



GENERAL TERMS AND CONDITIONS OF SALE, DELIVERY AND PAYMENT

OF de besloten vennootschap Zwarthout Shou Sugi Ban B.V.
Middelweg 85 3956 TL LEERSUM The Netherlands
registered at the Chamber of Commerce under number 68015739

SEPTEMBER 2019

ARTICLE 1: APPLICABILITY

a. These terms and conditions apply to all offers, sales and deliveries by Zwarthout Shou Sugi Ban B.V. (Chamber of Commerce registration no. 68015739) hereinafter referred to as Zwarthout, to a third party, to all activities executed by Zwarthout by order of a third party, and to all agreements in the broadest sense of the word entered into by Zwarthout with a third party.

b. These terms and conditions apply in and outside the Netherlands, regardless of the place of residence or registered office of the parties involved in any agreement, and regardless of the place where the agreement has come about or should have been implemented.

c. If the other party applies other general terms and conditions such as purchase conditions, these will not bind Zwarthout, these will not apply and are hereby expressly rejected by Zwarthout.

d. Any deviation from these terms and conditions used or allowed by Zwarthout at any time to the benefit of the other party can never be construed as the latter's right to appeal to it later or to claim the application of such deviation for them as an established fact.

e. If the other party takes note or could have taken note of these general conditions in another language than the Dutch language and differences in interpretation arise from the respective versions, the Dutch version will prevail over the version in the foreign language, unless Zwarthout expressly waives this in writing.

ARTICLE 2: OFFERS

a. All offers and quotations are non-committal, unless explicitly stated otherwise. They have been made to the best of Zwarthout's knowledge and are based on data that may have been provided on the request for an offer.

b. The specifications provided by Zwarthout on websites, in images, websites, multimedia, catalogues, brochures or drawings or in any other way with respect to size, capacity, performance, colour, material structure, finish or results should be regarded as having been provided as estimates and as having been provided non-committally.

Zwarthout is not held to comply with these specifications and therefore does not accept any liability for any incorrectness in these data.

ARTICLE 3: ORDERS/AGREEMENTS

a. An order is understood to mean: every agreement with Zwarthout, regardless of whether it undertakes to execute activities or make staff, material or space available or carry out any other performance whatsoever, in the broadest sense.

b. All agreements entered into with Zwarthout will only become binding upon a written confirmation by Zwarthout or due to Zwarthout having commenced the execution of the order. Any supplements or changes to the aforementioned agreements will only become binding for Zwarthout after and in so far as these have been accepted and confirmed in writing by Zwarthout. The other party will be deemed to have accepted changes or supplements to agreements entered into with Zwarthout, if the other party has not objected in writing against these changes and/or supplements within eight days after she has or could have taken cognizance of these changes and/or supplements. The other party is deemed to have knowledge of the said changes and/or supplements and to have accepted these at the moment at which Zwarthout has commenced the activities to which these changes and/or supplements are related.

Only the Board of Directors and possibly those explicitly authorised by the Board of Directors to enter into agreements on behalf of Zwarthout are allowed to do so.

c. Unless explicitly agreed on otherwise in writing, Zwarthout is entitled at all times to have part of the order or the entire order executed by a third party, on the understanding that these terms and conditions also apply in the favour of this third party, provided that Zwarthout authorises such third party in writing – even afterwards, if necessary – to appeal to these terms and conditions without this authorisation causing any obligations for Zwarthout.

ARTICLE 4: LIABILITY

a. Except for the provisions of Article 9 of these terms and conditions, Zwarthout is not liable for any damage caused either directly or indirectly by the items delivered – including extra work – not being in compliance with the agreement, unless this is due to Zwarthout's intent or gross negligence. Consequently, Zwarthout also does not accept any liability in the event of serious calamities, such as, but not limited to, fire, water damage and any outside contingency, such as war and earthquakes.

The other party indemnifies Zwarthout against all claims by third parties in this respect.

b. The wood products supplied by Zwarthout are natural materials, whether treated or not. In view of the natural characteristics of these products, they may change in design, colour, durability and quality as a result of weather influences, such as, but not limited to, temperature and humidity. Zwarthout is not liable for this and cannot in any way be held liable for this by and/or on behalf of the other party, either directly or indirectly.

c. Nor can Zwarthout be held liable by and/or on behalf of the other party for the appearance of the wood products it supplies to the other party, such as, but not limited to, the presence of knots and/or the pattern differences present.

d. Insofar as the other party, or a third party engaged by them, is involved in the execution of the transaction between Zwarthout and the other party on the basis of cooperation and/or providing assistance, Zwarthout is in no way and in no form whatsoever liable for all damage caused on the part of the other party and/or the third party involved; Also not towards the underlying client of the other party.

e. If Zwarthout should be liable for any other reason for any damage under the agreement, the damages payable will not exceed the invoice amount (exclusive of value added tax) with regard to the respective goods and/or services, with a maximum of EURO 5,000.00 (in words: five thousand euros).

f. A claim under these terms and conditions does not suspend the other party's payment obligation towards Zwarthout.

