated in 9.1, the Company will not make any statement about whether the defect is due to non-conformance.
- 9.3. The Company will send all faulty products presented to it to a service centre authorised by the supplier or manufacturer. It is only after the product has been accepted and examined by a technical expert that the cause of the defect can be established (non-conformance or otherwise).
- 9.4 If the defect is due to non-conformance, the Company undertakes to repair the product free of charge or exchange it during the defects liability period.
- 9.5 The Company gives three months warranty on repairs, unless otherwise stated on the repair ticket.
- 9.6 Data or software stored on the product may be lost during repair. The Company is not obliged to secure any data or software on the product and has no liability in this respect. The customer him/herself must ensure that such files have been carefully secured before the start of the repair. The customer is also personally responsible and liable for restoring these files after the repair.
- 9.7 If the costs of a repair are payable by the customer, the product(s) will only be returned to the customer after he/she has paid the total amount due.
- 9.8. Repaired products will only be returned upon presentation of the original repair receipt from the Company.
- 9.9 The Company is not obliged to check whether the person who collects the product(s) presenting the original repair receipt from the Company is the lawful owner.
- 9.10 If the original repair receipt is lost, the Company will only hand over the products, whether repaired or not, upon presentation of valid proof of identity in the name of the person who submitted the product for repair according to the Company's records. The person collecting the product must sign for receipt.

#### **Clause 10. Liability and indemnity**

- 10.1 Indirect loss, consequential loss, trading loss, loss due to delay, loss of income, intangible loss, personal injury or loss caused by loss of data is excluded from compensation, unless this should contravene mandatory provisions of law.
- 10.2 The company shall never be liable for more than the amount of the purchase price of the product that caused the loss, in so far as this does not conflict with mandatory

provisions of law.

Where this limitation is not valid in law, The Company's liability shall always be limited to the amount paid out by the liability insurer of the company in any particular case, always provided that this does not conflict with mandatory provisions of law.

- 10.3 The right to compensation shall lapse if the loss is not notified within a reasonable period of time after discovery.
- 10.4 The Company shall not be liable for any damage or loss that occurs during transport of products by the customer him/herself.
- 10.5 The Company shall not be liable for any damage or loss resulting from abnormal use of the products(s) and shall treat such damage or loss as having been caused by external influences.
- 10.6 In case of a claim for compensation, the customer shall enable the Company to conduct an investigation and, if necessary, bring in external experts. The customer shall do everything they can to limit the damage or loss as much as possible.
- 10.7 The Company shall at all times be entitled to bring in suppliers or other parties which are involved in a claim for compensation and to recover losses suffered by its customers from those suppliers or other parties (third-party practice).
- 10.8 The limitations and/or exclusions of liability stipulated for the Company itself in the paragraphs above are also stipulated for and on behalf of its employees, any other parties used by the Company in the context of the agreement, and for any parties from whom it buys the products and/or parts supplied.

#### **Clause 11. Applicable law and disputes**

- 11.1 The agreement and any agreements arising out of, resulting from or relating to it shall be governed by the laws of the Netherlands. The applicability of the Vienna Sales Convention is excluded.
- 11.2 Any disputes in connection with the agreement or any agreements arising out of, resulting from or relating to the agreement shall, in the first instance, be submitted to the exclusive jurisdiction of the District Court in Rotterdam, the Netherlands, unless the Company expressly chooses the court in whose jurisdiction the Supplier has its residence or principal place of business to decide the dispute.
- 11.3 If, however, the customer is resident or has its principal place of business in a country outside the European Union with which the Netherlands has no convention for the enforcement of Dutch judgments, then, in derogation of the preceding paragraph, any disputes that arise in connection with the agreement or any agreements arising out of it shall be exclusively settled by arbitration under the Arbitration Rules of the Netherlands Arbitration Institute (NAI).  
In such a case, arbitration will take place in Amsterdam and the proceedings will be conducted in the Dutch language. The arbitral tribunal will consist of one or three arbitrators at the option of the Company.