

Terms of sale Marelko 2023

1. Applicability

1.1. These General Terms and Conditions and Delivery Terms and Conditions (hereinafter referred to as Conditions) shall apply to all offers between KoDé Group B.V. of Maarheeze, Marelko Benelux B.V. of Maarheeze and TM-CS B.V. of Maarheeze (hereinafter referred to as "Marelko") and Customer ("Agreement"), unless the parties have expressly deviated from them in writing.

1.2. Deviations from or amendments to these Conditions apply only to the offer or Agreement in question, unless otherwise specified in writing.

1.3. "Customer" means any (legal) person to whom supplies of goods and/or services are made by Marelko, including its representatives, agents and assigns. Goods, products and services will herein be referred to together and individually as "Goods".

1.4. Any terms and conditions used by Customer shall not be binding upon Marelko unless Marelko has agreed to them in writing.

1.5. If Marelko has agreed in writing to the applicability of one or more different terms and conditions, these Conditions shall otherwise remain in full effect.

2. Formation and amendment of the Agreement

2.1. All offers made by Marelko are without obligation and are considered invitation to Customer to make an offer. Offers are valid for a period of 30 days unless stated otherwise. If Marelko accepts an offer by Customer, Marelko nevertheless has the right to revoke the offer within two business days after receiving the acceptance.

2.2. Marelko is bound to Customer to an order placed with Marelko, if and when Marelko has confirmed such order in writing. Marelko's commencement of the performance of an order, does not imply its acceptance.

2.3. Customer is bound to Marelko by the order placed if and when the order is placed with Marelko.

2.4. Changes to an order placed must be confirmed by Marelko in writing and apply only to the order in question. Changes made may result in the delivery time indicated before the changes being exceeded by Marelko. This cannot be invoked to the detriment of Marelko.

3. Delivery time

Any delivery time mentioned or agreed upon is considered an indicative period. Marelko is not in default by the mere exceeding of a delivery time.

4. Place of delivery

All deliveries of Goods shall be made EXW according to Incoterms, latest version, at Marelko in Maarheeze. In case transport and/or delivery is agreed upon, this will be for the account and risk of Customer and Customer will take out appropriate transport insurance.

5. Cancellation

Rejection by Customer of delivered Goods shall not release Customer from its payment obligation, unless it is shown by written evidence that the Goods did not meet the agreed specifications, or unless and to the extent that the Goods can be resold by the Seller to a third party without discount.

6. Provision of Goods

6.1. Marelko, one of its providers or engaged parties, may, for the purpose of, among other things, maintenance, improvement and enhancement of Goods, temporarily take out of service one or more connections or other technical facilities belonging thereto. Marelko shall - if the seriousness of the situation permits - notify Customer of such work in advance.

6.2. If a defect occurs in a product, Customer will properly notify Marelko as soon as possible.

6.3. Marelko does not guarantee that a service will be uninterrupted and/or that there will be no errors in a Good.

6.4. Customer shall, if deemed necessary and reasonable by Marelko, cooperate with or perform actions for the failure investigation and repair of the failure.

6.5. Marelko may, if Marelko deems necessary, impose requirements on the environment, such as having climate control, as well as maintaining equipment or software, when the environment, equipment or software are under the control or at the disposal of Customer.

6.6. Marelko may provide Customer for the use of services access or identification codes assign. Customer shall keep the codes confidential handle and only to authorized staff make known.

6.7. Marelko has the right to provide certain work, without notice to Customer, to be performed by third parties.

7. Warranty

7.1. Marelko provides a warranty on all Goods manufactured by itself after delivery in accordance with the period mentioned on the warranty

certificate accompanying the product. The warranty covers only defects of the product itself and excludes defects due to faulty installation or vandalism by third parties, misuse by Customer or force majeure. The warranty provision may be limited if the Customer has not acted in accordance with these conditions or instructions on use. In the absence of a warranty certificate, the warranty period is limited to one year from the delivery date. Marelko provides warranty for the services provided for the duration of 6 months after delivery of the specific service.

7.2. Marelko will at its sole discretion either repair or replace the defect product under the warranty. All other costs associated with the warranty, such as but not limited to shipping, delivery and (dis)assembly costs, shall be borne by Customer. For services, warranty applies as far as reperforming the defective service by Marelko is reasonably possible. However, Marelko's obligation to repair or replace the product or to reperform the service is contingent upon receipt of timely, written notification of non-conformity of the product and, if applicable, return of the product.

