



exploring the boundaries between art en design

TERMS AND CONDITIONS

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Terms and Conditions are subject to change at any time, without prior notice. For the latest version on these Conditions please see it online on our Website. These Conditions can be saved electronically or printed by all users of our Website. Whilst they remain posted on our Website, these Conditions will apply to all transactions carried out via our Website, E-mail and by Telephone. By placing an order, it is implied that you accept our terms and conditions as listed below: Date 1 July 2020.

1. Parties:

- a. TISTUU is part of Ontwerpbureau Gabrielle M. ('We')
Registration number at the Chamber of Commerce (KVK): 32055307
Office. Stakenbergweg 170 8075 RC Elspeet +31 577-49 22 51 The Netherlands
Atelier. Stakenbergweg 141a. 8075 PW Elspeet
Mobile Gabrielle + 31 6 53 61 19 61
The CUSTOMER, Client, ('You, Your') is the person or entity set out in the Order Confirmation as being the Customer.
- b. Tistuu expressly rejects the applicability of any general conditions of purchase, general conditions of delivery and/or the other party or/ customer.

2. These Terms:

- a. These terms and conditions apply to all contracts between TISTUU and the CUSTOMER
They are an essential condition of us doing business with you and are binding upon you, your employees, agents and contractors, your successors and assignees and any party mentioned as benefiting from any order, whether signed by you or not.
- b. Term 'in writing' shall mean a document having been signed by both Parties or a document having been sent as a letter facsimile, an e-mail or another such a mean.
- c. In addition, we may change or amend these terms and conditions at any time except in relation to orders already confirmed in writing by us. Our terms and conditions are always available on request.

3. Products:

- a. References to 'products' include all products, materials and associated services supplied by us to you.
- b. All products and so called 'limited editions' are subject to availability.
- c. We take care to ensure that all brochure descriptions, samples, pictures and measurements of our products are accurate at the time that they are published, but we may amend the specification of products at any time without notice in relation to future sales.

- d. No responsibility is accepted by Tistuu for the correctness of this information.
- e. We do our best to ensure that the end product will match any agreed samples or representations shown to you as closely as possible, however there may be slight variations in color, thickness and finish. Material thicknesses and weights may vary.
- f. In case of customization orders, if you have very specific measurement, weight or other technical requirements, it is your responsibility to inform us of these.
- g. We may at any time, without notifying you, make any changes to our products or their specification which are necessary to comply with safety or other statutory requirements, or which do not materially affect their quality or performance.
- h. We shall have the right to mark all of our products at our discretion with the name of the piece, the date/year of manufacture, the edition number where applicable, our trademark and any other proprietary markings as we deem appropriate (e.g. patent and design registration numbers), where applicable.

4. The character of a Tistuu product.

- a. Tistuu product are one-of-a-kind handcrafted pieces. Each product has its own unique attributes which are impossible to replicate identically from piece to piece due to human factor if finest craftsmanship.

Within a batch our products may vary in color and finish, due to the highly specialized artistic processes that we use. This is partly what gives our products their unique quality, they should be viewed as artworks, rather than standard, mass produced goods. In some Series the preciousness of imperfection is a core theme within the work of Tistuu; many pieces incorporate marks, scratches, cracks and areas that appear to have peeled away, such distressed marks are an essential part of the Tistuu style.

Many of Tistuu 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.

If you have chosen a Tistuu surface texture with a patina, please 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 user's environment, can affect fabric, hides and wood, and may lead to fading, stretching, shrinking or other damage.

- b. The selection of furniture or fabrics for specific placements is made at the discretion and sole risk of the Client and Tistuu shall not have no liability for such selections.
- c. Due to the handmade construction of our products, in concert with the resilient materials and color/patina choice, variations from our published and custom dimensions and finishing can be expected.

- d. Further details about our products and advice or recommendations about their storage, application or use, which are not given in our sales literature, may be relied on if specifically communicated by us to you in writing.

5. Offer:

- a. 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.
- b. 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.
- c. 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, order confirmation, etc.

6. Order & Agreement:

- a. Orders placed in accordance with the offer within the validity of the offer shall be considered as an agreement between Tistuu.
- b. Unless otherwise stated, any offer or quotation by Tistuu is subject to contract.
- c. An agreement shall take effect once an offer accepted by the Customer has been confirmed by Tistuu in writing.
- d. Unless agreed otherwise all orders may be cancelled or changed within three (3) working days following the order confirmation by Tistuu.
- e. Orders for goods made on demand(customization), cannot be cancelled.
- f. Tistuu shall not be liable for any incorrect delivery made according to an oral order, unless the customer has confirmed the order in writing prior to the delivery or prior to the commencement of the production.

