



exploring the boundaries between art en design

TERMS AND CONDITIONS

Having its registered office at Stakenbergweg 170, 8075 RC Elspeet, Netherlands
Registered with the Chamber of Commerce under number 32055307

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Article 1. Definitions

In these general terms and conditions the following terms are capitalised and used in the following meaning, unless expressly indicated otherwise:

1. **TISTUU**: the contractual Party to the Agreement with Customer and user of the general terms and conditions within the meaning of article 6:231 under b of the Dutch Civil Code.
2. **Customer**: the natural person or legal entity who purchases products or services from Seller and who is the other Party to the Agreement with TISTUU within the meaning of article 6:231 under c of the Dutch Civil Code.
3. **Consumer**: the natural person who purchases the goods and services of TISTUU and thereby does not act in the exercising of a profession or operating of a company and other Party to the Agreement in the meaning of Article 6:231 sub c of the Dutch Civil Code.
4. **Order**: the Order for the supply of goods or services from TISTUU or placing an Order to do so.
5. **Custom Order**: Order in which the measurements of the object differ from the model shown (on the website).

6. **Agreement:** the Agreement between TISTUU and the Customer on the basis of which TISTUU will deliver goods and/or services to the Customer.
7. **Parties:** TISTUU and the Customer jointly and each individually "Party".
8. **In writing:** In these General Terms and Conditions "in writing" includes communication by e-mail, fax or digitally (such as via an online interface), provided the identity of the sender and the integrity of the content is established sufficiently.
9. **Website:** <https://www.tistuu.com>.

Article 2. Applicability

1. The present general terms and conditions are applicable to any and all proposals, Agreements and deliveries of TISTUU, of whatever nature, unless this applicability is fully or partly expressly excluded in writing and/or unless expressly stipulated otherwise.
2. Any general terms and conditions of the Customer, by any name whatsoever, are expressly rejected. Deviations from and additions to these terms and conditions shall only be applicable if and to the extent that they have expressly been accepted by TISTUU in writing.
3. Should TISTUU have permitted deviations from the present general terms and conditions for a short or a longer period of time, whether or not implicitly, then this shall not affect its right to demand direct and strict compliance with these terms and conditions as yet. The Customer cannot derive any rights from the manner in which TISTUU applies the present terms and conditions.
4. The present terms and conditions are equally applicable to all Agreements concluded with TISTUU for the implementation of which third parties must be relied on. Said third parties can invoke the present terms and conditions directly against the Customer.
5. Should one or more provisions of the present terms and conditions or of any other Agreement concluded with TISTUU be in breach of a mandatory statutory provision or any applicable legal provision then the relevant provision shall expire and shall be replaced by a new, legally permissible and comparable provision to be established by TISTUU.
6. TISTUU may change or amend these terms and conditions at any time except in relation to Orders already confirmed in writing by TISTUU.

Article 3. Products

1. References to 'products' include all goods, materials and associated services supplied by TISTUU to Customer.
2. All products and so called 'limited editions' are subject to limited availability.

3. Drawings, technical descriptions, specimens, samples, images, colours, weight, sizes, finish and indications of materials used shall be stated by TISTUU in good faith and as precise as possible. However, these informative data shall not be binding. Deviations in respect of goods delivered occurring within reasonable margins must be accepted and shall not give the Customer a right to complain, replacement, compensation of damage or any other right, unless the Agreement expressly provides for a smaller margin in respect of deviations.
4. TISTUU may amend the specification of products at any time without notice in relation to future sales.
5. In case of a Custom Order, if you have very specific measurement, weight or other technical requirements, it is the Customer's responsibility to inform TISTUU of these in writing or by e-mail.
6. TISTUU may at any time, without notifying the Customer, make any changes to products or their specification which are necessary to comply with safety or other statutory requirements, as such it does not affect the quality and the visual aspect of the object.
7. TISTUU shall have the right to mark all of her products at our discretion with the name of the piece, the date/year of manufacture, the serial number where applicable, our trademark and any other proprietary markings as we deem appropriate (e.g. patent and design registration numbers), where applicable.

