

# MULTIFIX

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## **GENERAL SALES AND DELIVERY CONDITIONS**

Of

### **Multifix Group BV**

Deposited with the Chamber of Commerce for Brabant under the number 17179136

### **Article 1 Application**

- 1.1 In these general sales and delivery conditions "Multifix" is understood to be: Multifix Group BV (Bokkerijder 24, 5571 MX Bergeijk) or a company allied to it. In these general sales and delivery conditions "product" or "products" are understood to be: fixing materials offered or delivered by Multifix in the broadest sense of the word.
- 1.2 These conditions apply for all offers and/or agreements made by Multifix or entered into with third parties (subsequently "the Customer") and the implementation of them.
- 1.3 These conditions apply with the exception of any general conditions operated by the (potential) Customer.
- 1.4 An appeal for terms deviating from these conditions can only be made by the Customer if and in so far as these are accepted in writing by Multifix.

### **Article 2 Offers, instructions and agreements**

- 2.1 All offers by Multifix are open ended. Instructions and acceptances of offers by the Customer are irrevocable.

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- 2.2 Multifix is only bound if it has confirmed the order in writing or has begun to implement it.
- 2.3 Inaccuracies in the order confirmation of Multifix must be reported to Multifix within 3 days following the date of the order confirmation in writing, in the absence of which the order confirmation will be regarded as fully and accurately reflecting the agreement as that the Customer is bound to it.
- 2.4 Verbal undertakings or agreements by or with its personnel only bind Multifix if it has confirmed them in writing.
- 2.5 These general conditions are integrally applicable for any possible changes in the agreement.

### **Article 3 Conformity**

- 3.1 All indications of quantities, measurements, quality, outputs and/or other indications by Multifix in relation to its products are made with as much care as possible. Multifix cannot however vouch for the fact that no deviations will occur. The Customer must check matching with the quantities and/or other indications given by Multifix or agreed by Multifix on receipt of the products. Indications by Multifix regarding quantities, measurements, quality, outputs etc. only apply approximately and they are open ended.
- 3.2 Pictures, descriptions, catalogues, advertising material, information reproduced on the website and offers/prices do not bind Multifix.
- 3.3 If Multifix has shown and/or given a (test) model to the Customer then this (test) model only applies as an indication. The Customer may in no way have the expectation that the products to be delivered are identical to the (test) model.

- 3.4 The Customer must ascertain that the products to be ordered ar which have already been ordered and the associated packaging, labeling and other information meet all the national regulations in the country of destination. The use of the products and the conformity with the official stipulations is at the risk of the Customer.

### **Article 4 Intellectual Property**

- 4.1 All intellectual and industrial property rights relating to the products and names of them and relating to everything which Multifix develops, manufactures or supplies, including packaging, instructions, advertising material and pictures are due to Multifix.
- 4.2 The Customer is not permitted to make use of the trading names, brands, logos and ether indications of Multifix unless the Customer receives the express written permission of Multifix. In this last case the Customer will adhere to the directives and instructions of Multifix in relation to the use of the brands, logos and o ther indications of Multifix.
- 4.3 The Customer is nat permitted to delete o r change any indication regarding patents, copyright, brands, trading narnes of o ther rights of intellectual or industrial property from the products.

### **Article 5 Prices**

- 5.1 Prices given o r agreed by Multifix are exclusive of VAT, import and export duties, packaging costs, transport costs, excise duties and o ther taxes o r levies imposed or charged in relation to the products.
- 5.2 Multifix is entitled to take into consideration a supplement for administration casts and/or transport casts for orders above a scope established by Multifix in

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accordance with the Multifix regulation which is valid at the time of making the agreement.

- 5.3 If cost price determining factors change following the offer and/or the coming into force of an agreement, Multifix is entitled to adapt its prices in line with this.

