



General terms and conditions of the Dutch Association of Farriers.

version 2018.

The following conditions are general terms and conditions as referred to in Article 231 of Book 6 of the Dutch Civil Code. These general terms and conditions have been drawn up for the benefit of the Dutch Association of Farriers, as well as its members.

Article 1. Definitions

1. In these general terms and conditions the following definitions apply to the terms that are written with a capital letter.
2. All definitions mentioned in these general terms and conditions apply to both the singular and plural forms of the definitions used.

The Farrier:	The Farrier: Mr. R. Sommer , member of the Dutch Association of Farriers, who declares in the exercise of its trade or business to apply the current general terms and conditions, having his business address at Emst , registered under number 08147383 with the Chamber of Commerce in Apeldoorn; the person who maintains the hooves of a horse or other hoofed animal or who performs work within the context of the Agreement under assignment;
Client:	The person who, in the capacity of Consumer or Entrepreneur, has entered into an agreement with The Farrier on behalf of which services are provided and/or goods are supplied;
Consumer:	The natural person and Client who does not act for purposes related to the exercise of his profession or business;
Entrepreneur:	The natural person or legal entity and Client who is registered with the trade register of the Chamber of Commerce in the Netherlands and who acts for purposes related to the exercise of his or her profession or business;
Agreement:	The (written) agreement concluded between The Farrier and the Client with respect to the activities to be performed by The Farrier for the Client.
Assignment:	the activities as described in the Agreement;
More/less work:	More work concerns the activities of The Farrier that come on top of the activities agreed upon at the conclusion of the Agreement, whereby The Farrier is entitled to an additional payment in relation to the agreed price / contract price. Less work concerns activities that have been agreed between the Client and The Farrier, but at the request of the Client have not yet been carried out or are carried out.
Force majeure:	Any circumstance that makes the exercise of the Agreement, in whole or in part, impossible, either on a temporary basis or otherwise, beyond the control of the parties and/or due to circumstances on the part of The Farrier, such as war, danger of war, (natural) disasters, non-delivery or late delivery of goods and services by third parties, strike, blockades, business failures;





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Delivery period: The period within which the obligations included in the Agreement should be executed.

- Where in these general terms and conditions mention is made of 'in writing' it is also understood to mean by e-mail.

Article 2. Applicability of conditions

- These general terms and conditions apply to all quotations, other offers and Agreements of The Farrier and other legal relationships whereby The Farrier supplies goods and/or services to the Client and these also form part of it. Parties are allowed to (partially) deviate from these general terms and conditions in the Agreement.
- The applicability of general (purchase) conditions used by the Client, however named, is hereby explicitly rejected and declared inapplicable.
- Deviations from, and additions to, these general terms and conditions are only binding after they have been agreed in writing between the parties and only relate to the Agreement in which they are made.
- If a provision in these general terms and conditions contradicts a provision in the Agreement, tender or other offers, the provision included in the Agreement, tender or other offer applies in as far as the contradiction is concerned.
- If a provision of the Agreement and/or of these general terms and conditions is annulled or otherwise declared inapplicable, then the other provisions of the Agreement and/or of these general terms and conditions will remain in full force.
- If an Agreement had already been concluded earlier between the parties, Client is deemed to be aware of this and to agree to the current conditions.

Article 3. Price quotations & other offers

- All quotations from The Farrier are without obligation, unless explicitly stated otherwise in writing.
- A composite quotation does not oblige The Farrier to perform a part of the Assignment against a corresponding part of the price stated in the quotation.
- Obvious errors, slips of the pen or obvious mistakes in a quotation and/or any other offer are not binding on The Farrier.
- Unless a different period is stated in the quotation and/or any other offer, a quotation has a validity period of 14 (fourteen) days, after which the offer expires.
- A quotation and/or any other offer does not automatically apply to future orders.

Article 4. Establishment of Agreement

- The Agreement between parties is concluded by verbal or written acceptance of the activities by The Farrier.

