

General terms and conditions of delivery, payment and use

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General terms and conditions of Flowtech-Hydraulics B.V.

established in Rotterdam and Hydraulics Belgium NV established in Belgium, hereinafter referred to as Flowtech-Hydraulics.

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1. GENERAL

1. All our offers, agreements and the performance thereof are governed exclusively by these terms and conditions. Any deviations must be expressly agreed in writing.
2. In these terms and conditions, "the other party" means: any natural person or legal entity that has entered into, or wishes to enter into, an agreement with Flowtech-Hydraulics, as well as its representative(s), authorised representative(s), legal successor(s) and heirs.
3. Any terms and conditions used by the other party are expressly rejected.
4. Acceptance of an offer or placement of an order constitutes acceptance of these terms and conditions.
5. Where Flowtech-Hydraulics permits deviations from these terms and conditions for a short or extended period, whether tacitly or otherwise, this does not affect its right to require immediate and strict compliance with these terms and conditions at any time. No rights may ever be derived from the fact that Flowtech-Hydraulics has applied these terms and conditions flexibly.

2. OFFERS

1. All offers made by Flowtech-Hydraulics, in whatever form, are without obligation unless expressly stated otherwise.
2. Any estimates, plans, drawings, designs or other documents accompanying an offer shall at all times remain the property of Flowtech-Hydraulics and must be returned carriage paid upon first request.
3. The documents referred to in the preceding paragraph may not be copied or disclosed to third parties without the permission of Flowtech-Hydraulics.
4. The submission of offers and/or other documentation does not oblige Flowtech-Hydraulics to accept an order. Non-acceptance will be notified to the other party as soon as possible, but in any event within 14 days after the order date.
5. Flowtech-Hydraulics reserves the right to refuse orders without stating reasons or to deliver on a cash-on-delivery basis.
6. Flowtech-Hydraulics cannot be held to its offers or quotations where the customer can reasonably understand that the offer or quotation, or any part thereof, contains an obvious error, calculation error or clerical mistake.

7. Statements of dimensions, capacities, weights, technical specifications and other descriptions included in offers, catalogues, brochures, price lists or on the website are indicative only and are not binding on Flowtech-Hydraulics, unless expressly provided in writing as a guarantee.

3. AGREEMENT

1. Subject to the provisions below, an agreement with Flowtech-Hydraulics shall only come into existence once an order has been accepted or confirmed in writing, the date of confirmation being decisive. The order confirmation shall be deemed to reflect the agreement correctly and completely, unless the other party objects to it in writing within 5 working days.
2. Any supplementary arrangements or amendments made at a later date shall be binding only if they have been confirmed in writing by Flowtech-Hydraulics.
3. For transactions where, due to their nature and scope, no quotation or order confirmation is sent, the invoice shall be deemed to reflect the agreement correctly and completely, unless a complaint is made within 3 working days after the invoice date.
4. Every agreement is entered into by Flowtech-Hydraulics subject to the suspensive condition that, at Flowtech-Hydraulics' sole discretion, the other party is or proves to be sufficiently creditworthy to fulfil its monetary obligations under the agreement.
5. Upon or after entering into the agreement, and before providing any further performance, Flowtech-Hydraulics is entitled to require the other party to provide security that both its payment obligations and its other obligations will be fulfilled.
6. If this is deemed necessary or desirable for the proper performance of the order placed with Flowtech-Hydraulics, Flowtech-Hydraulics may, after consultation with the other party, engage third parties in the performance of the agreement. The costs will be charged to the other party in accordance with the quoted prices.
7. The other party is obliged to provide Flowtech-Hydraulics in a timely manner with all information and documents necessary for the proper performance of the agreement.
8. Any loss resulting from the late or incomplete provision of information or documents and/or from the provision of incorrect information shall be for the account of the other party. The other party indemnifies Flowtech-Hydraulics against all third-party claims arising from information and documents provided by the other party, including all costs of defending such claims.

