

PRO SEATING B.V. GENERAL TERMS AND CONDITIONS

Article 1: General

1. These general terms and conditions shall apply to all offers and agreements, as well as any transactions resulting from these, between Pro Seating B.V., hereinafter referred to as: Pro Seating®, and you, the customer.
2. The applicability of your own terms and conditions is explicitly excluded.
3. The provisions of any contract shall take precedence if these are inconsistent with the provisions of these general terms and conditions.
4. Should any provision of these general terms and conditions be or become invalid, all remaining provisions shall continue to be valid. You must approve any new provisions. Any such new provisions shall, to the greatest extent possible, correspond with the provisions declared invalid or null and void.

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Article 2: Activities

1. Pro Seating® specialises in seating comfort and manufactures cushions, seating systems and backrest systems for wheelchairs, and cushions for medical treatment chairs.

Article 3: Offer and formation of the contract

1. The validity of an offer shall be stated in the offer. All offers shall be free of obligation.
2. If a customer decides to agree to an offer, the customer shall receive an order confirmation from Pro Seating®.
3. The contract shall be formed once Pro Seating® has sent an order confirmation or when Pro Seating® actually starts work.
4. For products ordered directly from the price list using article numbers, the contract shall be formed once the customer has received an order confirmation from Pro Seating®.

Article 4: Changes to, cancellation of or early termination of contracts

1. If, having entered into a contract, the customer makes changes in respect of the concluded contract, such changes shall be binding only after Pro Seating® has accepted them in writing. Pro Seating® shall also be entitled to set a different delivery date and price and, if applicable, the customer shall refund any costs incurred as a result of the change. This shall be decided on a case-by-case basis, as no two situations are the same.
2. If the customer cancels or terminates the contract early, Pro Seating® shall invoice the customer for the costs incurred when carrying out the order in question, such as costs for working hours and materials.

Article 5: Suspension and termination of the contract

1. Termination of the contract between the customer and Pro Seating® shall only be possible if Pro Seating® confirms termination in writing.
2. Once Pro Seating® has confirmed termination of the contract in writing, the customer shall reimburse Pro Seating® for all costs incurred, such as losses, lost profit and manufacturing costs incurred.

3. Pro Seating® shall be entitled to suspend or terminate the contract in the event of the customer being in default or under the following circumstances:
 - a. the customer petitions for liquidation or suspension of payments;
 - b. a third party seizes the customer's goods;
 - c. the customer – if a natural person – dies;
 - d. if Pro Seating® has reasonable doubts regarding the customer's solvency, Pro Seating® shall be entitled to defer performance of the contract until the customer guarantees payment.

Article 6: Payment amount, payment terms and defaulting

1. Pro Seating® expresses amounts in euros (€). The customer shall also make payment in euros only.
2. The sales prices set by Pro Seating® exclude transport and insurance costs and any discounts, unless otherwise stated.
3. If a fixed discount percentage for the purchase of products has been agreed with the customer, this will be deducted from relevant invoices.
4. Customers must pay the full invoice amount for the products supplied by Pro Seating® within 30 days of the date of invoice, unless otherwise agreed in writing.
5. If a company fails to pay within the period agreed in section 4, that company shall immediately be in default and shall immediately owe interest from the day after the day on which the invoice became due. Interest shall be equal to the statutory interest rate for commercial transactions. The company must also pay all judicial and extrajudicial collection costs incurred by Pro Seating®. Such costs shall in any case amount to 15% of the invoice amount, with a minimum of €150 (one hundred and fifty euros).
6. All of the customer's liabilities shall become due and payable to Pro Seating® in the event of the customer petitioning for suspension of payments (=postponement of payments), being put into liquidation, winding up its business or transferring it in whole or in part to third parties, being placed under administration, or in the event of attachment against the company.