Modifications of the Agreement and more/less work

- Any modification of the (execution of the) Agreement required by the Client after the Assignment, respectively the establishment of the Agreement with The Farrier, must be reported in writing to The Farrier by the Client, prior to the commencement by The Farrier of the execution of the Agreement. These modifications only become part of the Agreement concluded between The Farrier and the Client after The Farrier has accepted these modifications in writing.
- If the modifications desired by the Client make a proper execution of the Agreement impossible, The Farrier is entitled to terminate the Agreement with the Client without the necessity of court proceedings on this ground. In this case The Farrier is not liable for any damage, of whatever nature and extent whatsoever, suffered by the Client. Problems arising from the modifications are always at the expense and risk of the Client. The Farrier must inform the Client of these problems in advance.





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4. If The Farrier accepts the modifications to the original Agreement or has begun with the execution of it, the Client is obliged to pay all (extra) costs resulting therefrom as costs for more work to The Farrier, without prejudice to the other payment obligations of the Client in respect of the Agreement concluded with The Farrier.
5. If the modifications referred to in paragraph 2 result in a delay in the execution of the Agreement, the Delivery period stated by The Farrier is extended by the period of the delay. The Farrier is never liable towards the Client with respect to the associated delay.
6. If the Client has not responded within five working days after receipt of the notice from The Farrier referred to in paragraph 6 that he objects to more work, the Client is deemed to have accepted this more work and the Client is obliged to pay the associated (extra) costs to The Farrier.
7. In the event of modifications of the Agreement or the conditions of execution desired by the Client, The Farrier can only request an increase of the price if he had informed the Client in good time of the necessity of an associated price increase, unless the Client should have understood this necessity of its own accord.

Article 5. Execution of the Agreement

1. A best efforts obligation is imposed on The Farrier. The Farrier will execute the Agreement on the basis of insight and ability and in accordance with the requirements of good craftsmanship.
2. If and in so far required for the proper execution of the Agreement, The Farrier is entitled to have the work performed by a third party designated by him.
3. If it has been agreed that the Agreement will be executed in phases, The Farrier is allowed to suspend the execution of those parts that belong to a following phase until the Client has approved the results of the preceding phase, as well as has paid the financial obligations arising from the earlier phases.
4. In the execution of the activities, the Client is obliged to provide a workplace and circumstances that guarantee the safety as well as the well-being of both The Farrier and third parties he has engaged in the execution of the Agreement and the horse to be treated, as far as can reasonably be expected. If the Client does not guarantee this safety, The Farrier is entitled to suspend his obligations until the Client has fulfilled his obligations.
5. The Client must provide the necessary assistants, electrical energy, water, etc. for the activities.
6. For the account of the Client are all costs of the gas, water and electricity required, and for all other matters of secondary importance, any extra costs and in particular the costs related to the nature of the horse and/or the hooves, or the workplace and/or circumstances where the activities should take place. Such extra costs include in any case the costs of the use of veterinarians if the assistance of a veterinarian is judged to be necessary by the Farrier.

Obligations of the Client

7. The Client is obliged to disclose all data of which the Client can reasonably understand that it is necessary for the execution of the Agreement, or of which The Farrier indicates in writing that it is necessary for the execution of the Agreement, in the desired form provided by The Farrier, to be made available to The Farrier in the desired manner and on time.
8. The Client guarantees and bears the (financial) risk of the correctness, completeness and reliability of the information provided to The Farrier, even if it is provided by third parties.
9. If the information required for the execution of the Agreement has not been provided to The Farrier on time, The Farrier has the right to suspend the execution of the Agreement and the extra costs resulting from the delay – in accordance with the usual rates of The Farrier – are charged to the Client.
10. All information, in whatever form, of which the Client becomes aware of as a result of any Agreement with the Farrier, must be treated confidentially, unless such information should already be regarded as generally known.





