

**1. General**

Unless explicitly stated otherwise in writing, the terms and conditions hereinafter set forth shall apply to all our sales agreements and agreements referring to services to be performed by us. By his order the buyer declares to accept these terms and conditions.

**2. Offers**

Our offers shall be without engagement and shall not be binding.

Any agreements entered into by intermediaries, including representatives, travellers, agents, etc., amendments to agreements or promises made by them shall be binding upon us, only if there have been confirmed by us in writing, even if such confirmation did not exist in the past. Our printed price lists or price lists made available in any other form shall not be regarded as an offer.

Any sketches, drawings, calculations, estimates, graphics, prospectuses, catalogues, statements of size and weight and/or any other illustrations and information supplied by Xtraflex NV shall not bind the latter, unless and insofar as agreed upon otherwise in the written order confirmation.

**3. Prices**

All our sales prices shall be net and exclusive of VAT. Since such prices are subject to price changes *inter alia* through the manufacturer, as a result of changes in the raw material prices, exchange rates and/or import duties, as well as in the rates of customs agencies and forwarding agents, the seller shall charge the current prices. As far as registered, cash on delivery and express delivery parcels are concerned, extra costs shall be charged.

In addition, any costs caused for or by the customer shall remain payable by the latter such as bank charges, collection charges, protest charges, etc., without this enumeration being limitative. It is only enunciative.

**4. Delivery**

Terms of delivery shall always been given for information purposes only, and they shall be without engagement. The goods shall always travel at the buyer's risk, even in the event of delivery carriage paid.

If a part of an order is ready, we may at our discretion deliver such part or wait until the complete order is ready. If partial deliveries are made in accordance with the foregoing, and in the event of deliveries of consecutive parts of an order under an agreement, each delivery shall be deemed to constitute a separate agreement, on which the buyer can no longer go back when the delivered goods have been accepted. Hoses in bulk shall never be pre-tested.

Assemblies made of bulk hose must be tested after they have been mounted.

The distributor manufacturing the assemblies shall be responsible for the 100% testing of the assemblies made of bulk hose.

**5. Force Majeure**

If we are unable to meet our obligations because of circumstances beyond our control, we may choose to suspend the performance of the agreement as long as such circumstances continue or to terminate the agreement by means of the written communication to the buyers. Strikes shall always be regarded as a case of force majeure. Xtraflex NV shall not be liable to pay a compensation for any damage and/or loss.

**6. Payment**

The buyer shall be deemed to have recognised the invoices as correct and due, if he has not protested the same by registered letter within seven calendar days from the date of invoice. All payments shall be made without reduction or setoff at our Lier office, or into a bank account in the name of Xtraflex N.V. Our invoices shall be payable within 30 days from the date of invoice, unless otherwise agreed. We shall, however, always reserve the right to deliver against cash payment or cash on delivery.

In default of payment by the buyer, the amount due shall be increased automatically by fixed and unreduced damages equal to 10% of the amount due with a minimum of € 150.00, without notice of default being necessary.

Stipulated interests of default of 1% for each commenced month or 12% *per annum* shall also be charged without any prior notice of default. Any late payment of an invoice shall authorize us to claim all other invoices, in spite of any granted terms of payment. In such case, Xtraflex NV shall be entitled to stop further deliveries and to unilaterally cancel any and all such still existing orders as have not been carried out. In the event of non-payment of a partial delivery, Xtraflex NV shall be entitled to cancel the balance of the order.

In default of payment the buyer shall be bound to return any goods delivered by us at his expense and risk.

We shall not be bound to accept payment by means of cheques or bills of exchange: discount charges shall always be charged and, unless there is a special agreement, recourse against the drawer shall be excluded. We do not guarantee the timely presentation of bills of exchange. The acceptance of bills of exchange shall not imply novation or derogation of the competence clause. Cheques and bills of exchange shall be regarded as payment only after they have been cashed. The buyer shall not be allowed to invoke a dispute with the seller to refuse payment.

