

# DIAMONDSBYME GENERAL TERMS AND CONDITIONS

(BUYERS)

## ARTICLE 1. | DEFINITIONS

In these General Terms and Conditions, the following terms - which are always written with a capital letter - are defined as follows.

- 1 Diamondsbyme: Diamondsbyme B.V., the user of these General Terms and Conditions, domiciled at Rijdsdijk 146, 3161EW in Rhoon, registered in the Trade Register under Chamber of Commerce number 24376433.
- 2 Buyer: Every natural person or legal entity who/that intends to conclude an Agreement by means of the Platform.
- 3 Consumer: A Buyer, natural person, not in the exercise of their profession or business.
- 4 Agreement: Every agreement that is concluded by the Buyer with a Seller by means of the Platform, and which provides for the delivery of one or more Product(s) by that Seller.
- 5 Platform: [www.diamondsbyme.nl](http://www.diamondsbyme.nl).
- 6 Offer: Every offer of the Seller's respective Products directed at the Buyer by means of the Platform.
- 7 Seller: Every business that uses the Platform as a supplier and seller of Products, whereby Diamondsbyme may also be included.
- 8 External Seller: a seller that is not Diamondsbyme.
- 9 Products: The items to be sold and delivered to the Buyer by the respective Seller within the framework of an Agreement.
- 10 Right to Terminate: The Consumer's right to terminate the Agreement up to 60 days after receipt of the Products.
- 11 Service: The services Diamondsbyme obligates itself to render to Buyers and External Sellers within the scope of its Platform operation, including but not limited to publishing the Offer, facilitating conclusion of Agreements, handling Buyers' complaints, forwarding orders to Sellers and processing the related payments.
- 12 In Writing/Written: Written communication, email communication and any other manner of communication that can be equated to this given the current state of technology and employing generally accepted concepts.

## ARTICLE 2. | GENERAL PROVISIONS

- 1 These General Terms and Conditions apply to the use of the Platform by Buyers and the Service aimed at Buyers. Unless otherwise stipulated in the provisions of these General Terms and Conditions, these General Terms and Conditions do not apply to the legal relationship between Diamondsbyme and External Sellers. Diamondsbyme is not further involved as an intermediary in the Offer of and regarding Agreements concluded with External Sellers. The respective External Seller is responsible and liable for the Offer and the (quality of the) Products.
- 2 The Buyer and Seller can appeal to each other with regard to the provisions of the present General Terms and Conditions.
- 3 Annulment or invalidity of one or more of the provisions of these General Terms and Conditions will not affect the validity of the remaining clauses. In some cases, the Buyer and Diamondsbyme will be obligated to enter into mutual consultation for the purposes of agreeing on a replacement provision for the affected clause. In doing so, the objective and meaning of the original provision will be taken into account to the greatest possible extent.
- 4 Concluding Purchasing Agreements by means of the Platform is only permitted for persons who are authorized to do so pursuant to the laws to which they are subject. By using the Platform, the Buyer declares that he is authorized to enter into Purchase Agreements.

## ARTICLE 3. | OFFER AND CONCLUSION OF AGREEMENTS

- 1 Sellers use the Platform to showcase their Offer to Buyers. With respect to Buyers and External Sellers, Diamondsbyme only acts in a facilitating capacity. Although Diamondsbyme checks the Offer of External Sellers as much as reasonably possible before it is published, the information in the Offer is determined by the respective Seller, and Diamondsbyme is not responsible for the content of this information. Diamondsbyme is therefore also not liable for damage caused by the fact that Diamondsbyme based its Service on incorrect or incomplete information provided by External Sellers, except to the extent that the law prevents this under the given circumstances of the case.
- 2 The External Sellers are responsible and liable for providing correct and complete information regarding their offered Products. The Offer will be represented on the Platform as precisely and truthfully as possible in accordance with the information provided to Diamondsbyme by the respective External Seller, including any images.
- 3 Every Agreement will be concluded at the moment the Offer selected by the Buyer is accepted by the Buyer in the manner specified for this purpose on the Platform. Subsequently, Diamondsbyme will confirm the conclusion of the Agreement to the buyer by email as soon as possible.
- 4 The Buyer must correctly and completely provide all of the requested mandatory information when concluding the Agreement. The Agreement can only be correctly executed if the respective information is correct and complete. If the Buyer unexpectedly provides incorrect or incomplete information when concluding the Agreement, then the Buyer must immediately notify Diamondsbyme of this. Diamondsbyme is also never liable for damage incurred by the Buyer stemming from the Buyer having provided incorrect or incomplete information.

