

Terms and Conditions

General Terms and Conditions of the Dutch Thuiswinkel Organisation - FixPart

These General Terms and Conditions of the Dutch Thuiswinkel Organisation (hereinafter referred to as: Thuiswinkel.org) have been compiled in consultation with the Consumer Association within the framework of the Self-Regulation Agreement Coordination Group (CZ) of the Social and Economic Council and will enter into force on 1 June 2014.

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Article 1 - definitions

The following definitions are used in these T&Cs:

1. **Additional agreement:** an agreement in which the consumer acquires products, digital content and/or services through a distance-selling agreement and these products, digital content and/or services are supplied by the business or by a third party on the basis of an arrangement between that third party and the business;
2. **Cooling-off period:** the period within which the consumer can make use of the right of withdrawal;
3. **Consumer:** a natural person who is not acting for purposes relating to his trade, business, craft or profession;
4. **Day:** calendar day;
5. **Digital content:** data produced and delivered in digital form;
6. **Continuing performance agreement:** an agreement for the regular supply of goods, services and/or digital content for a specific period of time;
7. **Durable data medium:** all tools, including e-mail, that enable the consumer or business to store information that is addressed to him/her/it personally in a way that allows for future

consultation or use for a period of time that is attuned to the purpose for which the information is intended and which permits the unaltered reproduction of the information stored;

8. **Right of withdrawal:** the option for the consumer to withdraw from the distance-selling agreement during the cooling-off period;
9. **Business:** the natural or legal person who is a member of Thuiswinkel.org and offers products, (access to) digital content and/or services to consumers on a distance-selling basis;
10. **Distance-selling agreement:** an agreement that is concluded between the business and the consumer as part of an organised system for the remote sale of products, digital content and/or services, whereby sole or joint use is made of one or more technologies for remote communication up to and including the moment at which the agreement is concluded;
11. **Template form for withdrawal:** the European template form for withdrawal as provided in Appendix I to these General Terms and Conditions; Appendix I does not need be provided if the consumer does not have a right of withdrawal with regard to his/her order;
12. **Technology for remote communication:** means by which an agreement can be concluded without the consumer and business having to be together in the same space at the same time.

Article 2 - identity of the business

Name of business: FixPart B.V.

Office address: Wijchenseweg 10H, 6537TL Nijmegen, The Netherlands

Available: Monday to Friday, 9 am to 5 pm

E-mail address: customerservice@fixpart.ie

Phone number: +31 85 2013569

Chamber of Commerce number: 73197416

VAT number: IE3888136LH

Article 3 - applicability

1. These General Terms and Conditions apply to every offer made by the business and to every distance-selling agreement concluded between the business and the consumer.
2. Before the distance-selling agreement is concluded, the text of these General Terms and Conditions must be made available to the consumer. If this is not reasonably possible, the business will indicate, before the distance-selling agreement is concluded, how the General Terms and Conditions can be viewed at the business premises and that they will be sent to the consumer free of charge as promptly as possible at the consumer's request.
3. If the distance-selling agreement is concluded electronically, then, contrary to the previous paragraph, and before the agreement is concluded, the text of these General Terms and Conditions may be made available to the consumer by electronic means in such a way that the consumer can easily store them on a durable data medium. If this is not reasonably possible, it shall be stated, before the distance-selling agreement is concluded, where the General Terms and Conditions can be viewed by electronic means and that they will be sent to the consumer free of charge, either electronically or in some other way, at the consumer's request.
4. In the event that specific product or service conditions apply in addition to these General Terms and Conditions, the second and third paragraphs apply and in the event of conflicting conditions, the consumer may always invoke the applicable provision that is most favourable to him.

Article 4 - the offer

1. If an offer is of limited duration or is made subject to conditions, it shall be expressly stated in the offer.
2. The offer shall contain a complete and accurate description of the products, digital content and/or services offered. The description shall be sufficiently detailed as to enable the consumer to make a proper assessment of the offer. If the business uses images, they shall be a true reflection of the products, services and/or digital content offered. Obvious mistakes or obvious errors in the offer are not binding on the business.
3. Each offer shall contain such information as to make it clear to the consumer what rights and obligations are associated with acceptance of the offer.

