

Article 1 General

1. These terms and conditions apply to every offer, quotation and agreement between EcoCat BV, hereinafter referred to as "EcoCat", and a Other Party to which EcoCat has declared these terms and conditions applicable, insofar as the parties have not expressly deviated from these terms and conditions in writing.
2. The present terms and conditions also apply to agreements with EcoCat, for the implementation of which third parties must be involved by EcoCat.
3. These general terms and conditions are also written for the employees of EcoCat and its management.
4. The applicability of any purchase- or other conditions of the Other Party is expressly rejected.
5. If at any time one or more provisions in these general terms and conditions are wholly or partially invalid or should be annulled, the other provisions of these general terms and conditions will remain fully applicable. EcoCat and the Other Party will then enter into consultation in order to agree on new provisions to replace the void or voided provisions, taking into account as much as possible the purpose and intent of the original provisions.
6. If there is a lack of clarity regarding the interpretation of one or more provisions of these general terms and conditions, the explanation must be given 'in the spirit' of these provisions.
7. If a situation arises between the parties that is not regulated in these general terms and conditions, this situation must be assessed in the spirit of these general terms and conditions.
8. If EcoCat does not always require strict compliance with these terms and conditions, this does not mean that the provisions thereof do not apply, or that EcoCat would to any extent lose the right to demand strict compliance with the provisions of these terms and conditions in other cases.

Article 2 Quotations and offers

1. All quotations and offers from EcoCat are without obligation, unless a term for acceptance has been set in the quotation. A quotation or offer expires 30 days after the date of the quotation.
2. EcoCat cannot be held to its quotations or offers if the Other Party can reasonably understand that the quotations or offers, or a part thereof, contain an obvious mistake or error.
3. The prices stated in a quotation or offer are exclusive of VAT and other government levies, any costs to be incurred in the context of the agreement, including travel and accommodation, shipping and administration costs, unless indicated otherwise.
4. If the acceptance (whether or not on minor points) deviates from the offer included in the quotation or offer, EcoCat is not bound by it. The agreement will then not be concluded in accordance with this deviating acceptance, unless EcoCat indicates otherwise.
5. A compounded quotation does not oblige EcoCat to perform part of the assignment for a corresponding part of the stated price. Offers or quotations do not automatically apply to future orders.

Article 3 Contract duration; delivery times, implementation and amendment of the agreement

1. The agreement between EcoCat and the Other Party is entered into for an indefinite period of time, unless the nature of the agreement dictates otherwise or if the parties expressly agree otherwise in writing.
2. If a term has been agreed or specified for the completion of certain activities or for the delivery of certain items, this is never a strict deadline. If a term is exceeded, the Other Party must therefore give EcoCat written notice of default. EcoCat must be offered a reasonable term to still implement the agreement.
3. If EcoCat requires information from the Other Party for the execution of the agreement, the implementation period will not commence until after the Other Party has made this available to EcoCat correctly and completely.
4. Delivery by EcoCat is ex works. The Other Party is obliged to take delivery of the goods the moment they are made available to it. If the Other Party refuses to take delivery or is negligent in providing information or instructions that are necessary for the delivery, EcoCat is entitled to store the goods at the expense and risk of the Other Party.
5. EcoCat has the right to have certain activities performed by third parties.
6. EcoCat is entitled to execute the agreement in different phases and to invoice the part thus executed separately.
7. If the agreement is executed in phases, EcoCat can suspend the execution of those parts that belong to a following phase until the Other Party has approved the results of the preceding phase in writing.
8. If during the execution of the agreement it appears that it is necessary for a proper execution to change or supplement it, the parties will proceed to adjust the agreement in good time and in mutual consultation. If the nature, scope or content of the agreement, whether or not at the request or direction of the Other Party, of the competent authorities, etc., is changed and the agreement is changed in qualitative and/or quantitative terms as a result, this may also have consequences. for what was originally agreed. As a result, the originally agreed amount can be increased or decreased. EcoCat will quote as much as possible in advance of this. Furthermore, by changing the agreement, the originally stated term of execution can be changed. The Other Party accepts the possibility of amending the agreement, including the change in price and term of execution.
9. If the agreement is amended, including an addition, EcoCat is entitled to implement it only after approval has been given by the authorized person within EcoCat and the Other Party has agreed to the price and other conditions stated for the implementation, including the to be determined time at which it will be implemented. Not or not immediately executing the amended agreement does not constitute a breach of contract on the part of EcoCat, nor is it a ground for the Other Party to terminate the agreement. Without being in default, EcoCat can refuse a request to amend the agreement, if this could have qualitative and/or quantitative consequences, for example for the work to be performed or items to be delivered in that context.

