

GENERAL CONDITIONS OF SALE AND DELIVERY OF ETNA COFFEE EQUIPMENT B.V. ESTABLISHED EXPEDITIEWEG 6F, 7007 CM DOETINCHEM (COC NL 56359446)

1. Applicability

In these general conditions of sale and delivery the following definitions are applicable:

- ETNA Coffee Equipment B.V. further referred to as "ECE".
- Agreement: an agreement between ECE and the customer concerning the sales of products, providing services or performing work which has to be done.
- The customer: the customer will be specified more precisely in the unconditional offer from ECE.
- Offer: an unconditional offer from ECE for the delivery of products and/ or services.
- In writing: a document which has been signed by both parties. This document can be a letter, fax, e-mail or any other means which both parties have agreed upon.

These general conditions of sale and delivery are applicable to all offers from and agreements with ECE. The customer's general terms and conditions are expressly rejected. Agreements, rules and conditions which deviate from these conditions are only valid if and to the extent that they have been expressly confirmed in writing by ECE, and if they do not otherwise effect these conditions in any manner whatsoever.

2. Offers, specifications and orders

All offers from ECE are unconditional. ECE is never bound by prices previously agreed upon with a customer or by discount, margins and/or additional conditions which have been agreed with the customer in the past.

Descriptions, pictures, drawings, colours, measurements and specifications of the products of ECE apply as indication. ECE may invoke possible changes which do not involve any effective change to the technical and/or aesthetic design, unless expressly agreed to the contrary. If any agreement is entered into in writing, it becomes binding on the day that the contract is signed by ECE. In any case, the agreement becomes binding on the day of dispatch by ECE of the written confirmation of order. If the agreement is not laid down in a document signed by the customer, the content of the agreement will be dictated by ECE's order confirmation, the underlying offer from ECE and these general conditions of sale and delivery.

If, after the date of agreement has been reached, but before the date of delivery, the cost prices of the materials used or of labour have increased in respect of the cost prices on the basis of which the offer or order was agreed, even if this is due to foreseeable circumstances, ECE is entitled, unless agreed to the contrary, to charge this increase to the customer for the products which have not yet been delivered. In that event the customer is entitled to cancel the order concerning that part of the order which has not yet been delivered, within 14 days of being notified of that increase. ECE is entitled to index its prices annually. It seeks to do so in line with the Consumer Price Index (CPI) as specified by Statistics Netherlands (CBS) in the 12 months prior to the indexation in question.

3. Delivery term and security

The delivery dates which have been stated or agreed upon are approximations. Unless otherwise agreed, the date of delivery commences at the time of the agreement becoming effective.

Transgression thereof may never constitute a reason for the customer to cancel the order, unless – after the delivery term has elapsed – a reasonable term of at least 14 days has been given to effect the delivery and ECE has not delivered within that term. If ECE is unable to comply with its delivery obligation as a result of unforeseen circumstances, the reason for which has been made known to the customer, no cancellation may be made without ECE's permission.

ECE is never liable for damages as a result of transgression of the delivery term, except in the case of intention or gross fault on the part of ECE.

Unless agreed upon otherwise in writing, all deliveries take place "ex works" (EXW), Doetinchem, the Netherlands (Incoterms 2010).

ECE is permitted to make partial deliveries.

All goods are transported at the customer's expense and risk, irrespective of whether transport costs are charged. If ECE assumes responsibility for the delivery of the goods at the customer's request, or if the agreed conditions of the ICC Incoterms place this responsibility on ECE, the time, manner and route of dispatch will be chosen by ECE, but will remain at the customer's expense and risk. ECE will only take out transport insurance at the customer's explicit request; all associated costs will be borne by the customer.



All customs formalities, in both the export country and the import country, must be dealt with by the customer. Any costs and levies associated with customs authorities will be borne by the customer. If ECE assumes responsibility for customs formalities at the customer's request, or if the agreed conditions of the ICC Incoterms place this responsibility on ECE, the customs formalities and the associated costs and levies will remain at the customer's expense and risk.