- 5 Every Agreement is binding after it has been concluded; except as far as is stipulated in the remaining provisions of these General Terms and Conditions, and specifically the provisions in the next article, the Buyer cannot claim a refund of the agreed-upon price and any delivery costs.

#### ARTICLE 4. | RIGHT OF TERMINATION FOR CONSUMERS AND ADDITIONAL RETURN CONDITIONS

- 1 With the exception of the provisions of the remainder of this article, a Consumer can terminate the Agreement up to 60 days after receipt of the Products, or if the order is delivered in installments, after receipt of the last installment, without having to provide a reason for the termination.
- 2 Pursuant to the law, the Right of Termination by Diamondsbyrne can be excluded in the event of:
  - 2.a delivery of Products manufactured according to the Consumer's specifications that are not prefabricated and that are manufactured based on an individual choice or decision on the part of the Consumer, or that are clearly intended for a specific person;
  - 2.b delivery of Products that are not suitable to be returned for reasons of health protection or hygiene and whose seal is broken after delivery;
  - 2.c an Agreement for which the Right of Termination is excluded or not applicable pursuant to Section 6.5.2B of the Civil Code.In cases where the Right of Termination cannot be excluded by Diamondsbyrne pursuant to the law, the provisions in the subsequent paragraphs of this article cannot be deviated from at the expense of the Consumer. In cases where the Right of Termination can be excluded by Diamondsbyrne pursuant to the law, Diamondsbyrne can grant a right of return to the Consumer. In those cases, Diamondsbyrne can deviate from the provisions in the subsequent paragraphs of this article at the expense of the Consumer. The conditions of return regarding orders where Diamondsbyrne can deviate from the provisions in the subsequent paragraphs of this article at the expense of the Consumer can be consulted on the Platform. These conditions of return as published at the time the Agreement was concluded on the Platform are binding. For the rest, Diamondsbyrne is always entitled to modify these conditions of return. In cases where the Right of Termination can be excluded by Diamondsbyrne pursuant to the law, if and to the extent that the provisions of the conditions of return as published on the Platform deviate from the provisions in the subsequent paragraphs of this article, the provisions of the conditions of return will prevail.
- 3 The Consumer who exercises his Right of Termination can terminate the Agreement by submitting a request for this according to the instructions provided by Diamondsbyrne in the manner indicated on the Platform or by using the cancellation template form provided by Diamondsbyrne. As soon as possible after Diamondsbyrne has been made aware of the Consumer's intent to terminate the Agreement, and if the conditions in this article have been met, Diamondsbyrne will confirm the termination of the Agreement to the Consumer by email.
- 4 If the Consumer exercises his Right to Termination, he must handle the respective Products and their packaging with care during the 60-day grace period. The Consumer may only handle and inspect the Products to be returned to the degree that this is necessary for assessing the type and characteristics of the Products. The basic principle here is that the Consumer may only handle and inspect the Products as he would be able to do in a physical store.
- 5 If the Consumer exercises his Right to Termination, he must return the Products to the respective Seller undamaged, with all the supplied accessories and in their original condition and packaging. The Consumer must return the Products within 14 days of terminating the Agreement pursuant to the provisions in paragraph 3.
- 6 The Consumer is liable to the Seller for depreciation of the Products stemming from the manner the Products are handled that exceeds that which is permitted pursuant to paragraph 4. The Seller can claim compensation for this depreciation from the Consumer, regardless of whether or not Diamondsbyrne deducts this from the payment received from the Consumer.
- 7 If the Consumer exercises his Right to Termination, the costs of returning the Products will be at the Consumer's expense.
- 8 Diamondsbyrne will return to the Consumer any payment received from the Consumer, minus any depreciation, as soon as possible but at the latest within 14 days after termination of the Agreement and using the same payment method as the one used by the Consumer to pay Diamondsbyrne, provided that the returned Products have been received by the Seller, or that the Consumer has proven that the Products have actually been sent back (returned). If the Right of Termination is exercised for only a part of the order, then the delivery costs that have been paid by the Consumer in the first instance will not be eligible for a refund. Furthermore, Diamondsbyrne is not obligated to refund the costs if the Consumer expressly chose a different manner of delivery other than the least expensive standard manner of delivery when placing the order.

