

**ARTICLE 1. | DEFINITIONS**

In these terms and conditions, the following terms, always capitalised, are used in the following meaning.

1. Amcom: Amcom B.V., the user of these terms and conditions, established on Luzernestraat 24, 2153GN in Nieuw-Vennep, listed in the Trade Register under Chamber of Commerce number 71832416.
2. Customer: any natural or legal person with whom Amcom has concluded or intends to conclude an Agreement.
3. Consumer: a Customer, a natural person, not acting from the exercise of a profession or business.
4. Parties: Amcom and the Customer jointly.
5. Agreement: any agreement between Parties in the context of which Amcom commits itself vis-a-vis the Customer to sell and deliver Products.
6. Distance Agreement: an Agreement that is concluded between Amcom and a Consumer within the framework of an organised system for sales at a distance without the simultaneous presence of Amcom and the Consumer and whereby, up to the moment of conclusion of the Agreement, exclusive use is made of one or several means of communication at a distance, such as an Agreement with a Consumer that is concluded directly by way of one of the Web Stores. An Agreement therefore is not a Distance Agreement if thereby no organised system for communication at a distance is used by Amcom, for example in the event the Consumer recovers the contact details of Amcom on the internet or in a phonebook and places an order by phone or by e-mail.
7. Products: the matters to be delivered by Amcom to the Customer in the context of the Agreement, also including, though not solely, communication equipment, audio equipment and accessories.
8. Web Store: [www.amcom.nl](http://www.amcom.nl), [www.aquapac.nl](http://www.aquapac.nl) or [www.polyplanar.eu](http://www.polyplanar.eu).
9. Written: communications on paper, communications by e-mail, or any other manner of communication that, considering the state of the art and commonly held opinion, can be equated therewith.

**ARTICLE 2. | GENERAL PROVISIONS**

1. These terms and conditions are applicable to every offer of Amcom and to each Agreement.
2. Any possible terms and conditions of the Customer, designated under any name whatsoever, are not applicable to the Agreement.
3. What is established in these terms and conditions can only be derogated from expressly and in Writing. If and to the extent what Parties have established expressly and in Writing deviates from what is stipulated in these terms and conditions, what Parties have established expressly and in Writing applies.
4. The annulment or voidness of one or several provisions from these terms and conditions or the Agreement as such does not impair the validity of the other clauses. In such case as may occur, Parties are obliged to enter into mutual consultations in order to make a substitute arrangement with regard to the impaired clause. Thereby, the purpose and tenor of the original provision are observed as much as possible.

**ARTICLE 3. | OFFER AND ADOPTION OF AGREEMENTS**

1. Every offer of Amcom is non-committal, even in the event a term for acceptance is stated in it. Amcom can still revoke until immediately after, or rather as soon as possible after the acceptance thereof by the Customer.
2. The Customer cannot derive any rights from an offer of Amcom that contains an apparent mistake or error.
3. Every Agreement is adopted, without prejudice to what is established in section 1, by way of offer and acceptance. An order placed by way of the Web Store will, without prejudice to what is established in section 1, be confirmed to the Customer by e-mail.
4. If Amcom provides the Customer, in connection with an Agreement concluded verbally, with a Written order confirmation, this confirmation is deemed to correctly and completely represent the Agreement, unless the Customer has complained in Writing, including substantiation, within two business days after receipt of the confirmation.
5. If the Customer concludes the Agreement in name of a different natural or legal person, he declares by entering into the Agreement to be authorised to such effect. The Customer is severally and jointly liable, besides this (legal) person, for compliance with the obligations from that Agreement.

