

## TERMS OF DELIVERY DEVI-STAIRLIFTS

Version:	1.3
Valid from:	October 2022

### 1. Applicability

- 1.1 These general conditions for the delivery of goods and services are applicable to all agreements and requests for quotes, offers or acceptances with respect to agreements whereby DeVi-Stairlifts provides goods or services (hereinafter: Goods) to a another party or otherwise accepts an order from that party (hereinafter: 'the Other Party'), all in the broadest sense.
- 1.2 The applicability of general conditions or other stipulations to which the Other Party refers in any form is explicitly excluded, except if and in so far as these have been accepted by DeVi-Stairlifts in writing.
- 1.3 It is confirmed between DeVi-Stairlifts and the Other Party that once a contract has been concluded that is governed by these conditions, these conditions will be applicable in full to later agreements between the same parties, unless agreed otherwise in writing.

### 2. Quote, offers and agreement

- 2.1 All quotes, official prices, offers (among which via the UP webshop) and other notices from DeVi-Stairlifts are without obligation at all times.
- 2.2 The agreement between DeVi-Stairlifts and the Other Party will only be effected following written confirmation by DeVi-Stairlifts of the acceptance of the offers and quotes by the Other Party, or from the moment at which DeVi-Stairlifts commences performance of the agreement.
- 2.3 An offer is valid for thirty (30) days, unless otherwise stated.

### 3. Sizes, weights, drawings, images and technical details

- 3.1 The sizes, weights and technical details stated by DeVi-Stairlifts in official lists, invoices, leaflets, catalogues, stock lists, circulars, electronic data carriers, the website and other advertising material of any kind, as well as the drawings and images shown therein, are for approximation purposes only and are without obligation, unless explicitly agreed otherwise in writing. DeVi-Stairlifts is not liable for inaccuracies in or deviations from the aforesaid information.
- 3.2 The intellectual property rights to the images, drawings, diagrams, designs, models and moulds made by DeVi-Stairlifts and/or by order of the Other Party, and all that concerns further the performance of the agreement, irrespective of whether costs have been charged for this, are vested exclusively in DeVi-Stairlifts and are not transferred as part of the agreement with the Other Party.
- 3.3 The Other Party is not entitled to use, reproduce, publish or disclose to third parties all or part of the documents or otherwise as referred to in this article without prior written permission from DeVi-Stairlifts, unless for its own use or documentation that is explicitly intended for the end user.
- 3.4 The images, drawings, diagrams and designs referred to in this article, and in general all that is produced and/or published by DeVi-Stairlifts, remains in its full ownership and must be returned to it immediately on request.
- 3.5 DeVi-Stairlifts is not liable for inaccuracies in and deviations from images, drawings, diagrams and designs etc. arising in information carriers of DeVi-Stairlifts referred to under Article 3.1.

- 3.6 The installation drawing is created by DeVi-Stairlifts with care. However, the drawing is created with information provided by the Other Party. DeVi-Stairlifts is not liable for inaccuracies in and deviations from the installation drawing.

#### 4. Prices

- 4.1 The prices quoted by DeVi-Stairlifts are without obligation at all times, in the sense that they are based at all times on the information provided at the time of the request and (partly) depend on raw material, the exchange rates of foreign currencies, insurance premiums, carriage, delivery Ex Works, margin schemes and other costs, and are only valid for the quantities offered. Unless stated otherwise, the prices are quoted per item, in euros and are exclusive of turnover tax and other government charges on the sale and delivery.
- 4.2 If following the date of the agreement one or more cost price factors are subject to an increase, even if this as a consequence of foreseeable circumstances, DeVi-Stairlifts will be entitled to increase the agreed price accordingly.

