

General Terms and Conditions of Delivery - Tronix Lighting BV

Applicable terms and conditions

1. These general terms and conditions of sale, delivery and payment apply to all offers and contracts as well as to the execution and performance thereof, in which Tronix Lighting BV, hereinafter referred to as "Tronix", acts as seller/contractor and/or enters into with third parties, hereinafter referred to as the "other party."
2. These general terms and conditions of sale, delivery and payment shall be applicable subject to the exclusion of any general terms and/or conditions applied by the other party, unless otherwise agreed in writing. Any terms and conditions of the other party are hereby rejected.
3. Departures from and/or additions to these general terms and conditions of sale, delivery and payment can be invoked only in so far as they have been agreed in writing.
4. If these general terms and conditions of sale, delivery and payment are departed from, the other party cannot attach any consequences to such departures for their application in general or in another specific instance, unless otherwise agreed in writing.
5. In case of any conflict between the General Terms and Conditions of Delivery and the contract, the terms and conditions included in the contract will prevail.

Offers and contracts

6. All quotes and offers will be free of obligation, unless stated otherwise in writing.
7. A contract will be concluded at the time Tronix has confirmed it in writing.
8. Arrangements and/or agreements with subordinate staff of Tronix will be binding on it only after and in so far as Tronix has confirmed them in writing or has implemented them.
9. The other party must notify Tronix in writing of possible or alleged inaccuracies in a written confirmation by Tronix within 3 days of the date of confirmation, subject to lapse.
10. Tronix cannot be bound by the contents of the offer made if the contents or part thereof is based on a mistake and/or manifest slip of the pen and the other party reasonably understands or should have understood this.

Prices

11. All offers made by Tronix are free of obligation, unless explicitly stated otherwise. Quotes will have a term of validity of 30 days and will never apply to repeat orders.
12. In case of sharply deviating currency fluctuations of the US Dollar with respect to the euro (more than 10%), Tronix will be entitled at all times to adjust the price without prior notice. The other party will be bound by these price adjustments at all times.
13. All prices issued by Tronix are delivery ex warehouse in Uden (or a different storage location), exclusive of VAT, import duties and insurance.
14. Merely giving a price quote, indicated with or without an offer or similar notification, will not oblige Tronix to conclude a contract with the other party.
15. Tronix will be entitled at all times to charge transport costs to the other party, unless otherwise agreed. Deliveries outside the Netherlands will be made ex warehouse.
16. If the other party specially states that it wishes a different manner of shipment, the costs related to in this will be payable by the other party.
17. Tronix will not be liable for errors and differences in the price, illustrations, statement of numbers, dimensions and weights in overviews, brochures and in offers and/or order confirmations. Tronix reserves the right to adjust the relevant price or to terminate the contract with immediate effect.



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18. The prices listed in offers and/or quotes will not automatically apply to repeat deliveries and/or subsequent contracts.
19. Adjustments of the price will never constitute a legally valid reason for the other party to terminate the contract.

Proprietary rights

20. If an offer is accompanied by samples, a catalogue or other documents, these will at all times remain the property of Tronix. Without permission from Tronix they may neither be duplicated nor provided to third parties for inspection.

Delivery

21. Indicated delivery times are set by approximation and subject to reservation. They can never be considered to be deadlines. After expiry of the indicated delivery times, the other party will be entitled to put Tronix in default in writing, whereby the other party must grant Tronix a period of at least the initially indicated delivery time still to comply with this obligation. The other party will be entitled to terminate the contract if Tronix fails to comply with its obligations. Tronix will never be liable to pay compensation.
22. If the other party does not take delivery of the purchased goods or come to pick them up/have them picked up, they will be at its disposal for three weeks. During this period the goods will be stored at the expense and risk of the other party. After three weeks Tronix will be entitled to terminate the contract, in which case Tronix will be entitled to recover the losses incurred and yet to be incurred from the other party.
23. Tronix will be entitled to perform a contract in parts and to claim payment of the part of the contract that has been performed.