10. If the Other Party should fail to properly fulfil its obligations towards EcoCat, the Other Party will be liable for all damage (including costs) on the part of EcoCat as a result, whether directly or indirectly.
11. If EcoCat agrees a fixed price with the Other Party, EcoCat is nevertheless entitled at all times to increase this price without the Other Party being entitled to dissolve the agreement for that reason, if the price increase results from a power or obligation under the law or regulations or is caused by an increase in the price of raw materials, wages, etc. or on other grounds that were not reasonably foreseeable when the agreement was entered into.
12. If the price increase, other than as a result of an amendment to the agreement, amounts to more than 10% and takes place within three months after the conclusion of the agreement, then only the Other Party who is entitled to invoke Title 5 Section 3 of Book 6 of the Dutch Civil Code is entitled to dissolve the agreement by means of a written statement, unless EcoCat is then still willing to perform the agreement on the basis of what was originally agreed, or if the price increase results from an authority or an obligation resting on EcoCat under the law or if it has been stipulated that the delivery will take place more than three months after the purchase.

Article 4 Suspension, dissolution and early termination of the agreement

1. EcoCat is authorized to suspend the fulfilment of the obligations or to dissolve the agreement if:
 - the Other Party does not, not fully or not timely fulfil its obligations under the agreement;
 - circumstances that have come to the attention of EcoCat after the conclusion of the agreement give good grounds to fear that the Other Party will not fulfil its obligations;
 - the Other Party was requested when concluding the agreement to provide security for the fulfilment of its obligations under the agreement and this security is not provided or is insufficient;
 - If, due to the delay on the part of the Other Party, EcoCat can no longer be expected to fulfil the agreement under the originally agreed conditions, EcoCat is entitled to dissolve the agreement.
2. Furthermore, EcoCat is authorized to dissolve the agreement if circumstances arise of such a nature that fulfilment of the agreement is impossible or if other circumstances arise that are of such a nature that unaltered maintenance of the agreement cannot reasonably be expected of EcoCat.
3. If the agreement is dissolved, EcoCat's claims against the Other Party are immediately due and payable. If EcoCat suspends the fulfilment of its obligations, it retains its rights under the law and agreement.
4. If EcoCat proceeds to suspension or dissolution, it is in no way obliged to compensate damage and costs incurred in any way.
5. If the dissolution is attributable to the Other Party, EcoCat is entitled to compensation for the damage, including the costs, incurred directly and indirectly as a result.
6. If the Other Party does not fulfil its obligations arising from the agreement and this non-compliance justifies dissolution, EcoCat is entitled to dissolve the agreement immediately and with immediate effect without any obligation on its part to pay any compensation or compensation, while the Other Party, due to breach of contract, is obliged to pay compensation or indemnification.
7. If the agreement is terminated prematurely by EcoCat, EcoCat will arrange for the transfer of work still to be performed to third parties in consultation with the Other Party. This unless the termination is attributable to the Other Party. If the transfer of the work entails additional costs for EcoCat, these will be charged to the Other Party. The Other Party is obliged to pay these costs within the specified term, unless EcoCat indicates otherwise.
8. In the event of liquidation, of (application for) suspension of payments or bankruptcy, of attachment - if and insofar as the attachment is not lifted within three months - at the expense of the Other Party, of debt restructuring or any other circumstance as a result of which the Other Party can no longer freely dispose of its assets, EcoCat is free to terminate the agreement with immediate effect or to cancel the order or agreement, without any obligation on its part to pay any compensation or compensation. In that case, EcoCat's claims against the Other Party are immediately due and payable.
9. If the Other Party cancels an order placed in whole or in part, the goods ordered or prepared for that purpose, plus any delivery, removal and delivery costs thereof and the working time reserved for the execution of the agreement, will be charged in full to the Other Party.

Article 5 Force majeure

1. EcoCat is not obliged to fulfil any obligation towards the Other Party if it is prevented from doing so as a result of a circumstance that is not due to fault, and is not for its account under the law, a legal act or generally accepted standards.
2. Force majeure in these general terms and conditions is understood to mean, in addition to what is understood in the law and jurisprudence, all external causes, foreseen or unforeseen, over which EcoCat has no influence, but as a result of which EcoCat is unable to fulfil its obligations. Including strikes in EcoCat's or third-party business. EcoCat also has the right to invoke force majeure if the circumstance that prevents (further) fulfilment of the agreement occurs after EcoCat should have fulfilled its obligation.
3. EcoCat can suspend the obligations under the agreement during the period that the force majeure continues. If this period lasts longer than two months, each of the parties is entitled to dissolve the agreement, without any obligation to pay compensation to the other party.
4. Insofar as EcoCat has partially fulfilled or will be able to fulfil its obligations under the agreement at the time of the occurrence of force majeure, and the part fulfilled or to be fulfilled has independent value, EcoCat is entitled to invoice the already fulfilled or to be fulfilled part separately. The Other Party is obliged to pay this invoice as if it were a separate agreement.

