

# TERMS OF SUPPLY

## FLEXCOLLAR.COM ONLINE STORE TERMS OF SUPPLY

### Article 1 Definitions

These Terms of Supply (hereinafter referred to as "Terms") use the following definitions:

- **Supply date:** the date of supply agreed on by the Customer and FLEXCOLLAR.COM;
- **Customer:** any natural person or legal entity with whom/which FLEXCOLLAR.COM enters into an Agreement.
- **Offer:** any offer or quote issued by FLEXCOLLAR.COM, by whatever name;
- **Agreement:** any Agreement, by whatever name, including a Purchase Agreement, between the Customer and FLEXCOLLAR.COM, any amendments or additions thereto, as well as the (legal) acts to prepare and perform that Agreement;
- **Products:** all matters not being Works that are the subject of an Agreement or Offer;
- **FLEXCOLLAR.COM** is a trade name owned by FlexCollar B.V.; references to FLEXCOLLAR.COM in these terms are to be read as references to FLEXCOLLAR.COM trading on behalf of FlexCollar B.V.
- **FlexCollar B.V.:** the private limited company based in Neede, registered with the Dutch Chamber of Commerce under number 77382137.

### Article 2 General

- 2.1 These Terms govern all Offers, Agreements, requests, notices, and all (other) acts and legal acts by FLEXCOLLAR.COM and are part of all Offers and Agreements, by whatever name.
- 2.2 FLEXCOLLAR.COM specifically excludes applicability of any general or specific terms or provisions of the Customer or third parties.
- 2.3 Deviation from these Terms in an Offer, Agreement, or otherwise is possible only with FLEXCOLLAR.COM's prior explicit and written consent.
- 2.4 Offers and quotes do not automatically apply to future orders.

### Article 3 Offer and Agreement

- 3.1 An Offer or quote, by whatever name, is not binding on FLEXCOLLAR.COM and is intended solely as an invitation to the Customer to place an order. Offers are based on details provided by the Customer. The Customer will be liable for any additional costs, price increases, delays in the supply/delivery, and any other consequences of changes to, deviations from, and errors in these details.
- 3.2 An Agreement between FLEXCOLLAR.COM and the Customer is established when FLEXCOLLAR.COM sends the Customer a written confirmation of the Agreement.
- 3.3 Amendments and additions to any provision in an Agreement and/or the Terms can be agreed on only in writing and shall constitute only an amendment and/or addition to the specific Agreement or Terms.

### Article 4 Product delivery

- 4.1 The delivery term stated by FLEXCOLLAR.COM is provided solely for information purposes and is based on FLEXCOLLAR.COM's circumstances as they are when the Agreement is established and, to the extent that delivery depends on third-party performance, on information provided by those third parties to FLEXCOLLAR.COM.
- 4.2 The delivery term starts on the date that the Agreement is established or on the date that all information required for the performance of the Agreement has been received by FLEXCOLLAR.COM, whichever of the two happens last.
- 4.3 An overrun of the delivery term does not entitle the Customer to compensation. Nor will the Customer in that case be entitled to terminate or cancel the Agreement, unless the overrun of the delivery term is of such magnitude that the Customer cannot reasonably be expected to leave the relevant part of the Agreement intact.
- 4.4 FLEXCOLLAR.COM has the right to split delivery into part deliveries. FLEXCOLLAR.COM also has the right to use split billing for (split) deliveries.
- 4.5 FLEXCOLLAR.COM will deliver the Products to the location specified in the Agreement and bear the costs and risks of delivery.
- 4.6 If the Customer refuses to accept delivery of the Products, FLEXCOLLAR.COM will proceed to store the Products for up to 30 days after attempting to deliver them to the Customer, whereby the costs and risks involved in storing the Products will be borne by the Customer. FLEXCOLLAR.COM will notify the Customer that he/she can pick up the Products in exchange for cash payment, or have the Products picked up in exchange for cash payment. After this 30-day term, FLEXCOLLAR.COM will be authorized to sell the Products to a third party or do something else with the Products. The Customer is liable to cover any additional costs and other losses incurred by FLEXCOLLAR.COM.