#### 5. Delivery and delivery times

- 5.1 Unless stated otherwise in writing, all deliveries take place at the DeVi-Stairlifts facility in Opmeer, Netherlands, 'Ex Works'. At the request of the other party DeVi-Stairlifts will take care of the loading of the Goods on the means of transport, such at the risk of the Other Party.  
Delivery at another location is on the account and at risk (for loss and damage) of the Other Party. Insurance is not the responsibility of DeVi-Stairlifts.
- 5.2 The Goods have been delivered when DeVi-Stairlifts has notified the Other Party in writing that the Goods are ready to be picked-up or to be transported on its instructions. If the Other Party fails to take the Goods in its possession within reasonable time, the risk of damage, loss or impairment transfers to the Other Party and DeVi-Stairlifts is entitled to charge the Other Party storage costs
- 5.3 The delivery times stated by DeVi-Stairlifts are approximate only and are never deadlines (not a '*fatale termijn*'), unless a particular delivery time has been explicitly guaranteed by DeVi-Stairlifts in writing.
- 5.4 The agreed delivery periods commence on the day that the Other Party has made all the necessary information and documents available to DeVi-Stairlifts.
- 5.5 If delivery is not made promptly, DeVi-Stairlifts must be served written notice of default by the Other Party, demanding that it complies with its obligations within a reasonable period of time.
- 5.6 If as a consequence of a situation of force majeure, DeVi-Stairlifts cannot be reasonably expected to meet its delivery obligations, it will be entitled to postpone delivery for a period of time equal to the continuation of this force majeure or other circumstances of a similar nature.
- 5.7 An exceeding of the delivery deadline does not entitle the Other Party to terminate all or part of the agreement and/or to claim compensation, unless the Other Party can prove deliberate intent ('*opzet*') or intentional recklessness ('*bewuste roekeloosheid*') on the part of DeVi-Stairlifts.
- 5.8 If the delivery cannot be made at the agreed time or within the agreed period of time, DeVi-Stairlifts will be entitled to make part deliveries. This does not apply in the event that a part delivery has no separate value. In the case of part deliveries, DeVi-Stairlifts is also entitled to invoice each part delivery separately in accordance with the applicable payment conditions.

## 6. Payment

- 6.1 Payment must be made immediately after placing an order, but in any case prior to delivery. If parties agree in writing that the Other Party is allowed to deferred payment, such payment of the invoice must have been credited to the account of DeVi-Stairlifts within thirty (30) days of the invoice date. Deviating payment schemes or cash payments must be confirmed in writing in advance by DeVi-Stairlifts.
- 6.2 DeVi-Stairlifts is entitled to make partial delivery of Goods and to invoice and/or to invoice periodically.
- 6.3 The payment term referred to in Article 6.1 is a deadline (*'fatale termijn'*). If no payment in full, or if no payment in full of instalments has been made, the Other Party will be deemed to be in default and the amount due by the Other Party plus statutory Dutch commercial interest will be payable without further notice of default or summons, whereby part of one (1) month will be considered as a full month for the purposes of the outstanding amount payable (principal including credit charges of 1.5% per month and statutory commercial interest).
- 6.4 If DeVi-Stairlifts is required to take judicial or extrajudicial measures in connection with late payment, all costs arising therefrom will be charged to the Other Party, which will amount to at least 15% of the outstanding amount due with a minimum of EUR 150, notwithstanding the right to full compensation.
- 6.5 DeVi-Stairlifts is entitled, notwithstanding deviating regulations or provisions, to deduct all payments from the interest and/or costs owed to DeVi-Stairlifts, in such order as to be decided on by DeVi-Stairlifts.
- 6.6 If the Other Party has or will obtain one or more claims or counterclaims against DeVi-Stairlifts for whatever reason, the Other Party waives the right of setoff with respect to this claim or these claims.

## 7. Complaints and return of Goods

- 7.1 The Other Party must check the Goods immediately after delivery for any deviations from that which has been agreed. Any complaints concerning the Goods delivered must be submitted to DeVi-Stairlifts in writing, accompanied by the corresponding packing slip, no later than on the seventh (7th) day following the delivery date. Following the expiry of the aforementioned period of time, the Goods delivered will be deemed to have been accepted irrevocably and unconditionally by the Other Party. Complaints made orally and complaints submitted following the expiry of the aforesaid period of time will not be accepted.
- 7.2 The Other Party is required to keep the defective Goods available for DeVi-Stairlifts, including for inspection purposes. The submission of a complaint does not suspend the Other Party's payment obligation with respect to the Goods that are the object of the dispute.
- 7.3 Should the Goods be visibly damaged on the outside upon arrival, the Other Party must make a written complaint concerning this towards the carrier and, contrary to the above, it must notify DeVi-Stairlifts of this (with a copy of the written complaint) within twenty-four (24) hours of receipt.
- 7.4 Complaints concerning faulty Goods which have been delivered Ex Works must be submitted immediately upon delivery.
- 7.5 The defective Goods may only be returned following consultation with DeVi-Stairlifts and goods for repair will only be accepted if they have been sent carriage paid. The above also applies if DeVi-Stairlifts has declared that it agrees to the Goods being returned for repair without this having been qualified as a complaint.
- 7.6 If Goods have been assembled or processed by the Other Party, complaints are no longer permitted, irrespective of the grounds, including wrong delivery, even if such a complaint is submitted within the stipulated period of time; in such cases DeVi-Stairlifts will not be obliged to make any compensation in any form whatsoever.
- 7.7 If Goods have been returned to DeVi-Stairlifts for repair without this constituting a complaint, these Goods will be considered as delivered to the Other Party, with all the associated

consequences, whereas the actual and potential costs of repair and transport will be charged to the Other Party.