**7. Complaints**

Complaints shall be allowable only insofar as they are lodged with us by registered letter within 7 calendar days from the receipt of the goods. After the expiry of such term, the goods shall be deemed to have been accepted definitively, which shall exclude any possibility of later complaints.

If the complaint concerned is just in our opinion or if the complaint concerned turns out to be well-founded further to a legal action, we shall reserve the right to choose between the payment of fair damages which shall not exceed the invoice value of the goods delivered and recognized as bad or the replacement, free of charge, of the goods after having been returned in their original condition, to the exclusion of any other compensation (e.g. compensation for sequential loss).

Any responsibility on account of accidents to persons and/or the damage caused to objects, machines, installations and buildings, as well as any damage with a professional character, due to a mistake in the delivery or a lack of conformity of the delivered goods may at the most give rise to a payment of fair damages which shall not exceed the invoice value of the delivered goods, or to the taking back of the delivered goods at purchase price or to the replacement of the same.

**8. Warranty**

Xtraflex does not guarantee a specific service life of the delivered goods.

**9. Return**

It shall not be allowed to return the goods without written permission. If goods are returned and if we have not agreed to such return, and if we, however, take delivery of such goods, this shall always be without prejudice to any of our rights and without any prejudicial acknowledgement. The taking delivery and storage of the goods shall be for the account of the buyer and at his risk.

**10. Transport**

The goods shall be delivered ex warehouse unless otherwise stipulated by us. We shall under no circumstances guarantee the means of transport, which are taken care of by us only for the buyer's convenience and without any responsibility from our part. Even in the event of delivery carriage paid, the risk and peril shall for the buyer's account.

**11. Transfer of Ownership**

Contrary to section 1583 of the Civil Code, the goods shall remain our property until they have

been fully paid, including interests, costs and damages. As long as no full payment of the delivered goods has been made, the buyer shall be forbidden to alienate, borrow money on, pledge, rent out or lend out the goods. As long as such payment has not been made, the buyer shall undertake to ensure such goods and machines in favour of the seller against any and all risks.

**12. Forwarding costs**

As far as the forwarding of the goods is concerned, an amount shall be charged which is in agreement with the rates of the carriers used by Xtraflex NV. Urgent, voluminous and special shipments shall be charged separately.

**13. Default**

In the event of a total or partial cancellation of an order by the buyer or in the event of refusal of purchase, we shall be entitled to fixed damages amounting to 25% of the amount of the order, irrespective of the right to show higher losses.

**14. Delayed Delivery**

Before proceeding to delivery we shall reserve the right to obtain bank and mortgage security for the fulfilment of the buyer's payment obligations, irrespective of the term of delivery or the terms and conditions of payment agreed upon.

**15. Invalidity of Purchase Conditions**

The buyer's general purchase conditions shall apply only insofar as they have been accepted by us in writing. This implies the cancellation of all complimentary clauses or clauses contrary hereto, mentioned by the buyer on his order form or other documents. The acceptance of order forms or the sending of an order confirmation does not affect this rule.

**16. Authentic Text**

If the Dutch text differs from its translations, the Dutch text shall prevail over the translations.

**17. Competence Clause**

As a mutual guarantee and commitment to a quick settlement of disputes by arbitration, the Belgian Arbitration Institute vzw B.A.I. (Belgische Arbitrage Instelling) shall be charged with the designation of arbitrators who shall be competent to definitively settle any dispute in accordance with its working regulations, which can be obtained, free of charge, from vzw Belgische Arbitrage Instelling, 20 Lieven Bauwensstraat, 8200 Bruges (tel. 050/32.35.95 and fax 050/31.37.34). This clause shall form an integral part of the terms and conditions of sale, and shall replace any and all competence clauses contrary hereto.

**18. Final Stipulations**

If one of the stipulations of these terms and conditions turns out not to be legally valid, the other stipulations of these terms and conditions shall remain in full force, and the void or invalid stipulation shall be replaced by a valid stipulation which most closely approximates the void or invalid stipulation.