

## GENERAL TERMS AND CONDITIONS FOR DROP SHIPPING

These general terms and conditions for drop shipping are used by decoration wholesale Joost Baakman B.V., having its registered office at (7061 AC) Terborg at Ettensestraat 50, the Netherlands, listed with the Chamber of Commerce under number 09077600. These general terms and conditions for drop shipping can also be downloaded from the website <https://members.baakman.nl>.

### Article 1: Definitions

1. In these general terms and conditions for drop shipping the following terms have the following meanings:
  - Seller: Decoration wholesale Joost Baakman BV.
  - Buyer: The registered buyer (reseller) of products, not being a consumer or end-user.
  - Consumer: Every natural person or legal entity who orders a product from the Buyer.
  - Datafeed: XML- or CSV-based datafile that is updated and provided at least every hour during the Seller's office hours, containing the product information of all products that the Seller has available for sale.
  - Drop Shipping: The process where the Seller offers the Buyer the possibility to offer and forward products belonging to and stocked by the Seller. The consumers can order these products from the Buyer at a sale price to be determined by the Buyer, following which the Buyer buys these products directly through an automated or manual process from the Seller, and the Seller forwards the products by order and on account and risk of the Buyer to the Consumers, without it being noticeable to the Consumers that the products were sent by the Seller.
  - Drop Ship Website: The website of the Seller where the Buyer can place its orders. [www.baakman.nl](http://www.baakman.nl) / <https://members.baakman.nl>
  - Customer Service: Customer Service of the Seller, contactable on +31(0)315-396969 and via [dropshipping@baakman.nl](mailto:dropshipping@baakman.nl).
  - Order: The order for one or more products placed by the Buyer with the Seller as a result of an order by a Consumer with the Buyer.
  - Agreement: All agreements based on Drop Shipping between the Buyer and the Seller, including all amendments and additions to the Agreement regarding the sale and supply of products.
  - Packing Slip: A slip listing the product(s) delivered. This Packing Slips does not contain any identifying marks of the Seller.
  - Parties: The Buyer and the Seller.
  - Products: All products offered by the Seller on the basis of Drop Shipping.
  - Product Information: All information available about the products, including but not limited to, article numbers, generic names of products, brand names, product descriptions and product photos, recommended product prices and stock information.
  - Terms and Conditions: These General Terms and Conditions for Drop Shipping.
  - Websites: [www.baakman.nl](http://www.baakman.nl) / <https://members.baakman.nl>.

All definitions have the same meaning in singular and plural, unless explicitly provided otherwise.

### 2. Applicability

- 2.1. These Terms and Conditions for Drop Shipping apply to all offers and proposals of the Seller, as well as to all offers and agreements and legal consequences arising from the above, unless the Parties explicitly agree otherwise.
- 2.2. The applicability of the (purchase) conditions of the Buyer is explicitly excluded.
- 2.3. If any provision of these Terms and Conditions for Drop Shipping is null and void or annulled, the other provisions of these Terms and Conditions for Drop Shipping shall remain in full force and the Seller and Buyer shall enter into consultations to agree upon new provisions replacing the null or void provisions, whereby the purpose and the meaning of the original provisions shall be heeded as far as possible.
- 2.4. The Seller is at all times entitled to amend these Terms and Conditions for Drop Shipping. The most recent version of these Terms and Conditions for Drop Shipping shall always apply. Such an amendment shall take effect fourteen (14) days after the date of forwarding the amended Terms and Conditions for Drop Shipping to the Buyer. If the Buyer sends a written objection to this amendment within fourteen (14) days, the original Terms and Conditions for Drop Shipping shall remain applicable to the Buyer.

### 3. Proposals, orders, formation of agreement, forecast

- 3.1. All proposals and offers by the Seller are non-binding and without obligations, unless explicitly indicated otherwise.
- 3.2. All proposals and offers shall remain valid for 30 days, unless explicitly provided otherwise.
- 3.3. The Buyer guarantees the correctness and completeness of the information on which the Seller bases its proposal or offer.
- 3.4. The Seller cannot reasonably be held to obvious mistakes and/or clerical errors in proposals, offers and agreements. If the price offered by the Seller is incorrect and differs from the envisaged price by more than 10%, the Seller may terminate the Agreement after which the amount already paid by the Buyer shall be refunded by the Seller. In case of termination of the Agreement pursuant to the above, the Seller shall not be liable in any way for damages due to the termination.
- 3.5. All orders must be placed in the manner prescribed by the Seller. The Buyer must use the standard protocols and required ICT infrastructure to be able to communicate with (the servers) of the Seller.
- 3.6. After the Consumer has ordered a product with the Buyer, the Buyer shall place an Order, manually or automatically, through the Drop Ship Website and/ or via the email service, following which the Seller, after it has accepted the Order, shall forward the product bought by the Consumer, after receipt of payment, to the Consumer by order of the Buyer.
- 3.7. The Seller is at all times entitled to refuse (part of) an Order, without being liable towards the Buyer, if:

- a) The Buyer fails to comply with, or if the Seller has reason to assume that the Buyer shall not comply with or has not complied with its (payment) obligations.
  - b) A product is not or no longer in stock.
  - c) There are other (reasonable) circumstances pursuant to which the Seller cannot be held to perform an Order.
- 3.8. If the Seller refuses to accept an Order, it shall notify the Buyer thereof within two (2) working days after receipt of the Order. If the Seller has not refused the Order within two (2) working days after receipt thereof, it is in principle accepted.
- 3.9. After placing an Order, the purchase agreement shall only be concluded between the Seller and the Buyer at the time that the Seller has confirmed the Order by sending a confirmation mail or an invoice through the email for the relevant Order, by which the Seller has accepted the Order.
- 3.10 The Buyer is obliged to provide a forecast to the Seller, following a request of the Seller to that end, within five (5) working days, stating the number of expected orders, specified by product, within a period of 3 consecutive months.

#### **4. Performance**

- 4.1. The Seller shall use its best efforts to perform the Agreement with care in accordance with the arrangements and procedures laid down in writing with the Buyer, if applicable. Any work by the Seller is carried out under the obligation to perform to the best of its ability, unless and insofar as the Seller has explicitly promised a result in the written order and the relevant result is described in a sufficiently precise manner.
- 4.2. If necessary additions and amendments to the Agreement by the Buyer are applicable, they shall not become effective until the Seller has explicitly confirmed them by e-mail. The Seller is entitled to pass on all the costs of the additions and amendments to the Agreement to the Buyer.
- 4.3. The Seller reserves the right at all times to engage third parties to carry out the work if required for the proper performance of the work. The applicability of Section 7:404 of the Dutch Civil Code is explicitly excluded.
- 4.4. The Seller shall select third parties with care and only engage them if necessary.

#### **5. Prices/Payment**

- 5.1. Unless explicitly agreed otherwise, all payments must be made in advance. The Seller shall perform the Agreement after it has received payment. Payments afterwards are only possible after the Buyer has applied for such and after approval by the Seller.
- 5.2. The Buyer is at all times entitled to demand full or or partial payment or to require replacement security, irrespective of any other previously made payment arrangements, in respect of the delivery of products at a time and in a manner to the sole discretion of the Seller, as well as to suspend its obligations under the Agreement until it has received payment or replacement security, without being liable for any damages.
- 5.3. All prices of the products are in Euros, unless indicated otherwise. Unless otherwise agreed, all prices are inclusive of VAT and other taxes and/or levies, packing costs and normal insurance costs.
- 5.4. The prices are exclusive of transport costs as well as export and import levies and possible additional insurance costs. Those costs are at the Buyer's expense.
- 5.5. The prices of the products are (if not daily) subject to changes. The prices to be paid by the Buyer are the prices at the time that the Seller accepts the Order.
- 5.6. If, due to any government measure, price-increasing taxes, levies or customs duties are introduced or changed, or if government measures are taken after the Agreement has been concluded by virtue of which the cost price of the services to be supplied by the Seller is increased, the Seller shall be entitled to pass on these costs to the Buyer, even if it has been agreed that the price is fixed. The Seller shall immediately notify the Buyer hereof.
- 5.7. When the Buyer fails to fulfil any of its obligations, the Buyer shall immediately be in default and shall owe an interest of 1.5% per month on the outstanding amount, without any warning or notice of default being required. The Buyer shall be due to the Seller the costs, at law and otherwise, for the collection of all debts owed by the Buyer to the Seller. The extrajudicial collection costs amount to 15% of the amount due with a minimum of EUR 250 (two hundred and fifty Euros).
- 5.8. The Seller is entitled to first deduct the amounts paid from the (extrajudicial collection) costs, then from the interest due and the from the principal sum.
- 5.9. When paying with a credit card, the User will immediately debit the amount to be paid directly from the account of the credit card holder. The credit card holder must ensure that there is sufficient balance or credit on the account.