#### ARTICLE 6. | PRODUCT DELIVERY AND WARRANTY

- 1 The Products will be delivered by the Seller to the address provided by the Buyer.
- 2 The risk of loss of and damage to the Products will be transferred to the Buyer at the moment the Products are received by or on behalf of the Buyer.
- 3 If the Products could not be delivered as a result of a circumstance that cannot be attributed to the External Seller, Diamondsbyrne or the freight forwarder, then the Seller is entitled to store the Products at the Buyer's expense. The additional costs incurred in connection with non-receipt of the Products as specified here, such as additional delivery costs, will also be at the Buyer's expense.
- 4 Any warranty provided by the Seller does not negate the binding statutory rights and claims that Consumers can assert against the Seller within the scope of a consumer purchase (non-conformity).

- 5 Any applicable warranty (which includes a claim based on non-conformity) will lapse in any event if a defect of the delivered Product is the consequence of an external cause post-delivery or another circumstance not attributable to the Seller. This includes, but is not limited to, defects occurring post-delivery as a result of damage, regular wear-and-tear, incorrect or improper handling, incorrect or improper use, use contrary to the instructions for use or other instructions from or on behalf of the Seller and any modifications made to the delivered Products, including repairs that were implemented without the Seller's prior Written agreement.

#### ARTICLE 6. | FRAUD OR SUSPECTED FRAUD

- 1 If the Buyer does not fulfill his obligations stemming from the Agreement, for example by providing incorrect information when the Agreement is concluded, not taking delivery of the Products or not fulfilling his payment obligations, then Diamondsby.me is entitled to reject future orders placed by the Buyer.
- 2 If Diamondsby.me has reasonable doubt that the Buyer has fulfilled or will fulfill his obligations stemming from the Agreement, then Diamondsby.me is entitled to cancel the Agreement on behalf of the Seller. If the Buyer has already paid for the Products in this case, Diamondsby.me will refund the payment.
- 3 The Buyer is not permitted to publish evaluations/reviews on the Platform that are incorrect or misleading. The Buyer is also not permitted to manipulate evaluations/reviews.

#### ARTICLE 7. | PRICES AND PAYMENTS

- 1 Before the Agreement is concluded, the sale prices, including any VAT and any delivery costs, will be expressly stated.
- 2 Payment must be made using the payment method selected by the Buyer at the time the Agreement was concluded. After the Agreement has been concluded, the Buyer will be irrevocably bound to his payment obligation, without prejudice to the provisions in the remainder of these General Terms and Conditions.
- 3 Within the framework of a consumer purchase, the Consumer may never be obligated to make an advance payment of more than 50% of the purchase price as a general condition. If advance payment is stipulated, the Consumer cannot assert any right with respect to the execution of the Agreement before the stipulated payment has been made.
- 4 The Consumer is obligated to immediately notify Diamondsby.me of any errors in provided or stated payment information.