### **Article 6 Supply Time and Delivery**

- 6.1 Delivery occurs ex works from our warehouses (ICC Incoterms 2000), unless otherwise agreed in writing. Hong Kong deliveries occur ex works from the Shanghai or DDU warehouse.
- 6.2 Delivery times given are to be regarded as approximate and not as absolute deadlines. Exceeding delivery times does not compel Multifix to compensation and does not give the Customer the right not to meet or to suspend his obligations from the agreement. The Customer is however entitled to dissolve the agreement if and in so far as Multifix has not carried out the commission within a time which the Customer deems as reasonable. In that case Multifix is not due any compensation.
- 6.3 The delivery time is based on the working conditions which apply at the time the agreement is made and on punctual delivery of items required by Multifix for carrying out the agreement. If a delay emerges as a result of a change of working conditions and/or unpunctual supply of items required by Multifix, the supply time is extended for as long as necessary.
- 6.4 Multifix Group specifies the way in which the products are transported unless otherwise agreed in writing. If the Customer requests a different form of transport, the additional costs connected with this form of transport are to be met by the Customer.

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6.5

The Customer is obliged to take receipt of the products immediately after arrival at the destination. The Customer must ensure adequate loading and Unloading facilities and ensure swift unloading.

6.6

Multifix specifies the way in which the products are packaged.

6.7

Should a product which the Customer has ordered no (longer) be deliverable, or at least not within a reasonable period, then Multifix will supply an equivalent product for the same price as long as this is reasonably possible.

6.8

If the Customer does not take receipt of the goods or does not pick them up or have them picked up, these will be stored at the risk and cost of the Customer for as long as Multifix deems desirable. In this case Multifix does at all times have the authority, equally for any other (accountable) shortcoming of the Customer, to either demand fulfillment of the agreement or to dissolve the agreement (extra judicially), without prejudice to its rights for compensation for damage incurred and lost profit, including the cost of the storage.

6.9

Advance orders must be cleared within the agreed times and if this is not the case Multifix is entitled to supply immediately the part of the order which has not been delivered and charge the Customer.

6.10

Multifix is not compelled to honor a request from the Customer for resupply or subsequent supply. If Multifix does nonetheless proceed with this, then the costs incurred are at the expense of the Customer.

6.11

Multifix is authorized to carry out an agreement in parts and demand payment for that part of the agreement which has been carried out.

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### Article 7 Force Majeure

- 7.1 If Multifix is prevented from fulfilling the contract due to force majeure, it is entitled to suspend carrying out the contract. In that case the Customer has no right to payment of damages, costs or interest.
- 7.2 Force majeure is understood to include: war, danger of war, factory strikes, fire, accident or illness of personnel, interruption of work, transport stagnation, legal stipulations which disturb work, restrictions on import/export, problems in production or transport which were not anticipated by Multifix and any other circumstance which is not exclusively dependent on the desire of Multifix and also the non-delivery or the non-punctual delivery of items or services by third parties engaged by Multifix.
- 7.3 If there is a situation involving force majeure then Multifix is authorized to dissolve the agreement for the part which cannot be carried out by means of a written declaration. If the situation involving force majeure lasts for longer than 6 weeks, then the Customer is also entitled to dissolve the agreement for the part which cannot be carried out by means of a written declaration.
- 7.4 If Multifix has already partially fulfilled its obligations at the time the situation involving force majeure begins or is only partially able to fulfill its obligations, it is entitled to invoice for the part of the work which is deliverable or already delivered and the Customer is bound to pay this invoice as for a separate agreement.

### Article 8 Shortcomings and Claims

- 8.1 Multifix vouches for the reliability of the products it supplies in accordance with that which the Customer may expect in terms of the agreement. If shortcomings should nevertheless occur in the products supplied by Multifix as a

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consequence of manufacturing, material and/or packaging faults, then Multifix will fully or partially replace the products concerned or apply a reasonable price reduction and this will be the exclusive choice and assessment of Multifix. This guarantee applies for a period of 3 months at the maximum.

8.2 Deviations in quantity, color, weight and measures of less than 10% do not count as shortcomings and thus do not form the basis for a claim.

8.3 Shortcomings which occur as a result of the following are not covered in the guarantee:

- normal wear;
- the Customer (or personnel of the Customer) not taking into account instructions or regulations;
- use other than for which the product is normally intended;
- injudicious storage or use by the Customer;
- use of products in a state other than the original one;
- overdue maintenance;
- use in combination with materials of third parties;
- repair or other activities by third parties or by the Customer without prior written permission from Multifix;
- resale;
- the application of any government regulation regarding the type or quality of the materials applied.

Multifix is not liable for (damage as a result of) such shortcomings.

8.4 The Customer must inspect the products carefully immediately after receipt, under penalty of lapse of any right to claim and/or replacement.