Article 4. The character of a TISTUU product

1. TISTUU products are one-of-a-kind handcrafted pieces. Each product has its own unique attributes which are impossible to replicate identically due to use of natural materials and the human factor of various authentic techniques. Within a batch products may vary in colour and finish, due to the highly specialized artistic processes that TISTUU uses. This is partly what gives TISTUU products their unique quality, they should be viewed as artworks, rather than standard, mass produced goods. In some series the preciousness of imperfection is part of the theme. Many pieces incorporate marks, scratches, cracks and areas that appear to have peeled away. Such distressed marks are an essential part of the style of the object concerned. Some of TISTUU's pieces are aged, patinated or oxidized so that they appear old, weathered or worn. They are often designed to appear timeless and become more beautiful as they age. When a surface is patinated, the Customer needs to be aware that it takes a minimum of 4 weeks for the patina to become permanent (any rub off within this time is normal but should be minimal). Climatic conditions, including heat, light and humidity levels, within the Customer's environment, can affect various materials such as steel, copper, leather, hides, wood and several surface treatments. This may lead to fading, stretching, shrinking or other damage.

2. The selection of furniture or fabrics for specific placements (such as a pool or basement) is made at the discretion and sole risk of the Customer and TISTUU shall not have no liability for such a selection.
3. Due to the handmade construction of our products, in concert with the resilient materials and colour/patina choice, variations from TISTUU's published and custom dimensions and finishing can be expected.
4. Further details about TISTUU products and advice or recommendations about their storage, application or use, which are not given in TISTUU's sales literature, may be relied on if specifically communicated by TISTUU to the Customer in writing.

Article 5. Offer

1. The offer shall be valid for a period as stated therein. Unless otherwise stated, the offer shall be valid for thirty (30) days from the day of the offer. TISTUU is entitled to amend the price and the delivery time of the offer should conditions not attributable to TISTUU so warrant.
2. In the event of late acceptance of the offer by the Customer, the offer will lapse and can no longer be invoked otherwise than with the express written consent by TISTUU.
3. The Customer cannot derive any rights from the information and/or data provided by TISTUU in the context of an offer, catalogue, leaflet, price list, etc.
4. Prices in the proposals of TISTUU are exclusive of VAT, international import or export duties, delivery charges, in-transit insurance, local delivery, storage charges and installation, for which you will be additionally liable.
5. If after the conclusion of the Agreement, however prior to the delivery, one or more of the cost factors undergo a change then TISTUU shall be entitled to adjust the stipulated price accordingly. TISTUU shall in any case be authorized to charge additional costs if there is question of cost increasing circumstances which TISTUU did within reason not have to take into account, which cannot be blamed on TISTUU or which are considerable compared to the price of the delivery.

Article 6. Conclusion of the Agreement

1. An Agreement shall take effect once an offer accepted by the Customer has been confirmed by TISTUU in writing.
2. TISTUU shall not be liable for any incorrect delivery made according to an oral Order, unless TISTUU has confirmed the Order in writing prior to the delivery or prior to the commencement of the production.

Article 7. Customization and made to measure

1. TISTUU offers a design service to customize its products to meet customer's needs and specifications, given the possibilities of the chosen design, used materials and techniques.
2. A design fee is applied to all Custom Orders and is part of a special offer.
3. A signature from the Customer in writing is required for all technical drawings, designs, material and colour proposals associated with an Order.

Article 8. Lead time

1. TISTUU considers different Lead Times for different collections or products, and is subject to availability of the used materials and production capacity both at TISTUU and others.
2. All lead times are triggered on the date the advanced payment is received. Shipping time is additional.
3. Lead time for Custom Orders is proposed case by case at TISTUU 's discretion. The lead time begins when TISTUU confirms the reception of the signed Order confirmation, possibly with approved technical drawings and the advanced payment.

Article 9. Trial period and Right of Withdrawal

All TISTUU products are produced according to the specifications of the Customer and shall be excluded from the trial period and the Right of Withdrawal.

Article 10. Payment terms

1. All quoted prices by TISTUU are in euro.
2. Prior to the start of the production of the product, TISTUU requires a 70% advance payment deposit of the total amount. The remaining final balance of 30% is required no later than two (2) weeks prior to shipping.
3. For Custom Orders, an advanced payment deposit of the total amount is required prior to production.
4. The Customer must make each payment via bank transfer as indicated on the Order form.
5. Before delivering or continuing the performance of the Order, TISTUU may at any time demand security that is sufficient in its opinion for the fulfilment of the payment obligation by the Customer.
6. The purchased product(s) may be dispatched once the Purchase final balance is cleared with the complete payment of all amounts due by the Customer to TISTUU.
7. After the expiry of the stipulated payment term the Customer shall be in default by operation of law without any further notice of default being required.

