

## PROTEST USA B.V. - GENERAL TERMS AND CONDITIONS

### 1 Definitions

- 1.1 In these general terms and conditions (the '**Conditions**'), the terms below have the following meanings unless explicitly stated otherwise or apparent otherwise from the context:
- a. **Cooling-off period:** the period within which the Purchaser may exercise his or her right of withdrawal;
  - b. **Order:** the wish made known by the Purchaser to purchase a product;
  - c. **Day:** calendar day;
  - d. **Right of withdrawal:** the option of the Purchaser to withdraw from the distance agreement within the cooling-off period;
  - e. **Purchaser:** the natural person who acts for purposes outside his or her business or professional activity and enters into a distance agreement with the Seller;
  - f. **Agreement:** the distance agreement entered into between the Purchaser and the Seller for the distance selling of products, including any changes and additions made later, making sole or partial use of one or more means of distance communication until the conclusion of the agreement;
  - g. **Product:** the tangible article offered by the Seller on its website;
  - h. **Means of distance communication:** a means that can be used to conclude an agreement without the Purchaser and Seller being brought together in the same space at the same time;
  - i. **Seller:** the private limited company PROTEST USA B.V.; and
  - j. **Website:** the website <https://www.protest.eu>.

### 2 Identity of the Seller

Protest USA B.V., with its registered office and principal place of business in Warmond, the Netherlands, being the user of these General Terms and Conditions;

Address: Veerpolder 7, 2361 KX Warmond, the Netherlands  
Email address: [customerservice@protest.eu](mailto:customerservice@protest.eu)  
Telephone number: +31 (0)71-3050210  
Chamber of Commerce no.: 73015113  
VAT number: [NL8593.21.307.B01](#)

### 3 Applicability, amendments and validity

- 3.1 These Conditions are applicable to all orders, agreements, offers, noncontractual obligations and other legal relationships arising from requests or orders by the Purchaser to the Seller concerning the purchase and sale of Products and/or of orders and services provided by the Seller. The stipulations contained in these Conditions have been made

also for the benefit of persons involved on the part of the Seller in the sale and purchase of Products and persons who have any liability in that respect.

3.2 Upon concluding an Agreement, the Purchaser declares that he or she has taken note of and accepts the applicability of the Conditions to the Agreement.

3.3 These Conditions may only be deviated from if this has been explicitly agreed in writing, in which case the remaining provisions of these Conditions will remain fully in force.

3.4 The Seller hereby explicitly excludes all general purchase conditions or other general conditions, other than these Conditions.

#### **4 Offers**

4.1 All offers of the Seller are without obligation and may be withdrawn.

4.2 The offers will remain valid while stocks last, or will be valid for the period of time stated on the website. Even if a period of validity applies to the acceptance of an offer, the offer may be withdrawn. Once the period of validity of the offer has expired, the offer will cease to apply by operation of law and the Purchaser may no longer make use of that offer.

4.3 Information, images and oral announcements communicated by the Seller by telephone or email, and statements of applicability relating to all offers and the main features of the Products will be given or reproduced as fully, accurately and truthfully as possible. The Seller cannot guarantee, however, that all Products are entirely in accordance with the information or applicability described. Deviations consisting of ambiguities or obvious errors and/or mistakes in the descriptions and/or images and/or prices shown are not binding on the Seller and cannot result in compensation or cancellation of the Agreement.

#### **5 Agreements**

5.1 The Agreement is effected upon acceptance by the Purchaser of an offer made by the Seller. If the Purchaser has accepted the offer by electronic means, the Seller will confirm receipt of the acceptance of the offer immediately and by electronic means. As long as the Seller has not confirmed receipt of this acceptance, the Purchaser may cancel the Agreement.

5.2 The Purchaser and Seller explicitly agree that by making use of electronic forms of communication a valid Agreement can be effected as soon as the conditions in Article **Fout! Verwijzingsbron niet gevonden.** have been met. In particular, the absence of a normal signature does not affect the binding nature of the offer and its acceptance.

5.3 The Purchaser may not transfer the rights and obligations under an Agreement to third parties without the Seller's written permission.

5.4 If it becomes apparent that the Seller cannot reasonably be expected to comply with the Agreement, or such compliance is otherwise partially or entirely impossible, the Seller will consult with the Purchaser to seek a solution.

#### **6 Prices**

6.1 All prices quoted are given in Euro's, British Pounds, Hungarian Forint, Polish Zloty, Czech Crown or Swedish Crown and exclusive of taxes and/or import duties/surcharges imposed by any government in relation to the Products that are to be or have been sold at

the moment of delivery or export. Taxes, import duties/surcharges and shipping costs are payable by the Purchaser.