Article 5 - the agreement

1. Subject to the provisions of paragraph 4, the agreement shall enter into effect when the consumer accepts the offer and fulfils the set conditions.
2. If the consumer has accepted the offer electronically, the business shall immediately confirm receipt of acceptance of the offer electronically. To the extent that receipt of this acceptance has not been confirmed by the business, the consumer remains able to terminate the agreement.
3. If the agreement is concluded electronically, the business shall take appropriate technical and organisational measures to secure the electronic transfer of data and shall ensure a secure web environment. If the consumer is able to pay electronically, the business shall take appropriate security measures.
4. The business may, within legal frameworks, investigate the consumer's ability to meet his/her payment obligations, as well as all facts and factors that are important for the responsible conclusion of the distance-selling agreement. If, on the basis of this investigation, the business has good reason not to enter into the agreement, it shall be entitled to refuse an order or request or to attach special conditions to its execution.
5. No later than at the time of delivery of the product, service or digital content to the consumer, the business shall provide the following information, either in writing or in such a way that the consumer is able to store it on a durable data medium in a manner that is accessible:
 - The visiting address of the business premises at which the consumer can lodge a complaint;
 - The conditions under which and the way in which the consumer may exercise a right of withdrawal, or a clear statement concerning exclusion of the right of withdrawal;
 - Information on warranties and after-sales services;
 - The price, including all taxes, of the product, service or digital content; where applicable, the costs of delivery; and the method of payment, delivery or execution of the distance-selling agreement;
 - The requirements for cancellation of the agreement if the agreement has a duration of more than one year or is indefinite;
 - If the consumer has a right of withdrawal, the template form for withdrawal.
6. In the event of a continuous transaction, the provision in the previous paragraph shall apply to the first delivery only.

Article 6 - right of withdrawal

In the case of products:

1. The consumer may terminate an agreement for the purchase of a product at any point within a cooling-off period of fourteen days without having to give a reason for doing so. The business may ask the consumer about the reason for withdrawal, but may not oblige the consumer to state the reason(s).
2. The cooling-off period referred to in paragraph 1 shall start on the day after the consumer, or a third party appointed by the consumer in advance, who is not the carrier, has received the product, or:
 - If the consumer has ordered multiple products in the same order: the day on which the consumer, or a third party appointed by the consumer, has received the final product in the order. Provided that it has clearly informed the consumer prior to the ordering process, the business may refuse an order for multiple products with different delivery dates.
 - If the delivery of a product comprises several shipments or parts: the day on which the consumer, or a third party appointed by the consumer, has received the final shipment or the final part;
 - In case of agreements for regular delivery of products over a certain period of time: the day on which the consumer, or a third party appointed by the consumer, has received the first product.

In the case of services and digital content not supplied on a tangible medium:

3. The consumer may terminate a service agreement and an agreement for the supply of digital content not supplied on a tangible medium at any point within a fourteen day period without having to give a reason for doing so. The business may ask the consumer about the reason for withdrawal, but may not oblige the consumer to state the reason(s).
4. The cooling-off period referred to in paragraph 3 shall start on the day after the conclusion of the agreement.

Extended cooling-off period for products, services and digital content not supplied on a tangible medium in the event of a lack of information about the right of withdrawal:

5. If the business fails to provide the consumer with the statutory information about the right of withdrawal or the template form for withdrawal, the cooling-off period shall elapse twelve months after the end of the original cooling-off period determined in accordance with the previous paragraphs of this Article.
6. If the business provides the consumer with the information referred to in the previous paragraph within twelve months of the commencement date of the original cooling-off period, the cooling-off period shall elapse fourteen days after the day on which the consumer received that information.

Article 7 - obligations of the consumer during the cooling-off period

1. The consumer shall treat the product and its packaging with care throughout the cooling-off period. The consumer shall only unpack or use the product to the extent required to determine the nature, characteristics and operation of the product. The basic principle is that the consumer may only handle and inspect the product to the extent that he/she would be permitted to do so in a physical shop.
2. The consumer shall only be liable for any reduction in the value of the product resulting from a manner of handling the product that goes beyond that permitted in paragraph 1.