**ARTICLE 4. | RIGHT OF RESCISSION IN CASE OF DISTANCE AGREEMENTS**

1. The Consumer can rescind a Distance Agreement until 14 days after receipt of the Products, without stating reasons, entirely or in part.
2. The Consumer can rescind the Distance Agreement by submitting a request to such effect by e-mail or by making use of the model form for rescission offered by Amcom, to Amcom. As soon as possible after Amcom has been notified of the intention of the Consumer to rescind the Distance Agreement and if the conditions of this article have been met, Amcom will confirm the rescission of the Distance Agreement by e-mail.
3. During the term as intended in section 1, the Consumer must handle the Products to be returned and the packaging thereof with care. The Consumer may only handle and inspect the Products to be returned to the extent necessary to assess the nature and characteristics of the Products. The principle thereby is that the Consumer may only handle and inspect the Products as he would be allowed to do at a physical store.
4. If the Consumer exercises the right of rescission, he will return the relevant Products undamaged, with all accessories that were delivered, and in the original condition and packaging to Amcom.
5. The Consumer is liable for the reduction of value of the Products that is the result of a way of handling the Products that goes beyond what is permitted pursuant to section 3. Amcom has the right to bill such reduction of value to the Consumer, whether or not by setting it off against such payment as may have been received from the Consumer already.
6. The returning of the Products must occur within 14 days after the Consumer has rescinded the Distance Agreement in conformity with what is established in section 2.
7. If the Consumer exercises the right of rescission, the costs of returning the Products are borne by the Consumer.
8. Amcom will refund such payment as may have been received already from the Consumer with regard to the part of the order that is returned, minus any possible reduction of value, as soon as possible, though at the latest within 14 days after rescission of the Distance Agreement, to the Consumer, on condition the Products have been received back by door Amcom, or the Consumer has proven that the Products have effectively been sent back. The refund occurs by way of the same payment method by which payment by the Consumer occurred.
9. If the right of rescission is only applied with regard to a part of the order, then such shipping costs as may have been paid by the Consumer in the first instance are not eligible for a refund. In addition, Amcom is not obliged to repay the additional charges if the Consumer upon ordering opted expressly for a different manner of delivery than the standard, least expensive way offered by Amcom.

**ARTICLE 5. | DELIVERY TIMES**

1. Any possible delivery terms that Amcom has committed to vis-a-vis the Customer are indicative, and not strict time limits.
2. The default of Amcom does not become effective until after the Customer has declared the default of Amcom in Writing, in which default notice a reasonable term of compliance is stated, and Amcom after expiry of the latter term is still in default with compliance.
3. The default of Amcom confers the Customer the right to rescind that part of the Agreement that the default is in regard to, but never any right to additional compensation of damages.

**ARTICLE 6. | DELIVERY**

1. The delivery of Products occurs at the place and in the manner expressly established. In case of a drop-off, delivery occurs at the delivery address submitted by the Customer. If no delivery address is stated, the invoice address applies as the delivery address. In case of delivery, Amcom bills the customary delivery costs applied by them to the Customer, under the proviso that before an Agreement is concluded with a Consumer, the total price is expressly stated, including VAT and possible delivery charges.
2. The risk of loss and damaging of the Products is transferred to the Customer at the moment that the Products have been received by or on behalf of the Customer.
3. In case of the overrunning of the established delivery term, the Customer never has the right to refuse to receive the Products to be delivered and/or to settle the established price and possible delivery charges.
4. If the Products cannot or cannot timely be delivered to the Customer as a result of a circumstance that can be attributed to the Customer, Amcom has the right to store the Products at the expense of the Customer, without prejudice to the obligation of the Customer to settle the established price and possible delivery charges.
5. In the event that the Customer refuses receipt of the Products or is otherwise negligent with receiving the Products, then the Customer will announce upon first request of Amcom within what term the Products will be accepted still. This term will never exceed two weeks after the day of the request as intended in the previous sentence. Amcom is authorised to rescind the Agreement if the Customer, after expiry of the term intended in the previous sentence, has failed to receive the Products, without prejudice to the obligation of the Customer to settle the established price and possible delivery charges, the reasonable costs for the storage of the Products, and such other charges as may have arisen due to the shortcoming of the Customer.