8. As from the moment of default the Customer shall be liable to pay interest on the due and payable amount equal to 1% per month, unless the statutory commercial interest is higher in which instance the statutory commercial interest shall apply. As from that moment any and all judicial and extrajudicial costs that TISTUU incurs in order to obtain satisfaction – both in and out of court – shall be at the expense of the Customer. In that case the Customer shall be liable to pay compensation equal to at least 15% of the outstanding amount with a minimum of € 500.00. For consumers this percentage amounts to 5% with a minimum of € 40.00. Should the costs actually incurred and to be incurred by TISTUU exceed the aforementioned amount then these costs shall equally qualify for compensation.
9. If the Customer does not comply with its payment obligations in a timely fashion then Customer shall be authorised to suspend the obligations entered into vis-à-vis the Customer regarding delivery and/or performance of activities until the payment has been made or sufficient security has been provided for the same. The same already applies prior to the moment of default if TISTUU may within reason assume that there are reasons to doubt the creditworthiness of the Customer.
10. In case of liquidation, insolvency, debt management or suspension of payment of the Customer or a relevant application or petition the claims of TISTUU and the obligations of the Customer vis-à-vis TISTUU shall immediately fall due.
11. If the Customer has, on any account whatsoever, one or more counterclaims vis-à-vis TISTUU then the Client waives its setoff right. Said waiver of the setoff right is also applicable if the Customer applies for (provisional) suspension of payment or is declared insolvent.

Article 11. Delivery, transport costs and damage

1. All prices and transactions are Ex Works Elspeet, and therefore do not include any transportation costs or associated fees.
2. The risk of the goods passes to the Customer at the moment when they are legally and/or physically delivered and so are brought under the control of the Customer or a third party indicated by the Customer.
3. TISTUU will be free of any charges or responsibility over events, loss or any of all damages, during or after transport or installation, such as the loading, transport, logistics, custom clearance, insurance, unloading or installation of the piece at the place of destination.
4. At the Customer's request, delivery shall be conducted by a shipment service provider suggested by TISTUU. Rates vary by destination and complexity. Shipping methods are determined by item size, type, fragility and specific characteristics. Shipping costs are calculated based on carrier rates, delivery distance, packing complexity and insurance costs. Shipping services arranged by TISTUU are charged in addition to product Orders.
5. Quotes for shipping services are sent via pro-forma invoice and valid for ten (10) working days since the date of issuance.

6. After full payment has been made, ownership of the product transfers to the Customer upon the freight carrier taking possession of the Order for transport.
7. For Orders with a final destination outside Europe, TISTUU reserves the right to issue the export documents with additional fee per invoice.
8. TISTUU shall always use commercially reasonable efforts to deliver the services or goods within the delivery time.
9. Notification of a delivery date is always indicative and not a deadline.
10. The products are delivered in appropriate packages. If a piece needs a specific packaging, all costs for packaging shall be accountable to the Customer. Packaging materials are not taken back by TISTUU.
11. The Customer shall verify firstly if damages are perceptible on the package. If there is any damage to the packaging, the Customer shall, in the presence of the driver, open the packaging to check the goods for damage. If the goods are damaged, as result of the shipping, the Customer shall refuse delivery of the goods and hand them back to the driver and make the proper notation on the consignment note. The Customer shall notify TISTUU immediately within one (1) day with one or more pictures by e-mail and a written detailed description of the condition in which the goods and packaging were delivered. It shall be Client's sole responsibility to check the Order and to let TISTUU know immediately if the Client has found any problems or defects.
12. If the goods delivered are not, in the opinion of the Customer, in accordance with the goods ordered, or not all goods have been delivered as per Order, the Customer shall immediately notify TISTUU by e-mail, never later than the fifth working day following the day on which the goods are received. TISTUU is not obliged to deal with complaints that are received too late.

Article 12. Warranty and damage claims

1. TISTUU warrants that under normal use and in accordance with the user or installation instructions and taking into account the product specification the goods shall at the time of the delivery to Customer and for a period of twelve (12) months from the date of delivery, be free from defects in material or workmanship and shall be conform to the product specifications.
2. The warranty sub 12.1 is considered void if the alleged defect is found to have occurred as a result of environmental circumstances, mis use, use other than normal use in respect to the specific good, neglect, improper installation, damage due to improper storage, or repairs or modifications made without the prior written express consent of TISTUU.