ARTICLE 5: PERIOD AND LOCATION OF DELIVERY

a. The periods of delivery mentioned in the offers, confirmations and contracts are to the best of Zwarthout's knowledge and will be complied with as much as possible, but they are not binding for Zwarthout.

b. If these periods are exceeded due to whatever cause, the other party will not be entitled to damages, dissolution of the agreement or non-compliance with any obligation arising for them from the respective agreement or from any other agreement whether or not connected with this agreement.

c. If the delivery period is exceeded by a wide margin, at the discretion of Zwarthout, Zwarthout will enter into further consultation with the other party.

d. Delivery is ex Zwarthout company or any other location to be decided by Zwarthout.

e. If goods sold or services offered by Zwarthout are not accepted after they have been offered to the other party, they will be available to the other party for a maximum period of three weeks. Throughout this period, the goods are stored for the other party's account. After the period mentioned above, the total amount that would be payable for purchase or compliance, increased with the costs and interest, could be claimed on the other party, even without delivery of the said goods or services. The payment will then be deemed made as damages to Zwarthout.

f. If the other party does not comply with any obligation arising from this agreement or any other agreement connected with the order or does not do so in time, Zwarthout, upon informing the other party in writing that he is default, without judicial intervention, will be entitled to suspend the execution, without Zwarthout being held to pay any damages.

ARTICLE 6: TRANSPORT AND TRANSPORT RISK

a. The choice of the means of transport is for Zwarthout to decide.

b. The transport of the goods ordered with Zwarthout is for the other party's account.

c.1. As from the moment of dispatch, all goods ordered from Zwarthout travel at the other party's risk. Also if costs of carriage to the delivery address have been agreed on, the other party will be liable for any damage sustained during transport.

c.2. All the correspondence conducted by and on the part of Zwarthout with the other party and/or with third parties on behalf of the other party, is from the moment of dispatch at the risk of the other party, irrespective of the delivery conditions relating to the goods and/or services to be delivered by Zwarthout as agreed with the other party. The other party must ascertain that the correspondence derives from Zwarthout. Zwarthout cannot be held liable in any way by, and/or on the part of, the other party for damage and/or changes to and/or corruption of the content of the correspondence sent by or on the part of Zwarthout. Nor can Zwarthout be held liable in any way by or on behalf of the other party in connection with improper use of personal data by the carrier, the fact that it has become clear that the carrier secured these data insufficiently and/or did not destroy these data on time.

d. The goods will be delivered only to the ground floor. If goods are to be delivered at another location than at ground-floor level, the additional costs and risks are to be borne entirely by the other party.

Where Zwarthout arranges for the transport of the goods to be delivered, the other party shall ensure that the unloading point and the facilities, including manpower, for removing the goods from the transport vehicle are easily accessible.

If the other party fails to fulfil all or part of its aforementioned responsibilities, at the discretion of Zwarthout, Zwarthout is entitled to cancel the delivery at that moment, without prejudice to all rights, such as, but not limited to: converting the delivery on location into an obligation to collect at the expense of the other party at a location to be designated by Zwarthout, and/or charging the other party for the damage suffered.

e. At arrival or receipt of the goods, the other party has to check the condition of the goods. If it then becomes apparent that the goods or materials have sustained damage, he has to take all measures to obtain damages from the carrier. By signing the receipt provided by or on behalf of Zwarthout, the other party declares he has received the goods in good condition.

ARTICLE 7: PRICES AND COSTS

a. Zwarthout fixes a price or fee for every order individually. This price or fee is exclusively intended as the amount to be paid for the performance to be executed by Zwarthout, including the normal costs involved. The prices mentioned in the offer are based on the cost price factors, rates, wages, taxes, rights, expenses, cargo et cetera then known. In the event of an increase of any of these factors, Zwarthout will be entitled to change the offered (selling) price accordingly.

b. Therefore, the price or fee does not include any levies imposed by the government, and/or other authorities, including fines, insurance premiums etc.

c. Zwarthout is entitled to demand down payments, or a deposit or security (in the form of a bank guarantee) in advance.

d. Zwarthout reserves the right to charge travel and/or shipping costs.

