

Terms and Conditions

MR CLADDING REPAIR

Hoveniersweg 16

7205 DA ZUTPHEN

Chamber of Commerce 74159763

ARTICLE 1: APPLICABILITY

1. These terms and conditions apply to orders, offers and to all agreements between MR Cladding Repair and the client.
2. Different conditions will only be part of the agreement between two parties when these differences have been made explicitly in writing.
3. The acceptance without any comment by the client and the retaining of a quotation or a confirmation of order, on which these terms and conditions are referred to, counts as consent to its application.
4. The applicability of any other terms and conditions of the client are expressly rejected by MR Cladding Repair.
5. If any clause of these terms and conditions would be void or voidable, this will only extend to these concerning parts and it will maintain the rest of the agreement.
6. These terms and conditions also apply to agreements with MR Cladding Repair on the performance for which MR Cladding Repair needs to involve third parties.

ARTILCLE 2: OFFERS

1. All offers, quotations, price lists, delivery times etc. of MR Cladding Repair are without obligation, unless it contains a deadline for acceptance. When a quotation or offer without obligation is being accepted, MR Cladding Repair has the right to revoke the acceptance within 3 business days after receiving this acceptance.
2. All offers, quotations, price lists, delivery times etc. of MR Cladding Repair are without obligation, provided that the work that has to be performed are drawn up in a complete description and / or has been described in a different order, whether or not accompanied by one or more drawings. The latter description/drawing has to have been drawn up together with the former pieces and have to be attached to it. Then the description/drawing will be binding for both parties.

3. MR Cladding Repair has the right to charge possible additional costs as a result of unforeseen affairs/force majeure concerning the order/quotation at the client, unless MR Cladding Repair as informed the client about these costs in writing.

ARTICLE 3: AGREEMENTS

1. Agreements for the performance of work and / or agreements of purchase and sale only become binding by written confirmation by MR Cladding Repair.

2. Additions and changes to the terms and conditions or other additions and changes to the agreement only become binding by written conformation by MR Cladding Repair.

ARTICLE 4: ENGAGE THIRD PARTIES

MR Cladding Repair has the authority to engage third parties to implement what has been agreed upon.

ARTICLE 5: DELIVERY AND DELIVERY TIMES

1. Delivery is not made carriage paid, unless parties have made an other agreement explicitly in writing.

2. Specified delivery times and terms within work must be performed and / or goods must have been delivered can never be regarded as a deadline, unless explicitly agreed otherwise in writing. In case of a late delivery or termination of the activities MR Cladding Repair must therefore be given a written notice of default.

3. With delivery or performing work in different stages, each stage will considered as a separate transaction.

4. The risk regarding goods is transferred to the client at the time of delivery.

5. When it is not possibly to deliver goods to the client or to perform the work because of a cause that lies in the sphere of the client, MR Cladding Repair reserves the right to store the ordered goods and / or materials which are bought for the work performance at the expense and risk of the client. MR Cladding Repair informs the client in writing of the performed storage and / or the impediment to the performance of the work to be performed and also proposes a reasonable term in which the client must enable MR Cladding Repair to resume the work and / or deliver the goods.

6. When the client remains in default after the reasonable term proposed by MR Cladding Repair, as determined in the previous paragraph of this article, has expired, the client is by the mere passage of 1 (one) month, counted from the date of storage or the impediment to the performance of the work to be performed, in default and gives MR Cladding Repair the right to dissolve the agreement in whole or in part in writing and with immediate effect, without prior or further notice of default, without judicial intervention and without being held accountable for compensation of damage, costs and interest. The foregoing does not affect to obligation of the client to pay the stipulated price, as well as any storage costs and / or other costs.

7. MR Cladding Repair has the authority – with regard to the fulfilment of the client’s financial obligations – to require prepayment or assurance from the client before delivery of goods and / or to start the work.

ARTICLE 6: PROGRESS, PERFORMANCE WORK/AGREEMENT

1. For the implementation of glazing the relevant Dutch standards of the Nederlands Normalisatie-instituut (NEN) and the Nederlandse Praktijk Richtlijn (NPR) are in effect, unless both parties explicitly agree otherwise in writing.

2. MR Cladding Repair cannot be required to start the execution of the work or the delivery before all the necessary information is in its possession and any agreed instalment payment has been received. When stagnation therefore occurs, the specified delivery terms will be adjusted proportionally. MR Cladding Repair does not accept any liability for damage in this respect of any kind, suffered by the client.

3. When the delivery or work does not occur normal or without any interruptions, because of causes beyond the control of MR Cladding Repair and / or when the client remains in default regarding the fulfilment of obligations mentioned in paragraph 5 of this article, MR Cladding Repair is entitled to charge the resulting costs, including call-out charges and damages, to the client.

