

## **General Terms & Conditions - LEOXX B.V.**

### **Article 1 Definitions**

- Leoxx** : Leoxx B.V., a private limited company incorporated under Dutch law with registered office in Houten, the Netherlands, the user of these Conditions.
- Buyer** : any legal entity or natural person who concludes an agreement with Leoxx or receives an offer from Leoxx for this purpose.
- Product** : all products sold by Leoxx.
- Service** : all services provided by Leoxx in the context of the supply of soft furnishings.

### **Article 2 Offers and agreement**

1. These General Terms & Conditions apply to all offers and quotations, orders, order confirmations and agreements concluded by Leoxx, whether or not such are drawn up in writing, to which these Conditions are applicable in whole or in part, and to all follow-up agreements ensuing from such agreements which Leoxx enters into with the Buyer.
2. Stipulations which deviate from the provisions of these Conditions, such as the Purchasing or other Conditions of the Buyer, will not be deemed to apply between the parties unless these have been drawn up in consultation with Leoxx and have been explicitly accepted by Leoxx as such in writing.
3. Any Buyer who has previously concluded an agreement with Leoxx is deemed to tacitly accept the applicability of these Conditions to later agreements concluded with Leoxx.
4. In the event that the Court has determined that one or more of the provisions of these Conditions are unreasonably onerous, the provision in question should be interpreted in the light of the other provisions of these Conditions in such a way that Leoxx can still reasonably invoke the provision vis-à-vis its Buyer. The fact that the Court has determined that one or more of the provisions of these Conditions are unreasonably onerous will not affect the applicability and validity of the other provisions.
5. Unless explicitly agreed upon by Leoxx with written confirmation, the Buyer cannot transfer any rights or duties resulting from these Conditions to a third party.

### **Article 3 Quotations**

1. All quotations and offers made by Leoxx are made without engagement, unless expressly stated otherwise in the quotation or offer; they may only be revoked by Leoxx immediately after acceptance by the Buyer.
2. Where applicable, quotations and offers will be based on information and data provided by the Buyer.
3. If the offer comprises various quantities, Leoxx is not obliged to supply or deliver a part of the offer at a proportionate part of the stated price.
4. Notwithstanding the above, Leoxx's quotations and offers remain valid for sixty (60) days from the date on which the quotation or offer was sent, or for as much shorter or longer a period as stated in the quotation or offer.
5. Offers made by Leoxx are based on execution of the agreement by Leoxx under normal circumstances and during normal working hours.

### **Article 4 Data provided by Leoxx and the Buyer**

1. Design drawings, work and detailed drawings, models, computer software, photographic images, samples, designs, pegboards, stated dimensions, quantities, patterns, colours, materials and/or other data provided by Leoxx to the Buyer should be seen as approximations only. The Buyer is only entitled to dissolve the contract if the items supplied or delivered deviate substantially from the previously mentioned items; dissolution must be effected within six (6) days of supply or delivery.
2. The data mentioned in this article, along with the brand name, patent, trademark, model, copyright or any other rights remain vested in Leoxx and do not pass to the Buyer unless specifically so agreed in writing. Use of the above data, other than in the context of this agreement, is only permissible after written consent has been obtained from Leoxx.
3. Leoxx considers design drawings, work and detailed drawings, models, photographic images, samples, designs, logos, stated dimensions, quantities, patterns, colours, materials and/or other data provided by the Buyer to Leoxx as being correct and adequate, without the need for further investigation. The Buyer will fully indemnify Leoxx against any claims, both in and out of Court, from third parties who assert that in using any of the data mentioned in this Article

Leoxx has infringed any right owned by said third party in connection with a brand name, patent, trade name, model, copyright or any other such right. If a third party makes an objection to supply or delivery, Leoxx is entitled - notwithstanding the foregoing - to withhold supply or delivery and/or to immediately suspend supply or delivery and to claim recompense of all costs incurred and damages from the Buyer; Leoxx will not be liable to pay the Buyer any damages.