8.5 Any possible claim regarding the quantity of products supplied and transport damage must be noted down on delivery on the consignment note or supply note, in the absence of which the consignment note or delivery note provide

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compelling proof against the Customer of the fact that the correct quantity of products have been received and that these products were in good condition and were received without transport damage.

- 8.6 The Customer must make a claim in writing to Multifix within 8 days of a shortcoming being present following delivery. In the absence of a punctual complaint, any claim against Multifix lapses.
- 8.7 If the Customer does make a claim he is obliged to give Multifix the opportunity to inspect the products or have them inspected in order to establish the shortcoming. The Customer is obliged to keep the products, regarding which a claim was made available to Multifix, under the penalty of lapse of any right to claim and/or replacement.
- 8.8 Returning sold products to Multifix is only permitted following obtaining of the express written permission of Multifix and if the products are clearly recognizable as having been sent back and the products and packages are still in their original condition.
- 8.9 Returns as a consequence of transport damage are only accepted by Multifix if the products are in an original non-opened packaging and thus unused.
- 8.10 The products remain at the account and risk of the Customer (also during sending back).
- 8.11 The Customer is responsible for arranging the transport of any return and must bear the costs incurred. Any special sending and/or other instructions from Multifix for the returns must always be taken into consideration.
- 8.12 Any shortcomings regarding a part of the products supplied do not give the Customer any right to rejection or refusal of the total products supplied.
- 8.13 The Customer must inform Multifix of any inaccuracies in Multifix's invoices



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within 5 days following the invoicing date in writing, in the absence of which the Customer will be regarded as having approved the invoice.

- 8.14 Claims do not suspend the payment obligations of the Customer.
- 8.15 Following establishment of a shortcoming in a product the Customer is obliged to do everything possible to prevent or restrict that damage which includes possible immediate stoppage of use and handling.

### **Article 9 Reservation of Property Rights**

- 9.1 Multifix reserves the right to retain ownership of the supplied products and those to be supplied until its requests of any kind regarding all supplied products and products to be supplied are fully met by the Customer, including requests with regard to falling short in the meeting of one or more agreements.
- 9.2 If the Customer is lacking in the fulfillment of his obligations, Multifix is entitled to reclaim products which belong to it from the place where they are located at the expense of the Customer.
- 9.3 The Customer is not entitled to mortgage products which have still not been paid for or to pass on the ownership of them other than in the framework of normal carrying out of business.
- 9.4 The Customer is obliged to store the products which are supplied with reservation of property rights with the necessary care and as the recognizable property of Multifix.
- 9.5 The Customer is not due any right of retention towards Multifix on the products supplied by Multifix.

### Article 10 Payment

- 10.1 Unless agreed otherwise in writing, payment of the invoice from Multifix must occur within 30 days of the date of the invoice.
- 10.2 Multifix has the right to demand complete or partial advance payment and/or to obtain security in another way before payment.
- 10.3 If no punctual payment is received, the Customer will owe an interest payment of 1.5% per month above the invoice amount without further shortcoming, calculated from the due date up to and including the date of payment.
- 10.4 All costs connected with the collection are met by the Customer. The extrajudicial collection costs amount to at least 15% of the amount to be collected with a minimum of 250 Euros.
- 10.5 The Customer renounces any right to settlement of amounts which are mutually due. Multifix is always entitled to settle everything which it owes to the Customer with that which the Customer and/or companies allied to the Customer, whether or not claimable owes to Multifix.
- 10.6 The complete invoice amount is immediately and integrally claimable following non punctual payment of an agreed time period on the due day and also if the Customer becomes bankrupt, requests (temporary) suspension of payment, a debt restructuring arrangement (WSNP) is declared as applicable on him and/or when any distraint is placed on the affairs/claims of the Customer. If one of the above situations occurs, the Customer is bound to inform Multifix about this immediately.
- 10.7 Payments made by the Customer always serve initially to settle the costs due,

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subsequently for settlement of the interest incurred and then for settlement of the claimable invoices which have remained open for longest, even if the Customer states that the settlement relates to later invoice.

### **Article 11 Cancellation**

11.1 The Customer may not cancel an order which has been made. If the Customer nevertheless fully or partially annuls an order which has been made, he is compelled to pay 10% of the order price to Multifix as cancellation costs, without prejudice to the right of Multifix to payment of all costs reasonably incurred in connection with this order, the activities of Multifix and the loss of profit by Multifix, with VAT added.