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4. PRICES

1. Unless stated otherwise, the prices quoted by Flowtech-Hydraulics are:
 - a. based on ex-warehouse delivery by Flowtech-Hydraulics in accordance with Incoterms 2010, with costs charged in accordance with amounts determined annually;
 - b. exclusive of VAT and, in the case of export, exclusive of import duties, other taxes, levies and charges;
 - c. exclusive of the costs of packaging, loading and unloading, transport and insurance;
 - d. in euros; where orders are accepted in another currency, any exchange-rate differences will be charged through.
2. In the event of a late-notified increase in one or more cost-price factors, Flowtech-Hydraulics is entitled to adjust the sales price accordingly after acceptance of the order.

5. CANCELLATION

1. If, after an agreement has been concluded, the other party wishes to cancel it, at least 10% of the order price (including VAT) will be charged as cancellation costs, without prejudice to the right to full compensation, including loss of profit.
2. Cancellation of customer-specific items, customised products or items specifically ordered or manufactured for the other party is not possible. These items must be accepted and paid for in full by the other party.
3. Customer-specific items include products that are not normally available from stock and/or are purchased or produced specifically at the request of the other party.

6. DELIVERY

1. From the moment the sales agreement is concluded, the purchased goods shall be at the risk of the other party.
2. Carriage-paid delivery shall only take place if and insofar as this has been agreed by Flowtech-Hydraulics with the other party and is stated on the invoice or otherwise.
3. The time of delivery shall be the moment at which the purchased goods are ready for transport.
4. The other party is obliged to inspect the delivered goods and their packaging immediately upon delivery for any shortages and/or visible damage, or to carry out this inspection after being informed by Flowtech-Hydraulics that the goods are available to the other party.
5. Any shortages and/or damage to the delivered goods and/or their packaging that are present upon delivery must be reported to Flowtech-Hydraulics without delay and stated on the delivery note, invoice and/or transport documents, failing which the other party shall be deemed to have approved the delivered goods. In that case, complaints or other claims in this respect will no longer be considered and all rights of the other party in respect of such shortcomings shall lapse.
6. Flowtech-Hydraulics is entitled to make partial deliveries, which may be invoiced separately.

7. Delivery times are always stated as estimates, unless expressly agreed otherwise in writing. The buyer is not entitled to compensation for loss arising from exceeding the delivery time, regardless of the cause.
8. If the goods have not been accepted by the other party after expiry of the delivery time, they will be stored at the other party's disposal, at the other party's expense and risk.

7. TRANSPORT/RISK

1. Unless the other party has given Flowtech-Hydraulics further instructions, the method of transport, shipment, packaging and the like shall be determined by Flowtech-Hydraulics.
2. Unless agreed otherwise, the other party assumes all risks relating to transport, shipment, packaging and the like, including any fault or negligence of the carrier.
3. Any specific wishes of the other party concerning transport or shipment will only be carried out if the other party has declared that it will bear the additional costs thereof.
4. Flowtech-Hydraulics is entitled to charge a fee for durable packaging materials, which will be stated on the invoice.
5. Where such a fee is charged, it will be credited after the packaging has been returned in undamaged condition.

8. FORCE MAJEURE

1. For the purposes of these terms and conditions, "force majeure" means any circumstance beyond the control of the parties and/or unforeseeable circumstance as a result of which performance of the agreement can no longer reasonably be required of the other party.
2. Flowtech-Hydraulics shall not be liable for any loss and shall not be obliged to fulfil any obligation if the loss is the result of force majeure or if Flowtech-Hydraulics is hindered by force majeure.
3. If, in the opinion of Flowtech-Hydraulics, the force majeure situation is temporary, it shall have the right to suspend performance of the agreement for as long as the circumstance constituting force majeure continues.
4. If, in the opinion of Flowtech-Hydraulics, the force majeure situation is permanent, Flowtech-Hydraulics shall be entitled to terminate the agreement.
5. Flowtech-Hydraulics is entitled to demand payment for performance carried out in the execution of the relevant agreement before the circumstance causing force majeure became apparent.
6. The party that considers itself to be, or to become, affected by force majeure must notify the other party immediately.
7. Force majeure in these terms and conditions includes, but is not limited to: strikes, illness of personnel, pandemics, government measures, import or export bans, failures in digital infrastructure (cybercrime), fire, and the circumstance that Flowtech-Hydraulics' suppliers do not deliver or do not deliver on time.