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Article 6. Delivery periods and (delivery) completion

1. In the event of contracting work, including expressly, but not exceptionally, the execution of hoof fitting and care, the Delivery period shall always be determined in consultation with the Client.
2. The Delivery periods provided by The Farrier in connection with the execution of the Agreement to the Client have only an indicative scope and can never be regarded as final deadlines, even if they are strict deadlines.
3. If The Farrier cannot execute the Agreement within the agreed period, The Farrier will inform the Client as soon as possible of the period within which the Agreement can be executed.
4. At the Client's risk are and in any case the consequences of delays in the (delivery) completion, if these are due to unwillingness of the horse to be treated, or the discovery of defects by The Farrier or third parties, including the Client, in the horse.
5. If any period specified by The Farrier is exceeded, The Farrier will first be in default after the Client has given The Farrier a written notice of default and The Farrier has been granted a reasonable period to comply with his obligations towards the Client. This reasonable period shall at least be equal to half of the originally agreed period for the execution of the Agreement in question.
6. The work is completed as soon as The Farrier reports the work as completed, or acts in such a way that can be deduced that the work is completed.
7. The work is deemed to have been delivered when The Farrier announces that the work is ready for completion and the Client accepts the work.
8. If The Farrier has announced that the work is ready for completion and the Client does not inform him within 8 days if he accepts the work or not, the work is deemed to be completed. If the Client refuses the completion, he must do so in writing, stating the defects that are the reason for refusal.
9. After the day on which the work is considered to be completed, the Client bears the risk of the work.

Article 7. Force majeure

1. The Farrier is explicitly authorized to extend the Delivery period by a period equal to the delay as a result of Force Majeure, without being obliged to pay any compensation thereto, without prejudice to the authority of the Farrier to claim compensation for the damage suffered by The Farrier due to culpable acts by the Client.
2. If compliance with the Agreement by The Farrier as a result of Force Majeure is permanently impossible or takes longer than three months, both parties are entitled to terminate the Agreement without an obligation to pay any compensation.

Article 8. Prices and rates

1. The prices and rates stated by the Farrier are inclusive of turnover tax and any other government levies. The prices and rates mentioned in the Assignment confirmation / quotation of the Agreement apply in accordance with the stated specifications and the stated period(s).
2. If, in deviation from the provision of the first paragraph of this article, a fixed price (or fixed fee) has been agreed in the Agreement, it shall be deemed to be the price for the execution of the activities in accordance with the Agreement. The expenses that are not specified in the Agreement and that The Farrier must make in the execution of the Agreement, are borne by the Client.
3. The Farrier has the right at all times to charge to the Client all price-increasing factors that have arisen after the price quotation was made or the conclusion of the Agreement. If the Client is a Consumer, the Consumer has the right to terminate the Agreement if the price increase by The Farrier is desired within 3 months after the date of conclusion of the Agreement.

Article 9. (Non) payment and security

1. Payment by the Client must be made immediately after completion in cash unless otherwise agreed.





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2. If invoicing has been agreed upon, the Client must pay within fourteen (14) days after the invoice date in the manner indicated by The Farrier on the invoice and to the account number specified by The Farrier.
3. Objections to invoices sent by The Farrier to the Client do not suspend his obligation to pay, unless a mandatory regulation prescribes otherwise.
4. If there is reasonable doubt by The Farrier about the payment capacity of the Client, The Farrier is entitled to postpone the agreed supply of goods or the execution of the work until the Client has provided security for the payment. The Client is liable for damage suffered by the Farrier as a result of any delay caused by this.
5. All payment terms are to be regarded as final terms, unless a mandatory regulation prescribes otherwise. If the payment has not taken place within the term referred to in the first or second paragraph of this article, the Client is obliged to reimburse the costs for obtaining extrajudicial payment and the costs in a necessary legal procedure. If and insofar as the Client does not act in the exercise of a profession or business, the applicable statutory regulations will be followed. If the Client acts in the exercise of a profession or business, the Client will reimburse the actual costs to The Farrier. The Client also owes statutory interest on the collection costs owed.
6. If the Consumer is in default in the (timely) fulfilment of his obligations, extrajudicial collection costs will be payable in accordance with *report Voorwerk ii* [containing guidelines for calculating extrajudicial collection costs] without prejudice to the rights to which The Farrier is entitled, such as compensation for damages or fulfilment.
7. If the Client/Consumer remains in default with any payment then the extrajudicial collection costs will be claimed in accordance with what is prescribed in the regulation applicable in the Extrajudicial Collection Costs (Standards) for Consumers Act.

