

**General terms and conditions of delivery and payment of:**  
**Europet Bernina International B.V. - Energieweg 35 - 5422 VM GEMERT - The Netherlands**  
**Listed in the trade register of the Chamber of Commerce in Oost-Brabant under file number 17174500**

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**ARTICLE 1: APPLICABILITY**

1. These general terms and conditions are applicable to all offers and to all agreements in respect of purchase and sale of Europet Bernina International B.V. established in Gemert, hereinafter to be referred to as "E.B.I."
2. The customer/purchaser shall hereinafter be referred to as "the other party".
3. Deviating general terms and conditions shall only form part of the agreement entered into between the parties if and in so far as these have been explicitly agreed on between the parties in writing.
4. If the other party accepts or retains an offer or order confirmation, which makes reference to these general terms and conditions without comment, this shall constitute the other party's agreement to the applicability of these general terms and conditions.
5. If (part of) a provision laid down in these general terms and conditions is not applicable this shall not affect the applicability of the remaining provisions.
6. In the event of discrepancies and/or differences in interpretation between the translated general terms and conditions and the Dutch text of the terms and conditions, the latter text shall prevail.

**ARTICLE 2: AGREEMENTS**

1. Agreements may be concluded verbally or in writing.
2. E.B.I. shall only be bound by verbal arrangements once these have been confirmed by E.B.I. in writing, or as soon as E.B.I. has, with the consent of the other party, started to implement these.
3. Supplements or amendments to the general terms and conditions or supplements or amendments otherwise applied to the agreement shall only be binding receipt of written confirmation from E.B.I..

**ARTICLE 3: OFFERS**

1. All offers, quotations, price lists etc. of E.B.I. are without obligation, unless they contain a period for acceptance. Should an offer and/or quotation contain an offer without obligation and this is accepted by the other party, E.B.I. shall be entitled to withdraw the offer within 2 working days of receipt of the acceptance.
2. Samples, brochures, article descriptions, types of packaging and/or packaging units and suchlike shown or provided shall serve as an indication only. All dimensions, volumes and weights given are for information purposes and may differ for production-related reasons. No rights may be derived therefrom, unless the parties have expressly agreed otherwise in writing.
3. If between the date on which the agreement is entered into and the time of delivery the cost price of the goods ordered/materials used goes up and/or changes are brought about in wages, working conditions or social provisions by the government and/or the trade unions E.B.I. shall be entitled to pass these increases on to the other party. Should E.B.I. publish a new price list between the above-mentioned dates and should this come into effect, then E.B.I. shall be entitled to charge the other party the prices stated in this list.

**ARTICLE 4: CONSULTING THIRD PARTIES**

1. If and insofar as this is necessary for the proper execution of the agreement, E.B.I. shall be entitled to have certain deliveries carried out by third parties.
2. These terms and conditions shall likewise apply to all agreements with E.B.I., the execution of which requires the involvement of third parties.

**ARTICLE 5: DELIVERY AND TERMS OF DELIVERY**

1. Delivery shall take place on the dispatch of the goods from the warehouses of E.B.I. or at a location expressly agreed by the parties in writing.
2. Stated delivery times and terms within which work has to be completed can at no time be considered firm, unless both parties have explicitly agreed otherwise in writing. In the event of overdue deliveries/ completion of the work E.B.I. should therefore be put into default in writing.
3. In the case of part deliveries every delivery shall be seen as a separate transaction.
4. All risks involving the goods delivered shall pass to the other party at the time of delivery.
5. In the event it appears impossible to deliver goods to the other party or to perform the activities to be carried out due to a fault that lies within the realm of the other party's responsibility, E.B.I. retains the right to store the goods at the expense and risk of the other party. E.B.I. shall notify the other party in writing of any goods stored and/or the impediment to the performance of the activities to be carried out and shall also propose a reasonable period of time in which the other party shall provide E.B.I. with the opportunity to resume the activities and/or to deliver the goods.
6. In the event the other party, upon expiry of the period established by E.B.I. as reasonable as stipulated in the previous section of this article, remains in default with respect to the satisfaction of his obligations, the other party is deemed to be negligent should 1(one) month elapse after the date of expiration, calculated from the date of storage and/or impediment to the performance of the activities to be carried out. E.B.I. then has the right to dissolve the agreement in writing in full or in part, to be effective immediately, without prior or further notice, without judicial intervention and without being obligated to compensate for damages, costs or interests.
7. The provisions in this article are without prejudice to the other party's obligation to pay the stipulated and/or payable price as well as any storage and/or other costs which have been agreed upon.
8. E.B.I. is entitled to demand payment in advance or can insist that the other party must furnish some form of security that will ensure that the other party is able to meet its financial obligations before proceeding to deliver.