3. The consumer shall not be liable for any reduction in the value of the product if the business has not provided him/her with all of the statutory information about the right of withdrawal prior to or at the time of conclusion of the agreement.

Article 8 - exercise of the right of withdrawal by the consumer and associated costs

1. If the consumer makes use of the right of withdrawal, he/she shall notify the business of this within the cooling-off period by means of the template form for withdrawal or in another unambiguous manner.
2. The consumer shall return the product or hand it over to (an authorised representative of) the business as promptly as possible, but no later than fourteen days after the notification as referred to in paragraph 1. This shall not be required if the business has offered to collect the product itself. The consumer shall in any case have complied with the return period if he/she returns the product before the cooling-off period has elapsed.
3. The consumer shall return the product together with all accessories, if reasonably possible in its original condition and packaging, and in accordance with the reasonable and clear instructions provided by the business.
4. The risk and burden of proof of the correct and timely exercise of the right of withdrawal rests with the consumer.
5. The direct costs of returning the product shall be borne by the consumer. If the business does not indicate that the consumer shall bear these costs or if the business indicates that it shall bear the costs itself, the consumer shall not be required to bear the costs of returning the product.
6. If the consumer exercises the right of withdrawal after first having expressly requested that the provision of the service or the supply of gas, water or electricity which was not made ready for sale in a limited volume or set quantity begin during the cooling-off period, the consumer shall owe the business an amount which is proportionate to that part of the commitment which the business has complied with at the time of withdrawal, as compared with full compliance with the commitment.
7. The consumer shall not bear any costs for the performance of services or the supply of water, gas or electricity which was not made ready for sale in a limited volume or quantity, or for the supply of district heating, if:
 - The business has not provided the consumer with the statutory information about the right of withdrawal, reimbursement of costs in the event of withdrawal or the template form for withdrawal, or
 - The consumer has not expressly requested commencement of the performance of the service or supply of gas, water, electricity or district heating during the cooling-off period.
8. The consumer shall bear no costs for the complete or partial delivery of digital content not supplied on a tangible medium if:
 - He/she has not expressly consented to the commencement of performance of the agreement before the end of the cooling-off period;
 - He/she has not acknowledged loss of the right of withdrawal when giving consent; or
 - The business has failed to confirm this declaration by the consumer.
9. If the consumer makes use of the right of withdrawal, all supplementary agreements shall be terminated by operation of law.

Article 9 - obligations of the business in the event of withdrawal

1. If the business makes it possible for the consumer to notify of the exercise of the right of withdrawal electronically, it shall send an acknowledgement of receipt of this notification without delay.
2. The business shall reimburse all payments made by the consumer, including any delivery costs charged by the business for the returned product, without undue delay but within fourteen days of the consumer notifying it of withdrawal. Unless the business offers to collect the product itself, it may wait to issue the refund until it has received the product or until the consumer proves that it has returned the product, whichever comes first.
3. The business shall use the same payment method for the refund that consumer used for payment, unless the consumer agrees to a different method. The refund shall be free of charge for the consumer.
4. If the consumer chose a more expensive method of delivery than the cheapest standard delivery, the business shall not be required to reimburse the additional costs for the more expensive method.

Article 10 - exclusion of the right of withdrawal

The business may exclude the following products and services from the right of withdrawal only if the business indicated this clearly in the offer or at least in good time before conclusion of the agreement:

1. Products or services where the price is linked to fluctuations in the financial market over which the business has no influence and which can occur within the withdrawal period
2. Agreements concluded at public auction. Public auction means a method of sale whereby products, digital content and/or services are offered by the business to the consumer who attends or is given the opportunity to attend the auction in person, under the direction of an auctioneer, and whereby the successful bidder is bound by law to purchase the products, digital content and/or services;
3. Service agreements, after full performance of the service, but only if:
 - Execution started with the consumer's express prior consent; and
 - The consumer has declared that he/she forfeits the right of withdrawal when the business has fully executed the agreement;
4. Package holidays as referred to in Article 7:500 of the Civil Code and passenger transport agreements;
5. Service agreements for the provision of accommodation, if the agreement provides for a specific date or period of execution and other than for residential purposes, carriage of goods, car rental services and catering;
6. Agreements relating to leisure activities, if the agreement provides for a specific date or period of execution;
7. Products manufactured to the consumer's specifications, which are not prefabricated and which are manufactured on the basis of an individual choice or decision by the consumer, or which are clearly intended for a specific person;
8. Products that spoil quickly or have a limited shelf life;
9. Sealed products which are not suitable for return for health protection or hygiene reasons and where the seal was broken after delivery;
10. Products which, after delivery, are irrevocably mixed with other products due to their nature;
11. Alcoholic beverages where the price was agreed upon at the conclusion of the agreement but the delivery of which can only take place after 30 days, and the actual value of which is

