Article 1: General Provisions

1.1 In these General Terms and Conditions of Sale and Delivery, the capitalised terms listed below and any conjugated forms thereof, unless a different meaning is explicitly given.

A. Offer: an offer without any obligation made by Boels in a catalogue or on the website to a potential Other Party.

B. Boels: Boels Verhuur B.V. (The Netherlands) or Boels Verhuur N.V. (Belgium), and any subsidiaries and/or sister companies affiliated to the above companies.

C. Defect(s): abnormalities in an item that were present before delivery, as a result of which the item does not conform to the Contract, and flaws caused by manufacturing and/or material errors or the lack of the (agreed) specific essential requirements and/or characteristics. Defects explicitly do not include: damage defects and flaws that arise after delivery, as such not limited to damage from being dropped and defects and flaws caused by improper use or storage, unprofessional or insufficient maintenance or as a result of normal wear and tear. For the Other Party B, B. acts also do not include: damage caused during/due to transport.

D. Information: catalogues, designs, depictions and data, models, samples, descriptions, software, technical information, etc. that are part of the Quotation and/or Order Confirmation.

E. In Writing or Written: by means of a document signed by authorised representatives of Boels and/or the Other Party, or through an electronic document.

F. Specifications, etc.: as referred to in Article 6.186 of the Dutch Civil Code.

G. Terms and Conditions of Sale: these General Terms and Conditions of Sale (TCS), which are the exclusive terms of sale for Boels.

H. Other Party: any natural person not acting in the context of practising a profession or conducting a business if and insofar as Boels has a non-binding indication, any natural person acting within the context of practising a profession or conducting a business and any legal entity or other form of business practice, including a company affiliated to Boels that has a contractual relationship with Boels on the basis of a Contract concluded with Boels. This includes in particular parties on whose instructions or on whose account items are delivered.

1.2 The date of sending of letters and/or dispatching items shall be the date stated at the post stamp, or the date the fax or the email was sent. If no such date is stated or can be demonstrated, and a dispute exists as to the timeliness of the sending or dispatching of the documents and/or items sent by the Other Party B shall be considered not timely sent.

Article 2: Applicability

2.1 The Terms and Conditions of Sale shall apply to all Quotations and Offers issued by Boels and all Contracts that Boels shall enter into with respect to the sale and delivery of moveable property to an Other Party.

2.2 If the Other Party would refer to other conditions in its Order or to any provision contained in the Terms and Conditions of Sale, such provision shall be non-binding and Boels shall have the right to reject an Order if and insofar as Boels does not agree otherwise in writing.

2.3 Any deviation from and/or supplement to the Contract, save for agreements In Writing, and flaws caused by manufacturing and/or material errors or the lack of the (agreed) specific essential requirements and/or characteristics. Defects explicitly do not include: damage defects and flaws that arise after delivery, as such not limited to damage from being dropped and defects and flaws caused by improper use or storage, unprofessional or insufficient maintenance or as a result of normal wear and tear. For the Other Party B, B. acts also do not include: damage caused during/due to transport.

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delivered in a proper condition and in accordance with the Contract.

Article 9: Obligation to Investigate / Complaints
9.1 At the time it takes possession of the items, the Other Party shall, exceptionally, perceive any defects and sign the delivery receipt/transport document to indicate that it has duly received the items, and indicate any defects it considers relevant.

9.2 The items shall be deemed delivered in good condition and in accordance with the Contract, unless and to the extent a claim is otherwise.

9.3 The Other Party A shall inform Boels of any defects which are noticed and which could not have been discovered during such inspection in the manner indicated in subsection 2 within two weeks after their discovery.

9.4 Any right of action of the Other Party against Boels with respect to Defects in the items delivered by Boels shall lapse if Boels is not informed of the Defects within the terms referred to in subsections 2 and 3, and/or if Boels is not informed in the manner indicated in those subsections.

9.5 Any right of action of the Other Party against Boels with respect to Defects in the items delivered by Boels shall also lapse if:
   a. The Other Party does not or insufficiently cooperate with Boels with respect to an investigation into the validity of the complaints;
   b. The Other Party has not set up, handled, used, stored or maintained the item in a proper manner, or has not handled the items under conditions suitable for the items;
   c. The Other Party has made repairs and/or changes to the items or has had repairs or changes made without Boels’ explicit written consent;
   d. The item has been taken into use after the discovery of a Defect as referred to in subsection 2, or if use of the item is continued after a Defect as referred to in subsection 3;
   e. The guarantee period referred to in Article 10 has passed.

Article 10: Defects and Guarantee
10.1 If within a period of time of 12 months after the delivery any Defect occurs to a new item sold and delivered by Boels, the Other Party may require Boels to proceed either to repair or to deliver a replacement item or, in case of a new item sold and delivered by Boels, to proceed to the purchase and delivery of a replacement item within a period of 3 months after the delivery.

10.2 The Other Party shall only be entitled to require repair of the Defects and sign the delivery receipt/transport document to indicate that it has duly received the items, and indicate any defects it considers relevant.

10.3 The Other Party A shall inform Boels of any defects which are noticed and which could not have been discovered during such inspection in the manner indicated in subsection 2 within two weeks after their discovery.

10.4 Any right of action of the Other Party against Boels with respect to Defects in the items delivered by Boels shall lapse if Boels is not informed of the Defects within the terms referred to in subsections 2 and 3, and/or if Boels is not informed in the manner indicated in those subsections.

11.1 Furthermore, Boels’ liability shall be limited to any remaining amount paid that may be under the liability insurance taken out by Boels and in any case Boss’ liability shall be limited to the Order Amount.

11.2 In no case shall Boels be held to compensation of trading loss, consequential loss, loss of sales or profit, loss due to delay and/or loss of operation.

