

General Terms and Conditions of Business of Custom Corkscrew

Article 1: Definitions:

In these General Terms and Conditions of Business (hereinafter, 'the General Conditions') the following terms have the following definitions:

1. 'Custom Corkscrew' is a company (in the form of a general partnership) which has as its purpose, broadly interpreted, to supply high-quality printed and unprinted corkscrews worldwide from Italy, including all of the employees of this company.
- 2 'Client' means a natural person or legal entity, or a group of natural persons and/or legal entities, or an intermediary or representative acting on behalf of same, who/which makes use of the goods of Custom Corkscrew and places an official order to Custom Corkscrew to provide goods as defined in section 5 of this article.
3. 'Agreement': the legal relationship between Custom Corkscrew and the Client, in the broadest sense.
4. 'Goods': any goods and services supplied by Custom Corkscrew and/or by third parties engaged [by or under the auspices of Custom Corkscrew], and any other work performed by Custom Corkscrew for the Client, of any kind whatsoever, in the context of an official order, including activities not performed at the express request of the Client.
5. 'Website': the website <https://customcorkscrew.com>.
6. 'Technical Drawing': a model drawing which has been produced, of the corkscrew.

Article 2: Application of the General Conditions:

1. These General Conditions apply to all agreements between the Client and Custom Corkscrew, in connection with which Custom Corkscrew offers or provides goods and services.
2. Any departures from the General Conditions are valid only if expressly agreed to by Custom Corkscrew in writing.
3. Any 'terms and conditions of purchase' or other conditions and provisions sought to be imposed by the Client are expressly rejected.
4. These General Conditions shall also apply to supplemental or amended Orders of the Client.

Article 3: Agreement:

1. All offers, quotes, and Technical Drawings submitted by **Custom Corkscrew** are non-binding, unless expressly stated otherwise.
2. The Client can request a quote via the Website. Custom Corkscrew will make an offer (provide a quote), and, if the Client provides a 'vector logo' file (in .eps or .pdf format), a Technical Drawing of the corkscrew is also produced. The Agreement is executed by digital signing of the offer and the Technical Drawing by the Client.
3. If Custom Corkscrew sends a confirmation to the Client, the confirmation is definitive as to the contents and interpretation of the Agreement, with allowance made for manifest clerical errors. Custom Corkscrew will not be bound by the explicit terms of its offer if the Client ought reasonably to realise that the offer, or any part thereof, contains a patent error, omission, or clerical error.
4. If the Client provides notes or comments in response to the offer by Custom Corkscrew, such notes and comments are not incorporated in the Agreement unless Custom Corkscrew confirms them in writing.
5. An order from the Client which is not preceded by a written offer requires confirmation (acceptance) by Custom Corkscrew.

Article 4: Implementation of an Agreement:

1. Custom Corkscrew has a 'best efforts' obligation to the Client, and undertakes to follow the agreed provisions to the extent possible.
2. Custom Corkscrew has the right to have certain activities performed by third parties. The applicability of Book 7, Articles 404, 407 (2), and 409 of the Dutch Civil Code, is expressly excluded.
3. The Client shall ensure that all information which Custom Corkscrew designates as necessary or which the Client reasonably ought to recognise as necessary for the performance of the Agreement is timely provided to Custom Corkscrew. If information necessary for the performance of the Agreement is not timely provided to Custom Corkscrew, Custom Corkscrew shall have the right to suspend the performance of the Agreement and/or to bill the Client for the additional costs resulting from the delay, at the then applicable usual rates therefor.
4. If a date is agreed to or stated, for performance of Services, such date will not be deemed a strict deadline. If Custom Corkscrew exceeds a deadline, the Client shall send written notice, including notice of a further reasonable time thereafter for Custom Corkscrew to perform the Agreement.

Article 5: Amendment of an Agreement:

1. If during the performance of the Agreement it appears that, in order for the Agreement to be properly implemented, it is necessary to amend or supplement the Agreement, Custom Corkscrew and the Client will together timely agree upon an amendment to the Agreement.
2. If the Agreement is to include a supplement, it will be referred to as a 'Supplemental Order' [sic]. A separate agreement will be arrived at in advance concerning the remuneration for the 'Supplemental Order'. In the absence of a 'Supplemental Order', the original terms and conditions apply, with the extra services being remunerated at the already agreed rate(s).
3. If Custom Corkscrew fails to perform the amended Agreement in time or at all, this will not constitute breach of contract by Custom Corkscrew, nor grounds for the Client to terminate the Agreement.
4. Amendments to the original Agreement between Custom Corkscrew and the Client will not be valid until they have been accepted by both parties through a supplemental or amended Agreement.