**ARTICLE 6: PROGRESS DELIVERY**

1. If the deliveries or work cannot take place in the regular manner or without interruptions due to circumstances beyond E.B.I.'s control, E.B.I. shall be entitled to pass on the resulting costs, including call-out charges, to the other party.
2. All expenses incurred by E.B.I. at the other party's request shall be entirely for the latter's account, unless agreed otherwise in writing.

**ARTICLE 7: TRANSPORT**

1. Ordered goods shall be shipped in a manner to be specified by E.B.I., but at all times for the account and risk of the other party, unless the parties have expressly agreed otherwise in writing.
2. E.B.I. is not responsible for damages, of any nature or form whatsoever, caused to the goods or other matters as a result of the goods being transported.
3. The other party should properly insure himself against the above-mentioned risks.
4. The other party must ensure that the place to which the goods are to be delivered and the place in which the goods are to be unloaded are easily accessible and is responsible for the unloading.
5. Non accepted orders and/or deliveries shall be stored by E.B.I., at the other party's expense and risk, in accordance with the provisions laid down in Article 5.

**ARTICLE 8: RETURNABLE PACKAGING**

1. Any packaging used for the delivery of goods which is returnable remains the property of E.B.I. and may not be used by the other party for purposes other than those for which they were intended.
2. E.B.I. is entitled to charge the other party for deposit fees. E.B.I. is obligated to accept this packaging in return, provided it is returned to him carriage paid, for the price which had been charged to the other party, within a period after the delivery date to be determined by E.B.I..
3. In the event the packaging has been lost, damaged, or is incomplete, then the other party is responsible for this damage and thus relinquishes its right to a repayment of the deposit fee.
4. Should it appear necessary packaging will be charged to the other party at cost price and will not be accepted in return. This shall remain at the discretion of E.B.I..

**ARTICLE 9: COMPLAINTS AND RETURN SHIPMENTS**

1. Immediately after receipt of the goods and/or completion of the works, the other party is required to inspect these goods or the execution of the activities. If the other party ascertains the presence of visible mistakes, shortages and/or faults, the defects, imperfections and/or shortcomings in question must be noted on the waybill or the consignment note and brought to the attention of E.B.I. without delay, alternatively the other party must notify E.B.I. verbally of any defects, imperfections and/or shortcomings within 24 hours of receipt of the goods or completion of the works, and must immediately follow this up by sending E.B.I. confirmation in writing.
2. All other complaints should be reported to E.B.I. by registered letter within 8 days of receipt of the goods and/or completion of the works.
3. If the above-mentioned complaint has not been reported to E.B.I. within the above-mentioned term, the goods shall be deemed to have been received in good order and/or activities to be performed considered to have been executed satisfactorily.
4. Goods that have been ordered will be delivered in the wholesale packaging that is in stock at E.B.I.'s facility. Slight deviations with regard to the ordered sizes, weights, numbers, colours and the like shall not be valid as a breach on the part of E.B.I..
5. Complaints do not exempt the other party from his obligation to pay.
6. E.B.I. should be offered the opportunity to investigate the complaint.
7. If in order to investigate a complaint goods need to be returned, the goods in question will only be returned at E.B.I.'s risk and expense if the latter explicitly agreed to cover the risk and expense of the return of the goods in writing in advance.
8. In all cases goods are to be returned in the manner determined by E.B.I. wrapped in the original packaging. The other party must cover the risk and expense of the return of the goods unless E.B.I. states that the complaint is justified.
9. If the nature and/or composition of the goods is altered after delivery, or if the goods have been partly or entirely processed or reworked, damaged or repacked, the right to make a complaint automatically ceases to exist.
10. In the event of justified complaints the damage shall be settled by virtue of the provisions laid down in Article 10.