Article 7: Delivery

1. When supplying products, Pro Seating® complies with the Medical Devices Directive.
2. An approximate date for the delivery of the products shall be given on the order confirmation. This date shall expressly not constitute a strict deadline.
3. The customer must submit to Pro Seating® in good time all the technical details and desired specifications relating to the product to be supplied. The delivery date can only be determined once the customer has supplied such information to Pro Seating®.
4. All products sold by Pro Seating® are manufactured in the Pro Seating® production facility located at Rooseindsestraat 19 in Helmond, Netherlands. The risk is transferred to the customer at the point at which Pro Seating® makes a product available to the customer. Pro Seating® makes the product available to the customer by actually handing it over to the customer or by handing it over to a carrier engaged by the customer. In both cases, the customer bears the risk of transportation and unloading of the goods.

5. If Pro Seating® makes the products sold available to the customer through a carrier engaged by Pro Seating®, Pro Seating® shall bear the risk of transportation and the customer shall bear the risk of unloading the goods. The product is made available to the customer through the carrier engaged by Pro Seating® offering the product for delivery.
6. Pro Seating® shall inform the customer in writing that a product is ready for delivery and is waiting in the loading area. The customer shall then be bound to take delivery of the product to be supplied to it within five working days of the written confirmation mentioned above. Once this deadline has expired, Pro Seating® shall charge storage costs. The storage costs shall be equal to 5% of the total invoice amount per day, including Saturdays and Sundays. Once the period of five working days has elapsed, the products shall no longer be insured by Pro Seating® and the customer must arrange for insurance of the products at its own risk and expense.
7. If for one reason or another the customer is unwilling or unable to take receipt of the products, Pro Seating® shall be entitled to collect the full invoice amount from the customer. The amount shall include any storage costs as stated in section 6 and other costs incurred through the products not being collected.

Article 8: Packaging

1. Packaging is included in the price of the products, unless expressly stated otherwise.
2. If the customer has any special wishes regarding packaging, with deviations from the usual packaging materials used, Pro Seating® shall be entitled to invoice a surcharge to the customer in question.
3. If Pro Seating® arranges transport for consignments within the Netherlands, Pro Seating® shall invoice the customer for order and transport costs for orders with an invoice value below €150 (one hundred and fifty euros) excluding VAT. Pro Seating® does not invoice any order and transport costs to the customer for consignments within the Netherlands with an invoice value of more than €150 (one hundred and fifty euros) excluding VAT.
4. If Pro Seating® arranges transport for consignments outside of the Netherlands, Pro Seating® shall invoice order and transport costs to the customer, unless otherwise agreed. The amount for the order and transport costs cannot be determined in advance, as the costs will depend on the size of the order and the destination country.

Article 9: Retention of title

1. Ownership of the products sold shall be transferred to the customer once the customer has paid for the products.
2. The customer shall be bound to store the supplied products that are subject to retention of title with care and in such a way that they are recognisably the property of Pro Seating®, and to insure such products against risks such as fire, explosion, damage and theft.
3. If the customer has not yet paid for the products, Pro Seating® shall have the right of retention. This means that Pro Seating® shall be entitled to take back the products or have them collected at any time.
4. If the customer has not yet paid for the products but they are already at the customer's site, the customer shall immediately inform Pro Seating® if the products in question are at risk of being seized or if any third party otherwise lays claim to the products.

Article 10: Complaints procedure and returns

1. Complaints regarding the products received must be submitted orally and in writing within 10 working days of the delivery date.
2. The customer must first contact Pro Seating® by telephone. Telephone number: +31 (0)492-539861. The customer must then submit the complaint in writing by downloading the returns/complaints form on the website: www.proseating.nl.
3. Supplied products can only be returned once Pro Seating® provides written confirmation and if within the warranty period.
4. There are two ways to return supplied products. Option one is for the customer to arrange return of the products. Option two is for Pro Seating® to arrange for the product to be collected by a carrier it has engaged. In both cases, the costs shall be borne by Pro Seating® provided that the complaint is justified or if other agreements have been made.
5. Submitting a complaint shall never release the customer from its payment obligations with respect to Pro Seating®, unless otherwise agreed.

