

## **GENERAL TERMS AND CONDITIONS The Pink Balloon**

### **Definitions**

1. The Pink Balloon: Pink Balloon, established in Amsterdam, Chamber of Commerce no. 67838715.
2. Customer: the person with whom The Pink Balloon has entered into an agreement.
3. Parties: The Pink Balloon and customer together.
4. Consumer: a customer who is an individual acting for private purposes.

### **Applicability**

1. These terms and conditions will apply to all quotations, offers, activities, orders, agreements and deliveries of services or products by or on behalf of The Pink Balloon.
2. Parties can only deviate from these conditions if they have explicitly agreed upon in writing.
3. The parties expressly exclude the applicability of supplementary and/or deviating general terms and conditions of the customer or of third parties.

### **Prices**

1. All prices used by The Pink Balloon are in euros, are inclusive of VAT and exclusive of any other costs such as administration costs, levies and travel-, shipping- or transport expenses, unless expressly stated otherwise or agreed otherwise.
2. The Pink Balloon is entitled to adjust all prices for its products or services, shown in its shop, on its website or otherwise, at any time.
3. Increases in the cost prices of products or parts thereof, which The Pink Balloon could not foresee at the time of making an offer or the conclusion of the agreement, may give rise to price increases.
4. The consumer has the right to terminate an agreement as a result of a price increase as referred to in paragraph 3, unless the increase is the result of statutory regulation.

### **Samples / models**

If the customer has received a sample or model of a product, he can not derive any rights from this other than that it is an indication of the nature of the product, unless the parties have explicitly agreed that the products be supplied conform to the sample or model.

### **Payments and payment term**

1. The Pink Balloon may, at the conclusion of the agreement, require a down payment of up to 50% of the agreed amount.
2. The customer must have paid the full amount within 7 days after delivery of the product.
3. Payment terms are considered as fatal payment terms. This means that if the customer has not paid the agreed amount at the latest on the last day of the payment term, he is legally in default, without The Pink Balloon having to send the customer a reminder or to put him in default.
4. The Pink Balloon reserves the right to make a delivery conditional upon immediate payment or to require adequate security for the total amount of the services or products.

### **Consequences of late payment**

1. If the customer does not pay within the agreed term, The Pink Balloon is entitled to charge an interest of 1% per month from the day the customer is in default, whereby a part of a month is counted for a whole month.
2. When the customer is in default, he is also due to extrajudicial collection costs and may be obliged to pay any compensation to The Pink Balloon.
3. The collection costs are calculated on the basis of the Reimbursement for extrajudicial collection costs.
4. If the customer does not pay on time, The Pink Balloon may suspend its obligations until the customer has met his payment obligation.
5. In the event of liquidation, bankruptcy, attachment or suspension of payment on behalf of the customer, the claims of The Pink Balloon on the customer are immediately due and payable.
6. If the customer refuses to cooperate with the performance of the agreement by The Pink Balloon, he is still obliged to pay the agreed price to The Pink Balloon.

## **Right of recovery of goods**

1. As soon as the customer is in default, The Pink Balloon is entitled to invoke the right of recovery with regard to the unpaid products delivered to the customer.
2. The Pink Balloon invokes the right of recovery by means of a written or electronic announcement.
3. As soon as the customer has been informed of the claimed right of recovery, the customer must immediately return the products concerned to The Pink Balloon, unless the parties agree to make other arrangements about this.
4. The costs for the collection or return of the products are at the expense of the customer.

## **Right of cancellation**

1. A consumer may cancel an online purchase during a cooling-off period of 14 days without giving any reason, provided that
  - the product has not been used
  - it is not a product that can spoil quickly, like food or flowers
  - the product is not specially tailored for the consumer or adapted to its special needs
  - it is not a product that may not be returned for hygienic reasons (underwear, swimwear, etc.)
  - the seal is still intact, when the product is a data carrier with digital content (DVDs, CDs, etc.)
  - the product is not a (holiday)trip, a transportation ticket, a catering order or a form of leisure activity,
  - the product is not a separate magazine or a loose newspaper
  - the purchase does not concern an (assignment to) urgent repair
  - the consumer has not renounced his right of cancellation
2. The reflection period of 14 days as referred to in paragraph 1 commences:
  - on the day after the consumer has received the last product or part of 1 order
  - as soon as the consumer has received the first the product of a subscription
  - as soon as the consumer has purchased a service for the first time
  - as soon as the consumer has confirmed the purchase of digital content via the internet
3. The consumer can notify his right of cancellation via [info@pinkballoon.nl](mailto:info@pinkballoon.nl), if desired by using the withdrawal form that can be downloaded via the website of The Pink Balloon, [www.pinkballoon.nl](http://www.pinkballoon.nl).
4. The consumer is obliged to return the product to The Pink Balloon within 14 days after the notification of his right of cancellation, after which period his right of cancellation will lapse.
5. The costs for return are due The Pink Balloon if the complete order is returned.
6. If the purchase costs and any other costs (such as shipping and return costs) are eligible for reimbursement according to the law, The Pink Balloon will refund these costs to the consumer within 14 days of receipt of the timely appeal to the right of withdrawal, provided that the consumer has returned the product to The Pink Balloon in time.

