

GENERAL TERMS AND CONDITIONS of CATALONIË GLAS VERPAKKINGEN B.V.

1. General

These general terms and conditions apply to all offers provided and agreements entered into by Catalonië Glas Verpakkingen B.V., further also referred to as 'Catalonië'; derogation from these terms and conditions will only be binding if these are expressly accepted in writing by Catalonië. The other party or customer is taken to mean in the context of these terms and conditions, the party to whom Catalonië has provided an offer or with whom Catalonië enters into an agreement.

2. Offers

All of Catalonië's offers, price lists and other proposals are without obligation, unless the contrary is expressly stated. An agreement will only come into effect when Catalonië has confirmed an assignment in writing by means of an order confirmation to the other party, or has actually executed the assignment.

3. Tolerances

Assignments will be exclusively accepted and executed by Catalonië with due regard to the standardised tolerances concerning dimensions and contents. If measurements, weights, quantities, volume, technical specifications and suchlike are stated in any manner whatsoever, these can only be regarded as an estimate.

4. Ordered quantities

The permissibility of derogations from the ordered quantity amounts to 10%, unless expressly agreed otherwise. The customer will be obliged to purchase the excess and to accept the shortfall.

5. Prices

The agreed prices are binding, always provided that Catalonië will be entitled to charge the customer for all increases of prices of Catalonië's suppliers, arisen after the date of the order confirmation, as well as the rates of import duties and/or other tax duties, freight costs, other costs and exchange rate changes recorded by the Nederlandsche Bank for foreign currencies, which are related to the delivery.

If, after the date of the order confirmation, prices are changed, the orders will be executed in accordance with these changes, unless the orders which have been placed and accepted by Catalonië are ready for dispatch for delivery within 14 days after the date of the written notice of the price change. If the customer does not wish to maintain an order, which has already been placed, at the new prices, the customer will have the right to cancel the order within 8 days after Catalonië's written notice of this change. The costs already incurred by Catalonië for the execution of the order will be charged to the customer in that case.

In the event of a combined quotation there will be no obligation for Catalonië to deliver a part of the goods included in the offer at a corresponding part of the stated price, and the quotation will not automatically apply to any repeat orders.

6. Force majeure

If the performance of the agreement cannot reasonably be required from Catalonië, or cannot be required from Catalonië in a timely manner, due to force majeure, Catalonië will have the right, by means of a written notice, to either suspend the performance for the duration of the force majeure or to terminate the agreement at any time during the force majeure situation, in so far as the agreement has not yet been performed, or in so far as the goods are not yet ready for dispatch, which will be without judicial intervention and without any obligation of compensation. The following will in any event apply as force majeure: riots, epidemic, natural disasters, exclusions, strike actions, fire, war circumstances, mobilisation, civil commotion, import and export barriers, breakdowns in public services, breakdowns of whatsoever nature, in Catalonië's business as well as in the customer's business, or Catalonië's supplier's business, discontinuation of the supply and/or delivery of the required or ordered products, lack of raw materials, auxiliary materials, tools, and machines, and all other circumstances as a result of which the performance of the agreement cannot be reasonably required from Catalonië, or cannot be required from Catalonië in a timely manner, without Catalonië having to demonstrate the impact of all this on Catalonië's business.

7. Delivery/dispatch

The delivery will take place in the manner stated by Catalonië.

Catalonië may at any time request a contribution from the customer to the handling fees, while extra costs for cash on delivery dispatch, or special delivery, or parcel post will always be charged.

The delivered goods will be at the other party's expense and risk from the time of the delivery. The time of delivery is taken to mean the time when the goods are delivered to the address stated by the other party. The delivery periods always apply as an estimate. The exceeding of the delivery period, provided that this is within reasonable limits, cannot give cause to the customer for cancellation of orders, partial termination, or compensation of the costs or damage arisen due to the exceeding. In the event of late delivery the other party must give Catalonië notice of default in writing and must provide Catalonië with a reasonable period to still deliver. Catalonië will not be obliged to deliver if a customer does not fulfil his obligations towards Catalonië, or does not do so in a timely manner, or if this can be feared, in which case Catalonië may require advance payment, cash payment, and/or security for the payment. Catalonië may likewise suspend the delivery, if the customer has not yet fulfilled his payment obligations under earlier agreements and/or deliveries, until all outstanding invoice amounts, including interest due to late payment, have been settled.

8. Goods that are ready/cancellation

If delivery on a call-off basis is agreed, Catalonië retains the right, after the production is ready, to still set a deadline for purchase. If purchase does not take place within the agreed period, or the set deadline, Catalonië will be entitled to invoice for the ready goods and to require payment thereof within 30 days after the invoice date, without prejudice to Catalonië's right to demand purchase.

Catalonië will store the ready goods that are not purchased, or that are not purchased in a timely manner, at the customer's expense and risk.

If the customer cancels, without Catalonië's permission, the assignment that has been accepted by Catalonië in writing, Catalonië will be released from the obligation to deliver the goods, but the customer will be obliged to payment of all of Catalonië's damage and lost profits, due to the mere fact of the cancellation.

