



General conditions

1. Binding Agreement

1.1. Any and all contracts or agreements entered into with INTERNATIONAL LASHING SYSTEMS NV, hereafter abbreviated ILS, shall be governed by these general terms and conditions. The contract or agreement shall in no event be governed by the client's general terms and conditions, if disclosed or submitted subsequently to the present general terms and conditions.

2. Description of the goods - Delivery dates

2.1. The goods shall be in conformity with the confirmation of the order.

2.2. In filling the orders, ILS will contrive to match as closely as possible all sizes, dimensions, weights, quantities, grades, percentages, etc. as indicated the confirmation of the order, with due consideration however for the variances within the usually accepted tolerances for the specific type of goods.

2.3. Such variances as may exceed the usually accepted tolerances will not affect the validity and enforceability of the contract or agreement and shall confer to the client no right or remedy against ILS (e.g. the right to demand the annulment of the contract or agreement, to defer payment, to request a price reduction or compensation, to refuse tender of the goods).

2.4. Delivery dates are purely indicative and are in no way binding upon ILS. Delays in the delivery of goods and/or performance of services will not impair the validity and enforceability of the contract or agreement and shall confer to the client no right or remedy against ILS (e.g. the right to demand the annulment of the contract or agreement, to defer payment, to request a price reduction or compensation, to refuse tender of the goods).

3. Price

3.1. The purchase price is the amount stated as payable in the confirmation of the order, unless ILS are constrained to adjust such amount due to a change in their pricing policy in accordance with the evolution of their fixed overhead costs and/or variable expenses (raw materials, wages, energy, etc.), it being understood that ILS shall at all times be entitled to make such price adjustment. In such event, the new purchase price is the amount stated as payable in the invoice.

3.2. The purchase price is exclusive of the costs of carriage to the place of delivery of the goods, and exclusive of VAT (unless a provision to the contrary is made in the confirmation of the order).

4. Delivery

4.1 All deliveries are, unless agreed to the contrary, "ex factory". Delivery "ex factory" is considered to have taken place upon receipt of the goods from ILS by or on behalf of the Client, or if the Client neglects to receive these goods on time, at the time when this should have happened.

4.2. If not delivered "ex factory" and no specific method of dispatch has been agreed upon, ILS will determine the method of dispatch. If not supplied "ex factory", delivery is considered to have taken place:

a. upon transfer of goods to a professional goods transport company for dispatching

b. upon dispatch via means of transport of the Client or a third party commissioned by the Client: by delivery or presentation of the goods at the warehouse of the Client or to the delivery address previously indicated in writing to ILS.

4.3. Unless agreed to the contrary, the transport charges will be charged to the Client, in all cases the risk of transport will be borne by the Client, even if the transport takes place by or for the account of ILS. Considering the above, besides goods collected by or on behalf of the Client, ILS will, only upon the Client's specific request, insure the transport to the value of the sales price of the goods and in this event these charges will be taken into account by ILS; insurance will be based on the normal transport risk, therefore unrest or other exceptional risks are not covered; in case of damage, ILS will settle the damage claim with the insurers.

4.4. Tender of delivery shall be deemed due acceptance of the goods by the client. Any and all visible defects or flaws of the goods shall be covered and made good by such acceptance and any non-conformities between the order and the goods as delivered shall similarly be nullified.

4.5. The risk in the goods, notwithstanding that which is specified in the above-mentioned sections, will be transferred to the Client after delivery of the goods. Notwithstanding that which is specified in the above-mentioned sections, the Client has to insure the goods against fire, explosion and water damage, as well as against theft from the moment of delivery and for the duration of the reservation of title and these insurance policies must be handed over to ILS for inspection upon request. All claims by the Client towards the insurers of the goods based on these insurance policies will be transferred to ILS upon ILS's request.

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4.6. Indication of the delivery time will be always as detailed as possible and in good faith, yet cannot be considered as binding. When indicating the delivery time, ILS anticipates that the assignment will be carried out based on the circumstances known at that time.

4.7. Unless agreed to the contrary, the delivery time will commence on the date of the order confirmation, yet - for as far as this is applicable - not earlier than after all (technical) information regarding the goods are known to ILS and possible diagrams, drawings etc. have been approved by ILS.