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9. INTELLECTUAL PROPERTY

1. Where drawings, designs, models and the like made by or on behalf of Flowtech-Hydraulics in preparation for or performance of the agreement are protected by intellectual property rights under the law, these rights shall remain vested in Flowtech-Hydraulics without prejudice.
2. The other party guarantees at all times that Flowtech-Hydraulics' use of information supplied by the other party will not cause Flowtech-Hydraulics to breach legal provisions or protected third-party rights.
3. The other party fully indemnifies Flowtech-Hydraulics against all direct and indirect consequences of third-party claims brought against Flowtech-Hydraulics on the basis of information supplied by the other party, including all costs of any defence.

10. LIABILITY

1. Flowtech-Hydraulics shall never be liable for any loss of any nature whatsoever suffered by the other party or third parties in connection with any act or omission in the context of the agreement concluded between the parties, other than loss caused by wilful misconduct or gross negligence on the part of Flowtech-Hydraulics.
2. Under no circumstances shall Flowtech-Hydraulics be liable for any loss suffered by any person that arises from or is caused by use of the delivered goods, whether or not in combination with other equipment, or by their unsuitability for the purpose for which the other party purchased them.
3. In all cases, the liability of Flowtech-Hydraulics shall be limited to direct loss actually suffered. Flowtech-Hydraulics shall never be obliged to compensate indirect loss suffered by the other party or third parties, including, but not limited to, consequential loss, loss due to delay, business loss, loss of profit and lost savings.
4. Without prejudice to the preceding paragraphs, the liability of Flowtech-Hydraulics shall in all cases be limited to the total amount of the relevant order (excluding VAT), up to a maximum of EUR 10,000.
5. The other party shall indemnify Flowtech-Hydraulics against all claims of any nature whatsoever by any person that are directly or indirectly connected with the agreement concluded between Flowtech-Hydraulics and the other party. The other party is obliged to reimburse Flowtech-Hydraulics for all costs arising from or connected with such claims, including the costs of defending such a claim.

11. COMPLAINTS

1. If the other party has made a complaint following an inspection as referred to in Article 6, paragraphs 4 and 5, the following shall apply.
2. Any complaints will only be considered by Flowtech-Hydraulics if they are received directly by Flowtech-Hydraulics in writing within 14 days after delivery of the relevant performance, stating precisely the nature and basis of the complaint.
3. Complaints regarding invoices must also be submitted in writing within 21 days after the invoice date.

4. After expiry of these periods, the other party shall be deemed to have approved the delivered goods or the invoice, as applicable. Complaints will then no longer be considered by Flowtech-Hydraulics.
5. If Flowtech-Hydraulics finds the complaint to be well-founded, it shall only be obliged to provide the agreed performance after all.
6. Only if and insofar as the complaint is found to be well-founded will the other party's payment obligation be suspended until the complaint has been settled.
7. The delivered goods may only be returned with the prior written permission of Flowtech-Hydraulics and subject to conditions to be determined by Flowtech-Hydraulics.
8. Complaints concerning visible defects must be made, on pain of lapse of rights, immediately after discovery and no later than five days after delivery, stating the reasons. Complaints concerning non-visible defects must be made, on pain of lapse of rights, immediately after discovery and no later than 14 days after discovery, stating the reasons.
9. If Flowtech-Hydraulics finds the complaint to be unfounded and the other party does not agree with this assessment, the parties will jointly appoint a recognised inspection institute to re-inspect the delivered goods.
10. If the inspection institute establishes that the delivered goods comply, the other party shall compensate all loss suffered by Flowtech-Hydraulics as a result of the re-inspection, including expressly all costs related to the re-inspection.
11. On pain of lapse of any claim against Flowtech-Hydraulics, the other party is obliged to preserve the products to which the complaint relates carefully and leave them untouched until the inspection has been fully completed, and to make them available at the first request of Flowtech-Hydraulics and/or the inspection institute.
12. Legal proceedings must be commenced within twelve months after a timely complaint, on pain of lapse of rights. Where the parties have jointly appointed a recognised inspection institute, a shortened limitation period of six months shall apply, commencing after the final opinion or final decision of the inspection institute.