Reminder

8. Reimbursement of extrajudicial costs does not release the Client from the obligation to compensate The Farrier for other damage suffered by The Farrier, insofar as The Farrier can claim this compensation by law.
9. In the event of default by the Client, the Farrier is expressly authorized to report this default to the board of the Dutch Association of Farriers.

Article 10. Dissolution

1. If the Client fails to fulfil his obligations under the Agreement and/or these general terms and conditions, or not timely or properly, The Farrier has the right to suspend or terminate the Agreement in whole or in part. Such a dissolution shall be effected by means of a written notice to that effect. Except in the case where a deadline for compliance has been agreed, the Client will first be given a written notice of default and a period for compliance will be given, before the Agreement is dissolved by The Farrier.
2. Without prejudice to the provision of the first paragraph, as well as the other provisions of these general terms and conditions, The Farrier has the right to dissolve the Agreement in writing, in whole or in part, by means of a notification to that effect, without any notice of default or judicial intervention being required, if the Client at the conclusion of the Agreement is requested to provide security for the fulfilment of his obligations under the Agreement and/or the Client is requested to make an advance payment and the Client has not provided security or the provided security is considered inadequate by The Farrier and/or The Farrier has received no (adequate) advance payment from the Client.
Furthermore, The Farrier is authorized to dissolve the Agreement if circumstances arise which are of such a nature that fulfilment of the Agreement is impossible and/or when circumstances arise which are of such a nature that the unaltered maintenance of the Agreement cannot reasonably be required from The Farrier. Without prejudice to the provisions of this article, as well as the other provisions of these general terms and conditions, The Farrier has the right to dissolve the Agreement in writing, in whole or in part, by means of a notification to that effect, without any notice of default or judicial intervention being required, if:





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- the Client loses or threatens to lose the (free) disposition over all its assets or a substantial part thereof;
 - a suspension of payment has been granted to a Client;
 - a bankruptcy has been granted to a Client;
 - the Debt Restructuring Natural Persons Act applies to the Client or the Client is placed under guardianship;
 - a customer no longer possesses a legally prescribed license or in any other way does not (no longer) comply with the statutory or societal requirements that are imposed on him;
 - an attachment is imposed on the Client and this attachment is not lifted within 1 (one) month;
 - the Client sells, terminates or dissolves his business, in whole or in part.
 - Without prejudice to the provision in the first paragraph, as well as the other provisions in these general terms and conditions, the Client is entitled to dissolve the Agreement in writing, in whole or in part, by means of a notification to that effect, without any notice of default or judicial intervention being required, if:
 - The Farrier loses or threatens to lose the disposal of all his assets or a substantial part thereof;
 - a suspension of payment has been granted to The Farrier;
 - The Farrier has been declared bankrupt;
 - The Farrier terminates or dissolves his activities, in whole or in part, and as a result can no longer meet his obligations towards the Client.
3. The Client is obliged to compensate The Farrier in full for the damage that The Farrier suffers and will suffer as a result of the dissolution. Both direct and indirect damage are included under this paragraph.
 4. If The Farrier proceeds to suspension or dissolution, The Farrier is not obliged towards the Client to compensate for any damage or costs that arise in any way whatsoever.
 5. If dissolution of the Assignment by The Farrier takes place on the basis of this article, all payments owed by the Client to The Farrier are immediately and in full claimable due to the this dissolution.

Article 11. Retention of title

1. All goods supplied by The Farrier remain the property of The Farrier until the Client has fulfilled all obligations arising from all agreements made with The Farrier. The property also includes new items that are made from the items supplied by The Farrier. The (payment) obligations of the Client are also understood to include all claims due to the failure to fulfil the obligations pursuant to the Agreement, which include, among other things: claims for compensation including damage arising out of possible resale losses, claims for compensation of extrajudicial and judicial costs, contractual and statutory interests, fines and judicially imposed penalties.
2. If third parties seize the materials supplied subject to retention of title or wish to establish or assert rights thereto, the Client is obliged to inform The Farrier immediately;
3. Materials supplied by The Farrier, which under the first paragraph of this article fall under the retention of title, may only be resold within the framework of normal business operations and may never be used as a means of payment;
In case The Farrier wishes to exercise his property rights as referred to in this article, the Client at this time provides unconditional and non-revocable permission to The Farrier or third parties designated by him to enter all those locations where The Farrier's property is present and to take back those materials.
4. The provision of this article can never be interpreted as renouncing any right to retention due to the Farrier.
5. The Client is obliged to immediately inform The Farrier of (extra) judicial measures of third parties, related to the goods that are the property of the Farrier