7. Customization & Made to measure:

- a. 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.
- b. A design fee is applied to all custom/bespoke orders and is part of a special offer.
- c. An official signature from the customer is required for all technical drawings and schemes associated to any personalized custom / bespoke product.
- d. Lead time for custom / bespoke products is proposed case by case at Tistuu's discretion. The lead time begins when Tistuu confirms the reception of the signed technical drawings /schemes.

8. Lead time:

- a. Tistuu considers different Lead Times for different collections or products/items, and is subject to availability of the used materials and production capacity.
- b. All lead times are triggered on the date the advanced payment is received. Shipping time is additional.
- c. Lead time for orders and personalized or custom-made pieces must be agreed upon and accepted in writing.
- d. For custom orders the lead time is starting once the technical drawing is signed and received by Tistuu and the reception of the advanced payment.

9. Payment terms:

- a. All quoted prices by Tistuu are in Euro.
- b. 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 2 (two) weeks prior to shipping.
- c. For Custom made orders, an advanced payment deposit of the total amount is required.
- d. The Customer must make each payment via bank transfer as indicated on the order form.
- e. 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.
- f. The Customer is advised to confirm Tistuu's bank details prior to make any payment, and it is also advised to send proof of the bank transfer to Tistuu.
- g. 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.
- h. The product is as stated in the Order Confirmation and is exclusive of VAT, international import or export duties and delivery charges, for which you will be additionally liable.
- i. Prices do not include shipping charges, packing and crating charges, in-transit insurance, local delivery, storage charges, uncrating or installation.
- j. Price adjustment by Tistuu is allowed when cost for any reason whatsoever prove to be higher for Tistuu than the price quoted, or is higher than foreseen by Tistuu at the time at which the agreement was reached.

- k. If you fail to make any payment on the due date then, without limiting any other right or remedy available to us, we may cancel the order, suspend any further deliveries to you, and/or call for all outstanding payments, without being liable for any losses.
- l. If the invoiced amount is not paid into the bank account of Tistuu within the payment term, then the Customer is in breach of contract and is liable for interest on the unpaid amount at 1% per month or part month, or at the statutory interest rate current in the Netherlands, until payment without the need of any notice of default.
- m. In the event that collection becomes necessary, all collection costs are payable by the Customer to 10% of the principal sum owed with a fixed minimum of 500 euro.
- o. In the debt collection involves court proceedings, then all legal costs, including legal advice and representation in and out of court, as well as all execution costs, shall be paid by the Customer.
- p. Even if the Customer is of the opinion that the quality of the delivered goods or services are not with in accordance with the agreed goods or services, this does not release him from the obligation to pay.

10. Delivery/ Transport costs/Damage:

- a. All prices and transactions are EX WORK, and therefore do not include any transportation costs or associated fees.
- b. When on behalf of the Customer, the loading, transport, logistics, custom clearance, insurance, unloading or installation of the piece of destination is the entire responsibility of the Customer. Tistuu will be free of any charges or responsibility over events, loss or any of all damages, during or after transport or installation.
- c. Delivery shall be conducted by a shipment service provider chosen 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 are available upon request to Tistuu.
- d. Shipping services are charged in separate from Product orders.
- e. Quotes for Shipping Services are sent via Pro-Forma invoice and valid for 10 working days since the date of issuance.
- f. When the Shipping Quote is requested to Tistuu and send to the Customer before the advance payment of the product, Tistuu is committed to consider the cost of the Pro-forma invoice sent previously.
- g. 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.

- h. For orders with a final destination outside Europe, Tistuu reserves the right to issue the DU (export document) with additional fee per invoice. For orders with a final destination in the United States, Tistuu reserves the right to issue the DU (export document) with additional fee per invoice.
- i. Tistuu shall always use commercially reasonable efforts to deliver the services or goods within the delivery time.
- j. Notification of a delivery date is always indicative and not a deadline.
- k. The products are delivered in appropriate packages. However, should the products require special packing, the Customer will be separately charged for.
- l. Tistuu strongly advises Customer to verify firstly if damages are perceptible on package, and then verify all crates upon delivery in order to check for unconformities in the conditions of the goods in presence of the carrier and, if this has any defects note these on diagram on the delivery note. If there is any serious defect 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. The Customer shall notify Tistuu immediately within 1 day with one or more PICTURES and a written detailed description of the condition in which the goods and packaging has been delivered.
It shall be your sole responsibility to check your order and to let us know immediately if you have found any problems or defects.
- m. 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.

11. Warranty & Damage claims:

- a. 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 12 months from the date of delivery, be free from defects in material or workmanship and shall be conform to the product specifications.
- b. The warranty sub 11.1 is considered void if the alleged defect is found to have occurred as a result of environmental or testing circumstances, mis use, use other than normal use in respect to the specific good, neglect, improper installation, accident, improper storage, or repairs or modifications made without the prior written express consent of Tistuu.

