

General Terms and Conditions

Article 1. General

1. These General Terms and Conditions (of sale and delivery), hereinafter: "General Term and Conditions" are applicable to all offers and agreements of Abbot Kinney's BV and are the foundation of all deliveries and/or services that Abbot Kinney's BV executes, all in the broadest sense of the word.
2. Under "counterparty" will be understood in these General Terms and Conditions: the buyer, as well as anyone that has granted a commission to Abbot Kinney's. Where in these terms and conditions the counterparty is mentioned, then here, except for this, also his representatives, attorneys-in-fact or other entitled parties are referred to.
3. Deviating stipulations and/or agreements are only then applicable, when Abbot Kinney's confirms that explicitly in writing. The applicability of possible terms and conditions of purchase or other terms and conditions of the counterparty are explicitly rejected and do not bind Abbot Kinney's.
4. Should any stipulation(s) of these General Terms and Conditions in the opinion of the competent court not applicable or in violation of the public order or the law, then only the concerned stipulation(s) shall be regarded as not written, but these General Terms and Conditions shall for the remainder continue to be fully in force, the one and the other notwithstanding the stipulations in article 17 of these General Terms and Conditions.

Article 2. Designated offers

1. Designated offers are, unless explicitly stated otherwise, each time non-binding; provided data and Exhibits are informative and give only a general representation.
2. A designated offer is valid for a term, which is stated in the designated offer itself. Should no term be mentioned, then a term of fourteen days applies to the offer.
3. Abbot Kinney's reserves at all times the right to refuse commission without statement of reasons.

Article 3. Conclusion agreement

1. An agreement between Abbot Kinney's and the counterparty is only deemed to have been concluded, if and insofar the commission given by counterparty is accepted by Abbot Kinney's by means of a written declaration, which is signed by the counterparty for approval and is received back by Abbot Kinney's. An agreement is also concluded by an order followed by a written acceptance from the side of Abbot Kinney's.
2. A commission provided verbally by the counterparty is forfeit, when this is not immediately accepted by Abbot Kinney's by means of a written declaration.

3. Additional agreements or changes in the agreement only bind Abbot Kinney's after written acceptance thereof by Abbot Kinney's.

Article 4. Prices

1. All prices of the goods delivered by Abbot Kinney's are in Euro and are exclusive of VAT, unless explicitly stated differently.
2. If the cost price of the goods to be delivered by Abbot Kinney's increases during the duration of the agreement and was reasonably not foreseeable at the conclusion of the agreement, then Abbot Kinney's is authorised to increase the price of the order accordingly, the one and the other in compliance with the possible existing lawful prescriptions.

Article 5. Delivery and terms

1. The delivery of goods within the Netherlands takes place Ex Shop or to the delivery address of the counterparty, whereby in the latter case Abbot Kinney's shall bring the costs of transport into account to the counterparty, unless agreed differently. The delivery address must reasonably be reachable for those means of transport that are customary for delivery in general. The counterparty must arrange on the delivery address for sufficient load and unload facilities. For the unloading of the goods and the loading of possible return freights, the counterparty shall make sufficient personnel and (mechanical) aids available for free.
2. Abbot Kinney's is notwithstanding everyone's professional responsibility and within the boundaries of its lawful obligations in that respect, responsible for the transport of the goods up to the delivery to the counterparty, insofar that delivery address is located within the Netherlands. Abbot Kinney's is in connection herewith authorised to impose on the (employees of the) counterparty mandatory prescriptions and instructions, which the counterparty and his employees must follow up without restriction.
3. Abbot Kinney's is at all times free in the choice of the means of transport. If the counterparty wishes another manner of transport, consent of Abbot Kinney's is required thereto and the extra costs thereof come for the account of the counterparty.
4. The delivery of goods to a counterparty that has his seat of business address or delivery address outside the Netherlands, takes place from the production area or factory. If and insofar Abbot Kinney's is assisting the counterparty in the arranging of transport, then that means never that the delivery of the goods takes place elsewhere and neither that Abbot Kinney's assumes any responsibility or liability regarding the transport. The transport of the goods takes place therefore in all instances for the account and risk of the counterparty.
5. Abbot Kinney's is authorised to deliver in parts (partial deliveries), which can be invoiced separately.

6. If the goods to be delivered, are not taken-off within the delivery time or in any case the agreed term for call has not been observed by the counterparty, then Abbot Kinney's is authorised to invoice the concerned goods and the goods shall, if possible and in compliance with everyone's professional responsibility, be stored fully for the account and risk of the counterparty.
7. Unless explicitly agreed otherwise, the stated delivery terms are never to be regarded as fatal terms. In case of non-timely delivery, the counterparty must declare Abbot Kinney's in writing in default. In addition, the counterparty shall have to grant Abbot Kinney's in the prevalent case a reasonable term to comply after all with its obligations.