### Article 5 Weight, quantity, and size

- 5.1 All information provided by FLEXCOLLAR.COM as regards numbers, quantity, weight, colors, sizes, and/or other designations of the Products is provided with due care. FLEXCOLLAR.COM can, however, not guarantee that there will be no deviations from these details. Any samples and/or models of Products shown or provided are mere designations of the Products in question.
- 5.2 The Customer's payment obligations will be determined based on the weight and/or quantity as logged in FLEXCOLLAR.COM's production and/or delivery records.

### Article 6 Packaging

- 6.1 The Products are, to the extent that this is necessary, delivered in a packaging that suits the agreed shipping method.

### Article 7 Complaints and inspection

- 7.1 When Products are delivered to the Customer, the Customer will be under an obligation to inspect these Products immediately upon receipt. If FLEXCOLLAR.COM were to ship the Products for the Customer or have them shipped for the Customer, the moment when the Products reach the location specified by the Customer prior to the shipping, including if the Customer were to refuse to accept delivery of the Products, will apply as the time of receipt.
- 7.2 The Customer must lodge any complaints regarding a visual aspect or the quantity of the Products with FLEXCOLLAR.COM within 24 hours after receiving the Products, in writing by registered mail.
- 7.3 The Customer must lodge any complaints regarding hidden defects with FLEXCOLLAR.COM within six months after receiving the Products, in writing by registered mail. The Customer is under an obligation, after detecting a hidden defect, to cease the use, treatment, processing, or installation of the Products in question immediately.
- 7.4 The Customer will cooperate fully with FLEXCOLLAR.COM in their investigation into the complaint, including by providing sample materials and by allowing FLEXCOLLAR.COM to conduct an investigation on site to assess the (processing) conditions.
- 7.5 After the Customer has lodged a complaint in the appropriate manner and FLEXCOLLAR.COM has accepted the complaint, FLEXCOLLAR.COM is entitled to choose to either repair or replace the Products or terminate the whole or part of the Agreement, without the Customer being entitled to compensation.
- 7.6 The Customer is not entitled to lodge a complaint in case of a situation specified in Article 4.6 or as long as the Customer has not complied with all liabilities due and payable to FLEXCOLLAR.COM.

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## Article 8 Attributable failure and termination

- 8.1 If the Customer fails to comply with any obligation that may fall to the Customer under any Agreement with FLEXCOLLAR.COM properly or in time, the Customer will be held in default without notice of default being required, and FLEXCOLLAR.COM will then, without prejudice to its right to claim compensation, be entitled to do the following without notice of default or going through the courts:
- suspend performance of the Agreement and any directly related agreements and/or obligations until the Customer has provided sufficient security of compliance with the obligations; and/or,
  - fully or partly terminate the Agreement and any directly related agreements. If FLEXCOLLAR.COM opts to terminate, the Customer will not be entitled to any kind of compensation, by whatever name.
- 8.2 In case of a (provisional) moratorium, bankruptcy, stoppage or closure of the Customer's company or seizure of the Customer's assets, all Agreements with the Customer will automatically be terminated, unless FLEXCOLLAR.COM notifies the Customer within a reasonable time span that it demands compliance with (part of) the relevant Agreement or Agreements. In this latter case, FLEXCOLLAR.COM will be entitled, without having to issue notice of default, to suspend performance of the Agreement until the Customer has provided sufficient security that the Customer will comply.
- 8.3 In case of an event as specified in Articles 13.1 and 13.2, all amounts owed to FLEXCOLLAR.COM by the Customer and all amounts due under the Agreement or Agreements in question will be fully due and payable on demand and FLEXCOLLAR.COM will be authorized to repossess the Products in question. In that case, FLEXCOLLAR.COM and/or any third parties to be designated by FLEXCOLLAR.COM will be authorized to access the Customer's buildings and premises.
- 8.4 Termination as specified in this article will not void FLEXCOLLAR.COM's rights as laid down in any of the articles of these Terms.

