

## **Article 1. General**

1. These conditions will apply to any quotations, offers and agreements between the private company with limited liability Dijkman kunststoffen B.V. (hereinafter to be referred to as "DNL") and any contracting party, to which DNL has declared these conditions applicable, to the extent not expressly agreed otherwise between the parties in writing.
2. DNL will have the right to delegate services to third parties or to subordinates. The applicability of Articles 7:404 and 7:407(2) [of the Dutch Civil Code] is expressly waived.
3. The present conditions will also apply to any agreements with DNL for the performance of which DNL needs to engage third parties.
4. The applicability of any purchasing or other conditions on the part of the Contracting Party is hereby expressly waived.
5. If any of these conditions should be void or voided, the other provisions of these conditions will remain applicable to the agreement.
6. In the event of lack of clarity as to the interpretation of any of the provisions of these general conditions, such provisions must be interpreted according to their spirit.
7. If any situation should occur between the parties that is not provided for in these general conditions, such situation must be assessed according to the spirit of these general conditions.
8. No failure by DNL at any time to require strict compliance with these conditions will be deemed to constitute a waiver by DNL of the applicability of the provisions hereof or forfeiture, in any way whatsoever, of the right to require strict compliance with the provisions of these conditions in other situations.
9. A Contracting Party that has entered into an agreement governed by these conditions will be deemed to have tacitly agreed to the applicability of these conditions to any future agreements.

## **Article 2. Offers and quotations**

1. All DNL's offers and quotations will be subject to contract, both in terms of prices and in terms of timing of delivery and assembly, unless the offer states a term for acceptance. If no term for acceptance has been stated, no rights whatsoever can be derived from the offer or quotation if, in the meantime, the product to which the offer or quotation relates becomes unavailable.
2. All DNL's quotations will be based on the information provided by the Contracting Party in its enquiry.
3. DNL cannot be bound by its offers or quotations if the Contracting Party should reasonably understand that the offers or quotations, or any part thereof, contain an evident oversight or clerical error.
4. If the acceptance derogates from the offer or quotation submitted - either on minor or on major points - DNL will not be bound by it. In such event, the agreement will not come into effect in accordance with such derogating acceptance, unless DNL indicates otherwise.
5. A compound quotation will not impose any obligation on DNL to perform part of the assignment against payment of a corresponding part of the price quoted. Quotations or offers will not automatically apply to any future orders.

## **Article 3. Agreement**

1. An agreement between DNL and the Contracting Party will not come into effect until the Contracting Party has accepted or confirmed the quotation or offer in writing (including by email).
2. Oral arrangements will not be binding on DNL.
3. The agreement will supersede any discussions that have taken place between DNL and the Contracting Party.
4. The agreement between DNL and the Contracting Party will be entered into for an indefinite period of time, unless dictated otherwise by the nature of the agreement or expressly agreed otherwise in writing between the parties.
5. The provisions as set forth in the agreement will prevail over the provisions as set forth in these general conditions.

## **Article 4. Term for performance, passing of risk, performance and amendment of the agreement, price increase**

1. In no event will any term that has been agreed or stated for delivery of certain items by DNL constitute a firm deadline. Therefore, if a term is exceeded, the Contracting Party must give DNL written notice of default, granting a reasonable further term for performance of the agreement.
2. DNL will perform the agreement to the best of its knowledge and ability, and in accordance with the requirements of good workmanship, all based on the state of the art at the time.
3. Only DNL will be deemed to be the "contractor" for the Contracting Party, even if it is expressly or implicitly intended that a assignment will be performed by a specific person.
4. DNL will perform the assignment given to it exclusively for the Contracting Party. No third parties can derive any rights from the substance of the services provided or the way in which the assignment has or has not been performed.