7.3. This warranty may not be invoked if the product has not been treated in accordance with generally accepted views regarding their use, or if, at the time Customer invokes the warranty, Customer has not fully, properly or timely fulfilled any obligation to Marelko, or if Customer has made or caused changes or repairs to the Goods without Marelko's approval, if the Goods are used for other than normal business purposes or have been carelessly or inexpertly handled or maintained.

7.4. On repairs Marelko provides a warranty period of 3 months.

7.5. If Customer is a consumer under Dutch law, the warranty will not exceed the mandatory legal provisions for customers.

8. Transfer of risk and ownership

8.1. The risk of the Goods transfers to Customer upon delivery.

8.2. Products whose delivery is suspended pending payment by Customer, as well as Products whose delivery is wrongfully refused or not accepted by Customer, shall be kept and stored by Marelko at Customer's expense and risk.

8.3. The Goods remain the property of Marelko until Customer has fulfilled all its obligations under the relevant Agreement.

8.4. Until Customer has made full payment, Customer may only use the Goods within the scope of his normal business conduct and the Goods may not be transferred or delivered to any third party.

8.5. If Customer, after written demand by Marelko, remains in default, Marelko is entitled to resell the Goods to a third party. Customer hereby irrevocably authorizes Marelko to repossess the Goods and enter any location where the Goods are located for this purpose. The costs related to repossession shall be borne by Customer.

8.6. Customer is not entitled to a lien in respect of any custodial costs incurred by it, nor is Customer entitled to offset such costs against what is due to Marelko.

9. Intellectual property

9.1. Marelko reserves all intellectual property rights in respect of quotations issued by it, as well as to the Goods, drawings, calculations, software, descriptions, models and the like, manufactured, designed, altered or provided by it, as well as in respect of the information contained in or underlying any of the foregoing.

9.2. All signs, logos, labels and the like, whether or not protected by intellectual property rights, located on, in or attached to the Goods, may not be used by Customer other than with prior written consent of Marelko.

9.3. Marelko has not verified the possible existence of third party intellectual property rights that could be infringed as a result of the sale/delivery of the Goods and cannot be held liable for any damages in this regard.

10. Right of complaint

10.1. Customer is obliged to thoroughly examine whether the Goods comply with the Agreement immediately upon delivery of the goods. If, in Customer's opinion, the Goods do not comply with the Agreement, Customer shall raise an objection in writing, stating reasons, within 8 (eight) days after receipt of the Goods. In the event that the ground for the objection could not reasonably have been discovered within this period, a period of 8 (eight) days from the time such ground could reasonably have been discovered shall apply.

10.2. Objections will be considered only if submitted within the relevant warranty period and full payment has been made for the relevant delivered goods.

10.3. If the objection as referred to in Paragraph 1 of this article is accepted by Marelko, Marelko will only repair, replace or reimburse the (parts of the) goods to which the accepted objection relates.

11. Prices and price increases

11.1. All prices mentioned in offers are excluding sales tax.

11.2. Marelko is entitled to pass on price increases, which occur after the conclusion of this Agreement, to Customer on the understanding that if this price increase exceeds 5%, Customer is entitled to annul the Agreement within 5 days after Marelko's price increase notice in writing. If no timely annulment has been received by Marelko, the price increase is accepted.

11.3. If Customer is a consumer under Dutch law, Customer is entitled to the mandatory legal provisions for customers regarding price increases, with a maximum of the statutory rights for customers.

12. Payment

12.1. Unless otherwise agreed in writing, payment must be made within 14 days of the invoice date. For payment terms, time is of the essence. Customer owes interest on overdue payments of 1% of the invoice amount per month or part thereof without prejudice to the other rights of Marelko and Marelko is entitled to demand immediate payment of all outstanding invoices and to suspend further deliveries until such time as the entire outstanding amount has been fully paid.

12.2. Payments by Customer shall always serve to first settle all interest and costs due and subsequently due and payable invoices that have been outstanding the longest, also when Customer states that the payment relates to a more recent invoice.

12.3. If there is suspension of payments, bankruptcy, liquidation or insolvency of Customer, any claim of Marelko against Customer shall become immediately due and payable in full.

12.4. In case Customer's financial situation so requires, at Marelko's sole discretion, Marelko may make deliveries subject to prepayment or refuse the relevant order.

13. Collection costs

In the event Customer is in default in any payment obligation Customer is liable to all out-of-court and in court collection costs, if any. Customer agrees to, in deviation from article 6:96 BW and in deviation from the Decree on compensation for extrajudicial collection costs, already now for then, to set out of court collection costs at 15% of the total outstanding principal amount with a minimum of €40 for each partially or completely unpaid invoice.