Orders with a invoice value less than EUR 250,-- exclusive V.A.T. or orders with a different dispatch address can be charged with an administration surcharge of EUR 25,-- exclusive V.A.T. and with a to be specified transport surcharge per order. ECE may demand of the customer at all times that, before a delivery is made, all due claims from ECE in respect of earlier deliveries or in respect of the delivery concerned are paid, and that a bank guarantee is put up for the payment of claims which are not yet due in respect of deliveries which have been or are still to be made. If ECE does not obtain the payment or security demanded, it is entitled to postpone the delivery and, if the customer does not comply therewith even following a summons, to cancel the order, by its sole declaration, the order concerning that part which has not yet been delivered, without losing its rights to damages.

4. Reservation of ownership

Without prejudice to the provisions of article 3, ownership of the goods delivered by ECE is only transferred to the customer once payment has been made in full of all amounts owing for deliveries and labour, including interest and costs. Should the customer not comply with his obligations, ECE will be entitled, at all times and without prior summons or without legal action, to repossess or reclaim the unpaid goods, without prejudice to its further rights, in particular its right to damages.

Until all the goods have been paid for, any payment received from the customer shall, notwithstanding any indication from the customer to the contrary, be regarded exclusively as payment for the unpaid goods which have already been resold and delivered and thereafter as payment for the amounts outstanding on the oldest invoices.

If possession of the goods is made against the customer on goods which have been delivered by ECE and which are or could be the property of ECE on the basis of the provisions given above, the customer is obliged to notify ECE immediately of said possession.

5. Payment

All payments, without any discount, should be made at such a time that they are received by ECE within 30 days after the invoice date, unless the order stipulates an other term. The customer will not be entitled to any suspension or set-off in this regard.

Payment is considered not to have taken place before the amount has been fully and irrevocably credited to the account of ECE. This applies for all means of payment. In the event that this term is transgressed ECE shall be entitled, without prior declaration of default, to charge interest equal to the statutory interest which is applicable at that time, plus 10% administration costs, on the amounts outstanding. In that case, ECE also has the right to suspend any further deliveries. All recovery costs incurred by ECE, which include the costs connected with repossessing or the reclamation of the goods are for the account of the customer. Collection fees, due when third parties are engaged, will be charged at the rate which the latter may charge for the recovery of claims, in accordance with the appropriate guidelines, without prejudice to any legal costs due.

ECE will apply credit limits for all customers. In case the credit insurance company, for whatever reason, withdraws the credit limit or the total amount of the outstanding accounts exceeds the credit limit, ECE has the right to suspend deliveries until the customer is covered by the credit insurance (again) without ECE becoming liable for any loss suffered by the customer. At ECE's discretion, any delivery in that case may be made "cash on delivery" or in some other way to be agreed upon by the parties for which sufficient security is offered in ECE's opinion.

The customer declares that he rejects his right, now and in the future, to offset claims against ECE, in relation to deliveries and damage claims, et cetera, against payments which the customer normally should make to ECE before the due date.

6. Claims

The customer must report to ECE in writing any claims relating to externally visible defects, within 5 working days of delivery. Any later claims will not be accepted unless the customer can prove that, as a careful customer, he could not reasonably have discovered the defect sooner. In this event the claim will be accepted within 2 days of the discovery, provided that this is still within 14 days of delivery.

Goods for which a claim has been reported must be returned carriage paid to the address of ECE, but only following prior permission in writing from ECE.

7. Guarantee

With regards to the delivered products, ECE is not bound by any obligation other than those arising from its guarantee obligation as described here. ECE is obliged, for the first year after delivery of the product to her customer, at ECE's cost, to replace all parts with material, construction or production faults to her customer. This does not include breakable or plastic parts, normal wear or damage as a result of incorrect use or treatment, or parts that come in contact with water and lime scale. Instead of complying with the guarantee as described here, ECE has the sole right to choose, to



take the delivered product back from the customer for the price paid by the customer. The customer is only entitled to use the products in accordance with the intended use of the products and in compliance with the instructions and directions set out in the user manual. If the customer uses the products for other purposes and/or fails to comply with the user manual, the customer cannot take advantage of the guarantees as referred to in this article. Modifications to the products by the customer (or by third parties) are not permitted unless such modifications involve modules from ECE which are intended for the product concerned or ECE has approved the respective modification in writing beforehand. ECE may attach conditions to its approval. Any modifications made which are not permitted or not approved shall invalidate the guarantee.