- dependent on fluctuations in the market over which the business has no control;
12. Sealed audio, video recordings and computer software, where the seal was broken after delivery;
 13. Newspapers, journals or magazines with the exception of subscriptions;
 14. The delivery of digital content other than on a tangible medium, but only if:
 - Execution started with the consumer's express prior consent; and
 - The consumer has declared that he/she thereby forfeits the right of withdrawal.

Article 11 - price

1. The prices of the products and/or services offered will not increase during the validity period stated in the offer, except for price changes necessitated due to changes in VAT rates.
2. In departure from the previous paragraph, the business may offer products or services whose prices are subject to fluctuations in the financial market that are beyond the control of the business, at variable prices. The offer shall be accompanied by a statement regarding the link to fluctuations and the fact that any prices quoted are guideline prices only.
3. Price increases within three months of the conclusion of the agreement are only permitted if they come about as the result of statutory regulations or provisions.
4. Price increases from three months after the conclusion of the agreement are only permitted if the business has stipulated such and:
 - They are the result of statutory regulations or provisions; or
 - The consumer is authorised to terminate the agreement on the day on which the price increase takes effect.
5. The prices stated in the offer of products or services are inclusive of VAT.

Article 12 - compliance with the agreement and additional guarantee

1. The business guarantees that the products and/or services satisfy the agreement, the specifications stated in the offer, the reasonable requirements of reliability and/or serviceability and the statutory provisions and/or government regulations in force on the date on which the agreement was concluded. If agreed, the business also guarantees that the product is suitable for other than normal use.
2. An additional guarantee provided by the business, its supplier, manufacturer or importer does not limit the statutory rights and claims that the consumer can invoke against the business on the basis of the agreement if the business has failed to fulfil its part of the agreement.
3. Additional guarantee is understood to refer to any commitment on the part of the business, its supplier, importer or manufacturer in which it grants the consumer certain rights or claims that go beyond its legal obligation in the event that it has failed to fulfil its part of the agreement.

Article 13 - delivery and execution

1. The business shall take the greatest possible care when receiving and executing orders for products and when assessing applications for the provision of services.
2. The place of delivery is the address that the consumer has made known to the business.
3. Taking into account the provisions of Article 4 of these General Terms and Conditions, the business shall execute accepted orders with appropriate speed but at the latest within 30 days, unless a different delivery date has been agreed. In the event that the delivery is delayed, or if an order cannot be executed or can only be executed in part, the consumer shall be informed of this within 30 days of the order being placed. In that case, the consumer

- has the right to terminate the agreement without charge and the right to possible damages.
4. After termination in accordance with the previous paragraph, the business shall refund the amount paid by the consumer without delay.
 5. The risk of damage and/or loss of products rests with the business up to the point of delivery to the consumer, or a representative appointed by the consumer in advance and made known to the business, unless expressly agreed otherwise.

Article 14 - ongoing transactions: duration, termination and renewal

Termination:

1. The consumer may terminate an agreement concluded for an indefinite period, which extends to the regular delivery of products (including electricity) or services at any time, subject to the agreed termination rules and a notice period of up to one month.
2. The consumer may terminate an agreement concluded for a fixed term for the regular supply of products (including electricity) or services at any time at the end of the fixed term, subject to the agreed termination rules and a notice period of up to one month.
3. The consumer may terminate the agreements referred to in the previous paragraphs:
 - At any time, and shall not be limited to termination at a specific time or during a specific period;
 - At least in the same manner as they were entered into by him/her;
 - Always with the same notice period that the business has stipulated for itself.