- 6.2 If after the Agreement has been concluded the prices of materials, taxes and/or other factors that also determine the price of the Products undergo a change for any reason, the Seller is entitled to pass these costs on to the Purchaser. In that case the Purchaser is entitled to cancel the Agreement within five (5) days after the new price has been made known to him or her. Cancellation in the manner described above does not give the Purchaser any right to compensation for any loss or damage.

## **7 Payments**

- 7.1 Orders placed by the Purchaser may be paid using various payment options as shown on the Seller's website.

- 7.2 In the case of payments by credit card, the Seller reserves the right to check that the credit card is valid, there is a sufficient spending limit for debiting the purchase price and the Purchaser's address details are correct. The Seller reserves the right to refuse the purchase by credit card.

- 7.3 If the Purchaser fails to pay for one or more orders that have already been delivered to the Purchaser, the Seller has the right to refuse to accept new orders or to attach conditions to the order.

- 7.4 The Purchaser must notify the Seller immediately of any error or inaccuracy of an invoice, specification or payment confirmation sent by the Seller to the Purchaser.

- 7.5 In the case of a failed payment, the Seller is entitled to cancel the Agreement with immediate effect or suspend the delivery or further deliveries until the Purchaser has settled his or her payment obligations in full, including payment of interest and costs.

- 7.6 If the Purchaser fails to comply, or fails to comply in time, with any obligation, the Purchaser will be in default without further notice or warning being required, irrespective of whether or not such failure can be attributed to the Purchaser, and the Seller has the right to cancel the Agreement. In that case, the Purchaser may not claim any compensation and the Purchaser will owe the Seller the costs, both in and out of court, relating to the collection of these amounts. The Purchaser will also owe interest equal to statutory interest on the amount due.

- 7.7 All costs incurred by the Seller, both in and out of court, in connection with a dispute with the Purchaser, both as claimant and defendant, will be charged to the Purchaser. Out-of-court costs amount to 15% of the amount due, with a minimum equivalent to €40 in the applicable currency at the moment that these costs are incurred.

## **8 Deliveries and risk**

- 8.1 The Seller will exercise the greatest care in fulfilling the Product orders.

- 8.2 Orders will be delivered as quickly as possible in order of receipt. The Seller will fulfil accepted orders with due speed, however within thirty (30) days, unless a different delivery deadline has been agreed.

- 8.3 If the delivery deadline is not feasible due to a delay in the delivery as a result of delays in the manufacture and/or shipping and/or assembly and/or any other temporary circumstance hampering its fulfilment, or if the accepted order cannot be delivered or can only be partially delivered, the Seller will inform the Purchaser of this no later than within thirty (30) days after the relevant order has been placed. In that case, the Purchaser is entitled to cancel the Agreement, after which the Seller will repay the Purchaser as soon

as possible, but no later than within fourteen (14) days following the cancellation, the amount that the Purchaser has already paid.

- 8.4 Deliveries will be made to the address specified by the Purchaser upon concluding the Agreement.
- 8.5 The risk of damage to or loss of the Products to which the Agreement relates rests with the Seller until the moment of delivery to the Purchaser, unless specifically agreed otherwise.
- 8.6 The Purchaser is obliged to accept the Products at the agreed location(s) at the moment that the Seller delivers, or has a third party deliver, to the Purchaser, or at the moment when these are made available to the Purchaser in accordance with the Agreement. If the Purchaser fails to do so, any resulting costs, including any related shipping costs, will be charged to the Purchaser.

## **9 Exchange and right of withdrawal**

- 9.1 The Purchaser may cancel the Agreement within the cooling-off period of fourteen (14) days following delivery of the Product concerned, without giving reasons. This right of withdrawal does not apply to Products:
- that have been manufactured according to the Purchaser's specifications, that are not prefabricated and are made on the basis of the Purchaser's individual choice or decision, or which are clearly intended for a specific person;
  - that are not suitable to be returned for health protection or hygiene reasons, and where the seal has been broken after delivery;
  - that by their nature have been irrevocably mixed with other goods following delivery; and
  - which by their nature cannot be returned.
- 9.2 During the cooling-off period of fourteen (14) days referred to in Article 9.1, the Purchaser must handle the Product(s) and the packaging with due care. The Purchaser will unpack or use the Product(s) only to the extent that this is required to be able to assess whether he or she wishes to keep the Product(s).
- 9.3 If the Purchaser wishes to invoke his or her right of withdrawal, the Purchaser must return to the Seller the Product(s) with all accessories delivered with it and, if reasonably possible, in their original condition and packaging, within fourteen (14) days following receipt of the Product(s), using the return form enclosed with the order or using the withdrawal form (**Appendix 1**), to the address stated on these forms. The Purchaser must prove that the delivered Product(s) has/have been returned in time, such as by means of proof of dispatch. The risk and the burden of proof that the right of withdrawal has been correctly and promptly exercised therefore rests with the Purchaser.
- 9.4 If the returned Products are damaged, incomplete or used, this damage or loss will be deducted from the amount that the Seller will pay the Purchaser in accordance with Article 9.6.
- 9.5 If the Purchaser cancels the Agreement in accordance with this article, the shipping costs for returning the Product will be at the Purchaser's expense. The Purchaser may apply to a parcel delivery service to obtain a cost overview for returns.
- 9.6 In the event of cancellation as described in this article, within fourteen (14) days following receipt of the returned Products the Seller will refund amounts already paid (purchase price plus shipping costs for the delivery of the Products). In the case of a partial return, the shipping costs will be payable in full by the Purchaser. If the Purchaser has chosen for a