#### **Article 5 The agreement: commencement/duration/suspension/termination**

1. The agreement comes into effect from the moment that the Buyer confirms, in writing, his agreement with Leoxx's order confirmation, or Leoxx confirms its agreement in writing with the Buyer's order confirmation. Proof that the agreement has been concluded can also be provided by the parties in some other way.
2. Any change and/or addition to an agreement will only be effective after it has been accepted by Leoxx in writing. Changes must be notified to Leoxx in good time and in writing.
3. If the Buyer fails to fulfil its obligations under the agreement or Leoxx has well-founded reasons to fear that such will be the case, Leoxx is entitled to suspend fulfilment of its own reciprocal obligations in the context of the agreement in question and also of those ensuing from the same legal relationship or from business which the parties customarily conduct together, without prejudice to Leoxx's rights under the law or these Conditions.
4. Notwithstanding any other rights vested in Leoxx and any other provision of these Conditions, and notwithstanding Leoxx's right to claim damages, Leoxx may dissolve the agreement - without the intervention of the Court - in the following circumstances by issuing a written notification to that effect:
  - if the Buyer fails to fulfil its obligation to pay;
  - if the Buyer applies for a moratorium on payments;
  - if the Buyer is declared bankrupt or goes into liquidation;
  - if the Debt Rescheduling (Natural Persons) Act [*Wet Schuldsanering Natuurlijke Personen*] is declared applicable;
  - if the Buyer loses the free control of the whole or part of his assets or income;
  - if (a part of) the possessions or the assets of the Buyer is subject to executorial attachment and this attachment is not lifted within a reasonable period of time;
  - if the Buyer sells or liquidates his business;
  - if Leoxx's credit insurer revokes or restricts the line of credit granted in respect of the Buyer.

Leoxx does not have the right to dissolve the agreement if the special nature or the insignificance of the failure on the part of the Buyer does not justify dissolution and the attendant consequences.

5. If so requested, the Buyer is obliged to provide Leoxx with security for the fulfilment of its obligations vis-à-vis Leoxx.
6. Leoxx reserves the right to fulfil the agreement in separate consignments, and to invoice for these consignments separately, with due regard for the principle of fairness and reasonableness.

#### **Article 6 Execution**

1. The agreement will be executed in mutual consultation between Leoxx and the Buyer; the way in which the agreement will actually be carried out will be determined by Leoxx alone.
2. Leoxx will make every effort to execute the agreement to the best of its ability. Leoxx can, however, never be held to execute an agreement that infringes any right, which contravenes any statutory obligation or any generally accepted standard.
3. Leoxx retains the right to introduce minor changes to the agreement (as specified in the quotation or offer); in such a case, Leoxx will not incur any liability to compensate the Buyer and the Buyer will not have the right to cancel or dissolve the agreement or to have it dissolved.
4. Minor deviations in the product supplied or delivered by Leoxx and/or in comparison with a product supplied or delivered by Leoxx at an earlier date, or with a sample provided to the Buyer by Leoxx, including but not limited to minor differences in colour tint, thickness, dimensions, quantities, bowing, finish of the pile (shading) etc., do not give the Buyer the right to refuse or reject the product, to dissolve the agreement or have it dissolved, and/or to claim damages or compensation from Leoxx, unless acceptance cannot reasonably be required of the Buyer. In this context, a deviation in the agreed tolerances and/or quantities is deemed to

- be a minor deviation, unless otherwise determined by an independent expert (in Germany, a Gutachter for example) on the basis of the VOB (German standards of the building trade).
5. The Buyer will at his own expense ensure that:
    - a. access to the place where the product must be delivered is suitable for the means of transport required for delivery;
    - b. the designated place is suitable for the delivery of the product and/or the provision of the service.
  6. Notwithstanding the provision of the previous paragraph of these Conditions, the Buyer will at his own expense at least ensure that:
    - a. all necessary safety and precautionary measures are taken and upheld, and also that all those measures are taken and upheld that will ensure that all relevant government regulations which are applicable in the context of performing the service(s) can be complied with;
    - b. that all necessary data and information for the order are provided to Leoxx in good time; Leoxx will determine what constitutes good time on the basis of reasonable criteria.Damage and expenses incurred on the part of Leoxx as a result of the Buyer's failure to comply with the conditions of this Article, or comply with them on time, will be for the account of the Buyer.
  7. If, in the context of the execution of the order, Leoxx makes use of the services of third parties, it can never be held liable for any claims or losses due to the action of third parties.
  8. All costs that are the result of government measures, including but not limited to safety requirements, are for the account of the Buyer.
  9. Ownership of residual amounts of materials or semi-finished articles provided by the Buyer for production purposes (including waste, refuse, etc) is deemed to have been transferred to Leoxx by the Buyer.

#### **Article 7 Prices**

1. All agreed prices are binding and exclude value-added tax [Dutch: *omzetbelasting*, *BTW*]. The Buyer is obliged to pay the VAT levied on the invoiced amount.
2. If, during the period of time between the date of the quotation or offer and that of supply or delivery, there is an increase in cost prices or, in the case of supply or delivery in instalments, there is an increase in cost prices during the instalment period, Leoxx will be entitled to increase the price to be charged to the Buyer accordingly.
3. Leoxx is entitled to demand that the Buyer make an advance payment before services are provided. The amount of the advance will be determined by Leoxx on the basis of reasonable criteria.
4. If Leoxx makes manifest errors in calculations, these may be rectified by Leoxx at any time.
5. All prices quoted by Leoxx are given in Euros, unless otherwise agreed in writing.