#### ARTICLE 8. | LIABILITY OF DIAMONDSBY.ME AND INDEMNIFICATION

- 1 For all limitations and exclusions of Diamondsby.me's liability agreed upon by means of these General Terms and Conditions or otherwise agreed upon, these do not apply if and to the extent that this is contrary to binding legislation under the circumstances of the given case.
- 2 Sellers determine the content of their Offer on the Platform. Although Diamondsby.me checks the Offer of External Sellers before it is published on the Platform to the extent that this is reasonably possible, Diamondsby.me is not obligated to ascertain whether the information stemming from External Sellers as published on the Platform is illegal, incorrect or misleading. Diamondsby.me therefore does not accept any liability in this matter.
- 3 Diamondsby.me is not liable for damage resulting from unauthorized use of the Buyer's login information for accessing any account he may have on the Platform.
- 4 Diamondsby.me makes every effort to optimize correct functioning and availability of the Platform. However, Diamondsby.me cannot guarantee that the services on the Platform will be available without limitation and that all services on the Platform will always function seamlessly. Any liability by Diamondsby.me in this matter is excluded.
- 5 Diamondsby.me is entitled at all times to temporarily decommission the Platform or parts thereof if it deems this desirable for the purposes of maintenance, adaptation or improvement of the Platform or the servers of Diamondsby.me or third parties. All liability by Diamondsby.me as a result of the temporary inaccessibility of the Platform or parts thereof is excluded.
- 6 If the Platform contains references, for example in the form of hyperlinks, to third-party websites, then Diamondsby.me will never be liable for the content of these websites.
- 7 Diamondsby.me is never liable for lost profits, loss incurred, personal injury, other consequential damage, data loss or other immaterial damage arising from use of the Platform and other rendering of the Service by Diamondsby.me.
- 8 Diamondsby.me's liability within the framework of Agreements whereby Diamondsby.me itself acts as the Seller is limited to at most the invoice value of the Agreement, at any rate the invoice value of the part of the Agreement to which Diamondsby.me's liability pertains, with the understanding that Diamondsby.me's liability will never be more than the amount that will actually be paid out in the respective case pursuant to the liability insurance concluded by Diamondsby.me, increased by any deductible owed by Diamondsby.me as stipulated by the insurance policy.
- 9 Within the framework of a consumer purchase to which Diamondsby.me is a party, the limitations of this article do not exceed that which is permitted pursuant to article 7:24 par. 2 of the Civil Code.
- 10 The Buyer indemnifies Diamondsby.me against all of its claims and the claims of third parties (including External Sellers) in connection with executing the Agreement, which claims pertain to damage that cannot be attributed to Diamondsby.me. If Diamondsby.me is approached by a third party in this respect, then the Buyer is obligated to assist Diamondsby.me in legal and non-legal affairs and immediately do everything that may be reasonably expected of him in this case. Should the Buyer remain in

default with respect to taking adequate measures, then Diamondsbyrne is entitled to do this itself, without any notice of default. All costs and damage on the part of Diamondsbyrne and/or third parties incurred due to this will be wholly at the Buyer's expense and risk.

#### ARTICLE 9. | COMPLAINTS POLICY

- 1 Undiminished the provisions of the next paragraph, the Buyer must address complaints regarding the Service or execution of Agreements to Diamondsbyrne in Writing and with a complete and clear description, preferably within 14 days after the Buyer has discovered the grounds for the complaint.
- 2 A Consumer loses his right to appeal against Products delivered pursuant to a consumer purchase that do not correspond with the Agreement if the Consumer has not lodged a complaint with Diamondsbyrne within two months after discovering the defect.
- 3 Complaints submitted to Diamondsbyrne will be answered within 14 days after receipt. If a complaint requires a longer processing time, a response will be provided within 14 days along with a confirmation of receipt and an indication of when the Buyer may expect a more comprehensive response.
- 4 If a complaint about the Service or about execution of Agreements where Diamondsbyrne acts as the Seller cannot be resolved in mutual consultation between the Consumer and Diamondsbyrne, then the Consumer can submit the dispute to the arbitration committee through the ODR platform ([ec.europa.eu/consumers/odr/](https://ec.europa.eu/consumers/odr/)).
- 5 Because Diamondsbyrne is not liable for the Offer, the execution of the Agreement by External Sellers and the circumstance that the Products of External Sellers correspond to the Agreement, Diamondsbyrne is entitled to refer the Buyer to the External Seller during the complaint processing period by Diamondsbyrne. Thereafter, it will no longer be possible to involve Diamondsbyrne in the dispute, and Diamondsbyrne will not assume any liability in the matter, except if binding legislation prevents this under the circumstances of the given case.