Maintenance and repairs may only be carried out on products from ECE if original parts supplied by ECE and/or parts designated or approved in writing by ECE are used. Maintenance should take place in compliance with the user manual for the product concerned. Repairs which are not performed by ECE itself must be carried out exclusively by repairers authorised or approved in writing by ECE. If maintenance and/or repairs have been performed in violation of the obligations in this paragraph, this shall render the guarantee null and void.

8. Liability

ECE's liability is limited to the compliance with the guarantee obligations as stated in article 7 of these conditions. Except for gross fault and/ or in the case of intention on the part of ECE all liability of ECE is reduced to the maximum amount of the invoice price of the defective part which has caused the damage.

All liabilities such as industrial damage, loss of profits, other indirect damages and damages as a result of liability to third parties, are expressly excluded.

ECE compiles information material and gives advice on products to the best of its knowledge and expertise on the basis of the current state of knowledge and techniques. ECE gives no guarantees in respect of the accuracy of the information material or its advice and cannot, in particular, warrant that (at any moment) information material or advice will not prove to be obsolete as a consequence of developments in terms of knowledge and technique. ECE is not liable for any damage or loss as a consequence of the inaccuracy and/or incompleteness of the information material and/or advice it has provided. The customer is obliged to protect and indemnify ECE against all claims by third parties for damages for which ECE's liability, in these terms in relation to the customer, is excluded.

Every liability of ECE as a result of intent or gross negligence is limited to the amount stated by the insurance company concerned with the claim.

The customer is not permitted to sell the product on or to make it available in any way to third parties, including individuals, authorities, organisations, legal entities, regimes and/or countries against whom or which sanctions have been issued by the United Nations (UN), (countries of) the European Union and/or the United States (US). The customer will indemnify ECE against possible fines from the authorities concerned for ECE as well as (consequential) damage or loss for ECE as a result which is attributable in any way to the commercial relationship with the customer or to an agreement with the customer.

The customer is not allowed to resell the products or otherwise provide them to third parties in countries outside the European Union, to third parties in countries which are not subject to CE marking legislation and/or to third parties in countries in which other or supplementary product/safety/environmental requirements apply. If the customer contravenes the previous sentence, ECE shall not be responsible or liable in any way. The customer shall indemnify ECE against any damage, loss or claims in respect of third parties (including fines, penalties and consequential loss) as a consequence of the resale or onward delivery of the products in violation of this paragraph.

ECE shall not continue to be liable, in any way whatsoever, for its products or for any (consequential) damage or loss whatsoever if the products from ECE have been modified by the customer (or a third party) in any manner, including repairs carried out by unauthorised or non-approved repairers. Any modification, in whatever form, of a product from ECE by the customer (or a third party) is entirely and exclusively the responsibility of the customer (or that third party) who or which performs or arranges performance of the modifications.

9. Intellectual property

All copyrights, patent rights, rights with regard to trade names, trademark rights and other intellectual property rights as well as all kinds of rights to protect information relating to products, brand names, trade names and know-how belonging to ECE are the exclusive property of ECE or its licensor(s). Even in the event that ECE develops products, software and/or a particular module/functionality by order of and/or in consultation with the customer or another party, the associated intellectual property rights are and will remain the full and exclusive property of ECE. Unless explicitly agreed otherwise, these rights will not be transferred to the customer or other party, and no provision in any agreement with ECE may be interpreted as a transfer of these rights. The customer or other party is not permitted to use, or register in any country anywhere in the



world, any brand, design or domain name of ECE or an equivalent or similar name or sign. The customer or other party is obliged to inform ECE immediately in writing if a third party argues, whether or not by bringing a legal claim against the customer/other party, that a product supplied by ECE or a (trade) name/brand used by ECE violates that third party's intellectual property rights.