#### **6. Delivery and transport**

- 6.1. The Buyer guarantees the correctness of the (address) details of the Consumer and must notify the Seller immediately of any changes. The Seller shall in no case be liable for any (address) details of the Consumer that were incorrectly provided.
- 6.2. The products shall be forwarded by means of parcel posts to the stated delivery address of the Consumer, whereby the Consumer must provide a signature for receipt. The Seller shall provide each parcel with a Packing Slip. The Seller keeps records and proof (track & trace) of the products delivered by parcel post. If a signature is missing or if the receipt of a product is disputed, the Buyer shall not be discharged from its payment obligations towards the Seller.
- 6.3. The delivery times shown on the Drop Ship Website are always up-to-date. Unless explicitly otherwise agreed in writing, all delivery dates are estimates only and no rights can be derived from them. The Seller shall do its best to deliver the products on the agreed date, but shall not be liable towards the Buyer if the agreed date cannot be met due to causes which are reasonably outside the direct sphere of influence of the Seller, such as for example delay due to transport (companies) or delivery times of the supplier of the products. The Seller shall never be liable for damages as a result of delay.

- 6.4. If the Seller is not able to deliver the products within ten (10) workings of the agreed delivery time, the Buyer shall have the right, as only measure, to cancel the Order. The Buyer must send a letter or email to the Seller to cancel the Order. Cancellation is only possible if the cancellation has been received by the Seller before the Seller has made the products ready for dispatch.
- 6.5. If not all ordered products are in stock, the Seller shall be entitled to carry out partial deliveries and charge partial dispatch costs. The information about products not being in stock shall be notified by the Seller to the Buyer prior to the conclusion of the Agreement (sending of invoice).
- 6.6. If the Consumer is absent during the delivery of the product and the product cannot be collected at the post office or any other official pick-up location indicated, the product shall be returned to the Seller. The Seller shall notify the Buyer of the return consignment. The Buyer must subsequently contact the Consumer about this. Any costs for returning the product shall be charged to the Buyer. The Buyer may then, at its discretion, choose the following ways of handling: (i) the products shall be stored by the Seller for account and risk of the Buyer, or (ii) the products shall be sold by the Seller at the best possible price (deducting reasonable costs for storage, insurance and selling costs), after which the Buyer shall only be refunded the difference between the price obtained and the amount paid by it to the Seller, or (iii) the products shall again be offered for delivery, charging the extra costs to the Buyer.
- 6.7. The risk for damages to and loss of the products shall pass to the Buyer upon handover of the products to the carrier. The damages caused during the transport must always be handled by the Buyer and the carrier.

## **7. Guarantee and right of return**

- 7.1. If the Consumer wishes to return or exchange a product, the Consumer must return this product to and at the risk of the Buyer. The Seller shall in turn only take back the products from the Buyer if such has been agreed in advance. The costs of return are always at the expense of the Buyer.
- 7.2. If products are returned, the Buyer shall maintain contact with the Consumer. The Buyer shall never refer a Consumer to the Seller for returns.
- 7.3. If the Buyer has noted that a product returned to it is defective, the Buyer shall contact the Seller about the handling of the return within 14 days. The Seller shall assess after receipt of the product whether the relevant product is defective. If the Seller finds the product defective and if this is owing to a cause which is at the expense and risk of the Seller, the Seller shall send the Consumer a new product. The transport costs incurred for returning the defective product and sending a new product shall be for account of the Seller. If the Seller concludes that the defect of the product is not for its account and risk, it shall notify the Buyer thereof and it shall return the product to the Buyer for account and risk of, and payable by the Buyer.

## **8. Retention of title and security rights**

- 8.1. The property of the products shall remain with the Seller until the Buyer has fulfilled its payment obligations in full.
- 8.2. The Buyer shall not be entitled to sell, rent, alienate, pledge or encumber the products supplied subject to the retention of title or to give them use in any other way until full ownership has passed to the Buyer.
- 8.3. The Buyer is obliged to take any reasonably possible measures to protect the products against damage until the moment of transfer of ownership. If any third party attaches or threatens to attach the goods delivered which are subject to the retention of title or wishes to establish or exercise rights to these, the Buyer shall be obliged to notify the Seller thereof immediately.
- 8.4. In the event that the Seller wishes to exercise its ownership rights referred to in this Article, the Buyer shall give the Seller or third parties to be appointed by the Seller, now for then, unconditional and irrevocable permission to access all sites and locations where property of Seller might be found and to take these goods back.
- 8.5. If the Seller is not able to exercise its ownership rights, the Buyer shall be liable for the damages suffered by the Seller.