#### **ARTICLE 7. | INVESTIGATION AND COMPLAINTS**

1. The Customer must at the moment of delivery, or at least immediately afterwards, investigate whether the nature and the quantity of the Products correspond with the Agreement. If the nature and/or quantity of the Products in the opinion of the Customer do(es) not correspond with the Agreement, he must report this to Amcom without delay.
2. Complaints regarding defects that were reasonably not visible or impossible to be aware of otherwise at the time of delivery of the Products, must be submitted within 14 days after the Customer has become aware of the existence of the defect, or at least should reasonably have become aware thereof, to Amcom in Writing, specifying exactly the grounds on which the complaint is based.
3. In derogation to what is established in the preceding sections of this article, a Consumer can no longer appeal to the fact that what was delivered in the context of a consumer purchase does not correspond with the Agreement if a complaint was not submitted within two months after discovery of the defect by Consumer to Amcom in the matter.
4. If the Customer does not file complaint timely and in accordance with what is established in the preceding sections, no obligation whatsoever flows from such a complaint of the Customer for Amcom.
5. Even if the Customer complains timely, his obligation of timely payment to Amcom remains effective, barring to the extent the law opposes such in a mandatory manner to the benefit of the Consumer.

#### **ARTICLE 8. | WARRANTY, CONFORMITY, AND REPAIR**

1. Amcom provides a warranty exclusively on the Products if and to the extent it has been established expressly and in Writing, under the proviso that the preceding does not affect the mandatory legal rights and claims that Consumers are able to bring to bear vis-a-vis Amcom (conformity).
2. Without prejudice to such warranty terms as may have been expressly stipulated in Writing, any applicable warranty (also including a claim based on non-conformity) lapses in any event if a defect of the Product delivered is the consequence of an external cause arising after delivery or a different circumstance that cannot be attributed to Amcom. Thereby is intended, in a non-exhaustive manner, defects as a result of damaging, natural wear, incorrect or inexpert handling, assembly in violation of the enclosed assembly instructions, incorrect or inexpert use, and the application of changes to the delivered matters, also including repairs that were not carried out with the prior Written consent of Amcom.
3. In case a consumer purchaser in accordance with the law claims entitlement vis-a-vis the Customer acting as a professional reseller, to the restoral or replacement of the Products on grounds of non-conformity (legal warranty), then Amcom indemnifies the Customer by bearing the restoral or replacement. The Customer will in such case as may occur provide all information and assistance that is reasonably required to realize the restoral or replacement as soon as possible.
4. If the Customer delivers the Products to Amcom for repair, such warranty as may have been established with regard to these repair activities exclusively applies regarding the activities; substituted parts are excluded therefrom. Products present at Amcom in the context of repairs are there at the risk of the Customer, unless the Customer is a Consumer.

#### **ARTICLE 9. | FORCE MAJEURE**

1. Amcom is not constrained to comply with any obligation from the Agreement if and for as long as he is prevented from doing so by a circumstance that pursuant to the law, a legal transaction, or according to commonly held opinion, cannot be attributed to him (force majeure). By force majeure is intended, besides what is defined as such in the law and in jurisprudence, transport restrictions, epidemics, pandemics, illness, fire, measure by any authority, violent or armed actions, malfunction of communication connections or in devices or software of Amcom or third parties.
2. If and to the extent the situation of force majeure renders compliance with the Agreement permanently impossible or lasts or will last for more than three months, Parties have the right to rescind the Agreement, without judicial intervention, with immediate effect.
3. If Amcom upon entry into effect of the situation of force majeure has already partially complied with his delivery obligations or is only able to comply with his delivery obligations in part, he has the right to bill the part already delivered or respectively the deliverable part of the Agreement separately, as if it regarded an autonomous Agreement.
4. Damage as a result of force majeure, without prejudice to the application of the preceding section, is never eligible for compensation.