12. WARRANTY

1. Subject to the limitations set out below, a warranty shall be provided for the goods delivered by Flowtech-Hydraulics for a period to be agreed. This warranty is limited to manufacturing defects that occur and does not cover defects caused by parts subject to any form of wear or consumption.
2. The warranty shall lapse if the other party and/or third parties engaged by it use the delivered goods improperly.
3. The warranty shall also lapse if the other party and/or third parties engaged by it carry out work on or alterations to the delivered goods.
4. If Flowtech-Hydraulics replaces parts in fulfilment of its warranty obligation, the replaced parts shall become the property of Flowtech-Hydraulics.

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5. If the other party fails to fulfil, partially fails to fulfil, or fails to fulfil on time any obligation arising from the agreement concluded between the parties, Flowtech-Hydraulics shall not be obliged to provide a warranty for as long as that situation continues.

13. RETENTION OF TITLE

1. Delivered goods shall remain the property of Flowtech-Hydraulics until the other party has paid all deliveries and work performed or yet to be performed by Flowtech-Hydraulics under the agreement, including interest and costs.
2. In the event of suspension of payment, bankruptcy, cessation of payment, liquidation of the other party, or death where the other party is a natural person, Flowtech-Hydraulics is entitled, without notice of default or court intervention, to cancel the order in whole or in part and to reclaim the unpaid part of the delivered goods. Cancellation and repossession shall be without prejudice to the right to compensation for loss or damage.
3. In the cases referred to in the preceding paragraph, every claim of Flowtech-Hydraulics against the other party shall become immediately and fully due and payable.
4. If and for as long as Flowtech-Hydraulics is the owner of the goods, the other party shall not be entitled to sell, lease, make available for use, pledge or otherwise encumber them, other than by using, making available for use or reselling the goods in the ordinary course of its business.
5. As security for proper payment of all claims, on whatever grounds, Flowtech-Hydraulics shall furthermore acquire a non-possessory pledge, upon the arising of the claim, over all goods into which the goods delivered by Flowtech-Hydraulics have been incorporated or of which they form part.
6. The order signed by the other party and the subsequent written acceptance by Flowtech-Hydraulics shall constitute a private deed within the meaning of the law.
7. If and for as long as Flowtech-Hydraulics is the owner of the goods, the other party shall immediately notify Flowtech-Hydraulics if the goods are or are threatened to be attached, or if any claim is made to them in any other way, and shall immediately and expressly inform the attaching party or claimant of Flowtech-Hydraulics' proprietary rights.

14. PAYMENT

1. Unless otherwise agreed in writing, payment must be made in cash without discount or set-off upon delivery, or by deposit or transfer to a bank or giro account designated by Flowtech-Hydraulics within 30 days after the invoice date.
2. The value date stated on Flowtech-Hydraulics' bank or giro statements shall be decisive and shall therefore be regarded as the payment date.

3. All payments made by the other party shall first be applied to payment of any interest and collection costs incurred by Flowtech-Hydraulics and then to payment of the oldest outstanding invoices.
4. Where the other party:
 - a. is declared bankrupt, assigns its assets, applies for suspension of payment, or has all or part of its assets attached;
 - b. dies, is placed under guardianship or is dissolved;
 - c. fails to fulfil any obligation imposed on it by law or by these terms and conditions;
 - d. fails to pay an invoice amount or part thereof within the stipulated period;
 - e. ceases or transfers its business or an important part thereof, including the contribution of its business to a company to be incorporated or already existing, or changes the objects of its business;Flowtech-Hydraulics shall, by the occurrence of any of the above, have the right either to terminate the agreement or to demand immediate and full payment, without warning or notice of default, of any amount owed by the other party under services provided by Flowtech-Hydraulics, all without prejudice to the right to compensation for costs, damage and interest.

