

GENERAL TERMS AND CONDITIONS Kovacs Live BV

Definitions

1. Kovacs Live BV: Kovacs Live BV, established in Gorinchem, Chamber of Commerce no. 80036139.
2. Customer: the person with whom Kovacs Live BV has entered into an agreement.
3. Parties: Kovacs Live BV and customer together.
4. Consumer: a customer who is an individual acting for private purposes.

Applicability

1. These terms and conditions will apply to all quotations, offers, activities, orders, agreements and deliveries of services or products by or on behalf of Kovacs Live BV.
2. Parties can only deviate from these conditions if they have explicitly agreed upon in writing.
3. The parties expressly exclude the applicability of supplementary and/or deviating general terms and conditions of the customer or of third parties.

Prices

1. All prices used by Kovacs Live BV are in euros, are inclusive of VAT and exclusive of any other costs such as administration costs, levies and travel-, shipping- or transport expenses, unless expressly stated otherwise or agreed otherwise.
2. Kovacs Live BV is entitled to adjust all prices for its products or services, shown in its shop, on its website or otherwise, at any time.
3. Increases in the cost prices of products or parts thereof, which Kovacs Live BV could not foresee at the time of making an offer or the conclusion of the agreement, may give rise to price increases.
4. The consumer has the right to terminate an agreement as a result of a price increase as referred to in paragraph 3, unless the increase is the result of statutory regulation.
5. The price with regard to services is determined by Kovacs Live BV on the basis of the actual working hours.
6. The price is calculated according to the usual hourly rates of Kovacs Live BV, valid for the period in which he carries out the work, unless a different hourly rate has been agreed.
7. If the parties have agreed on a total amount for a service provided by Kovacs Live BV, this is always a target price, unless the parties have explicitly agreed upon in writing on a fixed price, which can not be deviated from.
8. Kovacs Live BV is entitled to deviate up to 10% of the target price.
9. If the target price exceeds 10%, Kovacs Live BV must let the customer know in due time why a higher price is justified.
10. If the target price exceeds 10%, the customer has the right to cancel the part of the order that exceeds the target price by 10%.
11. Kovacs Live BV has the right to adjust prices annually.
12. Kovacs Live BV will communicate price adjustments to the customer prior to the moment the price increase becomes effective.
13. The consumer has the right to terminate the contract with Kovacs Live BV if he does not agree with the price increase.

Payments and payment term

1. Kovacs Live BV may, at the conclusion of the agreement, require a down payment of up to 50% of the agreed amount.
2. The customer must have paid the full amount within 7 days after delivery of the product.
3. Payment terms are considered as fatal payment terms. This means that if the customer has not paid the agreed amount at the latest on the last day of the payment term, he is legally in default, without Kovacs Live BV having to send the customer a reminder or to put him in default.
4. Kovacs Live BV reserves the right to make a delivery conditional upon immediate payment or to require adequate security for the total amount of the services or products.

Consequences of late payment

1. If the customer does not pay within the agreed term, Kovacs Live BV is entitled to charge an interest of 1% per month from the day the customer is in default, whereby a part of a month is counted for a whole month.

2. When the customer is in default, he is also due to extrajudicial collection costs and may be obliged to pay any compensation to Kovacs Live BV.
3. The collection costs are calculated on the basis of the Reimbursement for extrajudicial collection costs.
4. If the customer does not pay on time, Kovacs Live BV may suspend its obligations until the customer has met his payment obligation.
5. In the event of liquidation, bankruptcy, attachment or suspension of payment on behalf of the customer, the claims of Kovacs Live BV on the customer are immediately due and payable.
6. If the customer refuses to cooperate with the performance of the agreement by Kovacs Live BV, he is still obliged to pay the agreed price to Kovacs Live BV.

Right of recovery of goods

1. As soon as the customer is in default, Kovacs Live BV is entitled to invoke the right of recovery with regard to the unpaid products delivered to the customer.
2. Kovacs Live BV invokes the right of recovery by means of a written or electronic announcement.
3. As soon as the customer has been informed of the claimed right of recovery, the customer must immediately return the products concerned to Kovacs Live BV, unless the parties agree to make other arrangements about this.
4. The costs for the collection or return of the products are at the expense of the customer.