Article 6 Payment and collection costs

1. Payment must be made within 14 days of the invoice date, in a manner to be indicated by EcoCat in the currency in which the invoice is made, unless otherwise indicated in writing by EcoCat. EcoCat is entitled to invoice periodically.
2. If the Other Party fails to pay an invoice on time, the Other Party is legally in default. The Other Party will then owe an interest of 1% per month, unless the statutory interest is higher, in which case the statutory interest is due. The interest on the amount due will be calculated from the moment that the Other Party is in default until the moment of payment of the full amount owed.
3. EcoCat has the right to have the payments made by the Other Party go first of all to reduce the costs, then to reduce the interest due and finally to reduce the principal sum and the current interest.
4. EcoCat may, without being in default as a result, refuse an offer of payment if the Other Party designates a different order for the allocation of the payment. EcoCat may refuse full repayment of the principal if the outstanding and current interest and collection costs are not also paid.
5. The Other Party is never entitled to set off the amount owed by it to EcoCat.
6. Objections to the amount of an invoice do not suspend the payment obligation. The Other Party who cannot invoke Section 6.5.3 (Articles 231 to 247, Book 6 of the Dutch Civil Code) is also not entitled to suspend payment of an invoice for any other reason.
7. If the Other Party is in default or in default in the (timely) fulfilment of its obligations, then all reasonable costs incurred in obtaining payment out of court will be borne by the Other Party. The extrajudicial costs are calculated on the basis of what is customary in Dutch collection practice, currently the calculation method according to Rapport Voorwerk II. However, if EcoCat has incurred higher costs for collection that were reasonably necessary, the costs actually incurred will be eligible for reimbursement. Any judicial and enforcement costs incurred will also be recovered from the Other Party. The Other Party also owes interest on the collection costs owed.

Article 7 Retention of title

1. All goods delivered by EcoCat in the context of the agreement remain the property of EcoCat until the Other Party has properly fulfilled all obligations under the agreement(s) concluded with EcoCat.
2. Goods delivered by EcoCat that fall under the retention of title pursuant to paragraph 1. may not be resold and may never be used as a means of payment. The Other Party is not authorized to pledge or in any other way encumber the items subject to retention of title.
3. The Other Party must always do everything that can reasonably be expected of it to safeguard EcoCat's property rights.
4. If third parties seize the goods delivered subject to retention of title or wish to establish or assert rights thereon, the Other Party is obliged to immediately inform EcoCat thereof.
5. The Other Party undertakes to insure and keep insured the goods delivered subject to retention of title against fire, explosion and water damage as well as against theft and to make the policy of this insurance available for inspection to EcoCat on first request. EcoCat is entitled to these tokens if the insurance is paid out. Insofar as necessary, the Other Party undertakes in advance towards EcoCat to cooperate with everything that may (prove) to be necessary or desirable in that context.
6. In the event that EcoCat wishes to exercise its property rights referred to in this article, the Other Party in advance grants unconditional and irrevocable permission to EcoCat and third parties to be designated by EcoCat to enter all those places where EcoCat's property is located and to take back those items.

Article 8 Warranties, research and complaints, limitation period

1. The goods to be delivered by EcoCat meet the usual requirements and standards that can reasonably be set at the time of delivery and for which they are intended under normal use in The Netherlands. The warranty referred to in this article applies to items intended for use within The Netherlands. When used outside The Netherlands, the Other Party itself must verify whether its use is suitable for use there and whether it meets the conditions set for it. In that case EcoCat can set other warranty and other conditions with regard to the goods to be delivered or work to be performed.
2. The guarantee referred to in paragraph 1 of this article applies for a period of 24 months after delivery, unless the nature of the delivered goods dictates otherwise or the parties have agreed otherwise. If the warranty provided by EcoCat concerns an item produced by a third party, the warranty is limited to that provided by the manufacturer of the item, unless otherwise stated.
3. Any form of warranty will lapse if a defect has arisen as a result of or arises from injudicious or improper use thereof or use after the best-before date, incorrect storage or maintenance thereof by the Other Party and/or by third parties when, without written permission from EcoCat, the Other Party or third parties have made or attempted to make changes to the item, other items have been attached to it that should not be attached thereto or if they have been processed or processed in a manner other than the prescribed. The Other Party is also not entitled to warranty if the defect is caused by or is the result of circumstances beyond EcoCat's control, including weather conditions (such as, but not limited to, extreme rainfall or temperatures) et cetera.
4. The Other Party is obliged to inspect the delivered goods or have them examined, immediately at the moment that the goods are made available to it or the relevant work has been carried out. In doing so, the Other Party should investigate whether the quality and/or quantity of the delivered goods corresponds to what has been agreed and meets the requirements that the parties have agreed in this regard. Any visible defects must be reported in writing to EcoCat within seven days of delivery.