ECE has the right to take technical measures and to change software source codes in order, among other things, to protect ECE's intellectual property rights if, in ECE's opinion, there is a fear that the product concerned violates third-party rights. ECE has the right to withdraw a product from the market with immediate effect if, in ECE's opinion, there is a fear that the product concerned violates third-party rights. In such a situation, ECE is not liable for any damage or loss suffered by the customer/other party of whatever nature; ECE is, however, obliged in that case to make an effort to offer the customer/other party an alternative product with a similar functionality as quickly as possible. If it is considered that an ECE product violates third-party rights on the basis of a court ruling and/or must be withdrawn from the market by order of a court, ECE will not be liable for any damage or loss suffered by the customer/other party for whatever reason as a consequence of the (premature) termination of the right of use of the customer/other party and/or the take-back of the product in question.

10. Act of God

Each of the parties is entitled to suspend fulfilment of his/its obligations under the agreement if and insofar as such fulfilment is prevented or made unreasonably difficult by any of the following circumstances: labour disputes and any other circumstance beyond the control of the parties, such as fire, war, extensive military mobilisation, revolt, requisition, confiscation, embargo, restrictions on energy use and defects or delay in deliveries by subcontractors caused by any circumstance referred to in this article. A circumstance as referred to in this article, whether or not it presents itself before or after the drafting of the agreement, may only lead to suspension if the effect thereof on the performance of this agreement could not be predicted at the time when the agreement was drafted.

The party that claims to be affected by an act of God must inform the other party immediately in writing regarding the circumstances.

11. Return conditions

The return of goods can only take place with written permission from ECE. ECE does not accept the return of any client-specific goods. The return goods should not be older than three months and they need to be current, non-client-specific and undamaged. The goods need to be returned in

their original packaging. In the case where returned goods meet these conditions, a complete credit note will be made out. In the case return goods do not meet these conditions, the costs will be charged c.q. the amount will be partially credited.

12. Deferment and termination

ECE has the right to dissolve all or part of the agreement with immediate effect, without recourse to the courts, or to suspend fulfilment thereof, and to do so without prejudice to the other rights to which it is entitled (rights to performance and/or compensation), if:

- the customer violates any provision of the agreement between the parties;
- a (foreign) statutory regulation is applied which has the objective of liquidating the customer or reorganising the debts of the other party, such as bankruptcy, a (temporary) suspension of payments and similar statutory regulations;
- the customer's company suspends operations or is wound up or a settlement out of court is offered by the other party to creditors;
- the customer, having been asked to do so in writing, has not provided security considered by ECE to be appropriate within seven days.

In these cases, any claim against the customer is due and payable immediately without ECE being obliged to pay compensation or to fulfil any other obligation.

If the customer default on paying and/or taking delivery for more than fourteen days or wishes to cancel the agreement, ECE will be entitled, without further announcement, to sell the goods sold, in which case the downpayment made to ECE will lapse and count as compensation for the damage or loss it has suffered, unless the customer provides proof that this damage or loss is less and without prejudice to ECE's right to recover the damage or loss it has actually suffered from the customer. In that case, ECE will have the right to dissolve the agreement.

13. Conversion

In case a clause in these general conditions of sale and delivery is considered unlawful, invalid or is unenforceable, the clauses / stipulations which do not stand firm in law, will be adjusted in mutual understanding by both parties. In this way the meaning of the clause / stipulation will be equalized so that the original intention of both parties stays reflected. Such a clause will never influence the lawfulness and validity of the other articles.

14. Competent court

Any disputes that arise as a result of the agreement entered into between the customer/other party and ECE or of other agreements that might be the consequence thereof will be settled by the competent court in Arnhem (the Netherlands) unless ECE prefers to



bring proceedings against the customer/other party before the court of its own domicile.

15. Applicable law

Dutch law, to the exclusion of the provisions of Section 6.5.3 of the Dutch Civil Code, is exclusively applicable to all of ECE's offers, to all agreements with ECE, consequential or otherwise, and to the execution thereof.

The applicability of the Convention on the International Sale of Goods is expressly excluded.

16. Authentic text

The Dutch language version of these conditions shall apply as the sole authentic text. In the event of any differences or differences in interpretation between the Dutch language version and any translations thereof into other languages, the Dutch language version shall prevail.