#### **Article 8 Payment**

1. Unless otherwise agreed in writing, all payments must be made within thirty (30) days of invoice date; the Buyer is not entitled to any discount, deferral or set-off.
2. Payment must be made directly to Leoxx by means of an inter-bank transfer to a bank account designated by Leoxx, unless otherwise agreed. The date on which the transfer is credited to Leoxx's bank account will constitute the date of payment.
3. If the Buyer fails to fulfil, or properly fulfil, his payment obligation vis-à-vis Leoxx as stipulated in paragraph 1 of this Article, the Buyer will be deemed to be in default without a further demand or notice of default being required. In that case, Leoxx has the right to charge the Buyer interest on the outstanding amount at the rate of 1% per month or, if this is higher, at the statutory rate of interest, to be counted from the due date of the invoice to the date on which payment is made in full. In this context, a part of a calendar month is deemed to be equivalent to a full calendar month.
4. All costs incurred in the collection of the debt(s), both in and out of Court, are for the account of the Buyer. These are set at 15% of the invoiced amount, without prejudice to Leoxx's right to claim any damages in excess of this amount from the Buyer. When payments are received from a Buyer who is in default, these will first be offset against outstanding out-of-court expenses and interest; the remaining amount will be offset against the oldest outstanding invoice(s).
5. If the Buyer seeks a compromise with his creditors, in the event of bankruptcy or liquidation, application for a suspension of payments or debt rescheduling, attachment and/or liquidation

of the enterprise, and also in the event of the death and/or placement under financial guardianship or administration and/or the revocation of the line of credit granted in respect of the Buyer by Leoxx's credit insurer, all that which is receivable by Leoxx from the Buyer becomes immediately payable, without prejudice to Leoxx's right to claim any supplementary damages.

#### **Article 9 Delivery**

1. Delivery will be effected by the physical transfer of the products to the Buyer. From then on, all risks in loss of or damage to the products are for the account of the Buyer.
2. On the agreed date of delivery, the Buyer is obliged to ensure that the products to be delivered can be received, that the quantity of delivered products and their specifications are checked, and that an authorized signatory signs for the receipt of the products by or on behalf of the Buyer. If the products have been delivered to the agreed location, the delivery will be deemed to have been effected in accordance with the agreed quantity and specifications. This will also apply if neither the Buyer nor any other person is present on his behalf to sign for the receipt of the products.
3. When determining the delivery date, the Buyer should take account of the fact that the products delivered by Leoxx should be allowed 24 hours to acclimatize to prevailing environmental factors such as temperature, humidity and so on.
4. Leoxx has the right to determine earliest and latest delivery dates for each agreement.
5. The delivery period or date will be based on the circumstances prevailing on the date that the agreement is concluded. If, through no fault of Leoxx, delays occur as a result of changes in the circumstances mentioned or because products required in the context of the execution of the agreement, which were ordered by Leoxx in good time, are not delivered to Leoxx on time, the delivery period will be extended as necessary. In such a case, the delivery period will be extended by thirty (30) days; if the principle of fairness and reasonableness so dictates this period can be further extended without giving rise to any right on the part of Leoxx or the Buyer to dissolve the agreement and without giving rise to liability on the part of Leoxx to pay any damages or compensation.
6. Except in the case of wilful or gross negligence on the part of Leoxx, exceeding the delivery period will not give the Buyer the right to dissolve the agreement either in whole or in part.

#### **Article 10 Overdue call for part or whole order**

1. If the Buyer fails to call for the products before the end of the agreed delivery period, and/or if the Buyer refuses the products, Leoxx will be entitled to store the product for one month, starting from the originally agreed delivery date, for the account and risk of the Buyer. During the period of storage, the Buyer can only remedy this default by accepting the stored products.
2. All costs incurred and to be incurred by Leoxx in the context of this storage are for the account of the Buyer.