Any non-visible defects must be reported to EcoCat in writing immediately, but in any case no later than fourteen days after discovery. The report must contain as detailed a description as possible of the defect, so that EcoCat is able to respond adequately. The Other Party must give EcoCat the opportunity to investigate a complaint or have it investigated.

5. If the Other Party makes a timely complaint, this does not suspend its payment obligation. In that case, the Other Party also remains obliged to purchase and pay for the otherwise ordered goods.
6. If a defect is reported later, the Other Party is no longer entitled to repair, replacement or compensation.
7. If it is established that a good is defective and a complaint has been made in good time, EcoCat will return the defective good within a reasonable term after receipt thereof or, if return is not reasonably possible, written notification with regard to the defect by the Other Party, at the option of EcoCat, replace or arrange for its repair or pay replacement compensation for it to the Other Party. In the event of replacement, the Other Party is obliged to return the replaced item to EcoCat and to transfer ownership thereof to EcoCat, unless EcoCat indicates otherwise.
8. If it is established that a complaint is unfounded, the costs incurred as a result, including the investigation costs incurred by EcoCat as a result, will be borne in full by the Other Party.
9. After the warranty period has expired, all costs for repair or replacement, including administration, shipping and call-out costs, will be charged to the Other Party.
10. Contrary to the statutory limitation periods, the limitation period for all claims and defences against EcoCat and the third parties involved by EcoCat in the execution of an agreement is one year.

Article 9 Liability

1. If EcoCat should be liable, this liability is limited to what is regulated in this provision.
2. EcoCat is not liable for damage, of whatever nature, caused by EcoCat relying on incorrect and/or incomplete information provided by or on behalf of the Other Party.
3. If EcoCat should be liable for any damage, EcoCat's liability is limited to a maximum of twice the invoice value of the order, at least to that part of the order to which the liability relates.
4. EcoCat's liability is in any case always limited to the amount paid out by its insurer, where appropriate.
5. EcoCat is only liable for direct damage.
6. Direct damage is exclusively understood to mean the reasonable costs incurred in determining the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these terms and conditions, any reasonable costs incurred to compensate for the defective performance of EcoCat to have the agreement met, insofar as these can be attributed to EcoCat and reasonable costs incurred to prevent or limit damage, insofar as the Other Party demonstrates that these costs have led to limitation of direct damage as referred to in these general terms and conditions.
7. EcoCat is never liable for indirect damage, including consequential damage, lost profit, lost savings and damage due to business interruption.
8. The limitations of liability included in this article do not apply if the damage is due to intent or gross negligence on the part of EcoCat or its managerial subordinates.

Article 10 Transfer of risk

1. The risk of loss, damage or depreciation is transferred to the Other Party at the moment when goods are brought under the control of the Other Party.

Article 11 Indemnification

1. The Other Party indemnifies EcoCat against any claims from third parties who suffer damage in connection with the execution of the agreement and the cause of which is attributable to others than EcoCat.
2. If EcoCat should be addressed by third parties for this reason, the Other Party is obliged to assist EcoCat both in and out of court and to immediately do everything that may be expected of it in that case. If the Other Party fails to take adequate measures, EcoCat is entitled to do so itself, without notice of default. All costs and damage on the part of EcoCat and third parties arising as a result will be entirely at the expense and risk of the Other Party.

Article 12 Intellectual property

1. EcoCat reserves the rights and powers to which it is entitled under the Copyright Act and other intellectual laws and regulations. EcoCat has the right to use the knowledge gained by the execution of an agreement for other purposes, insofar as no strictly confidential information of the Other Party is disclosed to third parties.

Article 13 Applicable law and disputes

1. All legal relationships to which EcoCat is a party are exclusively governed by Dutch law, even if an agreement is wholly or partially performed abroad or if the party involved in the legal relationship is domiciled there. The applicability of the Vienna Sales Convention is excluded.
2. The judge in EcoCat's place of business has exclusive jurisdiction to hear disputes, unless the law prescribes otherwise. Nevertheless, EcoCat has the right to submit the dispute to the competent court according to the law.
3. The parties will only appeal to the courts after they have made every effort to settle a dispute in mutual consultation.

Article 14 Location and change of terms and conditions

1. These terms and conditions can be found on the EcoCat website and can be obtained directly from EcoCat. The most recently registered version or the version that applied at the time of the establishment of the legal relationship with EcoCat is always applicable.
2. The Dutch text of the general terms and conditions is always decisive for the explanation thereof.