5. Delivery will be ex works DNL. The Contracting Party will be under the obligation to take delivery of the items at such time as they are put at its disposal. If the Contracting Party refuses to take delivery or fails to provide any information or instructions that are required for delivery, DNL will have the right to store the items at the expense and risk of the Contracting Party. The risk of loss, damage or decrease in value will pass to the Contracting Party at such time as the items are at the disposal of the Contracting Party.
6. DNL may perform the agreement in phases and invoice each phase thus performed.
7. If the agreement is performed in phases, DNL may suspend performance of any services and/or delivery of any items pertaining to a following phase until such time as the Contracting Party has approved the results of the preceding phase in writing.
8. If the information required for performance of the agreement has not been provided to DNL in good time, DNL will be entitled to suspend performance of the agreement and/or pass on the additional costs ensuing from the delay to the Contracting Party at the customary rates at such time. The term for performance will not commence until such time as the Contracting Party has made the information available to DNL.
9. If, during performance of the agreement, it turns out that the proper performance thereof will require amendments or additions to that which has already been agreed, the parties will adjust the agreement in good time and by mutual consultation.
10. If any amendments or additions to any part of the agreement are required then as a result the price and/or term for delivery may have to be adjusted as well. DNL will provide as much clarity as possible on this subject in advance. The Contracting Party accepts this possibility of amendment of the agreement.
11. If the agreement is to be amended, including any additions to be made, DNL will be entitled to decide not to perform such amendments until they have been approved by the person authorised within DNL and the Contracting Party has agreed the price and other conditions stated for performance thereof, including the timing for performance to be determined in such event. No failure to perform, or immediately to perform, the amended agreement will be deemed to constitute default on the part of DNL or grounds for the Contracting Party to terminate or cancel the agreement.
12. Without being in default, DNL may reject a request for amendment of the agreement if this would, either qualitatively and/or quantitatively, affect, for example, the services or items to be provided in that respect.
13. If DNL agrees a fixed price with the Contracting Party, DNL will, nevertheless, at all times be entitled to increase such price, without any right arising on the part of the Contracting Party in such event to dissolve the agreement for that reason, if such price increase is the result of any right or obligation pursuant to laws or regulations or is based on an increase in the price of raw materials, wages, etc., or any other grounds that were not reasonably foreseeable at the time of entering into the agreement.

#### **Article 5. Assembly**

1. DNL undertakes to provide the agreed services for purposes of the assignment in accordance with standards accepted in the industry.
2. The Contracting Party will ensure that any and all information which DNL indicates, or which the Contracting Party should reasonably understand, to be required for the performance of the agreement are provided to DNL in good time.
3. The Contracting Party undertakes to inspect, or cause the inspection of, any items assembled on its instructions for errors/defects before reselling and/or installing such items. Should any such inspection reveal an error/defect, the Contracting Party will promptly contact DNL. Together with the Contracting Party, DNL will try and find a suitable solution, DNL being bound only by the provisions as set forth in these general conditions.

#### **Article 6. Suspension, dissolution and early termination of the agreement**

1. DNL will be authorised to suspend performance of the obligations or to dissolve the agreement if the Contracting Party fails, fails fully, or fails punctually, to perform the obligations under the agreement, if circumstances that have come to DNL's knowledge after entering into the agreement give reason to fear that the Contracting Party will not perform the obligations, if at the time of entering into the agreement the Contracting Party had been requested to provide security for performance of its obligations under the agreement and such security is not provided or is inadequate, or if as a result of delay on the part of the Contracting Party DNL can no longer be required to perform the agreement on the originally agreed conditions.
2. Furthermore, DNL will be authorised to dissolve the agreement if circumstances occur of such a nature that performance of the agreement is rendered impossible or if other circumstances occur of such a nature that DNL cannot reasonably be required to leave the agreement unchanged.
3. If the agreement is dissolved, DNL's claims against the Contracting Party will become immediately due and payable. If DNL suspends performance of the obligations, it will retain its entitlements under the law and the agreement.
4. If DNL suspends performance or dissolves the agreement, no liability will arise on its part to pay any damages or costs whatsoever that may be incurred as a result.

5. If the dissolution is attributable to the Contracting Party, DNL will be entitled to compensation of the damage, including the costs, sustained as a direct or indirect result thereof.
6. If the Contracting Party fails to perform its obligations ensuing from the agreement and such non-performance justifies dissolution, DNL will be entitled promptly to dissolve the agreement with immediate effect, without any liability arising on its part to pay any damages or compensation, whereas the Contracting Party will, indeed, be liable to pay damages or compensation on account of default.
7. If the agreement is terminated early by DNL, DNL will, in consultation with the Contracting Party, arrange transfer to third parties of any services yet to be provided, unless the termination is attributable to the Contracting Party. Any additional costs incurred by DNL as a result of the transfer of services will be invoiced to the Contracting Party. The Contracting Party will be required to pay such costs within the term set, unless DNL indicates otherwise.
8. In the event of winding-up, the granting of, or application for, a moratorium on payment of debts or a bankruptcy order, attachment - if and to the extent that the attachment is not lifted within three months - at the expense of the Contracting Party, debt rescheduling or any other circumstances as a result of which the Contracting Party loses free control of its assets, DNL will be free promptly to give notice of termination of the agreement or to cancel the order or the agreement with immediate effect, without any liability arising on its part to pay any form of damages or compensation. In such event, DNL's claims against the Contracting Party will be immediately due and payable.
9. If the Contracting Party cancels all or part of an order placed, the services that had been provided and the items ordered or finished for such purpose, increased by any costs of supply, disposal and delivery and labour hours reserved for performance of the agreement, will be fully invoiced to the Contracting Party.