Extension:

1. An agreement entered into for a fixed term, which extends to the regular delivery of products (including electricity) or services, may not be automatically extended or renewed for a fixed term.
2. In departure from the previous paragraph, an agreement for a fixed term that has been entered into for the regular delivery of newspapers, periodicals and magazines may be automatically extended for a maximum period of three months, if the consumer has the right to terminate this extended agreement at the end of the extension period, with a notice period of up to one month.
3. An agreement for a fixed term that has been entered into for the regular delivery of products or services may only be automatically renewed for an indefinite period if the consumer retains the right to terminate with a notice period of up to one month. The notice period shall be no more than three months if the agreement relates to the regular (but less than once per month) delivery of newspapers, periodicals and magazines.
4. An agreement for a fixed term for the regular supply of daily or newspapers, periodicals and magazines as part of a trial or introductory subscription shall not be automatically continued and shall end automatically at the end of the trial or introductory period.

Duration:

1. If an agreement has a duration of more than one year, the consumer may, after one year, terminate the agreement at any time with a notice period of up to one month, unless reasonableness and fairness dictate that termination before the end of the agreed duration is impossible.

Article 15 - payment

1. Insofar as not otherwise specified in the agreement or additional conditions, the amounts payable by the consumer shall be paid within fourteen days of the start of the cooling-off period or, where there is no cooling-off period, within fourteen days of conclusion of the agreement. In the case of an agreement governing the provision of a service, this period shall commence on the day following that on which the consumer receives confirmation of the agreement.
2. In the case of the sale of products to consumers, the General Terms and Conditions must not obligate the consumer to pay more than 50% in advance. If advance payment is stipulated, the consumer may not assert any rights regarding the execution of the relevant order or service(s) before the stipulated advance payment has been made.
3. The consumer is obliged to report inaccuracies in payment data provided or reported to the business immediately.
4. In the event that the consumer does not meet his/her payment obligation(s) promptly, he/she shall, after being notified by the business of the late payment and after the business has granted the consumer a further period of fourteen days to meet his/her payment obligation(s), after failing to pay within this fourteen period, owe statutory interest on the amount due and the business shall be entitled to charge extra judicial collection costs. These collection costs are a maximum of: 15% on outstanding amounts up to €2,500, 10% on the next €2,500 and 5% on the next €5,000, with a minimum amount payable of €40. The business may deviate from the aforementioned amounts and percentages in favour of the consumer.

Article 16 - complaints procedure

1. The business shall have a properly publicised complaints procedure and shall handle complaints in accordance with this complaints procedure.
2. Complaints about the execution of the agreement must be submitted to the business in full, clearly outlining the nature of the complaint, within a reasonable period of time after the consumer has identified shortcomings.
3. The business shall respond to submitted complaints within fourteen days of receipt. If a complaint requires a foreseeably longer processing time, the business shall respond within fourteen days with a notice of receipt and an indication of when the consumer can expect a more detailed reply.
4. A complaint about a product, a service or service received from the business can also be submitted via a complaints form on the consumer page of the Thuiswinkel.org website www.thuiswinkel.org. The complaint shall then be sent to the respective business and to Thuiswinkel.org.
5. The consumer must give the business at least four weeks to resolve the complaint in mutual consultation. Once this period has elapsed, a dispute shall arise that may be resolvable via the dispute settlement procedure.

Article 17 - disputes

1. Dutch law exclusively applies to agreements between the business and the consumer to which these General Terms and Conditions apply.
2. Disputes between the consumer and business concerning the conclusion or execution of agreements relating to products and services to be supplied by this business may, taking into consideration the foregoing, be submitted to the Thuiswinkel Disputes Committee, PO Box 90600, 2509 LP, The Hague (www.sgc.nl) by either the consumer or the business.

