

GENERAL TERMS AND CONDITIONS OF MECQ MATERIEEL B.V.

Article 1: Scope

These general terms and conditions apply to all offers by and agreements between MECQ Materieel and customers, hereinafter referred to as the counterparty, which concern the delivery of goods. MECQ Materieel expressly rejects the applicability of any general terms and conditions of the counterparty. The general terms and conditions of MECQ Materieel will prevail in the event of a conflict. If the court determines that one or more provisions of these general terms and conditions is unreasonably onerous, the corresponding provision will be interpreted in the context of the other provisions of this agreement in such a way that the provision may be reasonably invoked by MECQ Materieel against the counterparty. If the court decides that one or more provisions from these general terms and conditions is unreasonably onerous, it will not affect the effectiveness of the other provisions. If MECQ Materieel uses a non-Dutch version of these general terms and conditions and there are differences between the Dutch version and the non-Dutch version, only the Dutch version will be binding.

Article 2: Establishment of the agreement

All offers are non-binding, unless otherwise indicated in writing. Agreements will be established when we send a written or electronic confirmation of the agreements or start with the implementation of the agreement after acceptance of our offer or any (partial) payment.

Article 3: Price

All our proposals are open for a maximum of 3 days, unless this period is deviated from in writing. All prices indicated therein exclude VAT and are in Euro (unless another currency has been indicated) and are non-binding in case of an interim increase in cost-determining factors.

Article 4: Delivery and period

Delivery of goods occurs ex-factory MECQ Materieel in Veghel unless another delivery condition has been agreed on, in which case the sales price will be increased with any additional costs incurred by MECQ Materieel. If delivery elsewhere has been agreed on, the counterparty must ensure that the delivery location is easily accessible.

Agreed delivery terms are never deadlines and are indicative only. The delivery period will start after the counterparty has fulfilled all its obligations. If delivery fails to take place due to a circumstance not attributable to MECQ Materieel, the risk of the to be delivered good will transfer to the counterparty from the moment this circumstance arises. If delivery fails to take place due to a circumstance attributable to MECQ Materieel, the counterparty must send a written notice of default to MECQ Materieel stating a reasonable period before it is entitled to dissolve the agreement, without the counterparty being entitled to terminate the agreement.

Article 5: Force majeure

If the agreement cannot be implemented due to force majeure (non-attributable shortcoming) as defined below, MECQ Materieel has the right to declare the agreement dissolved without being required to pay any compensation, retaining the right to payment to the extent the agreement has already been implemented.

Force majeure means any circumstance outside of the control MECQ Materieel which permanently or temporarily prevents MECQ Materieel from fulfilling its obligations pursuant to the agreement. Force majeure is in any case (but not exclusively) strikes, sit-ins, import and export restrictions, government measures, (threat of) war, riot, terrorism, debarment and stagnation in the delivery of goods, fire, water damage and exceptional weather.

Article 6: Payment

Unless otherwise agreed, payments must be made within three days after the invoice date. MECQ Materieel is entitled to request one or more advances for the payment of invoices.

In the event of late payment, the counterparty will be legally in default after expiry of the payment period specified above, without notice of default being required. The counterparty will in that case owe MECQ Materieel a default interest of 1% per month (or part of a month) from the due date.

If the counterparty fails to completely, timely or properly fulfil one of more of its obligations under the corresponding agreement(s), it will owe MECQ Materieel the (to be) incurred costs to determine the liability and recovery of the claim, which (extra) judicial costs will be set at 15% of the principal amount with a minimum of €2,500, without prejudice to the right to full compensation. The counterparty will pay the costs at the first request of MECQ Materieel. The counterparty will never be entitled to settle its debt with a counterclaim on MECQ Materieel or to suspend its obligations.

Article 7: Reservation of ownership

The ownership of the goods delivered by MECQ Materieel will transfer to the counterparty if all amounts claimable by MECQ Materieel from the counterparty have been fully paid, even if these arise from other deliveries and/or damage. Until the moment of the transfer of ownership, disposal or encumbrance of the goods are forbidden, as well as providing them as security to third parties. This provision is effective in accordance with property law.

Article 8: Complaints

Any claims related to invoices must be submitted in writing to MECQ Materieel within fourteen days of the invoice date on pain of forfeiture. Goods will be delivered without any warranties ("as is"), unless expressly agreed otherwise in writing. Complaints related to the quality of the goods delivered for sale, to the extent an express written warranty has been given, will only be accepted by MECQ Materieel if they have been submitted in writing within five days after they have been found or reasonably should have been found by the counterparty, on pain of forfeiture of such right. Any provided warranty will only be applicable after full payment of the invoice of MECQ Materieel.

Article 9: Suspension and termination

If the counterparty fails to completely, timely or properly fulfil any of its obligations towards MECQ Materieel pursuant to the agreement, MECQ Materieel has the right to terminate the agreement if the other party fails to fulfil its obligations within 14 days after being summoned thereto. MECQ Materieel is entitled to keep any paid advances, partly to cover any incurred losses due to a loss of interest, storage costs and/or margin loss or loss of profits, without prejudice to its right to full compensation if this is higher than the kept advance. MECQ Materieel will arrange the storage of goods for the risk and account of the counterparty. The storage costs will amount to a minimum of €250 per week per machine.

Article 10: Liability

MECQ Materieel is not liable for damages (direct or indirect) of the counterparty arising from the agreement or the delivered good, unless there is intent or deliberate recklessness. If and insofar notwithstanding any court ruling on liability of MECQ Materieel, the scope of the liability will always be limited to the amount of the involved transaction, or, if this is lower, to the amount paid by the liability insurer of MECQ Materieel. The liability of MECQ Materieel expires one year after delivery.

The counterparty indemnifies MECQ Materieel for all (damage) claims of third parties related to the goods delivered by MECQ Materieel to the counterparty, for example, but not exclusively, in relation to official reports related to traffic or working conditions legislation or arising costs. Use of machines without CE certification in Europe is at your own risk.

The counterparty is fully responsible and liable for the use of machines without CE marking within the EER. The counterparty, even if no longer the owner of the machine, is liable for all damages and fines imposed by the authorities, which are related to the absence of the CE marking. If MECQ Materieel is approached by a government and/or a third party to pay compensation and/or a fine, which is related to the fact that a machine it has sold to the counterparty, the counterparty must fully indemnify MECQ Materieel.

Article 11: Dispute resolution / Competent court

Only Dutch law applies to disputes about our offers and concluded agreements. Only the court of first instance in 's-Hertogenbosch will be competent to hear the abovementioned disputes.