Right of cancellation

1. A consumer may cancel an online purchase during a cooling-off period of 14 days without giving any reason, provided that
 - the product has not been used
 - it is not a product that can spoil quickly, like food or flowers
 - the product is not specially tailored for the consumer or adapted to its special needs
 - it is not a product that may not be returned for hygienic reasons (underwear, swimwear, etc.)
 - the seal is still intact, when the product is a data carrier with digital content (DVDs, CDs, etc.)
 - the product is not a (holiday)trip, a transportation ticket, a catering order or a form of leisure activity,
 - the product is not a separate magazine or a loose newspaper
 - the purchase does not concern an (assignment to) urgent repair
 - the consumer has not renounced his right of cancellation
2. The reflection period of 14 days as referred to in paragraph 1 commences:
 - on the day after the consumer has received the last product or part of 1 order
 - as soon as the consumer has received the first the product of a subscription
 - as soon as the consumer has purchased a service for the first time
 - as soon as the consumer has confirmed the purchase of digital content via the internet
3. The consumer can notify his right of cancellation via tickets@kovacsmusic.com, if desired by using the withdrawal form that can be downloaded via the website of Kovacs Live BV, www.kovacsmusic.com.
4. The consumer is obliged to return the product to Kovacs Live BV within 14 days after the notification of his right of cancellation, after which period his right of cancellation will lapse.
5. The costs for return are due Kovacs Live BV if the complete order is returned.
6. If the purchase costs and any other costs (such as shipping and return costs) are eligible for reimbursement according to the law, Kovacs Live BV will refund these costs to the consumer within 14 days of receipt of the timely appeal to the right of withdrawal, provided that the consumer has returned the product to Kovacs Live BV in time.

Suspension of obligations by the customer

The customer waives the right to suspend the fulfillment of any obligation arising from this agreement.

Right of retention

1. Kovacs Live BV can appeal to his right of retention of title and in that case retain the products sold by Kovacs Live BV to the customer until the customer has paid all outstanding invoices with regard to Kovacs Live BV, unless the customer has provided sufficient security for these payments.
2. The right of retention of title also applies on the basis of previous agreements from which the customer still owes payments to Kovacs Live BV.

3. Kovacs Live BV is never liable for any damage that the customer may suffer as a result of using his right of retention of title.

Settlement

The customer waives his right to settle any debt to Kovacs Live BV with any claim on Kovacs Live BV.

Retention of title

1. Kovacs Live BV remains the owner of all delivered products until the customer has fully complied with all its payment obligations with regard to Kovacs Live BV under whatever agreement with Kovacs Live BV including of claims regarding the shortcomings in the performance.
2. Until then, Kovacs Live BV can invoke its retention of title and take back the goods.
3. Before the property is transferred to the customer, the customer may not pledge, sell, dispose of or otherwise encumber the products.
4. If Kovacs Live BV invokes its retention of title, the agreement will be dissolved and Kovacs Live BV has the right to claim compensation, lost profits and interest.

Delivery

1. Delivery takes place while stocks last.
2. Delivery takes place at Kovacs Live BV unless the parties have agreed upon otherwise.
3. Delivery of products ordered online takes place at the address indicated by the customer.
4. If the agreed price is not paid on time, Kovacs Live BV has the right to suspend its obligations until the agreed price is fully paid.
5. In the event of late payment, the customer is automatically in default, and hereby he can not object to late delivery by Kovacs Live BV.

Delivery period

1. Any delivery period specified by Kovacs Live BV is indicative and does not give the customer the right to dissolution or compensation if this period is not met with, unless the parties have expressly agreed otherwise in writing.
2. The delivery starts once the customer has fully completed the (electronic) ordering process and received an (electronic) confirmation of his order from Kovacs Live BV.
3. Exceeding the specified delivery period does not entitle the customer to compensation or the right to terminate the contract, unless Kovacs Live BV cannot deliver within [number of days late] or if the parties have agreed upon otherwise.

Actual delivery

The customer must ensure that the actual delivery of the products ordered by him can take place in time.

Transport costs

Transport costs are on behalf of the customer, unless the parties have agreed upon otherwise.

Packaging and shipping

1. If the package of a delivered product is opened or damaged, the customer must have a note drawn up by the forwarder or delivery person before receiving the product. In the absence of which Kovacs Live BV may not be held liable for any damage.
2. If the customer himself takes care of the transport of a product, he must report any visible damage to products or the packaging prior to the transport to Kovacs Live BV, failing which Kovacs Live BV cannot be held liable for any damage.

Insurance

1. The customer undertakes to insure and keep insured the following items adequately against fire, explosion and water damage as well as theft:

- goods delivered that are necessary for the execution of the underlying agreement
- goods being property of Kovacs Live BV that are present at the premises of the customer
- goods that have been delivered under retention of title

2. At the first request of Kovacs Live BV, the customer provides the policy for these insurances for inspection.

Storage

1. If the customer orders products later than the agreed delivery date, the risk of any quality loss is entirely for the customer.
2. Any extra costs as a result of premature or late purchase of products are entirely at the customer's expense.