9. Complaints and liability

The other party undertakes to thoroughly inspect the delivered goods for any defects within 7 days after the time of delivery. Complaints regarding incorrect execution of the assignment must be in Catalonië's possession in writing within fourteen days after the time of the delivery, in the absence of which Catalonië will retain the right to reject the complaint outright. The goods that the complaint relates to must be kept available for Catalonië.

If the delivered goods might show material or manufacturing defects, or damage that is on Catalonië's account, Catalonië will ensure replacement thereof, or payment of the invoice amount if replacement appears not to be possible within a reasonable period.

The customer indemnifies Catalonië against all liability for damage ensuing from the use of the packaging glass or any other packaging materials delivered by Catalonië to the customer. Catalonië does not provide any further guarantee for parts or items that Catalonië has purchased from third parties than the guarantee that is provided to Catalonië by Catalonië's suppliers.

Catalonië will never be liable for indirect damage, including consequential loss, lost profit, lost savings, and loss due to business interruption. In the event of direct damage Catalonië will not be obliged in any respect whatsoever to more and/or any other compensation than referred to in this article, whereby the liability is at any time limited to the amount that is paid in the case concerned by Catalonië's liability insurance, or to the amount to which Catalonië's supplier has limited the liability. Liability that is not covered by Catalonië's business liability insurance is limited to the invoice amount of the delivered goods. Catalonië does not accept any liability whatsoever for whatever direct damage, other than as referred to above in this article, which the customer might suffer due to any cause whatsoever, on the basis of any defect in the delivery, whether or not acknowledged by Catalonië. If Catalonië is called to account regarding this matter by third parties, the customer will fully indemnify Catalonië and will pay to Catalonië all that which Catalonië might have to pay to third parties. Catalonië will be furthermore released from any liability and will not be obliged to accept complaints regarding defects if the customer has not fulfilled his payment obligations and/or other obligations in a prompt manner.

10. Moulds

The mould costs charged to customers are only contributions to the costs of the production of moulds and tools: these moulds will always remain Catalonië's property. In the event of regular purchases, the moulds for which the costs have been charged to the customers will be reserved for them during two years. Unless expressly agreed otherwise, any rights to the designs and drawings developed by Catalonië will accrue to Catalonië, or Catalonië's factory.

11. Packaging

Special packaging prescribed by the customer, as well as boxes and pallets, will be charged. Only boxes, crates, and pallets which are returned carriage paid within 30 days and in a good state of repair, which will be at Catalonië's assessment, will be reimbursed.

Damage or loss of the packaging made available by the customer to Catalonië, caused by Catalonië or by personnel or any third parties, and of whatever nature, will be at the customer's expense and risk.

12. Payment

Payment must be made to an account to be designated by Catalonië, without deduction or reliance on set-off compensation, within 30 days after the invoice date, or if another payment term has been agreed, at the agreed time. If the customer omits to pay the claim at the time when the claim is due and payable, the customer will be immediately in default without any notice of default being required. From that time the customer will owe interest over the amount due, equal to the statutory interest applicable at that time, whereby a part of a month will be calculated as a full month. The statutory commercial interest will apply if the customer acts in the exercise of his profession or business.

In the event of default of payment Catalonië will be entitled to declare the agreement terminated without any judicial intervention, and to repossess the sold goods, without prejudice to Catalonië's rights to claim performance of the agreement, in both cases with compensation of any damage suffered by Catalonië.

If the customer is in default of payment, the customer will be obliged to pay, in addition to the purchase price and the interest over this, all costs including the judicial as well as extrajudicial collection costs resulting from the non-payment. Extrajudicial costs will be owed by the customer in any event during which Catalonië has referred the claim to a third party for collection. The obligation of this payment of the extrajudicial collection costs will be evident from the mere fact that Catalonië has referred the claim to a third party for collection.

13. Breach of contract and retention of title

The items purchased and delivered by Catalonië in the context of the agreement will remain Catalonië's property until the other party has properly fulfilled all obligations under the agreement(s) concluded with Catalonië, including any claims with regard to interest and (collection) costs. If the customer does not, does not in a timely manner, or does not properly fulfil his obligations, Catalonië will have the right to suspend the agreement, wholly or in part, by mere written notification, or to terminate the agreement without judicial intervention, as well as to cancel the ongoing orders, without prejudice to Catalonië's right to compensation. If the same type of goods are delivered on one or more paid and unpaid invoices, the goods present at the customer will be deemed to have been delivered on the unpaid invoice.

14. The customer's packaging, samples etc.

Breakage, theft, loss, or other damage of packaging, samples and/or other items temporarily made available by the customer to Catalonië, will be at the customer's risk.

15. Applicable law

All of Catalonië's agreements are governed by Dutch law.

16. Court with competent jurisdiction

In the event of disputes arisen with regard to, or ensuing from, the agreements concluded by Catalonië, parties declare that the Zeeland-West-Brabant District Court will have exclusive jurisdiction, unless Catalonië prefer to submit the dispute to the judgment of another court with competent jurisdiction, Dutch or otherwise.