## **Suspension of obligations by the customer**

The customer waives the right to suspend the fulfillment of any obligation arising from this agreement.

## **Right of retention**

1. The Pink Balloon can appeal to his right of retention of title and in that case retain the products sold by The Pink Balloon to the customer until the customer has paid all outstanding invoices with regard to The Pink Balloon, unless the customer has provided sufficient security for these payments.
2. The right of retention of title also applies on the basis of previous agreements from which the customer still owes payments to The Pink Balloon.
3. The Pink Balloon is never liable for any damage that the customer may suffer as a result of using his right of retention of title.

## **Settlement**

The customer waives his right to settle any debt to The Pink Balloon with any claim on The Pink Balloon.

## **Retention of title**

1. The Pink Balloon remains the owner of all delivered products until the customer has fully complied with all its payment obligations with regard to The Pink Balloon under whatever agreement with The Pink Balloon including of claims regarding the shortcomings in the performance.
2. Until then, The Pink Balloon can invoke its retention of title and take back the goods.
3. Before the property is transferred to the customer, the customer may not pledge, sell, dispose of or otherwise encumber the products.
4. If The Pink Balloon invokes its retention of title, the agreement will be dissolved and The Pink Balloon has the right to claim compensation, lost profits and interest.

### **Delivery**

1. Delivery takes place while stocks last.
2. Delivery takes place at The Pink Balloon unless the parties have agreed upon otherwise.
3. Delivery of products ordered online takes place at the address indicated by the customer.
4. If the agreed price is not paid on time, The Pink Balloon has the right to suspend its obligations until the agreed price is fully paid.
5. In the event of late payment, the customer is automatically in default, and hereby he can not object to late delivery by The Pink Balloon.

### **Delivery period**

1. Any delivery period specified by The Pink Balloon is indicative and does not give the customer the right to dissolution or compensation if this period is not met with, unless the parties have expressly agreed otherwise in writing.
2. The delivery starts once the customer has fully completed the (electronic) ordering process and received an (electronic) confirmation of his order from The Pink Balloon.
3. Exceeding the specified delivery period does not entitle the customer to compensation or the right to terminate the contract, unless The Pink Balloon cannot deliver within [number of days late] or if the parties have agreed upon otherwise.

### **Actual delivery**

The customer must ensure that the actual delivery of the products ordered by him can take place in time.

### **Transport costs**

Transport costs are on behalf of the customer, unless the parties have agreed upon otherwise.

### **Packaging and shipping**

1. If the package of a delivered product is opened or damaged, the customer must have a note drawn up by the forwarder or delivery person before receiving the product. In the absence of which The Pink Balloon may not be held liable for any damage.
2. If the customer himself takes care of the transport of a product, he must report any visible damage to products or the packaging prior to the transport to The Pink Balloon, failing which The Pink Balloon cannot be held liable for any damage.

### **Insurance Storage**

1. If the customer orders products later than the agreed delivery date, the risk of any quality loss is entirely for the customer.
2. Any extra costs as a result of premature or late purchase of products are entirely at the customer's expense.

### **Guarantee**

1. The warranty relating to products only applies to defects caused by faulty manufacture, construction or material.
2. The warranty does not apply in the event of normal wear and tear and damage resulting from accidents, changes made to the product, negligence or improper use by the customer, or when the cause of the defect can not clearly be established.

3. The risk of loss, damage or theft of the products that are the subject of an agreement between the parties, will pass on to the customer when these products are legally and/or factually delivered, at least are in the power of the customer or of a third party who receives the product for the benefit of the customer.

## **Exchange**

1. Exchange is only possible if the following conditions are met:
  - exchange takes place within 14 days after purchase upon presentation of the original invoice
  - the product is returned in the original packaging or with the original (price) tags still attached to it
  - the product has not been used
2. Discounted items, non-shelf articles such as food, custom made items or specially adapted articles for the customer and Hygiënische producten of producten met een gezondheidsrisico waar de verzegeling van verbroken is. cannot be exchanged.

## **Cancellation of the contract for an indefinite period of time**

1. The customer can terminate an agreement that has been concluded for an indefinite period at any time with due observance of a notice period of .
2. A consumer has the right to terminate an agreement for an indefinite period with due observance of a notice period of 1 month.

## **Indemnity**

The customer indemnifies The Pink Balloon against all third-party claims that are related to the products and/or services supplied by The Pink Balloon.