Guarantee

1. When parties have entered into an agreement with services included, these services only contain best-effort obligations for Kovacs Live BV, not obligations of results.
2. The warranty relating to products only applies to defects caused by faulty manufacture, construction or material.
3. The warranty does not apply in the event of normal wear and tear and damage resulting from accidents, changes made to the product, negligence or improper use by the customer, or when the cause of the defect can not clearly be established.
4. The risk of loss, damage or theft of the products that are the subject of an agreement between the parties, will pass on to the customer when these products are legally and/or factually delivered, at least are in the power of the customer or of a third party who receives the product for the benefit of the customer.

Performance of the agreement

1. Kovacs Live BV executes the agreement to the best of its knowledge and ability and in accordance with the requirements of good workmanship.
2. Kovacs Live BV has the right to have the agreed services (partially) performed by third parties.
3. The execution of the agreement takes place in mutual consultation and after written agreement and payment of the possibly agreed advance by the customer.
4. It is the responsibility of the customer that Kovacs Live BV can start the implementation of the agreement on time.
5. If the customer has not ensured that Kovacs Live BV can start the implementation of the agreement in time, the resulting additional costs and/or extra hours will be charged to the customer.

Duty to inform by the customer

1. The customer shall make available to Kovacs Live BV all information, data and documents relevant to the correct execution of the agreement to in time and in the desired format and manner.
2. The customer guarantees the correctness, completeness and reliability of the information, data and documents made available, even if they originate from third parties, unless otherwise ensuing from the nature of the agreement.
3. If and insofar as the customer requests this, Kovacs Live BV will return the relevant documents.
4. If the customer does not timely and properly provides the information, data or documents reasonably required by Kovacs Live BV and the execution of the agreement is delayed because of this, the resulting additional costs and extra hours will be charged to the customer.

Duration of the agreement

1. The agreement between Kovacs Live BV and the customer is entered into for the duration of 1 weeks, unless it results otherwise from the nature of the agreement or if the parties have expressly agreed otherwise in writing.
2. If a fixed-term contract has been entered into, it will be tacitly converted into an open-ended contract at the end of the term, unless 1 of the parties terminates the contract with due observance of a notice period of 2 month(s), or if a consumer terminates the agreement with due observance of a notice period of 1 month / the agreement ends at the end of the fixed term.
3. If the parties have agreed upon a term for the completion of certain activities, this is never a strict deadline, unless specified explicitly otherwise in writing. If this term is exceeded, the customer must give Kovacs Live BV a written reasonable term to terminate the activities, before it may either terminate the contract or claim damages.

Intellectual property

1. Kovacs Live BV retains all intellectual property rights (including copyright, patent rights, trademark rights, design and design rights, etc.) on all designs, drawings, writings, data carriers or other information, quotations, images, sketches, models, scale models, etc., unless parties have agreed otherwise in writing.
2. The customer may not copy or have copied the intellectual property rights without prior written permission from Kovacs Live BV, nor show them to third parties and / or make them available or use them in any other way.

Penalties

1. If the customer violates the articles of these general terms and conditions about secrecy or intellectual property, then he forfeits on behalf of Kovacs Live BV an immediately due and payable fine of € 1000 if the customer is a consumer and € 5000 if the customer is a company, for each violation and in addition an amount of 5% of the aforementioned amount for each day that this violation continues.
2. No actual damage, prior notice of default or legal proceedings are required in forfeiting the fine referred to in the first paragraph of this article.
3. The forfeiture of the fine referred to in the first paragraph of this article shall not affect the other rights of Kovacs Live BV including its right to claim compensation in addition to the fine.

Indemnity

The customer indemnifies Kovacs Live BV against all third-party claims that are related to the products and/or services supplied by Kovacs Live BV.

Complaints

1. The customer must examine a product or service provided by Kovacs Live BV as soon as possible for possible shortcomings.
2. If a delivered product or service does not comply with what the customer could reasonably expect from the agreement, the customer must inform Kovacs Live BV of this as soon as possible, but in any case within 1 month after the discovery of the shortcomings.
3. Consumers must inform Kovacs Live BV of this within two months after detection of the shortcomings.
4. The customer gives a detailed description as possible of the shortcomings, so that Kovacs Live BV is able to respond adequately.
5. The customer must demonstrate that the complaint relates to an agreement between the parties.
6. If a complaint relates to ongoing work, this can in any case not lead to Kovacs Live BV being forced to perform other work than has been agreed.