#### **ARTICLE 10. | SUSPENSION AND RESCISSION**

1. If the circumstances of the case reasonably justify such, Amcom is authorised to suspend, without judicial intervention, the implementation of the Agreement or to rescind the Agreement entirely or in part with immediate effect, if and to the extent the Customer does not, does not timely, or does not fully comply with his obligations from the Agreement, or if circumstances that have come to the knowledge of Amcom after conclusion of the Agreement provide legitimate grounds to fear that the Customer will not comply with his obligations. If compliance with the obligations of the Customer with respect to which he falls short or threatens to fall short is not permanently impossible, the authority to rescind only arises after the Customer has been declared in default in Writing by Amcom, in which default notice a reasonable term is indicated within which the Customer is able to comply with his obligations (still) and compliance has still failed to occur after expiry of the latter intended term.
2. If the Customer is in a state of bankruptcy, has applied for the (provisional) suspension of payments, any attachment has been levied on his assets, or he is otherwise unable to freely dispose of his assets, Amcom has the right to rescind the Agreement with immediate effect and without judicial intervention, unless the Customer has already lodged sufficient security for the payment owed by him to Amcom and for what may possibly become payable still.
3. The Customer is never entitled to any form of compensation of damages in connection with the right of suspension or rescission exercised by Amcom.
4. The Customer is obliged to compensate the damage that Amcom incurs as a result of the suspension or rescission of the Agreement.
5. If Amcom rescinds the Agreement, all claims that Amcom has on the Customer become instantly payable.

## **ARTICLE 11. | PAYMENT TERMS**

1. Barring to the extent already expressly established otherwise in the matter in Writing, Amcom has the right to claim full or partial payment in advance from the Customer, under the proviso that Amcom will not oblige a Consumer to pay in advance more than 50% of the established purchase price. If the Consumer, however, has already opted for the advance payment of over half of the purchase price, he remains bound by this choice.
2. Amcom is not bound to (further) implement the Agreement before the Customer has complied with all payment obligations vis-a-vis Amcom he is subject to and that are exigible already. In accordance with what is established in article 10, Amcom therefore has the right in case of the default on payment on the part of the Customer to suspend the implementation of the Agreement until the Customer has settled his default on payment.
3. Payments must occur in the manner indicated by Amcom and at the moment stipulated by Amcom or within the term indicated by Amcom.
4. Amcom has the right to provide the invoice intended for the Customer to him exclusively by e-mail.
5. If the Customer is in a state of bankruptcy, has applied for the (provisional) suspension of payments, any attachment has been levied on his assets, as well as in the event that the Customer is otherwise unable to freely dispose of his assets, the claims on the Customer become instantly payable.
6. If timely payment fails to be made, the default of the Customer enters into effect legally. As from the day that the default of the Customer becomes effective, the Customer owes an interest of 2% per month on the outstanding sum, whereby a part of a month is designated as a full month. In derogation to the previous sentence, instead of the contractual interest rate intended there, the statutory interest rate effective at the time of the default on payment will apply if the Customer is a Consumer.
7. All reasonable costs, such as judicial, extrajudicial, and enforcement costs, incurred to obtain the sums owed by the Customer are borne by the Customer.