Article 6: Suspension, termination, and provisional termination of the Agreement:

1. Custom Corkscrew shall have the right to suspend the performance of its obligations or to terminate the Agreement if the Client fails to perform its obligations fully, in time or at all, or if Custom Corkscrew has good reason to fear that the Client will so fail.
2. Murano Original further has the right to terminate the Agreement if circumstances arise which are such that compliance with the Agreement is impossible or if continued performance of obligations under the Agreement in the then applicable form cannot reasonably be demanded of Custom Corkscrew.
3. If the Client fails to meet its obligations arising out of the Agreement, such as to justify termination, Custom Corkscrew is entitled to terminate the Agreement with immediate effect, without any obligation on its part to pay any damages or other compensation; and moreover the Client shall itself be liable for damages or other remedy for breach of contract.
4. In the event of liquidation of the Client, or the application for or grant of a formal moratorium, or bankruptcy proceedings, or in the event of seizure of assets (provided that the seizure is not lifted within three months) to the detriment of the Client, or debt restructuring, or other circumstance whereby the Client does not have free control over its assets, Custom Corkscrew shall have the right to terminate the Agreement with immediate effect, or to cancel an Order or Agreement [sic], without any obligation on its part to pay any damages or other compensation. In such a case, the claims of Custom Corkscrew against the Client (e.g. accounts receivable) shall be immediately enforceable.

Article 7: Costs, remuneration, and payment:

1. All amounts stated in an offer are in euros, and, in the event of applicability of a VAT or other government charge, the stated amounts shall be exclusive of said extra amounts, and exclusive of shipping costs, unless stated otherwise.
2. Custom Corkscrew shall have the right to correct any evident errors, omissions, or clerical errors in the quoting of prices.
3. Payments shall be by PayPal, iDeal, credit card, or bank wire, in the currency in which the invoice is denominated. An advance payment of 50% is required prior to performance under the Agreement. The remaining 50% shall be paid within 14 (fourteen) days following delivery.
4. The Client shall notify Custom Corkscrew without delay of any errors in the data relating to payments stated or actually paid.
5. If the Client fails to make timely payment on an invoice, then the Client will be deemed to be in default without the need for further formal notice of default. Further, the Client shall be liable for statutory interest (carrying charges). The interest on the enforceable past due amount will be calculated from the beginning of the arrears until the entire past due amount is paid.
6. If Custom Corkscrew decides to enforce a claim for non-payment of one or more unpaid invoices, the Client shall reimburse Custom Corkscrew for all reasonable costs, judicial and extra-judicial, in addition to the principal amount and the interest mentioned in section 5 of this article. The amount of reimbursement for judicial and extra-judicial costs incurred shall be determined in accordance with the then applicable Administrative Decree relating to compensation for extra-judicial costs of collection.

Article 8: Termination:

1. Any termination of the Agreement must be in writing and must be expressly confirmed by Custom Corkscrew.
2. If termination occurs following digital signing of an offer and/or of a Technical Drawing, then 100% of the costs incurred in providing the Services shall be billable.

Article 9: Delivery and transportation:

1. Unless otherwise agreed in writing, deliveries will be from our office, with address 'Brede Hilledijk 281, 3072 NJ Rotterdam, The Netherlands'.
2. If an order is lost or damaged, an appropriate resolution shall be sought.
3. The delivery period is 4 (four) to 5 (five) weeks, not including holidays and vacations. The 'delivery period' is reckoned from the [date of the] agreement concerning the Technical Drawing and/or the offer, until the [date of the] shipping. The shipping time (duration of the shipping) depends on the country involved. To obtain an indication (estimate) of the shipping time, the Client may contact Custom Corkscrew.
4. The manner of packing and shipping will be determined by Custom Corkscrew.
5. The un-boxed corkscrews are packed in white boxes containing twelve (12) corkscrews, with fifteen (15) such boxes being packed in a carton. The boxed corkscrews are packed in groups of twenty-four (24) and are sealed and packed in a carton having one hundred twenty (120) corkscrews. Custom Corkscrew may change this arrangement at any time.
6. If, following the expiry of the delivery period, the Goods are available to the Client but are not accepted by the Client, the Goods shall remain at the Client's disposal at the Client's risk and expense, regardless of the reason for non-acceptance.