Giving notice

1. The customer must provide any notice of default to Kovacs Live BV in writing.
2. It is the responsibility of the customer that a notice of default actually reaches Kovacs Live BV (in time).

Joint and several Client liabilities

If Kovacs Live BV enters into an agreement with several customers, each of them shall be jointly and severally liable for the full amounts due to Kovacs Live BV under that agreement.

Liability of Kovacs Live BV

1. Kovacs Live BV is only liable for any damage the customer suffers if and insofar as this damage is caused by intent or gross negligence.
2. If Kovacs Live BV is liable for any damage, it is only liable for direct damages that results from or is related to the execution of an agreement.
3. Kovacs Live BV is never liable for indirect damages, such as consequential loss, lost profit, lost savings or damage to third parties.
4. If Kovacs Live BV is liable, its liability is limited to the amount paid by a closed (professional) liability insurance and in the absence of (full) payment by an insurance company of the damages the amount of the liability is limited to the (part of the) invoice to which the liability relates.
5. All images, photos, colors, drawings, descriptions on the website or in a catalog are only indicative and are only approximate and can not lead to any compensation and/or (partial) dissolution of the agreement and/or suspension of any obligation.

Expiry period

Every right of the customer to compensation from Kovacs Live BV shall, in any case, expire within 12 months after the event from which the liability arises directly or indirectly. This does not exclude the provisions in article 6:89 of the Dutch Civil Code.

Dissolution

1. The customer has the right to dissolve the agreement if Kovacs Live BV imputably fails in the fulfillment of his obligations, unless this shortcoming does not justify termination due to its special nature or because it is of minor significance.
2. If the fulfillment of the obligations by Kovacs Live BV is not permanent or temporarily impossible, dissolution can only take place after Kovacs Live BV is in default.
3. Kovacs Live BV has the right to dissolve the agreement with the customer, if the customer does not fully or timely fulfill his obligations under the agreement, or if circumstances give Kovacs Live BV good grounds to fear that the customer will not be able to fulfill his obligations properly.

Force majeure

1. In addition to the provisions of article 6:75 Dutch Civil Code, a shortcoming of Kovacs Live BV in the fulfillment of any obligation to the customer cannot be attributed to Kovacs Live BV in any situation independent of the will of Kovacs Live BV, when the fulfillment of its obligations towards the customer is prevented in whole or in part or when the fulfillment of its obligations cannot reasonably be required from Kovacs Live BV .
2. The force majeure situation referred to in paragraph 1 is also applicable - but not limited to: state of emergency (such as civil war, insurrection, riots, natural disasters, etc.); defaults and force majeure of suppliers, deliverymen or other third parties; unexpected disturbances of power, electricity, internet, computer or telecoms; computer viruses, strikes, government measures, unforeseen transport problems, bad weather conditions and work stoppages.
3. If a situation of force majeure arises as a result of which Kovacs Live BV cannot fulfill one or more obligations towards the customer, these obligations will be suspended until Kovacs Live BV can comply with it.
4. From the moment that a force majeure situation has lasted at least 30 calendar days, both parties may dissolve the agreement in writing in whole or in part.
5. Kovacs Live BV does not owe any (damage) compensation in a situation of force majeure, even if it has obtained any advantages as a result of the force majeure situation.

Modification of the agreement

If, after the conclusion of the agreement and before its implementation, it appears necessary to change or supplement its contents, the parties shall timely and in mutual consultation adjust the agreement accordingly.

Changes in the general terms and conditions

1. Kovacs Live BV is entitled to amend or supplement these general terms and conditions.
2. Changes of minor importance can be made at any time.
3. Major changes in content will be discussed by Kovacs Live BV with the customer in advance as much as possible.
4. Consumers are entitled to cancel the agreement in the event of a substantial change to the general terms and conditions.

Transfer of rights

1. The customer can not transfer its rights deferring from an agreement with Kovacs Live BV to third parties without the prior written consent of Kovacs Live BV .
2. This provision applies as a clause with a property law effect as referred to in Section 3:83 (2) Dutch Civil Code.

Consequences of nullity or annulability

1. If one or more provisions of these general terms and conditions prove null or annulable, this will not affect the other provisions of these terms and conditions.
2. A provision that is null or annulable shall, in that case, be replaced by a provision that comes closest to what Kovacs Live BV had in mind when drafting the conditions on that issue.

Applicable law and competent court

1. Dutch law is exclusively applicable to all agreements between the parties.
2. The Dutch court in the district where Kovacs Live BV is established is exclusively competent in case of any disputes between parties, unless the law prescribes otherwise.

Drawn up on 02 september 2020.