- c. We warrant that we will repair or replace (if it is possible at our option) any part of product or processes found to contain material 'latent defects' in Tistuu materials and workmanship for 12 months from the date of delivery. Where any such problems or defects are our fault, we will remedy the problem, replace the products or refund the purchase price paid for such faulty products at our option. You agree to give us reasonable cooperation and time to do this. We 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 our premises and which could not have been caused in transit to you ('latent defects').
- d. This warranty does not apply to any defect in the goods arising from fair wear and tear, willful damage, installation, negligence by you or any third party, use otherwise than as recommended by us, failure to follow any installation or care instructions, or any alteration or repair carried out without our approval.
- e. In particular this warranty does not apply to cracking caused by movement, shrinkage, expansion or warping of any base materials used by us and cracking caused by failure to adhere to any Care Instructions supplied by Tistuu.
- f. Unless we agree otherwise, repairs to remedy latent defects under warranty as described above, will be carried out at Tistuu premises and we would ask you to return the affected products to us, at your costs, as soon as possible for this purposes.
- g. Where we carry out minor repairs (under the warranty or otherwise) you accept that repairs carried out in this manner will be as inconspicuous as possible but may still be visible to the naked eye.
- h. If you require products to be replaced or repaired after dispatch for any reason other than latent defects, our standard charges will apply.
- i. 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 to the e-mail.
- j. The original packaging of the product must be kept. In case a claim is submitted, the packaging must be kept during the period in which the claim is settled.

12. Limitation of liability:

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

- a. 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 been advised of any risks.

- b. Tistuu's aggregate and cumulative liability shall not exceed an amount equal to 50% of the purchase value aggregate and cumulative.
- c. Regarding services rendered by Tistuu; Tistuu declines any liability for damages as a result of the use of services rendered by Tistuu.
- d. Tistuu's liability shall at all times be limited to the maximum amount covered by Tistuu's insurance for the type of damages.

13. Force majeure:

- a. 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.
- b. '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 pandemics.
- c. Tistuu is also entitled to rely on force majeure if the situation of force majeure begins after Tistuu should have fulfilled its obligations.
- d. 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.

14. Retention of title

- a. All goods delivered remain the property of Tistuu until the Customer has fulfilled its obligations to Tistuu in full. If any invoice remains unpaid, Tistuu's retention of title shall also cover all goods previously delivered which have been paid for by Customer.
- b. Goods delivered by Tistuu subject to retention of title may only be sold in the context of normal business practice.
- c. The Customer is not authorized to process, pledge or otherwise encumber the goods subject to retention of title.
- d. If any attachment is levied by a third party upon the goods subject to retention of title, then the Customer shall inform the party levying the attachment of the retention of title and notify Tistuu of this immediately.

- e. The Customer undertakes to keep the goods insured subject to the retention of title against fire, explosion, or water damage, as well as against theft. On demand by Tistuu, the Customer shall provide a copy of the insurance policy, as well as ensure that the rights under the insurance policy covering the goods subject to the retention of title shall be transferred to Tistuu or that Tistuu is subrogated in these rights.
- f. 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 net proceeds will be deducted from the total amount payable by the Customer.

15. Intellectual property rights and copyrights.

- a. Tistuu retains the rights and powers it accrues on the basis of the Copyright Act and other intellectual and industrial legislation and regulations relating to all the goods or services it supplies, insofar as these rights do not belong to any third party.
- b. 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 become directly or indirectly involved in this.
- c. 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.
- d. Without a prior written permission by Tistuu, the Customer is not allowed to copy pictures, designs, brochures, and other material or to use the information on its internet site. Permission by Tistuu does not affect the rights of the author of the information provided.
- e. 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.
- f. Unless otherwise agreed in writing we shall have the right to mention and show our work for the Customer on our website and in our promotional materials.

16. Applicable Law / Disputes:

- a. 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.
- b. The parties shall always endeavor to resolve a dispute amicably, before any application is made by either party to the court.
- c. The terms of the United Nations convention on Contracts for the International Sale of Goods (the Vienna Sales Convention) shall not apply.

17. Final terms:

- a. In the event that these general terms and conditions are available in a language other than Dutch, and there is any dispute as to interpretation or explanation, the Dutch text of these general terms and conditions shall prevail.
- b. The version that is binding is the latest version published on www.tistuu.com / Terms and Conditions at the time the agreement is entered into.
- c. If any provisions in these general terms and conditions are void or revoked by the courts, the remaining provisions that are in line with the original provisions in terms of purpose and scope.

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