- 7.8 In case of a recall of Goods, DeVİ-Stairlifts will supply the (headquarters of the) Other Party with replacement parts. All other cost are for the account of the Other Party.
- 7.9 The Other party is obligated to maintain a minimum level of spare parts in stock for intervention.

## **8. Guarantee**

- 8.1 Any guarantees which have been made by DeVİ-Stairlifts with regard to the delivered Goods, have to be recorded in writing. In the absence of such a written statement, the Other Party cannot invoke a guarantee, notwithstanding any rights under the rules of mandatory Dutch law.
- 8.2 DeVİ-Stairlifts guarantees that her products meet the necessary safety requirements, and that the products are suitable for the use agreed. DeVİ-Stairlifts is not able to guarantee a trouble-free operation. The Other Party is obligated to verify whether the use is qualified and meets the national requirements when used outside the Netherlands. In that case DeVİ-Stairlifts can apply different (warranty) terms to these products and/ or services.
- 8.3 All our products, besides the batteries, have a 1 year warranty, from the date of the invoice. Batteries have a half year warranty, from the date of the invoice. During the warranty DeVİ-Stairlifts will, in case of defects caused by material- and construction defects, replace or repair the defective part of the product (excl. shipping and repair costs), batteries excepted.
- 8.4 The Goods need to be sent to DeVİ-Stairlifts by the Other Party, carriage paid. If a defective part is replaced by DeVİ-Stairlifts, the original/ defective part is not returned to the Other Party. The Other Party bears the costs of the man-hours worked by DeVİ-Stairlifts for carrying out the work under warranty.
- 8.5 The guarantee does not apply if
- a defect is the result of normal wear and tear, lack of maintenance, incompetent use, carelessness, incorrect installation or incorrect tests with the Goods, attempts at repairs not permitted by DeVİ-Stairlifts, unauthorised changes to or use of the Goods or if the defect is the consequence of abnormal use of the Goods or fire or another accident;
  - a defect was reasonably detectable at the time of the delivery and was not submitted in accordance with article 7;
  - during the guarantee period any repairs or changes are made to the Goods sold and/or delivered without prior written permission of the guarantor;
  - the Other Party does not comply in time with its payment obligations; the warranty will expire.
- 8.6 The Other Party may not refuse to make any payment on the grounds of the fact that any guarantee obligation has not been complied with, or not yet or not in full.
- 8.7 If Goods delivered under a manufacturer's or importer's guarantee are returned to allow the manufacturer or importer concerned to assess the guarantee; any costs that may arise for DeVİ-Stairlifts will be charged to the Other Party. A claim under guarantee will be dealt with entirely at the discretion of the manufacturer or importer concerned.

## **9. Force majeure**

- 9.1 In these conditions, force majeure is taken to mean all that is understood in this regard by law and in case law, as well as all external causes, foreseen or unforeseen, on which DeVİ-Stairlifts can exercise no influence, as a result of which it is unable to guarantee that it can comply with its obligations. Force majeure suspends DeVİ-Stairlifts from its contractual obligations, without being liable for any loss and/or damage.

## **10. Suspending, advance payment, security and cancellation**

- 10.1 DeVi-Stairlifts is entitled to suspend performance of all or part of the agreement if and for as long as the Other Party fails to comply, or fails to comply properly or in full, with any obligation towards DeVi-Stairlifts under the agreement between the Other Party and DeVi-Stairlifts.
- 10.2 DeVi-Stairlifts is also entitled, if in its reasonable opinion the financial situation of the Other Party gives reason to do so, to demand payment in advance or security in the form of a bank guarantee, mortgage, pledge or deposit, and while awaiting such to suspend full or partial performance of the agreement.