Payment

24. The amount must be paid in full no later than within the period after the invoice date indicated on the invoice. If payment is made within 8 days a payment discount of 2% will apply. If payment made late or not in full, the other party will have to pay statutory commercial interest.
25. Tronix assesses each other party on the basis of creditworthiness by way of a credit insurer. As long as no approval has been received from the credit insurer, Tronix will be entitled at all times to block the order or demand an advance payment.
26. Tronix reserves the right to refuse orders without stating reasons or to deliver orders only after advance payment. First orders are at all times subject to advance payment.
27. If the other party fails in any way to comply with its demandable obligations with respect to Tronix, Tronix will be entitled to suspend all its obligations with immediate effect and without notice. Tronix will be entitled to cancel or terminate the contract without judicial intervention, and will not be liable for losses the other party might incur as a result of this.
28. If Tronix proceeds to collect the amount owed to it, then all costs involved in this will be payable by the client, unless Tronix chooses to set them at a fixed rate of 15%. The losses due to delay that will be due on the costs referred to in this article will be fixed at the statutory interest rate (to be calculated as compound) plus 2%.
29. Tronix will remain the owner of the sold product as long as the other party has not fully complied with its payment obligation, including that which it might owe in connection with failure to comply with its obligations.
30. Payments made by the other party will always serve first to pay all costs and interest due and then to pay due and payable invoices that have been outstanding for the longest time, even if the client states that the payment relates to a later invoice.



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31. If Tronix has good reason to fear that the other party will not comply with its payment obligation, it will be entitled to require the client to provide sufficient security.
32. The claim for payment will be immediately demandable in case the other party is declared bankrupt, applies for suspension of payment or attachment is imposed on the other party's assets, the other party dies and, furthermore, if the other party is a legal entity, if it is liquidated or dissolved.

Complaints

33. All complaints must be submitted to Tronix in writing within 8 days of receipt of the goods/invoice, failing which the claims for acknowledgement of the complaint and/or compensation of the asserted defect will lapse.
34. Minor deviations in designs, colours, dimensions or finishing can never be considered a ground for full or partial termination of the contract, nor can they be considered a ground for a complaint.
35. Complaints or return shipments will not release the other party from its payment obligation with respect to Tronix, unless it has been credited for this by Tronix.

Warranty

36. Tronix warrants that the goods it delivers are made of sound materials. Should defects occur nevertheless in the goods delivered by Tronix as a result of manufacturing errors or faulty materials, at its discretion, free of charge, Tronix will repair these defects or have them repaired or make the parts needed for repair available, or replace the product involved in its entirety. In so far as not otherwise agreed, this warranty obligation will apply product-dependent for a period of 12 to 60 months after delivery.
37. If Tronix fails to comply or does not comply in time or not properly with the warranty obligation, even after a written demand to that effect, the other party may terminate the faulty part of the contract, however without being entitled to claim any compensation of the loss due to termination.
38. Tronix may take possession of goods or parts that are replaced pursuant to the provisions in this article without compensation and they will become the property of Tronix.
39. As a condition for compliance with the warranty obligation, Tronix can require that the article that qualifies for the warranty is sent carriage paid to it or to an address to be indicated by it.
40. Tronix will not be subject to any obligation in this context other than the aforementioned replacement or acquisition obligation. The other party can terminate the relevant part of the contract only after it has been established that replacement of the product or acquisition of a right of use is not reasonably possible, or if Tronix, even after a written demand to that effect, does not comply or does not comply in time with that obligation, however without being entitled to claim compensation of the loss due to termination. In the last-mentioned case, Tronix will take back the product in question in exchange for refund of the price paid for it, less the depreciation to be considered normal.
41. The warranty does not cover defects that were visible or could reasonably have been noticed at the time of delivery, are fully or partially to blame on careless handling of the product by the other party, incompetent repair or maintenance by third parties, use of materials and parts other than those delivered by Tronix, normal use or wear and tear, minor imperfections, normal discolorations, exposure to heavy shocks or extreme pressure, damage caused by or due to the force majeure clause in these General Terms and Conditions of Delivery.



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42. Under no circumstances will Tronix be liable for any consequential loss, trading loss, loss of time and/or bodily injury of (employees of) the other party or its customers as a result of any defect in the goods delivered. The other party warrants that it keeps its officers and/or employees insured in this regard.
43. The other party must indemnify Tronix for all claims of third parties for injury to persons and/or damage to property as a result of any defect in the goods.
44. Claiming under a warranty will never release the other party from its payment obligation with respect to Tronix.
45. Tronix will never be liable for that by which the other party will be bound with respect to third parties, other than a seller's direct obligation with respect to the other party as ensues from these terms and conditions.
46. If on the basis of the facts and/or circumstances known to it at the time, Tronix proceeds to exercise a right of suspension or termination, whereas it is irrevocably established subsequently that such a right was wrongfully exercised, Tronix will not be liable and will not be obliged to pay any compensation of damages.
47. Tronix will not take out any insurance for any form of damage to items of property of the other party that occurs while they in the custody of Tronix.
48. In those cases in which Tronix is liable, the liability for damage will be limited to the cover of its business liability insurance, if and in so far as the business liability insurance is applicable at the time. If and in so far as the business liability does not provide cover for certain damage, liability for damage will be limited to the net invoice value of the goods delivered.