### **Article 12 Advice**

12.1 All advice given by Multifix and statements and reports made by Multifix including among other things the characteristics of the products to be supplied by Multifix are completely open ended and are provided by Multifix by way of non-binding information. In this regard Multifix provides no guarantee.

12.2 For any direct or indirect damage in whatever form and on whatever account resulting from provision of information and/or advising by Multifix, Multifix will not be liable. The Customer safeguards Multifix against all liability from third parties in this regard unless malicious intent or gross negligence by Multifix are involved.

### **Article 13 Liability**

13.1 Apart from that which is specified in article 8 the Customer does not have any claim against Multifix with regard to shortcomings in or in relation to the products delivered by Multifix. Multifix is thus not liable for direct and/or indirect damage, including damage to personnel and damage to property, on-

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material damage, subsequent damage (lost income, damage through stoppage etc.) and any other damage, as a result of whatever cause, unless there is malicious intent or gross negligence on the part of Multifix.

13.2 Multifix is also not liable in the above sense for operations by its employees or other personnel who fall within its sphere of risk, including malicious intent or gross negligence by these persons.

13.3 Damage to products caused by damage or destruction of packaging is on the account of and at the risk of the Customer.

13.4 Multifix is not liable for damage as a result of:

- incorrect use of the products;
- non-following/incorrect following and or incomplete following of instructions and/or instructions for use given by it or expressly stated on the packaging of products;
- the overpacking or repacking of the products;
- the use of the products in a state other than the original one or resale of them.

13.5 In all cases where Multifix is bound to payment of compensation this will never be greater than the invoice value (excluding VAT) of the goods supplied in connection with which damage is caused, with a maximum of 25,000 Euros. If the damage is covered by a company liability insurance policy of Multifix, the compensation will also never be higher than the amount that which is actually paid out by the insurer in the particular cases, added to with any own risk of Multifix stated in the policy.

13.6 If Multifix moves to a right of suspension or dissolution on the basis of the facts and/or circumstances known to it at that moment while it subsequently

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becomes irrevocably clear that the exercising of this right was invoked unjustifiably, Multifix is not liable and not bound to any payment of damage except in the case of malicious intent or gross negligence on its part.

13.7 Any claim against Multifix lapses 12 months after the claim emerged unless this is recognized by Multifix.

13.8 The Customer safeguards Multifix, its employees and people engaged for carrying out the agreement against any claim of third parties, including claims based on product liability, in connection with the carrying out of the agreement by Multifix, regardless of the cause and also against any resultant costs for Multifix.

### **Article 14 Packaging**

14.1 If Multifix is responsible for durable packaging; the Customer must return the packaging empty, cleaned and undamaged to Multifix within 30 days following delivery.

14.2 All costs of repair, replacement and cleaning are to be met by the Customer.

14.3 The Customer will owe Multifix an amount of 25 Euros for every overdue week regarding the return of the packaging with part of the week applying as a full week.

### **Article 15 Representation**

15.1 If the Customer appears on behalf of one or several others, he is liable with regard to Multifix, without prejudice to the liability of the others as if he himself were the Customer.

### 16 Final Stipulations

- 16.1 The nullity or nullability of any stipulations of these conditions or agreements to which these conditions apply, does not affect the remaining stipulations. Multifix and the Customer are bound to replace stipulations which are null or nullified with valid stipulations which come as close as possible to the meaning of the original stipulation.
- 16.2 The place of implementation will be the place where Multifix is located.
- 16.3 Dutch law applies exclusively to all agreements made by Multifix.
- 16.4 The effectiveness of each international treaty concerning the purchase of goods, for which the effectiveness between parties can be ruled out does not apply and is expressly excluded here. More particularly the applicability of the Convention on International Sale of Goods (Weens Koopverdrag 1980) is expressly excluded.
- 16.5 All differences between Multifix and the Customer will be adjudicated exclusively by the authorized judge in the district of Den Bosch, the Netherlands, unless another Dutch judge is authorized on the basis of mandatory legal provision. In deviation from this Multifix is authorized to turn to the judge of the domicile/location of the Customer.
- 16.6 Where there is disagreement concerning the interpretation of these general conditions, the Dutch text is binding.