## **9. Liability**

- 9.1. The liability of the Seller for indirect damages, including consequential damage, lost profit, lost savings, loss of files and/or information, claims of third parties against the Buyer and damages due to business interruption and idle periods, shall at all times be excluded.
- 9.2. The liability of the Seller for products inexpertly kept, stored and/or maintained, shall at all times be excluded.
- 9.3. The liability of the Seller because of an imputable failure to perform an agreement shall be limited to compensation of direct damage up to an amount not exceeding the price paid on the basis of the agreement, unless the Insurance pays a higher amount.
- 9.4. It is a precondition for the existence of any right to compensation that the Buyer shall give the Seller notice of default in writing and that the Seller is allowed a reasonable period of compliance.
- 9.5. The Seller can only be held liable if the Buyer notifies the Seller in writing of the damages within 30 days after the damage has occurred.

## **10. Force majeure**

- 10.1. The Seller is not obliged to meet its obligations pursuant to the Agreement if it cannot meet them due to circumstances outside the sphere of its influence (force majeure).
- 10.2. Force majeure includes, but is not limited to: strikes, non-delivery, incomplete and/or delayed delivery by suppliers, war and danger of war, terrorism, import and export prohibitions, epidemics, traffic gridlocks, loss or damage during transport, fire, theft, disruptions in the supply of energy.

## **11. Early termination**

- 11.1. The Seller shall be entitled, without prior notice of default being required and without being liable for damages or costs, and without waiving any other rights, to suspend its obligations or to cancel the Agreement, in whole or in part, or to terminate the Agreement early if:
- a) the Buyer fails to meet its (payment) obligations;
  - b) there is a (threat of) bankruptcy of the Buyer;
  - c) the Buyer has applied for suspension of payment or intends to apply for such;
  - d) the Buyer is no longer able to freely use its (liquid) assets due to, for example, attachment;
  - e) the Buyer is dissolved or intends to be dissolved;
  - f) the ownership of the Buyer is transferred to a third party or if the third party has acquired some control;
  - g) if there are circumstances of such nature that compliance with the obligations by the Seller cannot reasonably be required.
- 11.2. In the event of the above-mentioned circumstances, the claims of the Seller on the Buyer shall be immediately due and fully payable.

## **12. Intellectual property rights**

- 12.1. Any designs, technical drawings, calculations, samples, (360°) photos, and suchlike with regard to the products shall at all times remain the property of the Seller or the supplier of the products and may not be multiplied or transferred or given into use to third parties, without the explicit prior written permission of the Seller or the supplier of the products.
- 12.2. The Seller or the supplier of the products shall retain all intellectual property rights under the Copyright Act or any other law.
- 12.3. The Buyer guarantees that it shall not infringe the intellectual property rights of the Seller or the suppliers of the Seller in relation to the products.

## **13. Buyer data, privacy and secrecy**

- 13.1. The Seller shall only collect data of the Buyer and its suppliers to the extent necessary to carry out the Orders. The data shall, to the extent permitted by law, be used for the business operations of the Seller and its affiliated companies or third parties, and shall not be saved for longer than necessary for its business operations. The Buyer shall give the Seller its irrevocable consent to use and store its (personal) data and guarantees that the consumers have also given their consent to this end.
- 13.2. The Buyer indemnifies the Seller against claims of persons whose personal data is registered or is processed in the framework of carrying out the Orders, or against claims of third parties whether or not pursuant to damages, penalties, settlements, out-of-court criminal settlements or otherwise.
- 13.3. The Seller is entitled to provide the (personal) data of the Buyer to third parties if:
- a) necessary for the compliance of obligations under the Agreement;
  - b) the Seller takes action to recover debts from third parties towards the Buyer;
  - c) the Seller wishes to have a credit report drawn up;
  - d) the Seller is required to do so on the basis of the law or regulations.
- 13.4. The Seller and the Buyer mutually commit themselves to maintaining confidentiality in respect of all information and data that they receive from each other in the context of the (performance of the) Agreement during the term of the Agreement and afterwards.

## **14. Other**

- 14.1. The Buyer shall not be entitled to transfer any right arising from the Agreement to third parties without prior written consent of the Seller.
- 14.2. The Buyer gives prior consent to the Seller to transfer the rights arising from the Agreement in full or in part to third parties.

## **15. Applicable law and disputes**

- 15.1. These Terms and Conditions and all Agreements and arrangements arising from these between the Seller and the Buyer shall be governed by Dutch law.
- 15.2. Disputes shall be exclusively submitted to the competent court.
- 15.3. The applicability of the Vienna Sales Convention (CISG) shall be explicitly excluded.