## **11. Retention of title**

- 11.1 All Goods delivered remain exclusively the property of DeVi-Stairlifts until such moment when the Other Party has complied with all obligations arising from or relating to the agreements whereby DeVi-Stairlifts has undertaken to deliver, including claims with respect to fines, interest and costs, including costs due to loss in value and/or the return of Goods delivered. Until that moment the Other Party is required to keep the Goods delivered by DeVi-Stairlifts separate from other Goods and to store them clearly identified as the property of DeVi-Stairlifts, and to insure them and keep them insured properly and also not to proceed to process or use these Goods.
- 11.2 Despite the retention of title, the Goods delivered will be retained by the Other Party at its own risk and expense.
- 11.3 If there is a justifiable fear that the Other Party is failing to comply with any obligation towards DeVi-Stairlifts by virtue of Article 11.1, the Other Party is required to place the Goods delivered under retention of title, or any elements and/or Goods newly created therefrom, at the disposal of DeVi-Stairlifts should the latter so demand. If the Other Party fails to cooperate in this, DeVi-Stairlifts will be entitled without any prior notice of default to take possession of the Goods delivered forthwith, for which the Other Party hereby gives its unconditional and irrevocable permission for DeVi-Stairlifts or a third party to be designated by it to enter those premises where the Goods of DeVi-Stairlifts are being kept and to take them back. The costs of taking and/or handing back the Goods will be charged to the Other Party.
- 11.4 As long as the aforementioned obligations have not been met, the Other Party will not be entitled to sell the Goods concerned or to establish a right of pledge or a non-possessory pledge on the Goods concerned. If the Other Party nevertheless delivers the Goods delivered under retention of title to a third party, the Other Party is required to retain the ownership of the Goods concerned.

## **12. Loss and/or damage and liability**

- 12.1 DeVi-Stairlifts, its employees or third parties engaged by it are not liable for any loss and/or damage incurred by the Other Party with respect to any obligation to deliver, the delivery of Goods, the delivered Goods themselves or their use, the properties or quality of the Goods sold and/or delivered, or any work or services provided or advice given by DeVi-Stairlifts or on its behalf, including loss and/or damage caused by failure to comply properly with an obligation to repair the Goods or restore the situation.
- 12.2 Liability for indirect losses, consequential losses, intangible losses or direct trading losses is also expressly excluded. Similarly, the following do not qualify for compensation: transport costs, travel and accommodation costs, the costs of assembly, disassembly and/or installation or reinstallation, a reduction in profits and business interruption even if DeVi-Stairlifts has been informed of the possibility of such forms of loss and/or damage.
- 12.3 That stated in paragraphs 12.1 and 12.2 does not apply if and in so far as the Other Party can prove deliberate intent ('opzet') or intentional recklessness ('bewuste roekeloosheid') on

the part of DeVi-Stairlifts, in which case DeVi-Stairlifts will never be liable for more than compensation of the direct loss and/or damage incurred by the Other Party.

- 12.4 Liability of DeVi-Stairlifts pursuant to Article 12.3 is limited at all times to replacing the Goods sold or delivered and/or taking back the Goods sold and/or delivered and crediting the amount invoiced for the Goods sold or delivered, or (in the case of the provision of services) reimbursing the invoice amount relating to the order, such at the discretion of DeVi-Stairlifts at any time.
- 12.5 The Goods delivered by DeVi-Stairlifts comply with the agreed quality standards. However, DeVi-Stairlifts does not guarantee and can never be deemed to have guaranteed or vouched for the fact that the Goods delivered are suitable for the purpose for which the Other Party wishes to handle, process or use them or cause them to be used. Samples are provided merely by way of an indication.

### 13. Indemnity

- 13.1 The Other Party indemnifies DeVi-Stairlifts against all claims from third parties for compensation for loss or otherwise, which are directly or indirectly connected with the agreement(s) concluded, and with this the Goods and/or services delivered by DeVi-Stairlifts as a consequence of claims by third parties. Furthermore, the Other Party indemnifies DeVi-Stairlifts against all claims from third parties for compensation for loss or otherwise which are directly or indirectly connected with the processing and/or sending, by electronic means or otherwise, of the information provided by DeVi-Stairlifts. The indemnity referred to in this article does not apply in the case of deliberate intent ('*opzet*') or intentional recklessness ('*bewuste roekeloosheid*') on the part of DeVi-Stairlifts.