more expensive delivery method than the cheapest standard delivery, the Seller will not be obliged to repay the extra costs of the more expensive method.

- 9.7 If following the cooling-off period of fourteen (14) days the Purchaser has not exercised his or her right of withdrawal or has not returned the Product(s) to the Seller, the sale is irreversible.

## **10 Guarantee and liability**

- 10.1 The Seller warrants that the Products to be delivered comply with the customary requirements and standards that may be set, are suitable for their intended use, and also comply with existing statutory provisions and/or government regulations on the date that the Agreement is effected.

- 10.2 Announcements made by or on behalf of the Seller concerning the quality, composition, uses, properties and treatment of the delivered Products are only a guarantee if they have been explicitly confirmed by the Seller in writing in the form of a guarantee.

- 10.3 The Purchaser may only invoke any guarantee if the Purchaser uses the product in the correct, prescribed manner. This applies in any case where the Product is used in accordance with the product information for the Product delivered by the Seller.

- 10.4 The following are not covered by the guarantee:

- Normal wear and tear of clothing.
- Usual discoloration of clothes in Neon colours.
- Defects caused by incorrect or intensive use.
- Excessive sweating.
- Defects arising from failure to follow the washing instructions correctly.
- Defects caused by external effects, such as rubbing, sharp objects and chemicals, as well as discoloration of swimwear from the effects of the sun and/or sea.
- Defective waterproofing and windproofing of clothing, unless stated otherwise in the product description on the labels.
- Articles that because of their design are physically uncomfortable.

- 10.5 The purchase receipt serves as proof in relation to the guarantee.

- 10.6 The total liability of the Seller towards the Purchaser regarding late and/or defective performance is limited to the amount paid to the Seller by any non-life insurer and, in the absence of a non-life insurer, to the invoice value of the delivery concerned to compensate direct loss, where no more than the invoice amount will be reimbursed, at least to that part of the Agreement to which the liability relates.

- 10.7 Under no circumstances is the Seller liable for compensating indirect loss, such as but not limited to loss incurred, loss from delays, loss as possibly arising from the acts of the Seller's suppliers, consequential loss (to persons or goods), business loss, loss of profits or income, loss of savings, loss caused by business interruptions and/or loss caused by any infringement of intellectual or industrial property rights of third parties.

- 10.8 Equally, under no circumstances is the Seller liable for failure to comply, or failure to comply in time, with the Agreement if this is the result of incorrect or incomplete information supplied by the Purchaser.

- 10.9 Without prejudice to the provisions of this article, the guarantee is invalid if:

- the Purchaser or third parties have made changes to the Product, including repairs that have been made without the permission of the Seller or the manufacturer;

- the original invoice or purchaser receipt cannot be provided, has been altered or has been made illegible;
- the defectiveness is the consequence of improper use, including failure to follow the washing instructions as stated in and on the clothing;
- the delivered Products have been exposed to abnormal conditions or otherwise handled carelessly or have been handled contrary to the instructions of the Seller and/or on the packaging or labels;
- the defectiveness is entirely or partially the consequence of instructions that the government has imposed or will impose with regard to the nature or quality of the materials used; and
- damage is caused due to wilful misconduct or gross negligence on the part of the Purchaser.

10.10 The exclusions and limitations of liability contained in this article do not apply if the damage or loss can be attributed to intent or wilful recklessness on the part of the Seller or its employees.

## **11 Complaints**

11.1 If the Purchaser, before opening the parcel containing the ordered Products, observes damage to the packaging, the Purchaser must contact the Seller immediately. If the Purchaser has already opened the parcel at the moment that the Purchaser observes the damage, the Purchaser must state this on the attached return form.

11.2 The Purchaser is obliged to examine, or have a third party examine, the delivered Products at the moment of delivery to check that the Products comply with the Agreement. If it becomes apparent that the delivered Product is incorrect, defective or incomplete, the Purchaser must inform the Seller accordingly as soon as possible, in any case within 30 (thirty) days of delivery of the Product(s) to the Purchaser, in writing and giving reasons, at the risk of forfeiting all rights.