Article 10: Returns:

1. Unused unprinted corkscrews may be returned with 14 days after receipt, without the need to state a reason. If Custom Corkscrew receives the products in good order, the total amount will be refunded.
2. Unused unprinted corkscrews may be returned only if in their original condition.
3. Used corkscrews cannot be returned.

Article 11: Liability:

1. The Client is responsible for providing correct and representative information required for the performance of the Agreement. Custom Corkscrew shall not be responsible if the Client provides incorrect or non-representative information.
2. The 'delivery time' as described in Article 9 section 3 is an approximation (estimate). Although Custom Corkscrew will always strive to meet the 'delivery time', Custom Corkscrew will not be liable for the consequences of failure to adhere to a specified 'delivery time'. If the 'delivery time' is exceeded, the Client will not have the right to cancel the Order, or to refuse receipt of or payment for the Goods, nor will Custom Corkscrew be liable to pay any compensation to the Client.
3. If Custom Corkscrew is held liable, it will be solely liable for direct loss actually incurred or paid or suffered by the Client, and only such loss as is provably due to non-compliance by Custom Corkscrew with its obligations regarding its Goods. Any liability under this Article shall be limited to an amount agreed with the Client.
4. All claims by the Client arising from deficiencies on the part of Custom Corkscrew shall lapse if not reported to Custom Corkscrew in writing within a reasonable time after the Client became aware of or reasonably could have become aware of the facts on which the Client's claims are based.
5. Custom Corkscrew is not liable for indirect loss, including but not limited to consequential loss, lost earnings, lost savings, and damages due to business interruption.
6. Custom Corkscrew is not liable for bodily injury through use of the Goods, either directly or indirectly.
7. Custom Corkscrew is not liable for failure to meet obligations, or failure to timely meet obligations, under the Agreement, where such failure is due to force majeure as described in Art. 12.
8. The Client shall defend and indemnify Custom Corkscrew against claims by third parties, except in cases of deliberate act or gross negligence by Custom Corkscrew.
9. This provision does not exclude liability to the extent that the law prevents limitation or exclusion of liability.

Article 12: Force majeure:

1. The term 'force majeure' here means all external causes which do not derive from the will or complicity of Custom Corkscrew, and which result in the inability of Custom Corkscrew to perform the Agreement in full, in time, or at all.
2. 'Force majeure' here includes, but is not limited to: failure of a third party to fulfil its obligations, illness among personnel of Custom Corkscrew or a third party, abnormal weather conditions, disturbances in the supply of water or energy, labour strikes, severe disturbances in the systems of Custom Corkscrew or its suppliers, fire, flood, natural disaster, riot, war, or domestic unrest.
3. In the event of force majeure, performance of the Agreement will be suspended as long as the force majeure persists.
4. If the force majeure lasts for more than one month, either party has the right to terminate the Agreement without judicial intervention. In such a case, Custom Corkscrew will repay any amounts paid, deducting all costs incurred by Custom Corkscrew with respect to the Agreement.

Article 13: Warranty:

1. Custom Corkscrew warrants the Goods it provides against defects in materials and workmanship. Under the warranty, Custom Corkscrew will remedy the defects by its 'best efforts', or if necessary will replace the Goods. Defects must be reported to Custom Corkscrew in writing.
2. The warranty is void if the defects are partially or entirely due to improper, inexperienced, unskilled, clumsy, or negligent use, or use for other than normal purposes, or are partially or entirely attributable to external causes, including but not limited to fire or water damage.
3. The warranty is also void if the Goods are modified or subjected to maintenance by third parties.
4. The warranty period is six (6) months from the delivery time, unless agreed otherwise.
5. If Murano performs repair or restoration work which is outside the scope of the present Article, this work will be billed to the Client.
6. The warranty terms of these General Conditions do not affect possible warranty claims by the Client under the law.