Article 12. Intellectual Property Rights

1. The Client must respect all intellectual property rights that The Farrier is able to use.





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2. The Farrier retains the intellectual property rights for the designs, illustrations, drawings, sketches and tenders provided with the offer. These and similar documents remain the property of The Farrier, even after costs have been passed on to the Client, and may not be copied, shown to third parties or used in any other way without his written consent.
3. The Client is not permitted to remove or modify the copyrights, trademarks, trade name or other intellectual or industrial property rights of The Farrier or of suppliers of goods of The Farrier and/or remove or modify material of the goods.
4. If the Client acts contrary to the provisions of the first and second paragraphs of this article, the Client owes The Farrier a penalty of EUR 25,000 (twenty-five thousand euros) for each infringement, without further notice of default, this being without prejudice to the right of The Farrier on compensation under the law.
5. Without prejudice to the liability towards The Farrier for damage caused by any act or omission contrary to the provisions of the first and second paragraph of this article, the Client is obliged to demand of he/she who, temporarily or by any means whatsoever, is used in the execution of the obligations arising from the Agreement, with regard to the rights and obligations as stipulated in the first and second paragraph of this article that he/she accepts the obligations mentioned in this article as his/her own and will impose these by way of a perpetual clause (each time) on third parties.

Article 13. Complaint, Reclaim and Investigation

1. Complaints regarding the supplied Goods and/or Services must be reported to The Farrier by the Client/Consumer ultimately within a period of two months, 14 days by Client/Entrepreneur, after completion, after which the complaint must be explained in writing. The written notification must contain an as detailed description as possible of the complaint, so that The Farrier is able to respond adequately. If the Client does not make his complaint known within the term, the Client can no longer invoke this defect or this inaccuracy against The Farrier and the Client must pay the invoice in full to The Farrier.
2. Complaints regarding the execution of the Agreement by The Farrier never give the client the right to suspend his (payment) obligations towards The Farrier.
3. If The Farrier deems a complaint well-founded, The Farrier is entitled to re-execute the relevant Agreement, or otherwise remedy the complaints or have them credited. This at the discretion of The Farrier, without the Client being able to exercise any right to any compensation whatsoever.
4. The Farrier is always provided with sufficient opportunity to investigate the complaint and possibly restore it. The Client thereto provides full cooperation and allows The Farrier to make use of available auxiliary equipment free of charge. If the Client does not provide this opportunity, any claim by the Client on any (damage) compensation, repair or replacement will lapse.
5. Reclaims regarding externally visible defects must be submitted in writing no later than at the visual inspection immediately after completion of the work by The Farrier, or - if no inspection takes place on completion - within 48 hours after completion, whereas in case the term is overrun any claim against the Farrier with respect to those defects expires. Reclaims with regard to goods already used or processed by the Client are not possible. The costs of inspections are always at the expense of the Client.

Article 14. Warranty

1. Deviations in quality and/or the nature of the work performed, which cannot be avoided from a technical point of view, or which are reasonably the result of circumstances which should be for the account of the Client/Entrepreneur, including unwilling horses, defects in hooves or a qualitatively insufficient workspace never provide any ground for either reclaims or dissolution of the relevant Agreement.
2. The Farrier does not guarantee the suitability of the work performed for the purpose for which the Client has designated it, unless the Farrier has guaranteed the suitability for the intended application in writing, or this must reasonably be assumed.