Article 6. Reclamation

1. The counterparty is obliged to inspect the delivered goods immediately after delivery for possible visible shortcomings and/or damages and which he reasonably could have discovered, and report these immediately in writing and specified to Abbot Kinney's, in the absence of which Abbot Kinney's is authorised not to take the related reclamation into treatment.
2. Any other reclamation than as referred to section 1 of this article concerning the goods delivered by Abbot Kinney's, must be brought in writing to the knowledge of Abbot Kinney's by the counterparty, immediately after they have been established. The counterparty can in each case make no claims anymore if the notification to Abbot Kinney's takes place later than 7 days after the moment on which the counterparty reasonably could have discovered the defect.
3. Reclamation concerning sent invoices must be brought no later than on the due date of the invoices in writing to the knowledge of Abbot Kinney's.
4. The counterparty is obliged to strictly observe the possible instructions and prescriptions of Abbot Kinney's regarding the manner of storage and processing of the delivered goods. The counterparty can make no claims in case of wrong use of the goods.
5. The counterparty must at all times enable Abbot Kinney's to repair a possible defect.
6. If the reclamation is deemed well-founded by Abbot Kinney's, then Abbot Kinney's reserves the right to replace the goods or to issue for the delivered goods a credit invoice for no more than the value of the invoice of the concerned goods.
7. The presence of a defect such as referred to this article does not give the counterparty the right to suspend any payment obligation towards Abbot Kinney's.

Article 7. Payment

1. Unless agreed differently in writing, all payments must take place in Euro, without discount and without any right on set-off.
2. Unless agreed differently in writing, all payments for delivery of goods within the Netherlands must be made into the bank account designated by Abbot Kinney's.
3. If the invoice is not paid within the agreed payment term, then the counterparty is only as a consequence thereof in default and Abbot Kinney's is authorised to bring the interest by law into account over the amount yet unpaid, starting fifteen days after date of the invoice. If the counterparty is in default towards Abbot Kinney's with the timely compliance with his payment and/or other obligations, then the counterparty is required to take for his account and pay all reasonable costs to be made by Abbot Kinney's, as well as in-court and out-of-court collection costs, including the fee, the administration costs and the VAT of the lawyer involved by Abbot Kinney's. The amount to be paid because of out-of-court collection costs by the counterparty to Abbot Kinney's, shall amount to a minimum of 15% of the principal amount plus interest given for collection.

Article 8 Duty of care

1. The counterparty shall treat the delivered goods each time with the required care and commit no acts because of which the quality of safety of the goods, or the reputation of the brands of Abbot Kinney's and the enterprises affiliated with it could be harmed.
2. The counterparty shall furthermore comply with all lawful requirements, among others with regard to storage, hygiene and labour conditions.

Article 9 Retention of title

1. As long as the counterparty has executed no full payment of the claims concerning the goods delivered or to be delivered on the basis of the agreement or services executed or to be executed on the basis of the concerned agreement for the benefit of the counterparty, as well as regarding claims because of shortcoming in the compliance with the abovementioned agreements, the goods remain for the risk of the counterparty and they remain property of Abbot Kinney's.
2. The counterparty is required to keep the goods delivered under retention of title with the necessary care as recognisable property of Abbot Kinney's. The counterparty is forbidden to sell these goods onward, even in the framework of the normal conduct of enterprise. The counterparty is obliged to insure the goods for the duration of the retained property against fire, explosion and water damage, as well as against theft, and to give the policies of this insurance upon first demand for viewing to Abbot Kinney's.

All claims of the counterparty on the insurers on the basis of aforementioned insurances shall, as soon as Abbot Kinney's makes known to wish so, be given in lien by the counterparty to Abbot Kinney's for further surety of the claims of Abbot Kinney's towards the counterparty.

Article 10. Provision of surety

1. If Abbot Kinney's has good ground to fear that the counterparty shall not comply with his obligations from the agreement concluded with Abbot Kinney's, then Abbot Kinney's is authorised to suspend before or during the execution of the agreement the compliance with its obligations, until the counterparty upon request and to the satisfaction of Abbot Kinney's has provided surety for the compliance with all of his obligations from this agreement. These stipulations apply evenly if credit or a payment arrangement has been stipulated.
2. After the term to provision of surety set by Abbot Kinney's has expired, or by the refusal to provision of surety, the counterparty is in default by law and Abbot Kinney's can dissolve the agreement without intervention by the courts by means of a written declaration addressed to the counterparty and take back the already delivered, notwithstanding its rights to compensation of costs, interest and damage, loss of profit therein included.