## Article 9 Non-attributable failures

- 9.1 If a failure that cannot be attributed to FLEXCOLLAR.COM (force majeure) leads to FLEXCOLLAR.COM being unable to fulfill its obligations toward the Customer, fulfillment of these obligations will be suspended for the duration of the situation of force majeure.
- 9.2 If the situation of force majeure lasts for 6 months or if it is clear that it will last for 6 months, both parties will be authorized to terminate the whole or part of the Agreement by giving written notice of termination, to the extent that the situation of force majeure justifies such termination.
- 9.3 In cases of force majeure, the Customer will not be entitled to any kind of compensation, not even in the event that FLEXCOLLAR.COM were to somehow benefit as a result of the force majeure situation.
- 9.4 Force majeure includes all circumstances beyond FLEXCOLLAR.COM's will and control that impede FLEXCOLLAR.COM from fulfilling all or part of its obligations toward the Customer or that make that FLEXCOLLAR.COM can in all reasonableness no longer be expected to fulfill its obligations, irrespective of whether these circumstances could have been foreseen when the Agreement was concluded. These circumstances also include industrial action and lock-outs, business interruption or other problems in the production or performance of work by FLEXCOLLAR.COM or its suppliers and/or in FLEXCOLLAR.COM's or a third party's shipping services, or measures imposed by any government body, as well as the absence of a license to be obtained from a public body.
- 9.5 FLEXCOLLAR.COM will notify the Customer of a (potential) force majeure situation as soon as possible.

## Article 10 Prices

- 10.1 Prices quoted by FLEXCOLLAR.COM in an offer or Agreement are based on factors as they are at the time of issuance of the Offer or establishment of the Agreement. FLEXCOLLAR.COM is authorized to pass any additional costs due to changes to factors influencing the price calculated by FLEXCOLLAR.COM on to the Customer.
- 10.2 All of FLEXCOLLAR.COM's prices are in euros and do not include sales tax.
- 10.3 All of FLEXCOLLAR.COM's prices are, unless explicitly stated otherwise, based on uninterrupted and unhindered performance and/or delivery of a Work or Product respectively during normal business hours.

## Article 11 Payment

- 11.1 The Customer must pay without applying any kind of discount, without deferring part of the amount due, and without offsetting amounts due against amounts receivable in case of: Supply of Products: within 30 days after the invoice date:  
To the extent that FLEXCOLLAR.COM bills the Customer for amounts due from the Customer, payment must be made without applying any kind of discount, without deferring part of the amount due, and without offsetting the amount due against any amounts receivable, and within the term specified on the invoice or, if the invoice does not specify a payment term, within 14 days after the invoice date.
- 11.2 In case of late payment, FLEXCOLLAR.COM will be authorized to immediately suspend its work, deliveries, and/or other obligations toward the Customer.
- 11.3 FLEXCOLLAR.COM is entitled, prior to performing the Work or resuming performance, to require the Customer to provide proper security to the level of the amounts that FLEXCOLLAR.COM has charged or will charge to the Customer under the Agreement, irrespective of whether or not these amounts are due, at FLEXCOLLAR.COM's discretion.
- 11.4 In the event of liquidation, insolvency, bankruptcy, or a moratorium on the part of the Customer or termination based on Article 13, the amounts due from the Customer shall be immediately payable.
- 11.5 Without further notice of default being required, the Customer will be liable to pay default interest at an annual rate of 12% on all amounts that are unpaid on the last day of the payment term at the latest. For the purposes of calculating the interest payable, part of a month will be considered a whole month.
- 11.6 If the Customer is in default toward FLEXCOLLAR.COM, the Customer will be required to compensate FLEXCOLLAR.COM for the out-of-court expenses and court fees. Out-of-court expenses to be covered by the Customer are set at a minimum of 15% of the amount that has remained unpaid, with a minimum of EUR 250 plus sales tax due on that amount.
- 11.7 In the event of arbitration proceedings or a lawsuit, the Customer will, if fully or partly unsuccessful in its claim, owe FLEXCOLLAR.COM, in addition to the cost of the proceedings and the cost of legal aid set by the tribunal, the actual costs incurred for the proceedings and any legal expenses, insofar as these actually incurred costs exceed the costs set by the tribunal.
- 11.8 FLEXCOLLAR.COM has the right at any time to offset its receivables from the Customer against any payables to the Customer. For the purposes of application of this article, FLEXCOLLAR.COM and the Customer include their respective associated enterprises.