15. INTEREST AND COSTS

1. If payment has not been made within the period referred to in the preceding article, the other party shall be in default by operation of law and shall owe interest of 1% per month or part of a month on the outstanding amount from the invoice date.
2. All judicial and extrajudicial costs incurred shall be borne by the other party.
3. Judicial costs also include all actual costs of legal and procedural assistance incurred during court proceedings that exceed the applicable scale of costs.
4. Extrajudicial collection costs shall amount to at least 15% of the amount owed by the other party, including the aforesaid interest.

16. DISPUTES AND APPLICABLE LAW

1. All offers and agreements of Flowtech-Hydraulics and their performance shall be governed exclusively by Dutch law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) is expressly excluded.
2. All disputes, including disputes that are considered as such by only one party, arising from or connected with the agreement to which these terms and conditions apply or with these terms and conditions themselves and their interpretation or performance, whether factual or legal in nature, shall be settled by the competent civil court in whose district Flowtech-Hydraulics has its registered office, unless the subdistrict court has jurisdiction.

17. WEBSITE TERMS OF USE (disclaimer)

1. These terms of use also apply to agreements concluded via the Flowtech-Hydraulics website and/or webshop (www.flowtech-hydraulics.nl, hereinafter referred to as the website, and any other websites managed by Flowtech-Hydraulics) and to all information available on them.
2. The provisions of this article apply in addition to the preceding provisions and do not derogate from them.
3. By visiting and using the website, the visitor accepts these terms of use and undertakes to comply with them.
4. The information on the website is intended as information for Flowtech-Hydraulics' customers, suppliers and other interested parties. Flowtech-Hydraulics makes every effort to keep the content of the website as error-free and up to date as possible. Nevertheless, errors or inaccuracies may appear on a web page. This website also contains third-party information and/or links to third-party websites. These do not fall under the responsibility of Flowtech-Hydraulics and may impose different terms of use. Flowtech-Hydraulics is not responsible or liable for any inaccuracy, incompleteness, unreliability or quality of information on its website and/or on the sites and sources to which reference is made.
5. Despite technical efforts, no guarantee can be given that the website can always be consulted without interruptions. No rights may be derived from it, and Flowtech-Hydraulics is not liable for any loss arising from inaccuracies on, or poor functioning of, the website. Flowtech-Hydraulics reserves the right to amend the website or parts thereof at any time and in any manner without prior notice.
6. Information offered by Flowtech-Hydraulics on its website is for personal use and may only be used in third-party publications with prior written permission. Unauthorised or improper use of the website or parts thereof, such as unique design elements (price matrices), may infringe Flowtech-Hydraulics' intellectual property rights and patent claims. All names and brands appearing on the website are protected. The visitor acknowledges the copyrights and intellectual property rights in the website and shall not infringe them.
7. The visitor is not permitted to make changes in any way to the website, the information posted on it or its operation, whether specifically or by means of viruses. Deliberate unauthorised external changes will lead to legal action.
8. Flowtech-Hydraulics endeavours to keep the website free of viruses, but cannot guarantee this and accepts no responsibility for any spread of viruses via its website. The visitor undertakes to take all necessary measures to prevent the uploading or downloading of viruses to or from the Flowtech-Hydraulics website.
9. Flowtech-Hydraulics accepts no liability for consequential loss resulting from the non-arrival of electronic communications, such as web orders or emails.
10. The visitor may log in using a username and password. The visitor undertakes to use these personally only and not to disclose them to third parties. The visitor undertakes to cooperate in preventing unauthorised access. The rights and options associated with a username and password are linked personally to the visitor and the visitor's employer and shall lapse immediately if the visitor accepts another role outside that company or is otherwise no longer entitled to make purchases for the employer. Misuse of a username and password and any resulting loss will be recovered from the visitor personally.
11. Incorrect applications of products resulting from technical choices made by the website visitor without advice from Flowtech-Hydraulics are entirely for the account of the user and fall outside normal product warranties.
12. Delivery times stated on the website are indicative and never binding.
13. Flowtech-Hydraulics has the right to deny visitors access to the website and/or related services and to monitor compliance with that denial. Visitors will be informed in writing of this decision, stating the reasons.