4. When during the performing of contracted work by MR Cladding Repair, the work turns out to be impracticable, either as a result of circumstances unknown to MR Cladding Repair, or by any force majeure, MR Cladding Repair has the right to claim a modification in the assignment given to MR Cladding Repair such that the execution of the work becomes possible, except when the work can never be executed because of the unknown circumstances or force majeure. MR Cladding Repair is then still entitled to full compensation for the work already performed. The client must ensure that:

5. MR Cladding Repair gets access at the workings hours announced in advance to the location(s) where the work has to be performed. The location(s) must meet legal safety requirements and other government regulations;

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6. When third parties have to perform work in concerning space/direct/indirect vicinity, this work has to be finished before MR Cladding Repair starts working, so that MR Cladding Repair can carry out its activities there without hindrance;

7. Any necessary permits and / or registrations will be provided for by the client.

8. The location(s) where the work is performed need to be cleared from materials which can stagnate or hinder the work to be performed.

9. The building and scaffolding facilities and any aerial work platforms which are needed for the activities need to be present and need to comply with legal requirements; • All costs incurred by MR Cladding Repair at the request of the client are entirely at the expense of the client, unless otherwise agreed in writing.

10. The client allows MR Cladding Repair to take pictures of the work activities and the progress of the work and to put up advertising signs of MR Cladding Repair on the premises of the client or attached to the work and to use these signs for advertising purposes for MR Cladding Repair.

ARTICLE 7: SHIPPING

1. Shipping of ordered goods occurs in a way decided by MR Cladding Repair, but at the expense and risk of the client, unless both parties have expressly agreed otherwise in writing.

2. MR Cladding Repair is not liable for damage of any kind, related to shipping, whether or not suffered from the business.

3. De client must take out proper insurance against aforementioned risks.

4. The client vouches for good accessibility of the location of destination/unloading place and is responsible for unloading.

5. Orders which are not accepted will be stored by MR Cladding Repair, at the expense and risk of the client, all this in according to article 5.

ARTICLE 8: RECLAMATION/RETURNS

1. The client is entitled to control the goods or work immediately upon receipt of goods or completion of the work activities. When visible defects, errors, imperfections and / or defects are found, this should be noted on the bill of lading or the guidance note and MR Cladding Repair should be notified immediately, either the client notifies MR Cladding Repair within 24 hours upon receipt thereof, this followed by an immediate written confirmation thereof send to MR Cladding Repair.

2. Other reclamations, also to the point of work performed, should be send to MR Cladding Repair in a registered letter, within 8 days after receipt of goods or completion of the work activities.

3. Subject to the provisions of paragraphs 1 and 2 of this article, with regard to natural persons who do not act in the performance of a profession or company, the provisions of paragraph 12 of article 10 is taken into account.
4. When aforementioned reclamations do not reach MR Cladding Repairs in the terms mentioned, the goods are expected to be received in good condition or the work to be performed is expected to be performed well.
5. With regards to imperfections in natural products (among which glass or wood), no reclamation can be asserted, if these imperfections are in relation to the nature and properties of the raw material(s) of which the product has been manufactured. All this at the discretion of MR Cladding Repair.
6. Reclamations do not suspend the payment obligations of the client.
7. MR Cladding Repair must be enabled to investigate the complaint.
8. When a return of the goods is necessary for an investigation of the complaints, this can only occur at the expense and risk of MR Cladding Repair, when latter has given its express written consent.
9. In all cases the return shipment occurs in a manner to be determined by MR Cladding Repair. Return shipments occur at the expense and risk of the client, unless MR Cladding Repair declares the complaint well-founded.
10. When goods have been changed in nature and / or composition after delivery, in whole or in part have been adapted, damaged or have been overpacked, all rights to complaints expire.
11. In case of legitimate complaints the damage will be settled pursuant to the provisions of article 11.

ARTICLE 9: SETTLEMENT OF ADDITIONAL AND LESS WORK

1. Additional or less work needs to be agreed verbally or in writing between MR Cladding Repair and the client and needs to be confirmed in writing when necessary.
2. Settlement of additional and less work occurs at once at the settlement, unless both parties have expressly agreed otherwise in writing.
3. When the total amount of the less work exceeds the amount of the additional work, MR Cladding Repair is entitled to compensation of 15% of the surplus amount of the less work.

Article 10: PAYMENT

1. Payments must be made in accordance with what parties have agreed upon.
2. Payments must be made within 30 days of the invoice date.

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3. When the invoice is not fully paid after the expiry of the period referred to in paragraph 1 of article 10:

4. If an invoice is not fully paid after the expiry of the period referred to in paragraph 2, or when payment has not been made upon agreement (paragraph 1): the client acting in the exercise of a profession or company is in default immediately; - the client who acts as consumer will be given the opportunity to pay within 14 days. If even then (complete) payment is not made, the client / consumer is in default.