3. A dispute shall only be considered by the Disputes Committee if the consumer has first submitted his/her complaint to the business within a reasonable period of time.
4. If the complaint does not lead to a resolution, the dispute must be submitted to the Disputes Committee in writing or in another form as determined by the Committee within twelve months of the date on which the consumer submitted the complaint to the business.
5. If the consumer wishes to submit a dispute to the Disputes Committee, the business shall be bound by this decision. The consumer should ideally report this to the business first.
6. If the business wishes to submit a dispute to the Disputes Committee, the consumer shall declare in writing, within five weeks of a written request from the business, whether he/she also wishes to do so or would prefer that the dispute to be dealt with by the competent court. If the business does not receive the consumer's decision within the period of five weeks, the business shall be entitled to submit the dispute to the competent court.
7. The Disputes Committee shall rule under the conditions as set out in the regulations of the Disputes Committee (www.degeschillencommissie.nl/over-ons/de-commissies/2404/thuiswinkel). Rulings made by the Disputes Committee are made by way of a binding opinion.
8. The Disputes Committee shall not deal with a dispute or shall terminate proceedings if the business has been granted a suspension of payments, entered into liquidation or has terminated business activities before the Committee has had the opportunity to deal with the dispute and issue a final ruling.
9. If, in addition to the Thuiswinkel Disputes Committee, another recognised disputes committee or one affiliated with the Stichting Geschillencommissies voor Consumentenzaken (SGC) or the Klachteninstituut Financiële Dienstverlening (Kifid) is competent, the Thuiswinkel Disputes Committee shall, in case of disputes concerning mostly the method of distance selling or the provision of services, be the preferred disputes committee. For all other disputes, the other recognised disputes committees affiliated with the SGC or Kifid.
10. The European Commission offers an online disputes resolution platform for consumers at <http://ec.europa.eu/consumers/odr/>. We participate voluntarily in a disputes settlement procedure.

Article 18 - industry guarantee

1. Thuiswinkel.org guarantees that its members comply with the binding opinions issued by the Thuiswinkel Disputes Committee, unless the member decides to submit the binding opinion to the court for verification within two months of the opinion being issued. This guarantee shall be revived if the binding opinion is upheld following review by the court and the ruling establishing it becomes a final decision. Up to a maximum amount of €10,000 per binding opinion, Thuiswinkel.org shall pay this amount to the consumer. For amounts in excess of €10,000 per binding opinion, an amount of €10,000 shall be paid. Thuiswinkel.org utilises a commitment obligation to ensure that members comply with binding opinions.
2. For this guarantee to be applied, the consumer must submit a written complaint to Thuiswinkel.org and transfer the claim against the business to Thuiswinkel.org. If the claim against the business exceeds €10,000, the consumer shall be given the opportunity to transfer the claim, insofar as it exceeds the amount of €10,000, to Thuiswinkel.org, whereupon this organisation shall request payment in court in its own name and at its own expense.

Article 19 - additional or different provisions

Additional provisions or provisions that deviate from these General Terms and Conditions may not be to the detriment of the consumer and must be set out in writing or in such a way that the consumer can store them in an accessible manner on a durable storage medium.

Article 20 - amendments to the General Terms and Conditions of Thuiswinkel.org

1. Thuiswinkel.org shall not amend these General Terms and Conditions except in consultation with the Consumer Association.
2. Amendments to these General Terms and Conditions shall only take effect once they have been published in the appropriate manner, provided that in the event of applicable amendments during the term of an offer, the provision that is most favourable to the consumer takes precedence.

Thuiswinkel.org

www.thuiswinkel.org

Horaplantsoen 20, 6717 LT Ede

P.O. Box 7001, 6710 CB Ede

Appendix I: Template form for withdrawal

Template form for withdrawal

(complete and return this form only if you wish to withdraw from the agreement)

- Aan: FixPart B.V.
Wijchenseweg 10H, 6537TL Nijmegen, The Netherlands
customerservice@fixpart.ie
- I/we* hereby give notice that I/we* have decided to withdraw from our agreement governing
The sale of the following products: [product name]*
The provision of the following digital content: [digital content name]*
The provision of the following service: [service name]*.
- Ordered on*/received on* [date of order in the case of services or date of receipt in the case of products]
- [Name of consumer(s)]
- [Consumer address(es)]
- [Signature of consumer(s)] (only if this form is submitted on paper)

*Delete/complete as applicable.