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3. With due observance of the restrictions referred to in this article, the Farrier warrants the soundness of the goods supplied by him and the material used for the production of these goods, in such a way that the Farrier never enters into more warranty obligations than the warranty obligations to which the supplier of the goods and/or materials concerned is obliged to The Farrier.
4. If repair of executed activities is deemed necessary, such at the discretion of the acting farrier, a separate Agreement must always be concluded on this matter. The repair is always for the expense of the Client unless the Farrier has acknowledged his liability under any guarantee obligation in writing after having studied the defects in the work or the supplied goods.
5. Defects caused by normal wear and tear, improper handling and improper maintenance, or defects that occur after repairs or modifications by third parties or by the Client itself, are not covered by any warranty.
6. The warranty never extends beyond the free supply of new parts, therefore The Farrier is never liable for any other damage suffered by the Client, which also includes personal injury and consequential damage.
7. The alleged non-fulfilment by The Farrier of his warranty obligations does not release the Client from the obligations arising for him from any Agreement concluded with The Farrier.

Article 15. Liability

1. The Farrier is not liable for any direct or indirect damage, including business and consequential damage, which is the result of advice given, designs provided and other information provided by The Farrier, or any damage suffered by defectiveness of services provided, unless the damage is the result of intent or gross negligence on the part of The Farrier.
2. In addition to the provision of the first paragraph, The Farrier is not liable for damage to the Client or a third party caused by the use and/or processing of the services, by advice / designs provided and damage, unless this damage is the result of intent or deliberate recklessness on the part of The Farrier.
3. The Farrier also accepts no liability for any damage to the Client and/or a third party that is the result of the use or processing of services supplied by him or advice or designs that have been provided and for which he/she has not received a consideration.
4. The Farrier also accepts no liability for damage caused by the fact that the services provided are not applied in accordance with the applicable (statutory) regulations and/or European standards. Before the conclusion of the Agreement, the Client itself must check whether the services comply with the applicable (statutory) regulations and can be applied in the correct manner.
5. Only to the extent that The Farrier has imputably failed to fulfil his obligations pursuant to the Agreement and/or these general terms and conditions, can The Farrier be held to compensate the direct and foreseeable damage caused thereby.
6. The liability of The Farrier is in all cases expressly limited to a maximum of the total amount that the Client has paid to The Farrier in accordance with the Agreement and/or these general terms and conditions, or the liability of The Farrier will at least be limited to the amount that in such case will be paid by the liability insurance that The Farrier has entered into. Therefore, the liability of The Farrier does not extend to any further damage, including, but not limited to, trading loss, loss of profits and damage arising from third-party claims.

Indemnities

7. The Client indemnifies The Farrier against any claim by a third party for compensation of damage suffered or third party indicates to suffer (partly) as a result of the use or application of services provided by or on behalf of The Farrier.
8. The Client indemnifies The Farrier against all claims of third parties in connection with the execution of the Agreement by The Farrier. The indemnification also applies to all damage and costs that The Farrier suffers or makes in connection with such a claim.





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9. The Client indemnifies The Farrier against any claims by third parties with regard to (damage resulting from) the use of drawings, calculations, materials, samples, models and other supplied information provided by or on behalf of the Client.
10. The Client indemnifies The Farrier for all claims with regard to damage of third parties that are (also) the result of any act or omission of the Client, an animal or third parties that are present at his request.
11. The Client(s) (and others who are present at his request) are jointly and severally liable for all direct and indirect damage that has arisen to (property (which includes animals) of) The Farrier, the animal, the Client and third parties as a result of actions of the animal owned by the Client or the third party, as well as arising from any action by the Client and others present at his request.
12. The Client is furthermore liable for all direct and indirect damage to (property (which includes animals) of) the Client, the animal, The Farrier or third parties as a result of the use of defective material which is arranged by the Client.
13. With the Assignment to The Farrier, the Client declares that it has a third-party liability insurance for damage caused by an animal owned by it.

Article 17. Limitation of action and/or lapse

1. All legal proceedings against The Farrier, claims for compensation included, lapse and/or expire after 1 (one) year from the moment the legal action in question becomes due and payable.

Article 18. Applicable law

1. Dutch law applies exclusively to all legal relationships between The Farrier and the Client, including offers and quotations by The Farrier.
2. All disputes arising from or related to the legal relationship between The Farrier and the Client will exclusively be submitted to the competent court in the district in which The Farrier has his business address and where the activities have been executed, unless provisions of mandatory law state otherwise.

