

GENERAL TERMS & CONDITIONS : NEWMART EUROPE BV

Definitions:

In these conditions apply:

- 1.1 Newmart: the private company with limited liability Newmart Europe BV, registered in the Commercial Register under number 37,058,442.
- 1.2 Client / customer: the party contracting the products or services of Newmart
- 1.3 Offer: the written offer of Newmart containing the required work by the client and / or products.

Applicability and scope

- 2.1 These terms are applicable to all agreements between the client and Newmart.
- 2.2 Any conditions of the client/customer are explicitly rejected.
- 2.3 Changes and additions to these conditions are only applicable if and insofar as they have been explicitly accepted in writing by Newmart.
- 2.4 If one or more of these conditions are contrary to a mandatory statutory provision or any applicable statutory regulation, this condition expires and will be replaced by a new comparable, and legally permissible, determination.
- 2.5. An agreement will be concluded only after Newmart has issued a quotation / order confirmation, or when a start was made by Newmart with the execution of the contract.
- 2.6 If Newmart uses subcontractors and / or non-employees acting on behalf of Newmart in the conduct of the business of Newmart these terms also apply as if they were directly agreed between the client and subcontractors and / or non-employees.

Quotation, price and payment

- 3.1 All offers of Newmart are revocable and are made without obligation unless the offer contains a deadline for acceptance, unless explicitly stated otherwise in writing.
- 3.2 The client is responsible for the accuracy and completeness of the measurements provided by or on behalf of Newmart, requirements, performance specifications and other data on which Newmart bases its offer.
- 3.3 The prices in the offers of Newmart is based on client information provided. If the measurements, requirements, performance specifications for performance of the work provided by the customer no (longer) correspond to the information provided by the client Newmart is entitled to adjust the price for the work.
- 3.4 The prices in the offers of Newmart are exclusive of VAT and other government levies, as well as possible other costs which are made in the context of making the order, including shipping and handling, unless otherwise agreed in writing.
- 3.4 Unless otherwise agreed in writing, payment shall be made by the client within fourteen days after the invoice date, without any discount, suspension and / or settlement. This deadline is a deadline, upon the expiry of which the client is in default.

3.5 Newmart is entitled to demand (partial) advance payment for payment security requirements.

3.6 After expiry of the agreed payment term the client is legally in default without further notice being required.

From the moment of default by the client on the outstanding amount an interest of 1% per month will apply, unless the statutory (commercial) interest rate is higher, in which case the statutory (commercial) interest applies. All (extra) judicial costs made by Newmart in obtaining satisfactory payment - both in and out of court – will be on behalf of the client. In that case the customer will be subject to a fee of at least 15% of the outstanding amount, with a minimum of € 100, -. If the actual incurred costs by Newmart exceed this amount, the client will owe these costs to Newmart.

Execution order / delivery deadlines

4.1 Newmart seeks to deliver work and / or delivery of products as fast as possible. Specified periods and / or delivery times are never deadlines, unless expressly agreed otherwise in writing.

4.2 All goods remain the property of Newmart until full payment has been made by the client.

4.3 Contrary to the provisions in Article 4.2 for traders established in Germany: (In Abweichung im vom Article 4.2 Festgelegte, bezüglich der vom Lieferanten in Deutschland etablierte Abnehmer gelieferten Sachen gilt folgendes)

Das Eigentum von den gelieferten Ware bleibt zur Sicherung all Ansprüche vorbehalten, wo dem Lieferanten aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Abnehmer zustehen. Das Eigentum des Lieferanten streckt sich auch auf die durch neue entstehende Vorbehaltsware Verarbeitung der Sache. Der Abnehmer stellt die neue Sache unter Ausschluss of appropriating Eigentumserwerbs für den Lieferanten und vrijwahrt sie für ihn. Hieraus wachsen keine Ansprüche gegenueber den Lieferanten.

4.4 Newmart is entitled to partially or completely terminate this agreement with immediate effect, without judicial intervention and without any notice required, if:

- a. Client deceases;
- b. The client is in a state of bankruptcy;
- c. Client ceases operations.

4.5 The customer can not derive any rights from advice and information obtained from Newmart as these do not relate to the assignment.

Obligations of the client

5.1 Upon receipt of the goods the client will immediately state observable defects in the goods in the transport document which are signed on receipt. Claims or other defects should be notified immediately upon discovery of the defect, but in any case within two weeks after the invoice date. Exceeding this term will result in the forfeiture of all rights and claims of the client.

5.2 Client follows all instructions provided by Newmart, and the instructions supplied by the manufacturer, including those regarding the correct use of the product and any other products from another supplier than Newmart. Proof that the given instructions were followed rests with the client.

5.3 If the client suspects or can reasonably suspect that products or services provided by Newmart result in an accident or other have any other harmful effects, the Customer shall notify Newmart without delay, in any case within 24 hours to by writing, under penalty of forfeiture of all rights and entitlements. A telephone call will never to be considered as an official complaint. A (written) report to agents, brokers or traders related to Newmart will not be treated as an official complaint.

5.4 The Client shall indemnify Newmart of all claims which are the result of an industrial accident caused by an employee of the client or any third party which uses the premises of the client, whether or not the claim is considered as an employers' liability (according to Dutch law, Article 7: 611 and 7: 658 BW),.

Liability and legal choice

6.1 Newmart never will have more liability than the amount of the purchase price of the product exclusive of VAT, by which the damage has been caused, to the extent not inconsistent with mandatory provisions, while failing legality of this restriction, the damage is always limited to the amount which is covered and paid by the liability insurer of Newmart, added with the own risk of Newmart per claim, always to the extent not inconsistent with mandatory provisions. If Newmart falls short in the execution of its activities, Newmart is only obliged to repair the defective performance. Client must first enable Newmart to conduct these repairs.

6.2 Newmart is never liable for damages (or part thereof) which are the consequence of not following the instructions provided or recommendations in the supplied Coudoupro construction manual. Newmart is never liable for damage which results from or has relation to systems which are not officially inspected periodically and/or inspected officially by an independent (TYPE A) safety inspector before the system is put to use.

6.3 Newmart is not liable for damage, unless there is mal intent or deliberate recklessness of Newmart or its employees. Newmart is never liable for consequential damages, including direct or indirect trading loss, loss of production and stagnation damage as a result.

Newmart is not liable if at the time when the product was delivered it was impossible to detect the existence of the defect on the basis of the state of scientific and technical knowledge at that time.

6.4 Every claim against Newmart, except those recognized by Newmart expire after a period of twelve months after the occurrence of the claim.

6.5 In case of non-compliance by the customer of one or more provisions of these terms and conditions which result in damage, requires the client to pay for all damage caused thereby to Newmart. The Client will indemnify Newmart of all third-party claims for compensation in case of damage.

Disputes and applicable law

7.1 This agreement is governed exclusively by Dutch law. The provisions of the Vienna Sales Convention (April 11, 1980) are excluded.

7.2 All disputes arising in connection with an agreement to which these conditions apply in whole or in part, or following other agreements which are a consequence of such agreements, shall be settled by the exclusive jurisdiction by the Court of Amsterdam, unless a mandatory statutory provision is opposed.

IMPORTANT!

The COUDOUPRO contruction manual and product sheets supplied by Newmart/Coudoupro should be adhered to. After installation the Coudoupro safety system needs to be inspected according to EN-15567-1 and 2 by a certified inspector before the installation can be put to use. After this initial inspection the installation and safety materials supplied by Coudoupro will need to be inspected yearly according to the same above mentioned European Norm.