## **Complaints**

1. The customer must examine a product or service provided by The Pink Balloon as soon as possible for possible shortcomings.
2. If a delivered product or service does not comply with what the customer could reasonably expect from the agreement, the customer must inform The Pink Balloon of this as soon as possible, but in any case within 1 month after the discovery of the shortcomings.
3. Consumers must inform The Pink Balloon of this within two months after detection of the shortcomings.
4. The customer gives a detailed description as possible of the shortcomings, so that The Pink Balloon is able to respond adequately.
5. The customer must demonstrate that the complaint relates to an agreement between the parties.
6. If a complaint relates to ongoing work, this can in any case not lead to The Pink Balloon being forced to perform other work than has been agreed.

## **Giving notice**

1. The customer must provide any notice of default to The Pink Balloon in writing.
2. It is the responsibility of the customer that a notice of default actually reaches The Pink Balloon (in time).

## **Joint and several Client liabilities**

If The Pink Balloon enters into an agreement with several customers, each of them shall be jointly and severally liable for the full amounts due to The Pink Balloon under that agreement.

## **Liability of The Pink Balloon**

1. The Pink Balloon is only liable for any damage the customer suffers if and insofar as this damage is caused by intent or gross negligence.
2. If The Pink Balloon is liable for any damage, it is only liable for direct damages that results from or is related to the execution of an agreement.
3. The Pink Balloon is never liable for indirect damages, such as consequential loss, lost profit, lost savings or damage to third parties.

4. If The Pink Balloon is liable, its liability is limited to the amount paid by a closed (professional) liability insurance and in the absence of (full) payment by an insurance company of the damages the amount of the liability is limited to the (part of the) invoice to which the liability relates.
5. All images, photos, colors, drawings, descriptions on the website or in a catalog are only indicative and are only approximate and can not lead to any compensation and/or (partial) dissolution of the agreement and/or suspension of any obligation.

### **Expiry period**

Every right of the customer to compensation from The Pink Balloon shall, in any case, expire within 12 months after the event from which the liability arises directly or indirectly. This does not exclude the provisions in article 6:89 of the Dutch Civil Code.

### **Dissolution**

1. The customer has the right to dissolve the agreement if The Pink Balloon imputably fails in the fulfillment of his obligations, unless this shortcoming does not justify termination due to its special nature or because it is of minor significance.
2. If the fulfillment of the obligations by The Pink Balloon is not permanent or temporarily impossible, dissolution can only take place after The Pink Balloon is in default.
3. The Pink Balloon has the right to dissolve the agreement with the customer, if the customer does not fully or timely fulfill his obligations under the agreement, or if circumstances give The Pink Balloon good grounds to fear that the customer will not be able to fulfill his obligations properly.

### **Force majeure**

1. In addition to the provisions of article 6:75 Dutch Civil Code, a shortcoming of The Pink Balloon in the fulfillment of any obligation to the customer cannot be attributed to The Pink Balloon in any situation independent of the will of The Pink Balloon, when the fulfillment of its obligations towards the customer is prevented in whole or in part or when the fulfillment of its obligations cannot reasonably be required from The Pink Balloon .
2. The force majeure situation referred to in paragraph 1 is also applicable - but not limited to: state of emergency (such as civil war, insurrection, riots, natural disasters, etc.); defaults and force majeure of suppliers, deliverymen or other third parties; unexpected disturbances of power, electricity, internet, computer or telecoms; computer viruses, strikes, government measures, unforeseen transport problems, bad weather conditions and work stoppages.
3. If a situation of force majeure arises as a result of which The Pink Balloon cannot fulfill one or more obligations towards the customer, these obligations will be suspended until The Pink Balloon can comply with it.
4. From the moment that a force majeure situation has lasted at least 30 calendar days, both parties may dissolve the agreement in writing in whole or in part.
5. The Pink Balloon does not owe any (damage) compensation in a situation of force majeure, even if it has obtained any advantages as a result of the force majeure situation.

### **Modification of the agreement**

If, after the conclusion of the agreement and before its implementation, it appears necessary to change or supplement its contents, the parties shall timely and in mutual consultation adjust the agreement accordingly.

### **Changes in the general terms and conditions**

1. The Pink Balloon is entitled to amend or supplement these general terms and conditions.
2. Changes of minor importance can be made at any time.
3. Major changes in content will be discussed by The Pink Balloon with the customer in advance as much as possible.
4. Consumers are entitled to cancel the agreement in the event of a substantial change to the general terms and conditions.

### **Transfer of rights**

1. The customer can not transfer its rights deferring from an agreement with The Pink Balloon to third parties without the prior written consent of The Pink Balloon .
2. This provision applies as a clause with a property law effect as referred to in Section 3:83 (2) Dutch Civil Code.

### **Consequences of nullity or annulability**

1. If one or more provisions of these general terms and conditions prove null or annulable, this will not affect the other provisions of these terms and conditions.
2. A provision that is null or annulable shall, in that case, be replaced by a provision that comes closest to what The Pink Balloon had in mind when drafting the conditions on that issue.

### **Applicable law and competent court**

1. Dutch law is exclusively applicable to all agreements between the parties.
2. The Dutch court in the district where The Pink Balloon is established is exclusively competent in case of any disputes between parties, unless the law prescribes otherwise.

Drawn up on 25 september 2020.