#### **Article 11 Retention of title**

1. Leoxx will retain the title to all products delivered and to be delivered to the Buyer until such time as the purchase price for all these products has been paid to Leoxx in full.
2. As long as title to the delivered products has not passed to the Buyer, ownership of the delivered products may not be transferred to a third party, the products may not be pledged or otherwise encumbered, sold, or granted in use to third parties, under whatsoever title, unless otherwise agreed in writing.
3. The Buyer is obliged to store the products which are subject to retention of title with due care and to ensure that they remain recognizable as the property of Leoxx.
4. If the Buyer fails to fulfil its payment obligations vis-à-vis Leoxx and/or if Leoxx has well-founded reasons to fear that such will be the case and/or in circumstances described in Article 5 of these Conditions, Leoxx is entitled to retrieve the products that it delivered subject to retention of title. The Buyer hereby grants Leoxx permission to retrieve the products in question and grants permission to access and enter the area(s) where the products in question are stored and also all such areas as provide access to that area.
5. During the period of retention of title, the Buyer is obliged to insure the product against damage by fire, explosion and water and against theft, and to grant Leoxx sight of such policies and schedules for such insurance cover at Leoxx's first request.

## **Article 12 Cancellations**

1. The Buyer cannot cancel an order except where the agreement provides otherwise. Changes and/or additions to this provision can only be agreed in writing.
2. In the event that both parties agree to the cancellation of a confirmed order, as described in paragraph 1 of this Article, the Buyer is obliged to compensate Leoxx for any ensuing damage or loss, unless otherwise agreed in writing. Such damage or loss will be determined at the net invoice amount.

## **Article 13 Complaints**

1. Complaints must be notified to Leoxx in writing by recorded delivery within six (6) days of the receipt of the products. Complaints concerning short delivery, deviation from stated specifications or externally visible damage must be annotated precisely by the Buyer on the consignment note before it is signed.
2. Non-visible defects or shortages must be notified to Leoxx in writing by recorded delivery within eight (8) days of their discovery, and at the latest within three (3) months of the delivery date. Complaints concerning short delivery, deviation from stated specifications or externally visible damage must be described precisely by the Buyer.
3. Complaints described in paragraphs 2 and 3 of this Article are not valid if:
  - a. the Buyer is in default vis-à-vis Leoxx;
  - b. the Buyer has itself applied the products or carried out repairs to the products supplied or delivered by Leoxx, or had such repairs carried out by a third party, in an inexpert manner and without the consent of Leoxx.
  - c. after delivery, the Buyer has not immediately reported visible defects and easily discovered invisible defects. In the case of floor covering, visible defects and easily discovered invisible defects must in all cases be reported to Leoxx before the floor covering is laid. In the event that the Buyer lays the floor covering before Leoxx has had the opportunity to inspect the alleged defects, no complaint may be made;
  - d. the products have been cut, processed, treated, used or damaged in any other way;
  - e. the delivered products have been exposed to abnormal circumstances such as pollution, external violence or excessive stress or tension, or have otherwise been handled or treated carelessly or contrary to Leoxx's instructions;
  - f. loss of quality has occurred as the result of poor maintenance, natural wear and tear or because the delivered products were stored for longer than usual;
  - g. they concern minor and what are considered in the trade to be customary and/or technically unavoidable deviations in quality, dimensions, colour, material structure, or finish.
  - h. the product is affected by minor nuance and taint differences, natural markings, shading, watermarking, pollution, loss of colour or damage caused by stiletto heels or similar footwear.
  - i. the complaint concerns a difference in colours between products that have not been ordered and/or installed at the same time and/or are from different dye baths
4. Complaints do not give the Buyer the right to defer or suspend fulfilment of its payment obligation to Leoxx.
5. If Leoxx considers that the complaint is justified, Leoxx will – at its own discretion – either repair or rectify the delivered products or replace the delivered products free of charge on return of the originally delivered products, or offer the Buyer equitable compensation up to the invoiced value of the delivered goods to which the complaint relates. Leoxx will not be liable to pay any further compensation or to make good any consequential loss.
6. The Buyer does not have the right to refuse to take delivery of the products sold, or to return them without the written approval of Leoxx. In the event goods are refused or returned, the Buyer will compensate Leoxx for the consequential costs which are fixed at a minimum of 20% of the invoiced amount. In the event that the Buyer considers that the products delivered by Leoxx do not conform with those that were sold to the Buyer, Leoxx must be informed immediately and given the opportunity to inspect the delivered products. Processed or treated products will be deemed to have been approved and accepted.
7. Complaints relating to the invoiced price must be notified to Leoxx in writing by recorded delivery within fourteen (14) days of the invoice date.