11.3 If it is not possible to submit a written complaint within the period of time referred to in Article 11.2, a period of 30 (thirty) days from the moment at which the defect was observed or could reasonably have been observed will apply.

11.4 Submission of a complaint will never release the Purchaser from his or her payment obligations, nor does it give the right to suspend his or her payment obligations.

11.5 Slight deviations in quality, colour, size, finish, design and suchlike deemed permissible in the trade or which technically cannot be prevented do not form a basis for complaints or cancellation of the Agreement other than as referred to in Article 9.

11.6 If it has been demonstrated that the Products do not comply with the Agreement, the Seller has the choice of having the Products returned and replacing them with new Products, or refunding all or part of the invoice value.

## **12 Retention of title**

12.1 All Products delivered to the Purchaser remain the property of the Seller until all amounts the Purchaser owes for the Products pursuant to the Agreement, as well as all amounts due to any failure to comply with payment obligations, have been paid in full to the Seller.

12.2 In the cases referred to in Article 12.1 where the Products have remained the property of the Seller, the Seller is entitled to take back the delivered Products. Taking back the Products constitutes a cancellation of the Agreement concluded with the Purchaser. The

Purchaser must lend its cooperation to the Seller to have the Products concerned returned from where they are located.

12.3 The Purchaser is entitled, if and to the extent necessary within the context of its normal business operations, to have at its disposal the Products on which a retention of title rests.

12.4 The Product becomes the property of the Purchaser following full payment.

### **13 Force majeure**

13.1 Without prejudice to its other rights, in the event of force majeure the Seller is not obliged to comply with any obligation if the Seller is prevented from doing so due to a circumstance that is not its fault and is not at its expense pursuant to the law or any legal act or according to generally accepted standards. The Seller is entitled, at its discretion, to suspend its obligations under the Agreement or to cancel the Agreement in writing without any judicial intervention and without being obliged to pay compensation, unless this would be unacceptable in the given circumstances according to standards of reasonableness and fairness.

13.2 A situation of force majeure exists if compliance with the Seller's obligations towards the Purchaser is prevented entirely or partially as a result of a circumstance beyond the Seller's control. This is, but not exclusively, the case in circumstances such as strikes, partial or full immobility, sickness amongst personnel, lockouts or a lack of personnel, epidemics, pandemics, time lost due to winter weather, fire, a lack of raw materials, factory or transport disruptions of any nature whatsoever, import and/or export bans, irrespective of whether these arise at the Seller or at suppliers of the Seller, war and government measures.

13.3 Under no circumstances is the Purchaser permitted to suspend its payment obligation in a situation of force majeure.

### **14 Partial voidness**

14.1 If and to the extent that any provision in these Conditions is declared void in full or in part, or otherwise ceases to be effective, the other provision(s) of the Conditions will remain fully in force. In that case the Seller will determine a new provision to replace all or part of the relevant provision, respecting the purport of the relevant provision as far as possible.

14.2 In the event of conflict between provisions in the Agreement and these Conditions, the provisions in the Agreement will prevail.

14.3 If at any moment the Seller does not strictly abide by the provisions of these Conditions, this does not mean that the Seller loses any right or waives such right in the future.

### **15 Intellectual property rights**

15.1 The Purchaser explicitly acknowledges that all intellectual property rights and information, announcements and other communications relating to the Products and/or relating to the website are vested in the Seller, its suppliers or other rightholders.

### **16 Applicable law and disputes**

16.1 All rights, obligations, offers, orders and agreements concluded with the Seller will be exclusively governed by Dutch law. If and to the extent that mandatory legal provisions of the country in which the Purchaser resides stipulate that the Agreement will be governed by the law of that country, the Seller will respect the applicability of that legal system.

16.2 All disputes between the Purchaser and the Seller relating to the Agreement or its implementation will be resolved by mutual consultation between the parties. If and to the

extent that the dispute cannot be resolved by mutual consultation and the Purchaser resides in the Netherlands, the dispute will be submitted to the competent court within the district in which the Purchaser resides. If the Purchaser resides outside the Netherlands, the Dutch court will have jurisdiction unless another court has exclusive jurisdiction under private international law of the country in which the Purchaser resides.



## **Appendix 1: cancellation / withdrawal form**

The Purchaser may complete this form if he or she wishes to cancel or withdraw from the Agreement.

This form can be sent electronically to [customerservice@protest.com](mailto:customerservice@protest.com) or by post to Veerpolder 7, (2361 KX) Warmond, the Netherlands.

I/We (\*) hereby inform you that I am/we are(\*) cancelling/withdrawing from (\*) our Agreement for the sale and purchase of the following goods:

Ordered on (\*)/Received on (\*):

Name(s) of consumer(s):

Signature(s) of consumer(s):

Date:

*(\*) Delete if not applicable.*