## Article 12 Retention of title

- 12.1 Title to the Products will only be transferred, notwithstanding the actual delivery, to the Customer after the Customer has paid in full all amounts due or that will be due under the Agreement to FLEXCOLLAR.COM.
- 12.2 If the Customer fails to fulfill its obligations or there is a well-founded fear that the Customer will not fulfill its obligations, FLEXCOLLAR.COM will be authorized to repossess or remove the Products that come under the retention of title clause from the Customer or third parties holding the Products on the Customer's behalf, at the Customer's expense and risk. The Customer is under an obligation to render full cooperation in making this possible, failing which the Customer will be liable to pay a penalty of 10% of the invoice amounts for the Products in question.
- 12.3 If and as long as FLEXCOLLAR.COM holds title to the Products, the Customer agrees to notify FLEXCOLLAR.COM immediately as and when the Products are seized or likely to be seized or the Products, or parts thereof, are otherwise claimed by a third party. The Customer will furthermore, immediately on request, let FLEXCOLLAR.COM know where

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the Products to which FLEXXCOLLAR.COM holds title are located.

- 12.4 In the event of seizure of the Products, a moratorium, or bankruptcy, the Customer will make the seizing enforcement agent, the administrator, or the trustee aware of FLEXXCOLLAR.COM's (ownership) rights. The Customer guarantees that any seizure of the Products will be lifted promptly.

## Article 13 Liability and indemnity

- 13.1 Any liability of FLEXXCOLLAR.COM is limited to the amount paid out by FLEXXCOLLAR.COM's insurance in the case in question. If and to the extent that there is no insurance payout, any liability of FLEXXCOLLAR.COM will be capped at the invoice value of the part of the Products delivered and paid for or the work performed and paid for that caused the loss or damage, up to a maximum of EUR 25,000.
- 13.2 Any liability of FLEXXCOLLAR.COM beyond the limits specified in this article is excluded. FLEXXCOLLAR.COM does explicitly not accept liability for indirect and/or consequential loss or damage, including intangible loss or damage and trading losses. The Customer will indemnify FLEXXCOLLAR.COM against third-party claims in this regard.
- 13.3 FLEXXCOLLAR.COM employees or third parties engaged by FLEXXCOLLAR.COM for the performance of the Agreement can, toward the Customer, rely on all means of defense that can be derived from the Agreement as if they themselves were a party to the Agreement.
- 13.4 Any claim against FLEXXCOLLAR.COM, barring any claims acknowledged by FLEXXCOLLAR.COM, shall expire as soon as twelve months have passed since inception of the claim.

## Article 14 Transfer of rights and obligations

- 14.1 FLEXXCOLLAR.COM is allowed to transfer the rights and obligations specified in any Agreement with the Customer to third parties. The Customer is not authorized to transfer its rights and/or obligations under an Agreement to a third party without FLEXXCOLLAR.COM's prior written consent.

## Article 15 Applicable law / dispute settlement

- 15.1 These Terms, as well as the Agreement, are governed by Dutch law. The 1980 Vienna Sales Convention does not apply.
- 15.2 To the extent that the Agreement does not provide otherwise, all disputes will be submitted to the competent court in Amsterdam.

## Article 16 Other terms

- 16.1 Nullity of one of the provisions in these Terms does not affect the validity of the other provisions. If this is the case, the null and void provisions will be replaced by new provisions that stay as close as possible to the contents, scope, and object of the old voided provisions.
- 16.2 If FLEXXCOLLAR.COM omits to demand compliance with any provision within a term specified in the Agreement, this will not affect FLEXXCOLLAR.COM's right to demand compliance later, unless FLEXXCOLLAR.COM has explicitly accepted the non-compliance in writing.
- 16.3 The Terms were originally compiled in Dutch. In the event of a difference in interpretation in a translated version of these Terms, the Dutch version is authentic and shall prevail.