5. A client who is in default, owes default interest to MR Cladding Repair in the amount of the statutory interest per month to be calculated cumulatively on the principal sum. Parts of a month are considered as a full month.

6. When the other party has failed to fulfil its payment obligation, MR Cladding Repair is entitled to postpone the fulfilment of the obligations to deliver/start working activities towards the other party, until payment is carried out or proper security for payment has been provided.

ARTICLE 11: LIABILITY AND GUARANTEE

1. MR Cladding Repair strives for the highest achievable result but does not accept an liability for imperfections, breakings, damages, deviations or damage, including consequential damages, which are the result of its act or omit. Unless it is due to demonstrable gross negligence and / or intent. The same limitation applies to staff members and / or other third parties engaged by MR Cladding Repair when performing the work.

2. Without prejudice to the provisions of the other paragraphs of this article the liability of MR Cladding Repair is limited to the amount of the net price of the contract. Compliance with this guarantee is the sole and full compensation.

3. When visible errors, imperfections and / or defects occur in the materials used in the execution of the work or in delivered goods, that must have been already present at the time of delivery, MR Cladding Repair is obliged to repair or replace the goods at its own choice.

4. MR Cladding Repair vouches for the usual normal quality and reliability of the delivered goods; the actual lifespan cannot be guaranteed.

5. When MR Cladding Repair includes materials to be delivered in its offer, MR Cladding Repair relies on the data which are provided by the manufacturer or supplier of these materials to MR Cladding Repair, concerning behaviours and qualities of these materials. MR Cladding Repair is not liable on the basis of the foregoing for damages occurred in that regard.

6. MR Cladding Repair is not liable for any deviations in colours, colour compositions, gloss differences, 'islanding', structure differ and materials.

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7. Work performed must be evaluated from a minimum distance of 5 and a maximum distance of 10 meters.
8. Work performed may not be evaluated from grazing light and / or with artificial light sources.
9. Hidden defects and / or risks must be reported before the start of the work by the client.
10. MR Cladding Repair cannot be held responsible for an imperfections of the work. A repair of a major damage always remains visible, major damages are mentioned in the quotation.
11. MR Cladding Repair cannot be held responsible for spray lanes, paint starts, fogging zones and / or other imperfections which are related to the order.
12. MR. Cladding Repair is not liable for (consequential) damages caused by weather influences or other extreme factors/actions caused by the client or a third party.
13. Stagnations that MR Cladding Repair is experiencing caused by the weather, third parties and / or the client will be charged to the client separately based on recalculations.
14. MR Cladding Repair is not liable for damages to/dicolouration of coating/repair causes by cleaning work.
15. In all cases the term within which MR Cladding Repair can be held liable for compensation for established damage is limited to 2 months, from the moment the indebtedness has been established.
16. If the client is a natural person who does not act in the exercise of a profession or business, a maximum term of 1 (one) year applies from the moment the indebtedness of the compensation has been established, within which MR Cladding Repair can be held liable for compensation for damage established.
17. MR Cladding Repair is not responsible for providing personal protective equipment (PPE) to third parties, the responsibility of this lies with the client.
18. De client is responsible to inform any third parties present at the workplace, that working activities will be carried out using solvent-containing products, any risks/consequential damages of this, and the additional responsibilities to report this and to arrange the associated permits lies entirely with the client.
19. The client loses his rights against MR Cladding Repair, is liable for all damages and indemnifies MR Cladding Repair against any third party claims with regard to compensation for damage when and as far as:
20. Damage caused by improper use by the customer;
21. Damage which has arisen because the client did not act according to the instructions and / or advice of MR Cladding Repair;
22. Damage caused by errors/inaccuracies in data, materials, data carriers and such which are provided and / or prescribed by the client to MR Cladding Repair;

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23. Damages caused by directions from or on behalf of the client to MR Cladding Repair.
24. Specific conditions will be stated in the quotation if applicable.
25. For providing warranty MR Cladding Repair applies specific conditions.

ARTICLE 12: RETENTION OF TITLE

1. MR Cladding Repair reserves ownership of goods delivered and to be delivered until the time when the client has fulfilled its related payment obligations to MR Cladding Repair. The payment obligations consist of paying the purchase price, plus claims with regard to work performed related to the delivery, as well as claims with regard to any compensation for failing to fulfil obligations by the client.
2. If MR Cladding Repair invokes the retention of title, the agreement concluded in this respect is considered to be dissolved, with retaining MR Cladding Repairs right to claim compensation for damages, lost profit and interest.
3. The client is obliged to inform MR Cladding Repair immediately in writing of the fact that third parties assert rights on goods which are subject to retention of title by virtue of this article.