**ARTICLE 10: LIABILITY AND GUARANTEE**

1. E.B.I. shall fulfil his task in the manner that may be expected from an agency in his sector of industry, though does not accept any responsibility for damage, including subsequent damage that is the result of his actions or omissions in the broadest sense of the word, except in so far as this is attributable to his gross negligence and/or malice, or unless statutory regulations or mandatory law dictate otherwise. A similar restriction applies with respect to members of staff and/or third parties, which E.B.I. engages in the performance of his work.
2. Without prejudice to the provisions laid down in the other paragraphs of this article, E.B.I.'s liability - on any account whatsoever - shall be limited to the amount of the net selling price of the goods supplied, or the price of the work performed. Fulfilment of this guarantee counts as the only and full payment of damages.

3. Without prejudice to that which is stipulated in the previous paragraph of this article, E.B.I. shall never be obligated to pay an amount in compensation for damages which exceeds the insured amount, insofar as the damage is covered by an insurance policy in the name of E.B.I..
4. If the goods supplied contain visible mistakes, shortages and/or faults, that must have been present at the time of delivery, E.B.I. undertakes to repair or replace the goods free of charge at its own discretion. E.B.I. guarantees the regular standard quality and soundness of the goods supplied; the actual life of the goods can at no time be guaranteed.
5. In all cases the term within which E.B.I. can be sued for assessed damages shall be restricted to 6 months, commencing from the moment at which the obligation to provide compensation is established.
6. If the goods supplied by E.B.I. are guaranteed by the manufacturer, this guarantee shall equally apply between the parties.
7. The other party loses his rights towards E.B.I., is responsible for all damages and indemnifies E.B.I. against all claims by third parties in respect of damages if and in so far as:
  - A. the above-mentioned damage came about as a result of inexpert use and/or use contrary to E.B.I.'s instructions and/or recommendations and/or inexpert storage (storage in the original packaging) of the goods supplied by the other party;
  - B. the above-mentioned damage came about as a result of mistakes/irregularities in information, materials, information carriers etc. that were supplied and/or prescribed to E.B.I. by or on behalf of the other party.

**ARTICLE 11: PAYMENT**

1. Payment should take place within 30 days after the invoice date, unless both parties have explicitly agreed otherwise in writing.
2. If an invoice is not fully paid once the period referred to in paragraph 1 has lapsed:
  - A. the other party shall be charged 2% interest on late payments, without any further notice of default being required;
  - B. the other party shall owe E.B.I. interest for overdue payments amounting to 2% per month to be calculated cumulatively over the principal sum. Parts of a month shall be treated as full months;
  - C. the other party shall, after having been pressed for payment by E.B.I., with regard to extrajudicial costs, owe a minimum of 15% of the total of the principal amount due plus the interest for overdue payment with an applicable minimum charge of € 150,00;
  - D. E.B.I. is entitled to charge the other party an administration fee of at least € 20.00 for each reminder and demand for payment sent out to the other party. E.B.I. will note this in the agreement and/or on the invoice.
3. At E.B.I.'s discretion, the agreement may be either partly or fully dissolved under the above or similar circumstances, without any notice of default or legal intervention being required. This may or may not be combined with a claim for damages.
4. If the other party fails to meet his payment obligations in due time, E.B.I. shall be entitled to suspend the fulfilment of obligations towards the other party in respect of deliveries/the performance of work, until such time that the payment is made or sound security has been given for this. The same applies even before the moment of default if E.B.I. has reasonable grounds for doubting the other party's creditworthiness.
5. Payments made by the other party will first be used to pay off any outstanding interest and costs and will then be used to pay off the longest outstanding invoices, unless when making the payment the other party notes explicitly in writing that the payment is to be used to pay off a subsequent invoice.
6. If the other party, for whatever reason, has or shall have one or more counterclaims against E.B.I., the other party shall waive the right to off-set claims against these claim(s). The above-mentioned waiver of the right to off-set these amounts against each other, also applies when the other party applies for a suspension of payment, or is declared bankrupt.

**ARTICLE 12: RETENTION OF TITLE**

1. The goods supplied and the goods to be supplied shall continue to be the property of E.B.I. up until such time when the other party has fulfilled his payment obligations towards E.B.I. in relation to these goods. These payment obligations consist of paying the purchase price, increased by claims in respect of work carried out in relation to that delivery, as well as claims in respect of possible damages payable due to the other party not fully meeting his obligations.
2. If E.B.I. claims a retention of title, the relevant agreement entered into shall be deemed to have been dissolved, without prejudice to E.B.I.'s right to claim damages, loss of profit and interest.
3. The other party is obliged to immediately inform the other party in writing about the fact that third parties are laying claim to matters, which by virtue of this Article are subject to a retention of title.