#### ARTICLE 10. | DISPUTES

- 1 Disputes between Consumers and Diamondsbyrne regarding conclusion or execution of Agreements pertaining to Products delivered or to be delivered by Diamondsbyrne in the capacity of seller may be submitted - taking into consideration the provisions below - by both the Consumer and Diamondbyrne to the Thuiswinkel Arbitration Committee (Geschillencommissie Thuiswinkel), PO Box 90600, 2509 LP in The Hague (<https://www.degeschillencommissie.nl/consumenten/>).
- 2 A dispute will only be processed by the Arbitration Committee if the Consumer has first filed his complaint with Diamondsbyrne pursuant to the provisions in article 9.
- 3 If the complaint does not result in a solution, then the dispute must be brought before the Arbitration Committee at the latest 12 months after the date on which the Consumer filed the complaint with Diamondsbyrne in Writing or in another format specified by the Committee.
- 4 If the Consumer wishes to bring a dispute before the Arbitration Committee, Diamondsbyrne will be bound by this decision. The Consumer should preferably first notify Diamondsbyrne of this.
- 5 If Diamondsbyrne wishes to bring a dispute before the Arbitration Committee, the Consumer must, within five weeks after Diamondsbyrne has sent the Consumer a request, state in Writing whether he also wishes this or wishes to have the dispute handled by the competent court. If Diamondsbyrne is not notified of the Consumer's choice in this matter within this five-week period, then the company is entitled to bring the dispute before the competent court.
- 6 The Arbitration Committee makes decisions under the conditions specified in the Arbitration Committee's regulations ([www.degeschillencommissie.nl/over-ons/de-commissies/2404/thuiswinkel](https://www.degeschillencommissie.nl/over-ons/de-commissies/2404/thuiswinkel)). The Arbitration Committee's decision take the form of binding advice.
- 7 The Arbitration Committee will not handle a dispute, or will cease its handling of the dispute, if Diamondsbyrne has been granted suspension of payment, has filed for bankruptcy or has actually ended its business activities, before a dispute is handled by the Committee at the meeting and a final decision is made.
- 8 If, in addition to the Thuiswinkel Arbitration Committee (Geschillencommissie Thuiswinkel), another recognized arbitration committee or arbitration committee that is affiliated with the Foundation for Consumer Affairs (Stichting Geschillencommissies voor Consumentenzaken, SGC) or the Financial Services Complaints Tribunal (Klachteninstituut Financiële Dienstverlening, Kifid) is authorized, the Thuiswinkel Arbitration Committee (Geschillencommissie Thuiswinkel) is preferred for disputes regarding mainly the method of remote sales. For all other disputes, other recognized arbitration committees affiliated with the SGC or Kifid may be used.

#### ARTICLE 11. | INDUSTRY GUARANTEE

- 1 Thuiswinkel.org guarantees compliance with the binding advice of the Thuiswinkel Arbitration Committee (Geschillencommissie Thuiswinkel) by its members, unless the member decides to bring the binding advice before the court for review within two months after issuing said advice. This guarantee will be revived if the binding advice has remained in place after review by the court and the associated ruling has become res judicata. Up to a maximum amount of €10,000.00 per binding advice, the amount will be paid to the Consumer by Thuiswinkel.org. For amounts greater than €10,000.00 per binding advice, €10,000.00 will be paid. For the rest, Thuiswinkel.org is obligated to make every effort to ensure that the member complies with the binding advice.

- 2 In order to apply this guarantee, the Consumer must file a Written request to this end with Thuiswinkel.org and transfer his claim on Diamondsby.me to Thuiswinkel.org. If the claim on Diamondsby.me amounts to more than €10,000.00, the Consumer will be asked to transfer his claim - if it exceeds the amount of €10,000.00 - to Thuiswinkel.org, after which the organization will request the payment thereof to the Consumer in its own name and at its own expense.

#### ARTICLE 12. | INTELLECTUAL PROPERTY

- 1 All copyrights and other intellectual property rights regarding the Products and their design, the Platform and its components, including the software, design and functionality of the Platform and images displayed by means of the Platform, belong to Diamondsby.me or its licensors, which may include External Sellers. It is not permitted to copy, reproduce in any manner whatsoever, disseminate, exploit or create derivative works of material whose rights are held by Diamondsby.me or the licensor without the prior Written permission of Diamondsby.me and/or the respective licensor.
- 2 In the event of a violation of the provisions in the previous paragraph that is attributable to the Buyer, Diamondsby.me and/or the respective licensor retain all the rights to which they are entitled pursuant to the law, including the right to reasonable compensation determined by them and immediate undoing of the violation.

#### ARTICLE 13. | FINAL PROVISIONS

- 1 Solely Dutch law is applicable to the Offer, Agreements, use of the Platform and the Service.
- 2 Should a dispute arise between Diamondsby.me and the Buyer, then both parties are obligated to make every effort to resolve the dispute in mutual consultation.
- 3 Except to the extent that the law prevents this under the given circumstances of the case, only the competent court in the district of Diamondsby.me's domicile will be designated to acquire knowledge of legal disputes between Diamondsby.me's and the Buyer.
- 4 If these General Terms and Conditions are available in multiple languages, the Dutch version will always be decisive for the explanation of the provisions contained therein.