Article 11: Warranty

1. Pro Seating® provides a warranty of 12 months from date of delivery. The date of delivery is the date on which the customer signed for receipt of the consignment.
2. Pro Seating® guarantees the customer or product user that the product is fit for the purpose for which it is intended, which is the provision of the best possible seating comfort to people with a physical impairment.
3. The customer shall not be able to invoke the warranty if the customer has used the product in any way that does not comply with applicable standards and values, in an improper way or if the instructions for use were not followed.
4. The customer shall not be able to invoke the warranty if full payment has not been made.
5. The customer shall not be able to invoke the warranty in cases of force majeure.
6. If the customer is able to demonstrate that it used the product only for the purposes described in section 2 and the customer has maintained the product in the proper way and was not responsible for damage or similar to the product, through which damage the product no longer works as it should, and following approval of the points mentioned above by Pro Seating®, the product shall fall under the warranty. The warranty period stated in section 1 shall be taken into account.
7. If the product falls under the warranty, Pro Seating® shall send the customer in question a new product, once Pro Seating® has received the returned product.
For further details regarding returns and return methods, see article 10, sections 3 and 4.
8. In order to retain entitlements under the warranties set out above, the customer must contact Pro Seating® as soon as possible in the event of any damage or other emergency and must provide Pro Seating® with as much information about the occurrence as possible. The option of making a claim against the warranty referred to above shall in any case expire after 10 working days from the date of the damage or emergency that is the subject of the claim on the warranty and liability.

Article 12: Force majeure

1. In these terms and conditions and in addition to its definition in legislation and case law, force majeure shall mean all external causes, foreseen or unforeseen, over which Pro Seating® can have no influence but through which Pro Seating® is unable to meet its obligations (including postal service or telephone service strikes or power cuts).
2. If Pro Seating® is partly or wholly prevented from supplying a product under the contract due to force majeure, Pro Seating® shall be entitled to suspend performance of the obligations under the contract for the duration of the force majeure event.
3. If the force majeure event lasts for more than 10 working days, both the customer and Pro Seating® shall be entitled to terminate the contract in writing. If the situation described in section 1 commences when the contract has already been performed in part, Pro Seating® shall be entitled to invoice for the part already performed separately. In such cases, the customer shall be obliged to pay the invoice as if a separate contract were involved.
4. In the event of force majeure, Pro Seating® shall inform the customer in writing immediately, stating the cause of the force majeure.
5. Pro Seating® shall not be held liable to the customer or product user for any damage suffered either directly or indirectly by the customer or product user as a result of non-performance due to force majeure.

Article 13: Liability

1. Liability shall be limited to damage that can be regarded as being an immediate and clear consequence of the non-compliance or inadequate compliance of the product supplied by Pro Seating®.
2. If Pro Seating® is liable, liability shall be limited to the amount paid out by the business liability insurance taken out by Pro Seating® in respect of the damage per occurrence. If the maximum insured amount is higher than the amount of the order, Pro Seating® shall be liable only up to the amount of the order associated with the services supplied.
3. Pro Seating® shall not accept any other or any further liability than that set out under section 1. In particular, Pro Seating® shall accept no liability for consequential damage of any kind.

Article 14: Intellectual property

1. The customer and the product user shall not acquire any intellectual property rights in relation to the products.
2. The customer shall not be permitted to modify products or to modify or remove any branding or identifying marks on the packaging of products or to copy the products or any part of them.

Article 15: Applicable law

1. Dutch law shall apply to these general terms and conditions and to contracts.
2. If any dispute should arise, then the competent court must be approached.
3. The option of presenting a dispute to the court shall elapse one year from the date on which the reason for the dispute arose.

Article 16: Changes to these terms and conditions

1. Pro Seating® may change these general terms and conditions at any time without giving notice in advance.
2. Pro Seating® may announce changes to these terms and conditions by posting this on its website or through other means of communication. Viewing the terms and conditions from time to time is therefore recommended. Any changes shall also apply to contracts already in existence.