ARTICLE 8: TERMS AND CONDITIONS OF PAYMENT

a. Unless explicitly agreed on otherwise in writing, payment of invoices sent by Zwarthout must be made within 14 (fourteen) days upon invoice date, without deduction of discounts and without any form of compensation.

b. All payments, without deduction or settlement of debt, are to be made at the offices of Zwarthout or into a bank or giro account to be designated by Zwarthout.

c. Discounts can only be granted upon mutual consultation between Zwarthout and the other party. Unless explicitly agreed on otherwise in writing, these are one-off discounts. With subsequent transactions no appeal can be made to previous discounts.

ARTICLE 9: COMPLAINTS

a. Any complaints about the delivery of goods, the services provided and invoice amounts, must be submitted to Zwarthout in writing by the registered letter within 8 (eight) days upon receipt of the products, services or the respective invoices, with the facts to which the complaints are related carefully stated. The other party's right to complain lapses with respect to the goods and/or services used, edited and/or processed by or on behalf of the other party.

b. If the complaints submitted do not comply with the provisions above, they can no longer be received, and the other party will be deemed to have approved the delivered goods and/or performed services. If in Zwarthout's opinion a justified complaint has been submitted, it will have the right to pay to the other party a sum in damages to be decided in mutual consultation, or to proceed to making a new delivery while keeping the current agreement unchanged, under the other party's obligation to return to Zwarthout the incorrect or faulty good(s) delivered carriage paid, at the discretion of Zwarthout.

c. Zwarthout will only be held to take cognizance of complaints submitted, if at the moment at which the complaints are submitted the other party involved has integrally complied with all his existing obligations towards Zwarthout, regardless of what these obligations consist of and from whatever agreement they arise.

d. Return shipments insufficiently packed or bearing insufficient postage will be refused by Zwarthout. All return shipments from the other party are for their account and risk.

ARTICLE 10: CANCELLATION/DISSOLUTION AND SUSPENSION

a. If the other party is or remains in default in any way with respect to complying with his obligations regarding deliveries or activities executed or to be executed by Zwarthout previously, or pursuant to other obligations, Zwarthout has the right to suspend its obligations towards the other party or to cancel/dissolve the underlying agreements in whole or in part, without being held liable by the other party in any way and without prejudice to the rights to which Zwarthout is entitled.

Zwarthout will also have this right, if the other party is declared bankrupt, has petitioned for suspension of payment, the Debt Rescheduling Private Individuals Act (Wettelijke Schuldsanering Natuurlijke Personen – WSNP) is declared applicable, other forms of debt supervision or winding-up of the company or business activities occurs, or if – to the standards of Zwarthout – these circumstances threaten to occur. All claims Zwarthout has on the other party will then be immediately due and payable.

b. If the other party wishes to terminate/cancel the contract(s) that it has entered into with Zwarthout, then Zwarthout is also entitled to demand fulfillment of the contract(s) entered into; or, at the discretion of Zwarthout, the other party will owe termination costs of 100% of the agreed market value or transaction value and, on cancellation, will owe cancellation fees of at least 30% of the market value or the transaction value, all of which also at the sole discretion of Zwarthout.

ARTICLE 11: COMPENSATION IN THE CASE OF NON-PAYMENT OR LATE PAYMENT

If payment of the invoices sent by Zwarthout has not taken place within 14 (fourteen) days upon invoice date, the other party will be deemed to be legally in default and Zwarthout will have the right to charge to the other party interest on the full payable amount as from the expiry date equal to the statutory interest rate with a minimum of 1% per month or a part of this, without prejudice to the other rights to which Zwarthout is entitled, including the right to recover all costs under the claim, both court costs and extrajudicial collection costs, the latter of which are fixed in advance at 15% of the amount to be claimed, with a minimum of EURO 250 (in words: two hundred and fifty euros), all of the above without notice of default.

NB: Where the legislator has established by law the extrajudicial collection costs to be passed on to the other party, the other party is held to pay extrajudicial collection costs pursuant to the respective provisions of the law.

ARTICLE 12: RETENTION OF TITLE

a. As long as the other party has not made full payment to Zwarthout for goods, parts and installations delivered to him by Zwarthout and/or activities executed for him by Zwarthout, these goods and/or materials, which are for the other party's account and risk, will remain the undisputed property of Zwarthout.

b. If a other party does not comply with any obligation from the agreement with respect to the goods sold and/or activities executed, Zwarthout, without any notice of default being required, has the right to take the goods or materials back, in which case the agreement will be dissolved without any judicial intervention, without prejudice to the right of Zwarthout to claim compensation at law or extra judicially for any damage suffered or yet to be suffered by Zwarthout, including loss suffered, lost profit, interest, transport costs etc.

c. Zwarthout reserves the right to actually retain goods, tools, materials, vehicles, money, negotiable instruments, (financial) documents et cetera which it has obtained from the other party under whatever title, until the other party has fully complied with his financial and other obligations towards Zwarthout.

d. For transactions with a other party established in a country where prolonged retention of title applies, Zwarthout has the right to declare the prolonged retention of title as it applies in the respective country applicable at any moment of its choosing.