4.8. a. If there is a possibility of other circumstances, other than the ones that were known to ILS at the time of determining the delivery time, ILS can extend the delivery time with the time necessary to deliver, or have delivered, the materials and components necessary, and to carry out the assignment under these circumstances. If the activities cannot be fitted into ILS's planning, this will be completed as soon as planning allows.

b. If excess work is involved, the delivery time is extended with the time necessary to do the excess work. If the excess work cannot be fitted into ILS's planning, this will be completed as soon as planning allows.

c. If there is a possibility of the suspension of ILS's commitments, the delivery time is extended by the duration of the suspension. If the continuation of the activities cannot be fitted into ILS's planning, the activities will be completed as soon as planning allows.

5. Purchase

5.1. The Client is committed to purchase the goods.

5.2. If the Client does not collect within the period the purchased goods that were previously ordered and agreed for delivery within that pre-determined time, without being authorised to do so by ILS, or if he, when no specific period of collection was established, does not collect the purchased goods within one month from the date of sale, or the implementation of the agreed services appears to be impossible, ILS is entitled to cancel the not yet collected orders (as well as all other current orders or parts thereof, unless ILS does not have any reasonable grounds to do so) with immediate effect (without the need of a default notice and legal intervention) without being liable to pay any compensation, not withstanding ILS's right to demand compensation (including storage and personnel expenses) from the Client.

6. Payments

6.1. Unless a specific provision to the contrary was made in writing, the purchase price is to be paid in cash and without discount or deduction upon receipt of the invoice. Payments are to be made at ILS's place of business, as indicated in the confirmation of the order. Bank charges are to be borne by the client.

6.2. In the event of non-payment on the mature date of the invoice, the purchase price or the outstanding balance thereof shall be incremented with a compensation in the amount of 10% of the price or balance (with a minimum of 100.- EUR) in consideration of the inconvenience suffered by ILS as a result and in order to defray administrative costs. Moreover, the price or the outstanding balance thereof shall bear default interests at the contractually stipulated rate of 12% per annum. The subject compensation and contractually stipulated default interests are due ipso jure, no prior notice of default being required. For the purposes of computation of the contractually stipulated interests, every new month shall be counted as whole.

6.3. Failure to settle the purchase price or any part thereof at the mature date of any invoice will have the result that all other invoices, even if not yet due, shall become, ipso jure, payable upon demand, no prior notice of default being required.

6.4. If several of the client's payments owing to ILS are overdue, any partial payment on account shall be apportioned to such part of ILS account receivable as deemed fit by the latter. If no initiative to that effect is taken by ILS, such payment shall be deemed to redeem the debt of which the settlement best serves ILS's interests.

6.5. The drawing and/or accepting of bills or other negotiable instruments shall never bring about a novation or substitution of the debt and cannot be construed as a waiver or deviation from the terms and conditions of sale.

6.6. Without prejudice to the provisions of clause 4.4. of these terms and conditions of sale, all complaints regarding invoices made out by ILS must be expressed in writing by the client within 8 days reckoning from the forwarding of the invoice in question. No claims or complaints shall be entertained after the expiry of the said time-limit. A timely complaint in no way releases the client from his obligations and does not allow him to withhold or defer payment.

6.7. Proof of forwarding and receipt by the client of the relevant invoices shall be brought incontrovertably by the mere reference to same in ILS's invoice book, without prejudice to the latter's right to adduce any and all other evidence.

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6.8. The foregoing provisions of this clause 6 notwithstanding, the contract or agreement shall, at ILS's sole option and discretion, be annulled ipso jure and without prior notice of default and the client shall be in breach of contract in any of following events: if the client fails to comply with his obligations (e.g. the obligation to pay the price, ...),

if the client is adjudged a bankrupt, if he applies for composition or obtains any other form of relief from his creditors, if he is put into liquidation or becomes officially insolvent. In such event, the client shall have the obligation to return to ILS, at his own expense, the goods he was supplied with, subject to ILS's right to demand further compensation and/or consequential damages if there is just cause.

6.9. The client shall under no circumstance be entitled to withhold or defer payment of the purchase price or balance thereof, including all incidentals, owing to ILS, on account of a plea of 'exceptio non adimpleti contractus'.

6.10. All costs and expenses, including attorney's fees, incurred in order to secure payment of the purchase price and its incidentals, may be recovered from the client.

7. Retention of title

7.1. All goods delivered will remain ILS's property until full and final payment of the price, including incidentals (costs, interests, etc.), of the goods.

7.2. This retention of title shall also extend to any goods and materials covered by this clause and processed, transformed, made part of or incorporated into other products.