## **ARTICLE 12. | LIABILITY AND WAIVER**

1. The Customer bears the damage caused by inaccuracies or omissions in the information provided by him for the implementation of the Agreement, any other shortcoming in complying with the obligations of the Customer that flow from the law or the Agreement, as well as any other circumstance that cannot be attributed to Amcom.
2. Amcom is not liable for defects of the Products that have arisen as a result of a circumstance as intended in article 8.2, or any other circumstance on grounds of which a possibly applicable warranty would have lapsed or be excluded.
3. Amcom is never liable for indirect damage, also including losses incurred, lost profit, and damage as a result of operational stagnation.
4. Were Amcom to be liable for any damage, then Amcom has the right at all times to restore this damage. The Customer must give Amcom the opportunity to do so, failing which any liability of Amcom in the matter lapses.
5. The liability of Amcom is limited to a maximum of the restoral or replacement of the Products on account of what is established in article 8. If restoral or replacement is not possible, the liability of Amcom is limited to a maximum of the invoice value of the Agreement, or rather of such part of the Agreement as the liability of Amcom is in regard to, under the proviso that the liability of Amcom will never exceed the amount that in the relevant case, on grounds of the business liability insurance taken out by Amcom, is effectively disbursed, increased by the possible deductible of Amcom that is applied pursuant to that insurance.
6. Without prejudice to the limitation periods as intended in article 7 and 8, the limitation period of all legal claims and defences vis-a-vis Amcom amounts to one year. In derogation to the previous sentence, legal claims and defences falling to Consumers that are based on facts that would justify the contention that a consumer purchase does not correspond with the Agreement lapse through the expiry of two years.
7. The Customer safeguards Amcom against any possible claims by third parties that incur damage in connection with the implementation of the Agreement and the cause of which can be attributed to (a) party/parties different than Amcom.
8. In case of a consumer purchase, the restrictions from this article do not go beyond what is permitted pursuant to article 7:24 section 2 of the Civil Code (BW).

## **ARTICLE 13. | RETENTION OF TITLE**

1. All Products delivered by Amcom remain their property until the Customer has properly complied with all payment obligations from the relevant Agreement.
2. It is prohibited to the Customer to sell, pawn, or encumber in any other manner the Products that are subject to the retention of title.
3. If third parties levy an attachment on the Products that are subject to the retention of title, or wish to establish or enforce rights thereto, the Customer is obliged to accordingly notify Amcom as soon as possible.
4. The Customer grants Amcom or the third parties designated by Amcom unconditional permission to enter all those areas where the Products subject to the retention of title are located. In case of the default of the Customer, Amcom has the right to recover the Products intended here. All related reasonable costs are borne by the Customer.
5. If the Customer, after the Products have been delivered to him by Amcom, has complied with his obligations, the retention of title revives with regard to these Products if the Customer does not comply with his obligations from an Agreement concluded later on.

## **ARTICLE 14. | GENERAL COMPLAINTS POLICY**

1. Complaints regarding the implementation of the Agreement must be submitted, without prejudice to what is established in article 7, within a reasonable term after the Customer has become aware of the grounds leading to the complaint to Amcom by e-mail, including a full and clear description.
2. Complaints submitted to Amcom are answered within a term of seven days after the receipt thereof. If a complaint requires a longer processing time, within the 7-day term an answer is provided in the form of a confirmation of receipt and an indication of when the Customer can expect a more detailed response.
3. If the complaint, in the context of a Distance Agreement, cannot be resolved in mutual consultation, the Consumer can submit the dispute to the arbitration committee via the het ODR-platform ([ec.europa.eu/consumers/odr/](http://ec.europa.eu/consumers/odr/)).

## **ARTICLE 15. | FINAL PROVISIONS**

1. Amcom has the right at all times to transfer its rights and obligations from the Agreement to a third party.
2. Amcom has the right to modify these terms and conditions. In such case as may occur, the Customer will be accordingly notified, whereby the modified terms and conditions will be provided to him, after which the latter will apply. In case of a Consumer it applies that modified terms and conditions are not applicable to a current Agreement, if and to the extent the modifications fall to his disadvantage.
3. To each Agreement and to all resulting legal relationships between Parties, Netherlands Law is exclusively applicable.
4. Parties will no sooner appeal to the court of law until after having exerted themselves optimally to settle the dispute in mutual consultation.
5. Exclusively the competent court of law within the district of Noord-Holland is designated in the first instance to hear any possible legal disputes between Parties, without prejudice to the right of Amcom to designate a different court that is competent according to the law within one month after Amcom has announced in Writing its intent to file suit before the court of law designated by them.