### 14. Termination of the agreement

- 14.1 DeVi-Stairlifts is entitled to -by its choosing- suspend or to terminate the agreement with the Other Party, or the part thereof not yet performed, by registered letter with immediate effect without judicial intervention being required and without being obliged to pay any compensation for any form of loss and/or damage, notwithstanding the right of DeVi-Stairlifts to full compensation from the Other Party for costs and loss and/or damage, if:
- the Other Party refuses to pay in advance or provide sufficient security should DeVi-Stairlifts so demand, in the circumstance as referred to in Article 10.2;
  - the Other Party (if a natural person) dies;
  - the Other Party applies for or is granted a moratorium;
  - the Other Party is declared bankrupt or a petition is submitted for its bankruptcy;
  - the business of the Other Party is interrupted or liquidated, or is transferred;
  - all or part of the company of the Other Party is dissolved;
  - there is a substantial change in the ratio of shares and/or votes within the business of the Other Party;
  - a substantial part of the assets of the Other Party is attached, and this attachment is not lifted within a reasonable period of time;
  - the Other Party does not comply, or does not comply in full, properly or promptly, with any obligation arising from the agreement towards DeVi-Stairlifts and, despite a request to this effect, has failed within seven (7) days of such a request to rectify the breach.
- 14.2 In addition to that stated in Article 14.1, after the force majeure on the part of DeVi-Stairlifts as referred to in Article 9.1 has lasted for more than six (6) months, both the Other Party and DeVi-Stairlifts may terminate the agreement by registered letter, or solely that part of the obligations that has not been fulfilled. In that case, the Parties have no right to compensation as a consequence of the termination or loss and/or damage incurred or to be incurred.
- 14.3 All claims which DeVi-Stairlifts may have or acquire in the case referred to in this article will be immediately due and payable.

- 14.4 Notwithstanding its other rights, in the situations as described in Articles 14.1 and 14.2 DeVi-Stairlifts has the right to suspend all its obligations by virtue of one or more agreements concluded with the Other Party.
- 14.5 The Other Party is entitled to terminate the agreement at any time by giving notice of such termination to DeVi-Stairlifts. The termination shall take effect 30 days after the date on which DeVi-Stairlifts receives the notice. After the notice of termination has taken effect, the Other Party shall pay to DeVi- Comfort the agreed price minus the costs to be saved as a result of the termination. The minimum amount of compensation is 25% of that which the Other Party would have had to pay if the agreement had been performed.
- 14.6 Termination as referred to in this article will not terminate the rights of DeVi-Stairlifts, which in view of their nature are intended to continue in force.

## **15. Transfer of rights and obligations**

- 15.1 Without the prior written permission of DeVi-Stairlifts, the Other Party is not permitted to cede, pledge or transfer the ownership of any rights and obligations ensuing from the agreement to third parties, for whatever reason.

## **16. Confidentiality and communication**

- 16.1 Prior to as well as after the signing of the agreement by both parties, as well as after termination of the agreement without prior written permission from DeVi-Stairlifts, the Other Party will not disclose any information to third parties concerning the agreement, including but not limited to the use of the agreement for publicity purposes.
- 16.2 The Other Party, its personnel and/or the third parties engaged by it, are required to observe the strictest secrecy concerning all information relating to DeVi-Stairlifts which it may obtain in connection with the agreement or its performance. This duty of confidentiality also encompasses all information on customers and/or other business contacts of DeVi-Stairlifts of which the Other Party gains knowledge by reason of its work.
- 16.3 The Other Party will impose in writing the same duty of confidentiality on third parties and/or their employees involved in the performance of the agreement.

## **17. Amendments to the conditions**

- 17.1 DeVi-Stairlifts reserves the right to amend these general conditions at any time. Amendments will be notified to the Other Party in writing or electronically by email and will enter into force one (1) month after the date of notification, unless stated otherwise in the notification. If the Other Party has not submitted an objection, stating reasons, to the amendments to the General Conditions within one (1) month of the notification, the Other Party will be deemed to have accepted the amendment.

## **18. Waiver of rights**

- 18.1 Failure by DeVi-Stairlifts to enforce any of its rights under this general conditions shall not be taken as or deemed to be a waiver of that right nor shall it deprive DeVi-Stairlifts of the right to insist on adherence to that term at some other time.

## **19. Consequences of nullity or voidability**

19.1 If a provision of these Terms of Delivery is fully or partly in violation of a mandatory statutory provision, then this shall not affect the validity of the other Purchase Terms and Conditions and these shall for the remainder remain in full force and effect. With regard to the invalid, nullified or cancelled provisions DeVi-Stairlifts shall, to replace the relevant provisions, establish new provisions in consultation with the Other Party that are, in terms of nature and scope, as closely as possible in line with the invalid, void or cancelled provisions.

## **20. The competent court and applicable law**

20.1 All disputes are subject to Dutch law and will be submitted exclusively to the competent court of the district in which DeVi-Stairlifts has its registered office, namely the district court of Noord-Holland, unless the law declares under the rules of mandatory law that another court has jurisdiction. The applicability of the Vienna Sales Convention is excluded.