7.3. All claims which the client may currently or at some time in the future make valid and pursue against any third party (including, but not limited to, a subsequent buyer or any third party who damages or destroys the goods or part thereof, the underwriter covering the goods, etc...) in regard of the goods sold subject to this retention of title and ownership clause and such products made from these goods or into which the goods sold under this retention of title and ownership clause were processed, transformed or incorporated, shall be assigned ipso jure to ILS until such time as the purchase price and its incidentals shall be fully satisfied. In such event, the client shall have the obligation to inform his debtor of the assignment and transfer of the debt and submit to ILS proof of such notification. ILS shall similarly be entitled to give notice of the transfer and assignment of the debt to the concerned debtor, it being understood that ILS's privilege and option in this respect shall in no way detract from or diminish the client's obligation of notification.

8. Warranty against faulty deliveries (defects and/or non-conformity of the goods)

8.1. As far as latent defects are concerned, ILS shall only extend their warranty in regard of serious hidden flaws to the goods which proceed from defects in raw materials and/or workmanship, to the exclusion of any and all causes, and provided that the preconditions to the flaws in question were extant at the time the contract or agreement was entered into.

8.2. Without prejudice to the provisions of clause 4.4. of these general terms and conditions, any and all legal proceedings aimed at obtaining ILS's warranty must be instituted before the processing and/or transformation and/or resale of the goods and at any rate within one month reckoning from the date of the delivery, and any claim shall be forfeited after expiry of this time-limit.

8.3. Such obligations as may fall upon ILS under the warranty, if any, shall never exceed, at ILS's option, the reimbursement of the purchase price, excluding incidentals, of the flawed goods or the replacement free of charge of the flawed goods, circumstances permitting (e.g. if the articles in question are in stock); the replacement at no charge extends only to the purchase price of the goods; the expenses related to the return shipment of the goods in view of their replacement free of charge shall however be borne by the client.

8.4. Consequently, ILS shall never be held liable for compensation of consequential damages as loss of production or man-hours, damage and/or losses suffered by third parties, etc., caused by the flawed goods.

8.5. No guarantee will be given on defects due to:

- normal wear and tear;
- unauthorised use;
- modification or repairs by the Client or third parties;
- force majeure or other causes not attributable to ILS.

8.6. The Client can only make a claim under guarantee after he has satisfied all his obligations with regard to ILS.

9. Securities

9.1. If ILS's faith in the client's creditworthiness should be undermined as a result of legal processes of execution and enforcement against the client and/or other demonstrable events which compromise and/or defeat the reliance ILS places in the faithful performance by the client of the obligations undertaken by him, the client shall be to required provide such securities as ILS may reasonably demand.

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9.2. Should the client fail to satisfy this obligation, ILS will be entitled to rescind the contract or agreement ipso jure, by merely giving notice to that effect to the client, no prior notice of default be required. In such event, the client shall have the obligation to return to ILS, at his own expense, all goods he was supplied with, subject to ILS's right to demand further compensation and/or consequential damages if there is just cause.

10. Force Majeure

Are deemed acts of God, the list not being exhaustive: war, rebellion, riots or civil disturbances, strikes, natural catastrophes or accidents and all events and situations beyond the control of ILS preventing or holding up the supply of raw materials and/or production and/or ILS's means of transportation and/or hindering the delivery of ILS's goods. Any act of God or similar event of force majeure shall entitle ILS – upon mere notice to the client - to either suspend the performance of their obligations under the agreement for as long as the situation remains unremedied or to consider the agreement to be cancelled - no compensation or damages being due to the client on that account - if ILS is of the opinion that the force majeure situation renders the performance of their obligations under the agreement impracticable or impossible for any length of time. A temporary suspension in the performance of ILS's obligations under the circumstances described above shall not confer to the client the right to repudiate the contract or agreement, to withhold or defer payment or to demand compensation.

11. Disputes

11.1. If a dispute should arise between ILS and a client whose registered office is established in a country other than Belgium and who has no place of business or branch office in the latter country but who retained a legal counsel with law offices in Belgium, then such client shall be deemed to have elected domicile at the said attorney-at-law's offices.

11.2. In the event of a dispute between the parties regarding the contract or agreement (i.e. the execution, term of validity, performance, construction of the contract or agreement, etc...) the Courts of Antwerp shall have sole jurisdiction and be competent to hear and adjudicate any claims.

11.3. Belgian national law, to the exclusion of international rules and conventions applicable in Belgium, (e.g. the Vienna Sales Convention), shall be exclusively applicable to the contract or agreement between the parties, as regards every aspect thereof (i.e. the execution, term of validity, performance, construction of the contract, etc...).

12. Nullity

The fact that one or several of the clauses of these general terms and conditions should prove to be invalid or unenforceable shall in no way affect or impair the validity of the remaining clauses of these general terms and conditions.

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