Article 14: Claims:

1. The Client is required to inspect the delivered Goods itself, or through a third party, at the time of delivery or as soon thereafter as possible. In addition, the Client is required to investigate whether the quality and quantity of the Goods correspond to the provisions of the Agreement.
2. Any visible defects or deficiencies must be reported to Custom Corkscrew in writing within 10 (ten) days after delivery, accompanied by the proof of purchase, unless this is impossible or unreasonably burdensome.
3. Any non-visible (latent) defects or deficiencies must be reported within 20 (twenty) days, or a maximum of three (3) months after discovery, in the manner described in section 2 of this article.

Article 15: Retention of title:

1. All Goods which have been or are to be delivered remain solely the property of Custom Corkscrew, until all claims which Custom Corkscrew has or will have against the Client for any reason whatsoever have been fully paid.
2. Risks relating to the Goods will pass to the Client upon delivery, when the Client takes custody and control over the Goods.

Article 16: Intellectual property:

1. Custom Corkscrew reserves all rights and powers to which it is entitled by virtue of copyright.
2. The Client is not permitted to modify the Goods unless by specific agreement.
3. The Technical Drawings developed by Custom Corkscrew in the context of the Agreement, including sketches, designs, and drawings, all considered in the broadest sense, remain the property of Custom Corkscrew, regardless of whether they were delivered to the Client or third parties, unless agreed otherwise.
4. All Technical Drawings provided by Custom Corkscrew, having the content described in section 3 of this article, are intended solely for use by the Client and may not be reproduced by the Client or made public or supplied to third parties, without the prior consent of Custom Corkscrew, unless the nature of the items themselves dictates otherwise.
5. The Client acknowledges that the Website, including the structure, the content, and the concept, constitute(s) intellectual property owned by Custom Corkscrew.
6. The Client may not duplicate, reconfigure, modify, disassemble, reveal or explore the source code (reverse engineer), distribute, lease, lend, or disclose any part of the Website through any open means of communication whatsoever, except with prior written permission from Custom Corkscrew or the holder of the rights in question, unless such use is permitted by law.
7. The Client is not permitted to remove any symbols or other references to the intellectual, industrial, or other property rights of Custom Corkscrew. Clients may not permissibly circumvent or manipulate the technical measures implemented by Custom Corkscrew or third parties on the Website for the protection of Custom Corkscrew's intellectual property rights.

Article 17: The identity of Custom Corkscrew:

1. Custom Corkscrew is registered under number 59138777 in the Trade Register of the Netherlands Chamber of Commerce, and has VAT Identification Number NL853334894B01. Custom Corkscrew has its registered offices at Maashavenkade 185, 3072 ES Rotterdam.
2. Custom Corkscrew may be contacted by e-mail at info@customcorkscrew.com, via the Website <http://nl.customcorkscrew.com/>, and by telephone at +31 6 2912 4708.

Article 18: Applicable law, and venue:

1. The legal relationship between Custom Corkscrew and its clients is governed by Dutch law.
2. Any disputes which may arise between Custom Corkscrew and its clients shall be resolved by the competent courts of the District of Rotterdam.

Article 19: Arbitration:

1. Disputes between Chinese and/or U.S. Clients and Custom Corkscrew which may arise in connection with an existing Agreement or any future agreements shall be settled by arbitration in accordance with the Arbitration Rules of the Stichting Arbitrage Rechtspraak Nederland (Netherlands Arbitration Institute) in Amsterdam. The Arbitration Rules may be obtained upon request from Custom Corkscrew, and they are also published on the website www.arbitragerechtspraak.nl. The Arbitration Regulations are incorporated into any Agreement between the Client and Custom Corkscrew.

2. If a dispute has not been brought before the Netherlands Arbitration Institute, the Client and Custom Corkscrew may bring the matter before civil courts.

3. If Custom Corkscrew files an arbitration case with the Netherlands Arbitration Institute, and the Client, in the capacity of a 'consumer', would prefer to have the proceedings pursued in a civil court, then, within thirty (30) days after the dispute has been filed with the Netherlands Arbitration Institute, the Client shall so notify Custom Corkscrew and the Netherlands Arbitration Institute.