11.3 In no case shall Boels be held liable for any damage caused by Safety Defects to an item.

Article 12: Cancellation and Termination with a Remote Effect
12.1 If the Other Party B would cancel the Order in any other case or in any other way than stated under subsection 4.3, the Other Party B shall be required to pay an Order Amount plus VAT, with a minimum of €100.00 net.

12.2 In case of a Remote Sale the Other Party A shall be entitled to cancel the Contract after the working days of receipt without justification. In case the Other Party A would use this option of cancellation it must inform Boels thereof in accordance with the return procedure described at Boels’ website, and – at its expenses - return the item to Boels within 7 working days of the cancellation date, stating the return number acquired through the return procedure. The purchase price paid by the Other Party A will be reimbursed to the Other Party A within 30 days of cancellation, under deduction of the administrative costs incurred in the return procedure. No cancellation shall be possible as to items that are damaged, or no longer are in the original and unopened packaging, or have been used or are no longer suitable to be sold.

12.3 Boels shall be entitled to refuse any returned items that no longer are in the state in which they were delivered to the Other Party A, i.e. including the original packaging, manual and warranty certificates, and to deduct any depreciation of the items incurred and any dispatch expenses from the amount to be reimbursed.

12.4 Boels shall not be responsible for any processing lead times applied by banks processing such reimbursements.

Article 13: Payment
13.1 Unless agreed otherwise in Writing, the Order Amount must be paid immediately upon conclusion of the Contract, if in an Installment contract, the Order Amount must be paid within 14 days of the invoice date, unless agreed otherwise in Writing or if indicated otherwise in the invoice. In exceptional cases Boels may demand a bank guarantee or prepayment.

13.2 All payments must be made at Boels’ place of business, in the currency of the Order, and shall be free for all related costs and fees of Boels, such as exchange fees and Bank charges.

13.3 If the Other Party fails to pay within the term stipulated, it will be in default without any notice of default being required, in which case the Other Party will owe interest as from the day of such failure on the full amount of the Order Amount and all due order-related costs, including interest calculated on the unpaid amount. Such interest shall immediately be due and payable, without prejudice to Boels’ right to claim interest on any such late payment.

13.4 In case of any possible attachment on the item it shall be sold at the Site of Boels’ sole discretion, to the Original Owner or to a third party.

13.5 In case of any possible attachment on the item it shall be sold at the Site of Boels’ sole discretion, to the Original Owner or to a third party.

13.6 Any disputes arising from or as a result of a Contract concluded with Boels shall be resolved by the court that is legally authorised to examine the dispute if the Other Party A, within 1 month of Boels appealing to the clause of subsection 17.1 it would choose to have the dispute resolved by the legally authorised court.

Article 14: Force majeure
14.1 Boels shall not be held to any compensation to the Other Party if it is unable to do so in a proper and timely manner as a result of force majeure.

14.2 Force majeure shall mean: any condition outside Boels’ control and of such a nature that compliance with the Contract cannot reasonably be expected from Boels. This includes: strike, riot, war and other disturbances, boycotts, blockades, natural disasters, epidemics, lack of raw materials, impediments and disturbances in transportation, fire, machinery breakdown, interruptions in Boels’ operations, troubles with suppliers and/or any government regulations.

Article 15: Reservation of title and security
In case of a Remote Sale the Other Party A shall be immediately due in a lump sum the amount of Boels’ Order Amount plus VAT, with a minimum of €100.00 net.

15.1 In case of a Remote Sale the Other Party A shall be immediately due in a lump sum the amount of Boels’ Order Amount plus VAT, with a minimum of €100.00 net.

15.2 If and as long as Boels remains the owner of the item, the Other Party shall immediately inform Boels In Writing if the item is attached or any other claim is made in respect of the item or any part of it. If the Other Party is aware of any possible attachment on the item it shall inform Boels thereof. Moreover, the Other Party shall inform Boels of the location of such item upon its first notice.

15.3 In the event that any part of an item is attached, or the Other Party is granted a suspension of payments or is declared bankrupt, it will immediately inform the bailiff levying the attachment, the administrator or the trustee of Boels’ ownership rights.

15.4 In the event of any attachment, the Other Party shall be immediately payable in full, and the Other Party shall be held to immediately repay all amounts invoiced (including (consequential) damage to be occurred by Boels shall be for the Other Party’s account.

Article 16: Privacy
Boels shall respect the privacy of the Other Party. Boels shall process the personal data of the Other Party in accordance with the applicable privacy regulations and with the Privacy Statement available at the Boels website. The Other Party agrees with the processing of its personal data.

Article 17: Applicable law and choice of forum
17.1 Any disputes arising from or as a result of a Contract concluded with Boels shall, at Boels’ discretion, have jurisdiction and under Belgian law, be resolved by the competent court in the District of Maastricht, The Netherlands, or, at Boels’ discretion, have jurisdiction and under German law if the Other Party has German nationality and/or has its place of residence or its place of business in Belgium, and the Contract has been concluded with Boels in its capacity as Boels Verhuur N.V.

17.2 Notwithstanding the preceding subsection, the Court of Brussels, Belgium, or Ouderarde, Belgium, shall, at Boels’ discretion, have jurisdiction and under Belgium law if the Other Party has Belgian nationality and/or has its place of residence or its place of business in Belgium, and the Contract has been concluded with Boels in its capacity as Boels Verhuur N.V.

17.3 Notwithstanding the foregoing, any disputes with the Other Party shall be resolved by the court that is legally authorised to examine the dispute if the Other Party A, within 1 month of Boels appealing to the clause of subsection 17.1 it would choose to have the dispute resolved by the legally authorised court.

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