Article 11. Non-imputable shortcoming in the compliance with the agreement

1. There is an instance of a non-imputable shortcoming in the compliance with the agreement at the side of Abbot Kinney's, if Abbot Kinney's after the conclusion of the agreement is hindered to comply with its obligations from this agreement or with the preparations thereof, as a consequence of among others but not solely riots, molest, war, terrorist attacks, disasters of nature, vandalism, fire, water damage, flooding, work strike, government measures, defects to machines, disruptions in the delivery of energy, all of it both at Abbot Kinney's and at third parties, of whom Abbot Kinney's must source the required documents, materials, raw materials or personnel in whole or in part, as well as upon storage or during transport, whether or not in own management and furthermore by all other causes emerged outside the sphere of risk or fault of Abbot Kinney's.
2. In case of non-imputable shortcomings, as referred to the previous section, at the side of Abbot Kinney's, the delivery and other obligations of Abbot Kinney's will be suspended, unless Abbot Kinney's chooses after all, as soon as this is reasonably possible, to comply with its obligations.
3. If by non-imputable shortcoming in the compliance with the agreement at the side of Abbot Kinney's the execution of the agreement is delayed with more than two months, then both Abbot Kinney's and the counterparty are authorised to call in the dissolution of the agreement by means of a written declaration. In the latter case Abbot Kinney's and the counterparty must arrange the consequences connected to the agreement mutually. Abbot Kinney's has then in any case a claim to compensation of the costs made by it.
4. In case of dissolution or suspension of the agreement as a consequence of a non-imputable shortcoming, Abbot Kinney's shall never be required to any compensation of damages to the counterparty.

Article 12. Liability

1. Liabilities not explicitly acknowledged in these terms and conditions, or in the agreement, at the side of Abbot Kinney's, in particular liabilities to compensation of damages based on whichever legal ground, also insofar these liabilities are in connection with warranty rights of the counterparty, are, insofar lawfully permitted, excluded. Abbot Kinney's is in any case never liable for indirect damage, including consequential damage, missed profit, missed savings and damage by enterprise stagnation.
2. Especially, Abbot Kinney's is not liable for personal accidents and/or damaging of objects, machines, installations and buildings, neither for whichever enterprise damage, suffered by the counterparty or by third parties, emerged by incorrect delivery, and/or error and defects in the goods delivered by Abbot Kinney's and/or provided advice and/or executed services. Furthermore, Abbot Kinney's accepts no liability for damage which has emerged by incorrect or inexpert application of advice provided by Abbot Kinney's and/or goods delivered by it. Abbot Kinney's is neither liable if it is, because of a non-imputable shortcoming not able to comply with its obligations from the agreement.
3. If Abbot Kinney's in spite of the previous is still liable, then the compensation of damages to be paid is limited to the amount that Abbot Kinney's has received from the counterparty in the framework of the concerned agreement. The height of the liability of Abbot Kinney's shall in each case not exceed the costs of the repair of the goods not delivered in accordance with the concluded agreement or the costs of the replacement of aforementioned goods, depending on which of both costs is the lowest. The liability is in any case each time limited to the amount of the pay-out of its insurer in a prevalent case.
4. The limitations included in this article do not apply if the damage is the consequence of wilful intent or gross fault of Abbot Kinney's and/or its managers.

Article 13 Secrecy

1. The counterparty is obliged to keep all confidential information secret regarding Abbot Kinney's and the enterprises affiliated with it.
2. Confidential information as referred to the first section includes, without limitation, enterprise secrets, discoveries, ideas, concepts, designs, knowhow, techniques, specifications, drawings, diagrams, data, computer programs, business activities and doings, client lists, reports, studies and other technical and enterprise information. Confidential information includes furthermore descriptions of the existence or the development of the information above.

Article 14 Termination of the agreement

1. Abbot Kinney's is authorised to terminate the agreement immediately without further notification of default and to bring itself without delay again in the possession of the delivered good:
 - a. If the counterparty does not, not-timely, or not in full comply with any obligations from this agreement.
 - b. In case of an application for or suspension of payment or bankruptcy of the counterparty, or in case of a request to application of the Dutch Law debt sanitation natural persons with regard to

the counterparty.

c. If the counterparty is a legal person, in case of dissolution or liquidation of the counterparty, or if the control over or the decisive vote in the counterparty has come to belong to a third party.

d. If an attachment is put on the good, or by claim by the government of this good.

2. If Abbot Kinney's terminates the agreement immediately, then the damage which the counterparty shall have to pay to Abbot Kinney's in this regard, consists of the amount of the entire agreement, notwithstanding the right of Abbot Kinney's to possible further compensation of damage.

Article 15 Applicable law and disputes

1. The Laws of the Netherlands are applicable to all agreements concluded with Abbot Kinney's, with the exclusion of the Vienna Purchase Treaty.
2. With regard to disputes which might arise between Abbot Kinney's and the counterparty further to an agreement to which these terms and conditions are applicable, solely the District Court in Amsterdam shall be authorised, except for exceptions mandatory by law. Abbot Kinney's remains however authorised to subpoena the counterparty before civil court competent according to the law or the applicable international treaty.

These General terms and conditions of sale and delivery have been filed at the Chamber of Commerce and can be found on the website of Abbot Kinney's, www.abbotkinneys.com.