3. TISTUU warrants that TISTUU will repair or replace (if necessary and if it is possible at TISTUU's option) any part of product or processes found to contain material 'latent defects' in materials and workmanship for twelve (12) months from the date of delivery. Where any such problems or defects are TISTUU's fault, TISTUU will remedy the problem, replace the products or refund the purchase price paid for such faulty products at TISTUU's option. The Customer agrees to give TISTUU reasonable cooperation and time to do this. TISTUU shall thereafter only be liable under the above warranty or otherwise for problems or defects that could not be reasonably detected on close inspection at TISTUU's premises and which could not have been caused in transit to the Customer ('latent defects').
4. This warranty does not apply to any defect in the goods arising from fair wear and tear, wilful damage, faulty installation, negligence by the Customer or any third party, use otherwise than as recommended by TISTUU, failure to follow any care instructions, or any alteration or repair carried out without TISTUU's approval.
5. In particular this warranty does not apply to damage caused by movement, shrinkage, expansion or warping of any base materials used by TISTUU and damage caused by failure to adhere to any care instructions supplied by TISTUU.
6. Unless TISTUU agrees otherwise, repairs to remedy latent defects under warranty as described above, will be carried out at TISTUU's premises and TISTUU would ask the Customer to return the affected products to TISTUU, at the Clients costs, as soon as possible for this purposes.
7. Where TISTUU carries out minor repairs (under the warranty or otherwise) the Customer accepts that repairs carried out in this manner will be as inconspicuous as possible but may still be visible to the naked eye.
8. If the Customer requires products to be replaced or repaired after dispatch for any reason other than latent defects, TISTUU's standard charges will apply.
9. If the Customer files a complaint, he must provide as clear a description as possible of the defect and attach one or more digital photos by e-mail.

Article 13. Limitation of liability

Without prejudice to any mandatory legal rules, the following applies:

1. Regarding goods delivered by TISTUU; TISTUU shall not be liable for any lost profits or savings, loss of reputation or goodwill, indirect or incidental or consequential damages arising out or in connection with the sale of the good(s) or the use of these whether or not any claim is based on tort, warranty, contract or any other legal possibility, even in the circumstances that TISTUU has advised of any risks.
2. TISTUU's aggregate and cumulative liability shall not exceed an amount equal to 50% of the purchase value aggregate and cumulative.

3. Regarding services rendered by TISTUU; TISTUU declines any liability for damages as a result of the use of services rendered by TISTUU.
4. TISTUU's liability shall at all times be limited to the maximum amount covered by TISTUU's insurance for the type of damages.

Article 14. Force majeure

1. In the event of force majeure, all the obligations of either Party are suspended until the situation of force majeure has ended. If the force majeure lasts longer than three (3) calendar months, then either Party is entitled to terminate the Agreement without any liability to compensate the other Party.
2. 'Force majeure' includes, in addition to the definition by law, import and export ban or controls by, or due to, any government or power, the failure of suppliers or service providers of TISTUU to deliver on time or at all, suspension of work by, or a high amount of sick leave amongst, the employees of TISTUU or its suppliers and other unforeseen circumstances such as epidemic and pandemic.
3. TISTUU is also entitled to rely on force majeure if the situation of force majeure begins after TISTUU should have fulfilled its obligations.
4. Insofar as at the time the situation of force majeure commences TISTUU has partly fulfilled its obligations under the Agreement or is still able to do so, then TISTUU is entitled to invoice for all the parts of the Agreement it has complied with or will comply with. In such a case the Customer is obliged to pay this invoice as if it were a separate Agreement.

Article 15. Reservation of title

1. Any and all goods delivered or to be delivered by TISTUU shall remain the property of TISTUU up to the moment that the Customer has complied in full with all its payment obligations vis-à-vis TISTUU on account of any Agreement concluded with TISTUU for the delivery of goods and/or the performance of activities or the supply of Services, including claims in connection with a failure to comply with this kind of Agreement.
2. A Customer acting as a reseller shall not be authorised to rent out, grant the use of, pledge or otherwise encumber the products to which TISTUU has retained title.
3. The Customer shall not be allowed to establish limited rights on goods that are subject to the reservation of title of TISTUU. If third parties (wish to) establish (limited) rights on the goods subject to the reservation of title then the Customer shall forthwith inform TISTUU in writing accordingly.
4. TISTUU hereby already reserves an undisclosed pledge on delivered goods of which the title has transferred to the Customer due to payment and which are still in possession of TISTUU, by way of additional security for claims, other than within the meaning of article 3:92 paragraph 2 of the Dutch Civil Code, which TISTUU may still have vis-à-vis the Customer on any account whatsoever.