Return shipment

49. Return shipments of goods will be accepted only after written notice by the client and written approval from Tronix. The costs of returns will always be payable by the client, unless otherwise agreed in writing.
50. If goods are returned on the instructions of Tronix, the goods will be returned by a carrier indicated by Tronix.

Risk

51. Deliveries and shipments are at the other party's risk and will be insured only on request at the other party's expense.

Exclusive distribution

52. Exclusive distribution will not be applicable unless Tronix and the other party set this out in writing.

Intellectual property

53. All intellectual property rights, including copyrights, with respect to all products assembled and provided by Tronix, as well as all intellectual property rights created as a result of performing the contract, shall be vested exclusively in and remain vested in Tronix. Imitation and/or use without written permission is prohibited.
54. If the above-mentioned prohibition is violated, the other party will be liable to pay Tronix an immediately demandable penalty of €2,000.00 per incident, as well as an immediately demandable penalty of €1,000.00 for each day that the other party is in violation. The aforementioned penalty will not affect Tronix' right to claim full compensation from the other party.



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Processing of personal data

55. If necessary to perform the contract, in performing the contract Tronix will process personal data. Tronix will always process the personal data in conformity with the General Data Protection Regulation (GDPR) and the Dutch act implementing it. See the privacy statement.

Winding up

56. In case of full or partial judicial or extrajudicial winding up and/or liquidation of the other party's business, Tronix will be entitled to take back its articles present in the company without further ado as its property, while refunding the purchase price, if it has already been paid. Damaged goods will be taken back at valuation price.
57. In case of transfer and/or change of its business, the other party must impose these terms and conditions on its successors and/or joint owners, failing which it will remain liable to Tronix for such failure.

Force majeure

58. If Tronix is prevented from complying with the contract by a non-imputable failure, Tronix will be entitled to suspend performance of the contract and it can therefore no longer be bound by the indicated delivery times. The other party cannot enforce any right to reimbursement of costs, damages or interest on that basis.
59. Non-imputable failures will include, e.g.: war, threat of war, mobilisation, call, state of siege, strike or exclusion, fire, bad weather conditions, accident and illness of employees, business interruption, stagnation in transport, import/export or other restrictions by the government, as well as any impeding circumstance that is not exclusively dependent on the will of Tronix, such as non-delivery or late delivery of goods or services by third parties engaged by Tronix.
60. If the situation of non-imputable failure continues for more than 10 weeks, both Tronix and the other party will be entitled to terminate the contract fully or partially. Tronix will never be liable for the losses the other party might incur as a result of this.
61. If Tronix had already complied or had only partially complied with its obligations when the non-imputable failure occurred, Tronix will be entitled to invoice the already delivered or deliverable part separately, and the other party must pay this invoice as if it related to a separate contract.

Representation

62. If the other party is acting on behalf of one or more other parties, notwithstanding the liability of those other parties, the other party will be liable with respect to Tronix as if it were the client itself.

Changes clause

63. Tronix will be entitled to change these General Terms and Conditions of Sale, Delivery and Payment unilaterally. In that case Tronix will notify the other party of the changes in a timely manner. There will be at least a month between this notification and the entry into effect of the changed terms and conditions.

Conversion

64. The nullity or voidability of any provision of these General Terms and Conditions or of contracts to which these General Terms and Conditions apply will not affect the validity of the other provisions.



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65. Tronix and the other party must replace provisions that are null and void or have been nullified by provisions having, as much as possible, the same object as the nullified provision.
66. In case of disagreement regarding the interpretation of these General Terms and Conditions of Sale, Delivery and Payment, the Dutch text will be binding.

Final provisions

67. These General Terms and Conditions of Delivery and the contracts to which they apply shall be governed by Dutch law. The competent court in the District Oost-Brabant, location 's-Hertogenbosch, will have exclusive jurisdiction in relation to all disputes.
68. The United Nations Convention on Contracts for the International Sale of Goods concluded in Vienna on 11 April 1980 will not be applicable.