#### **Article 14 Liability**

1. Leoxx's liability for any direct loss, damage and/or expenses caused by or connected with a shortcoming in the execution of the agreement will never exceed the net invoiced amount.
2. Leoxx can never be held liable for any indirect or consequential loss or for expenses caused by or directly connected with any defect in the delivered products.
3. Leoxx is not liable for damage or loss caused by its personnel or by suppliers or third parties contracted by Leoxx as necessary for the delivery of products for the execution of the agreement, including both any exceeding of the date on which the agreement should be executed or samples should be delivered and any consequences of such exceedance.
4. Leoxx can provide advice and recommendations for the application and processing of its products, e.g. installation, fitting and use. Leoxx feels that observance of such advice will lead to the best results. Leoxx cannot, however, accept any responsibility for the practical consequences of following such recommendations.
5. The products will be offered and will be invoiced for the price mentioned on Leoxx's order confirmation or price confirmation, unless specifically stated otherwise in written confirmation. Minor deviations in quantity, weight, dimensions or compositions of the products are to be accepted by the Buyer and will not result in a change in prices.
6. The Buyer is obliged to indemnify or compensate Leoxx for all claims by third parties for compensation or damage in respect of which these Conditions exclude liability for Leoxx, unless such damage is the result of gross negligence on the part of Leoxx.
7. Leoxx is not liable for damage which results from incorrect information provided by the Buyer.

#### **Article 15 Force majeure**

1. For the purposes of these Conditions, force majeure will be taken to mean any circumstance which occurs independent of Leoxx's will and which hinders or obstructs the fulfilment of the agreement permanently or temporarily as well as – insofar as such is not included therein – war, civil war, war risk, labour or other strikes, employee shut-outs, transport difficulties, fire and other serious disruptions to Leoxx's or its suppliers' business operations, even if such a circumstance could have been foreseen at the time the agreement was concluded.
2. If Leoxx is unable to fulfil or properly fulfil its obligations as the result of force majeure, as described in paragraph 1 of this Article, those obligations will be suspended until Leoxx is once more able to execute the agreement in the agreed manner.
3. In the event that Leoxx has already partially fulfilled its obligations or can only partially fulfil its obligations when the period of force majeure commences, Leoxx will be entitled to submit a separate invoice for that part of the order which has been or can be delivered. The Buyer is then obliged to settle said invoice as if it were related to a separate agreement.
4. If it transpires that Leoxx is not able to fulfil its obligations vis-à-vis the Buyer within a reasonable period of time as the result of an event as described in paragraph 1 of this Article, both Leoxx and the Buyer will be entitled to dissolve the agreement concluded between them without Leoxx being liable to pay the Buyer any compensation for any loss or damage connected with such dissolution.

#### **Article 16 Warranty**

1. Leoxx guarantees that the products it sells are free of design, material and manufacturing defects.
2. The Buyer cannot invoke the guarantee given in the previous paragraph of this Article if one or more of the circumstances mentioned in paragraph 4 of Article 13 have taken place.

#### **Article 17 Intellectual property rights**

1. The Buyer is aware that the delivered soft furnishings, models, samples, logos, advice, ideas, brochures, illustrations, etc., and also any derivatives thereof, can be subject to intellectual property rights and the Buyer will respect such rights and declares that he will not infringe these rights.
2. Except with the express written consent of Leoxx, the Buyer is expressly forbidden to reproduce, copy, duplicate or make these items, materials and/or other matters public, make them available to third parties or otherwise give them in use, except in the way that is determined in the agreement between Leoxx and the Buyer.
3. Without prejudice to Leoxx's right to claim any additional damages incurred, any contravention of the provisions of this Article will render the Buyer liable to pay Leoxx an immediately payable financial penalty of EUR 100,000 which is not susceptible to being discounted or offset.

#### **Article 18 Choice of law and choice of jurisdiction**

1. Disputes concerning the quality of products and services supplied by Leoxx will be settled on the basis of EN standards. These EN standards will be sent to the Buyer on request. Disputes concerning the aforementioned quality issues will specifically not be decided by the usual Civil Court, but will be decided by a German Gutachter to be appointed by the parties who will deliver a judgement which shall be binding on both parties; a Gutachter is a consultant or expert in a specific field. This Gutachter is required to assess the dispute on the basis of the VOB (German standards for the building trade) applying the so-called "Erläuterungen zur VOB" (notes) in accordance with the DIN 18365 standard.
2. If the parties are unable to come to an agreement about the person to be appointed as Gutachter, they will request the Chairman of the Chamber of Commerce & Industry in Utrecht [NL] to appoint a Gutachter on their behalf. The costs of the Gutachter will be borne by the party found against. If both parties are found to be in the right, or neither is found against, the parties will bear the costs equally.
3. All other disputes will be exclusively settled by the competent Court in the judicial district of Utrecht, unless Leoxx for reasons of its own opts to call the Buyer before the competent Court in the judicial district in which the Buyer has its registered office.
4. Dutch law is applicable to these Conditions and to all agreements which are subject or partially subject to these Conditions, and to all follow-up agreements which ensue from such agreements.