5. The Customer is obliged to keep (have kept) the delivered goods subject to the reservation of title separate from other goods, with the required diligence and recognisable as property of TISTUU.
6. The Customer is obliged to insure the goods against fire, explosion and water damage as also against theft during the period of the reservation of title and to on demand provide TISTUU insight into the policies of said insurances. Any and all claims of the Customer vis-à-vis insurers of the goods on account of the aforementioned insurances shall, if so desired by TISTUU, be pledged to TISTUU in an undisclosed manner by way of additional security for the claims of TISTUU vis-à-vis the Customer.
7. If the Customer fails to fulfil its obligations or if there is valid reason to fear that It will do so, TISTUU will have the right to take back goods delivered to which the retention of title referred to in this paragraph applies (or to arrange for them to be taken back) from the Customer or from third parties that hold the goods on behalf of the Customer. The Customer will be required to fully cooperate on pain of a penalty of 10% per day of the amount payable by it. TISTUU will have the right either to retain such goods until the purchase price, including interest, costs and damages, has been paid in full, or to sell the goods to third parties, in which case the proceeds will be deducted from the total amount payable by the Customer.
8. As far as deliveries to be exported to Germany are concerned, if the Customer (partly) or a third party forms (a) new good/goods made from the products delivered by the TISTUU, the Customer or this third party shall form this/these good/goods exclusively for the TISTUU and the Customer shall keep this/these newly formed good/goods for the TISTUU until the Customer has fulfilled all the payments due under the Agreement; In that case, the TISTUU retains all rights as owner of the newly formed good/goods, until the moment of payment in full by Customer.

Article 16. Intellectual property rights and copyrights

1. TISTUU retains the rights and powers it accrues on the basis of copyright law and other intellectual and industrial rights relating to all the goods or services it supplies, insofar as these rights do not belong to any third party.
2. The Customer shall not be permitted to modify or remove any applied marks or identifying marks on the products or their packaging, nor to modify or copy the products or any part of these.
3. The Customer may not have goods supplied by TISTUU copied elsewhere, or manufacture imitations thereof that differ in only minor details from the goods supplied, or that are (in) directly similar to those goods.

4. Copyright or any other intellectual property of sketches, designs or models in whatever phase of elaboration these are and have been delivered to or shown to the Customer, remain the full property of TISTUU and may not be used otherwise than agreed in writing and solely for that specific purpose. Any permitted use does not mean that intellectual property rights have been transferred.
5. Without a prior written permission by TISTUU, the Customer is not allowed to copy pictures, designs, brochures, and other material or to use the materials on Customer's website. Permission by TISTUU does not affect the rights of the author of the materials provided.
6. Unless otherwise agreed in writing, the Customer may not make or permit any alteration to the product(s) or do or publish anything which might damage the creative integrity or value of them prior to supply or sale to the end user.
7. Unless otherwise agreed in writing we shall have the right to mention and show her work for the Customer on TISTUU's website and in promotional materials.

Article 17. Applicable law and disputes

1. All Agreements are subject to the law of the Netherlands. The court with exclusive jurisdiction is that covering the area where TISTUU has its registered office at the time a dispute arises. This also applies if the goods have been delivered in part or entirely abroad or if the Customer has its registered or is domiciled abroad, unless mandatory law provides otherwise.
2. The Parties shall always endeavour to resolve a dispute amicably, before any application is made by either Party to the court.
3. The terms of the United Nations convention on Contracts for the International Sale of Goods (the Vienna Sales Convention) shall not apply.

Article 18. Final terms

1. In case of an interpretation of the content and meaning of these general terms and conditions as well as in the case of conflict between the content or interpretation of any translations of these general terms and conditions and the Dutch version, the Dutch text shall prevail each time.
2. The most-recently filed version and/or the version as applicable at the time of conclusion of the Agreement shall always apply.