ARTICLE 13: FORCE MAJEURE

a. In the event of force majeure Zwarthout is no longer held to comply with its obligations towards the other party. Force majeure includes such events and situations which have a clearly identifiable and direct influence on the company Zwarthout, such as, but not limited to, serious interruptions of its production process, war (also outside the Netherlands), riot, epidemic, fire, traffic disruption, strike, exclusion, loss or damage during transport, accident or sickness among its staff, import restrictions or other limitations imposed by governments etc. Zwarthout will be discharged from its obligations, regardless of whether force majeure occurred in its own company or elsewhere, such as in the companies of suppliers, carriers, wholesalers etc..

b. In the event of impediments to executing the agreement due to force majeure, Zwarthout will be entitled, without judicial intervention, to suspend the execution of the agreement for a period not exceeding six months, or to dissolve the agreement in whole or in part, at the discretion of Zwarthout. The other party will receive a written notice of such decision made by Zwarthout.

ARTICLE 14: INTELLECTUAL PROPERTY RIGHTS, DESIGN PROTECTION

a. The Intellectual property rights of all products manufactured by Zwarthout (for the benefit of the other party), services provided etc. belong to Zwarthout. Use or alternative use of these rights, designs and/or ideas of Zwarthout is strictly prohibited, unless Zwarthout has granted explicit approval in writing and all conditions stipulated by Zwarthout in this respect have been fully complied with.

b. If the other party does not comply with the provisions as set out under 14a, Zwarthout will be entitled, without any further notice of default and/or judicial intervention being required, to claim a fine of at least EURO 11,500 (in words: eleven thousand five hundred euros) per day or a part thereof as long as this non-compliance continues.

ARTICLE 15: GUARANTEES

a. Zwarthout will exclusively grant a guarantee in accordance with the provisions of the guarantee clause, if and insofar such provisions have been delivered together with the products. In such cases, the guarantee will only take effect after the other party has informed Zwarthout of his request in writing by registered letter.

b. If a guarantee is provided by Zwarthout but if no guarantee clause has been provided, the guarantee term will not exceed six months after delivery of the respective goods. The other party will also need to inform Zwarthout of his request in writing by registered letter.

c. The guarantee includes repair or replacement of the goods delivered or full or partial credit of the disputed goods, this at the discretion of Zwarthout. Outside contingency can never lead to Zwarthout being held to provide any guarantee.

d. The goods taken into repair by Zwarthout reside in all cases at the risk of the other party. This also complies to a therefore engaged third party by Zwarthout.

ARTICLE 16: CONSIGNMENTS ON APPROVAL

Only upon prior written confirmation by Zwarthout to the other party, the goods delivered by or on behalf of Zwarthout can be considered consignments on approval for shows, exhibitions, trade fairs and/or other purposes to be indicated by Zwarthout.

These general terms and conditions also fully apply to goods on approval and on consignment.

ARTICLE 17: APPLICABLE LAW AND COMPETENT COURT

a. All offers, assignments and contracts to be entered into with Zwarthout are governed by Dutch law. Nevertheless, Zwarthout is at liberty to be able and entitled to rely at any time on the applicable law of the country in which the other party is established. In such a case, contrary to the provisions set out under b, the dispute will be submitted to the court that is competent *ratione materiae* in the other party's jurisdiction. If the nature of the transaction(s) so warrants, Zwarthout is able and entitled to rely at any time on the Vienna Sales Convention. It is not necessary for Zwarthout to notify the other party of its choice in advance.

b. All disputes will be submitted to the District Court of Midden-Nederland that is competent *ratione materiae* or to another competent judicial authority, at the discretion of Zwarthout.

c. If any article or paragraph of these general terms and conditions becomes invalid, the other articles will remain valid.

d. In the event that other party is summoned by a third party at another court and / or under another jurisdiction, other party hereby waives the right to summon Zwarthout in indemnification before that court and to that law, so that the the jurisdiction of the court and law chosen by a by Zwarthout in any case will have the upper hand.

d. Any article or sub-article of the present general terms and conditions becoming void shall not affect the validity of other articles.