**ARTICLE 13: PLEDGE/WARRANTAGE**

Until such time as the other party has settled its payment obligations in relation to E.B.I. in full, the other party is not entitled to pledge the goods supplied to third parties and/or to establish a non-possessory pledge on the goods supplied, and/or to have the goods supplied stored in effective control of one or several financiers (warrantage), as this shall be regarded as attributable non-fulfilment on his part. E.B.I. can in that event immediately suspend his obligations arising out of the agreement, without any notice of default being required, or dissolve the agreement, without prejudice to E.B.I.'s right to damages, loss of profit and interest.

**ARTICLE 14: BANKRUPTCY, NO AUTHORITY TO DISPOSE OF PROPERTY, ETC.**

Without prejudice to the provisions laid down in the other articles of these general terms and conditions the agreement entered into between the other party and E.B.I. shall be dissolved without any legal intervention or any notice of default being required when the other party is declared bankrupt, applies for a temporary suspension of payment, or loses the authority to dispose of property and/or the full legal capacity with respect to his assets or parts thereof as a result of an attachment, being placed under tutelage or in some other way, unless the official receiver or administrator recognises the obligations arising out of the agreement as a debt of the estate.

**ARTICLE 15: FORCE MAJEUR**

1. If it is not possible for E.B.I. to fulfil his obligations arising out of the agreement entered into with the other party due to circumstances beyond his control, and/or circumstances beyond the control of third parties/suppliers engaged in respect of the fulfilment of the agreement, or in the event that this may be ascribed to some other serious reason on the part of E.B.I., E.B.I. shall be entitled to dissolve the agreement entered into between the parties, or to suspend his obligations towards the other party for a period of time he considers to be reasonable without being obliged to pay any damages. Should the above-mentioned situation arise when part of the agreement has already been fulfilled, the other party shall be obliged to fulfil his obligations towards E.B.I. up until that time.
2. Circumstances beyond E.B.I.'s control and/or beyond the control of third parties/suppliers shall include: war, riots, mobilisation, internal or external commotion, government measures, strikes and lockouts by staff or threats thereof and similar circumstances; disruption of the exchange rates that existed at the time when the agreement was entered into; business interruptions as a result of fires, accidents or other incidents and natural phenomena, irrespective of whether or not the non or non-timely fulfilment takes place at E.B.I., his supplier or third parties engaged by him in respect of the fulfilment of the agreement.
3. If the other party fails to promptly meet his obligations towards E.B.I. in any way whatsoever, in the case of a strike, application for suspension of payment, bankruptcy, attachment, cession or winding up of the other party, all that which is owed by the other party to E.B.I. on account of any kind of contract shall become immediately payable and due.

**ARTICLE 16: CANCELLATION AND DISSOLUTION**

1. The other party relinquishes all rights to dissolve the agreement pursuant to Article 6:265 ff. of the Netherlands Civil Code and any other statutory provisions unless cancellation by virtue of the paragraph below has been agreed.
2. Cancellation by the other party is only possible when E.B.I. is agrees to this. In that case the other party shall be obliged to pay E.B.I. damages amounting to at least 30% of the purchase sum (agreed price), and to take delivery of the goods already ordered, which are not have been processed, upon payment of the cost price. The other party shall be liable towards third parties for the consequences of the cancellation and shall indemnify E.B.I. in this respect.
3. Any sums already paid by the other party shall not be refunded.

**ARTICLE 17: APPLICABLE LAW/COMPETENT JUDGE**

1. The law of the Netherlands applies exclusively to the agreement entered into between E.B.I. and the other party. Any disputes arising from this agreement shall also be settled according to Dutch law.
2. Contrary to the provisions of sub-clause 1 of this clause, the consequences pursuant to property law of a retention of title in respect of goods intended for export shall, where the system of law of the country of destination of the goods is more favourable for E.B.I., be governed by that law.
3. E.B.I. can at all times re-open disputes, forthcoming from the agreement, with the authorized Dutch judge. E.B.I. also has authorization to re-open a case with the authorized judge in his place of residence, unless the magistrate is authorized.
4. With regard to disputes that arise from an agreement concluded with a party based outside the Netherlands, E.B.I. is entitled to act in accordance with the provision set out in clause 3 of this article, or it can choose to bring the dispute before the court of competent jurisdiction in the country or state in which the other party is based at its own discretion.