ARTICLE 13: INTELLECTUAL PROPERTY RIGHTS

1. MR Cladding Repair is the owner of industrial and intellectual property rights to the purpose of content and form of reports, drawings, calculations, designs, constructions, software models, descriptions, recommendations and the like.
2. The execution of the rights mentioned in the previous paragraph – including disclosure or transfer of data – is both during and after the execution of the order expressly and exclusively reserved for MR Cladding Repair.
3. Only after payment to MR Cladding Repair of the amount due as a result of a concluded agreement, the client has a right of use in respect of the forgoing.

ARTICLE 14: PAWN/WARRANTAGE

At the time when the client has fully fulfilled its related payment obligations towards MR Cladding Repair, the client is not authorized to pledge delivered goods to third parties and / or to establish a non-possessory pledge on it, and / or to bring the goods under the de facto control of one or more financiers for storage (warrantage), as this will be regarded as attributable non-performance in its part. MR Cladding Repair can then immediately, without being held to any notice of default, suspend its obligations under the agreement, or terminate the agreement, with retaining MR Cladding Repairs right to claim compensation for damages, lost profit and interest.

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ARTICLE 15: BANKRUPTCY, LACK OF POWER OF DISPOSITION etc.

Without prejudice to the provisions of the other articles of these terms and conditions the agreement concluded between the client and MR Cladding Repair will be dissolved without judicial intervention or without any notice of default will be required, at the time when the client is declared bankrupt, applies for a (temporary) suspension of payments, is affected by enforceable seizure, is placed under guardianship of administration, or in any other way loses the power of disposition or legal capacity with regard to his assets or parts thereof, unless the trustee or administrator recognizes the obligations arising from the agreement as an estate debt.

ARTICLE 16: FORCE MAJEURE

If compliance with that which MR Cladding Repair is obliged to do under the agreement concluded with the client is not possible and this is due to non-attributable non-performance on the part of MR Cladding Repair, and / or on the part of third parties or suppliers engaged for the execution of the agreement, or in the event that another important reason arises on the part of MR Cladding Repair, MR Cladding Repair is entitled to dissolve the agreement concluded between the parties, or to suspend the fulfilment of its obligations towards the client during a reasonable period to be determined by MR Cladding Repair, without being obliged to pay any compensation. When the above situation occurs when the agreement has been partially performed, the client is bound to fulfil its obligations towards MR Cladding Repair up to that moment.

2. Circumstances in which there will be non-attributable non-compliance will be understood to include: war, revolt, mobilization, domestic and foreign disturbances, government measures, strikes and exclusion by workers or threats of these and similar circumstances; disruptions to the currency relations existing at the time of entering into the agreement; business disruptions due to fire, accident or other occurrences; natural phenomena, all this irrespective of whether the non or late fulfilment takes place at MR Cladding Repair, its suppliers or third parties engaged by MR Cladding Repair to execute the commitment.

3. If the client should fail in any way towards MR Cladding Repair to promptly fulfil its obligations, in case of suspension of payment, application for a (temporary) suspension of payments, bankruptcy, enforceable seizure, estate relinquishment or liquidation of the client's company, all that which the client owes MR Cladding Repair by virtue of any contract becomes immediately and fully due and payable.

ARTICLE 17: CANCELLATION/TERMINATION

1. The client waives all rights to dissolve the agreement ex article 6:265 and further of the Dutch Civil Code or other laws unless cancellation has been agreed under this article.

2. The provision under A of this paragraph is not applicable if the client is a natural person who does not act in the performance of a profession or business.

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3. Cancellation by the client is only possible if MR Cladding Repair agrees. In that case, the client is obliged to pay MR Cladding Repair, in addition to compensation of at least 30% of the agreed price, to purchase the goods already ordered, in that case not treated or processed, against payment of the cost price.
4. The client is liable to third parties for the consequences of the cancellation and indemnifies MR Cladding Repair in this regard.
5. Amounts already paid by the client will not be refunded.

ARTICLE 18: APPLICABLE LAW / COMPETENT JUDGE

1. The agreement concluded by MR Cladding Repair and the client is exclusively governed by Dutch law. The differences arising from the agreement will also be settled under Dutch law.
2. Any disputes will be settled by a competent Dutch court, albeit that MR Cladding Repair has the authority to bring a case to a competent court in the place where MR Cladding Repair is located, unless the Subdistrict Court is competent in this matter.
3. If the client is a natural person who does not act in the exercise of a profession or business, this applies that within 1 (one) month after MR Cladding Repair has notified the client that the case will be brought to court, the client can make known that he chooses for settlement of the dispute by the legally competent judge.
4. With regards to disputes arising from an agreement concluded with a counterparty established outside The Netherlands, MR Cladding Repair is entitled to act in accordance with the provisions of paragraph 2 of this article or – of its choice – to bring the disputes before the competent court in the country or the state where the client is established.