14. Liability

14.1. The liability of Marelko is limited to performance of the warranty obligations described in Article 8 of these Conditions.

14.2. Any further or other liability for improper performance or other failure of Marelko, or for damages to Customer or third parties, on any grounds whatsoever (except in cases of intent or gross negligence) is expressly excluded. Notwithstanding this exclusion of liability, Marelko's liability or warranty obligation will at no event exceed the invoice amount for the Good concerned.

14.3. Marelko shall not be liable for any indirect or consequential damages such as, for example, loss of production, loss of profits, loss of competitive advantages or loss of reputation.

14.4. Customer shall indemnify and hold Marelko harmless from all third party claims against Marelko in relation to the performance of the Agreement, except for intent or gross negligence on the part of Marelko. Customer will indemnify and hold Marelko harmless from any third party claims related to or arising from the use by such third party or Customer of the goods supplied or services performed by Marelko.

15. Suspension, dissolution and force majeure

15.1. Marelko shall, without prejudice to its rights to compensation for costs, damages and interest, be entitled to terminate the Agreement without judicial intervention with immediate effect, if:

- Customer fails to perform one or more of its obligations under the Agreement and, after having been given written notice of default and having failed to fulfill its obligation(s) within the reasonable period of time specified in the notice of default;
- bankruptcy or suspension of payments is filed or granted in respect of Customer, or measures are taken indicating liquidation or cessation of Customer's business.

15.2. In the event Marelko is prevented from performing the Agreement due to force majeure, Marelko is entitled to suspend the performance of the Agreement without judicial intervention, or to dissolve the Agreement in whole or in part, without being liable for any compensation.

15.3. Force majeure shall exist in the event of any event independent of the will of Marelko or any circumstance as a result of which performance of the Agreement is permanently or temporarily affected, including but not limited to war, danger of war, civil war, riot, labor strike, impossibility to attract the necessary workers, fire and any other failure in the operation of Marelko or its suppliers. Force majeure also exists if a supplier, from

whom Marelko procures goods in connection with the performance of the Agreement with Customer, defaults in delivery.

16. Privacy

16.1. The parties will fully comply with all applicable laws and regulations regarding the processing of personal data, including the General Data Protection Regulation.

16.2. Customer shall indemnify Marelko against all third party claims relating to Customer's failure to comply with said privacy regulations.

17. Secrecy

17.1. If the Agreement is terminated or dissolved, this Article shall continue to apply between Marelko and Customer for a period of one year after said termination or dissolution.

17.2. Marelko and Customer shall strictly observe confidentiality with respect to the information about each other's organization, operation of the equipment, services and files, including the contents and existence of the Agreement and shall make information and data carriers available to third parties only to the extent permitted under these Terms and Conditions and necessary for the performance of the services agreed upon between Customer and Marelko.

18. Miscellaneous

18.1. Marelko is entitled, at its sole discretion, to engage third parties in the performance of an Agreement on behalf of and at the expense of Customer.

18.2. If Marelko has reason to suspect that Customer will not be able to fulfill its obligations under the Agreement, Customer shall at Marelko's first written request provide adequate security for the full fulfillment of its obligations in respect of Agreements performed or still to be performed in whole or in part, according to Marelko's reasonable requirements.

18.3. Customer may not assign its rights and/or obligations arising from any Agreement to a third party or provide security against third party claims without the prior written consent of Marelko.

18.4. Marelko shall not be liable to Customer for damages arising as a result of (cyber) crime or (cyber) vandalism, barring intentional or deliberate recklessness. The total liability of Marelko in this regard shall in all cases be limited to direct damage and a maximum of € 5.000,- or the amount paid out under the relevant insurance policy. Customer warrants that it is adequately protected and insured against the consequences of (cyber) crime or (cyber) vandalism and indemnifies Marelko against all direct and indirect damages resulting from such failure.

18.5. The Dutch text of these Terms prevails over any translation thereof.

19. Applicable law and competent court

19.1. All Agreements are governed by Dutch law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods, Vienna 1980, is expressly excluded.

19.2. In the event of a dispute, the District Court of Roermond shall have exclusive jurisdiction in first instance, unless statutory provisions oppose that choice of forum.

19.3. If Customer is a consumer, he shall be entitled, within a period of one month after Marelko has invoked this article in writing, to declare that he chooses to settle the dispute by the court competent by law. In such case, the latter court shall have jurisdiction.