#### **Article 7. Force majeure**

1. DNL will not be required to perform any obligation vis-à-vis the Contracting Party if prevented from doing so as a result of any circumstances that are beyond its control or that, according to the law, a legal act or generally accepted standards, should not be at its expense.
2. DNL may also invoke force majeure if the circumstances preventing (further) performance do not occur until after DNL should have performed its obligation.
3. For the duration of the situation of force majeure, DNL may suspend the obligations under the agreement. If such period exceeds two months, either party may dissolve the agreement, without any liability arising on their part to compensate the other party's damage.
4. To the extent that, at the time of occurrence of the situation of force majeure, DNL has meanwhile performed, or will be able to perform, all or part of its obligations, and the part performed or to be performed, as the case may be, has independent value, DNL will be entitled to invoice the part performed or to be performed, as the case may be, separately. The Contracting Party will be required to pay such invoice as if it related to a separate agreement.

#### **Article 8. Payment and costs of collection**

1. Payment is at all times to be made in euros within 30 days of the date of the invoice, according to such method and in such bank account as DNL may designate, unless expressly indicated otherwise by DNL.
2. DNL will be entitled to invoice periodically.
3. DNL will be entitled to decide that the payments made by the Contracting Party will first go to reduce the costs, then to reduce the interest accrued, and finally to reduce the principal sum and the accruing interest. DNL may, without being in default, reject any offer for payment if the Contracting Party designates a different order for allocation of the payment. DNL may reject full payment of the principal sum if the accrued and accruing interest and costs of collection are not paid simultaneously.
4. The Contracting Party will not be entitled to set off the amount due by it to DNL. In no event will any objections to the amount of an invoice suspend the payment obligation. If the Contracting Party is not entitled to invoke Section 6.5.3 (Articles 231 to 247 inclusive of Book 6 of the Dutch Civil Code), it will not be entitled to suspend payment of an invoice for any other reason either.
5. If the Contracting Party is in default or fails, or fails punctually, to perform its obligations, all reasonable costs of collection out of court will be payable by the Contracting Party. The extrajudicial costs will be calculated on the basis of what is customary in Dutch collection practice. If, however, DNL has incurred higher collection costs which were reasonably necessary, the actual costs incurred will qualify for reimbursement. Any judicial and enforcement costs incurred will also be recovered from the Contracting Party. The Contracting Party will also pay interest on the collection costs due.

## **Article 9. Retention of title**

1. DNL will retain title to any items delivered for purposes of the agreement with DNL until such time as the claims relating to the consideration for items delivered or to be delivered by DNL to the Contracting Party under the agreement, as well as the claims on account of default in the performance of such agreements, have been paid.
2. Save as provided in the foregoing paragraph, title to the items delivered by DNL which, pursuant to paragraph 1, are subject to the retention of title, cannot be transferred, nor may any such items be pledged or may any other rights in respect thereof be granted to any third parties.
3. The Contracting Party may resell and/or process the items delivered subject to a retention of title in the course of its normal business operations. If the Contracting Party should do so, the claim relating to the goods delivered will become immediately and fully due and payable.
4. Any cross-border deliveries (as compared to DNL's registered office) will be subject to an extended retention of title in those situations where the laws of the state of the acquiring party so allow, to the effect that DNL will retain title to goods in the event of assembly as well, in any event including the assembly involving other owners as well.
5. The Contracting Party will at all times perform all such acts as may reasonably be required of it in order to safeguard DNL's ownership rights. For example, until such time as payment has been made in full, the items delivered must be stored as identifiable property of DNL and separately from similar products obtained from others, and insured.
6. In the event that third parties attach the items delivered subject to a retention of title or wish to create or assert any rights in that respect, the Contracting Party will be required immediately to notify DNL. Furthermore, the Contracting Party undertakes to take out and maintain insurance for the items delivered subject to a retention of title against fire, explosion and water damage, as well as against theft and, on demand, submit the relevant insurance policy to DNL for inspection. In the event of insurance payment, DNL (or in the event of an intermediary within the meaning of Article 7:936 of the Dutch Civil Code: the intermediary, all at DNL's discretion) will be entitled to such insurance payments. To the extent necessary, the Contracting Party undertakes vis-à-vis DNL, in advance, to lend its cooperation in all such acts as may be, or prove, necessary or advisable in that respect.
7. If DNL wishes to exercise its ownership rights as indicated in this article, the Contracting Party hereby grants its unconditional and irrevocable consent to DNL, and any third parties to be designated by DNL, to access all such locations as may hold property of DNL and to repossess same. In this respect, the Contracting Party will be liable for any costs of repossession to be incurred by DNL.

## **Article 10. Warranties, inspection and complaints, prescription period**

1. The items or services to be provided by DNL will meet such customary requirements and standards as may reasonably be set in that respect at the time of delivery and for which they are intended in the event of normal use in the Netherlands. The warranty set forth in this article will apply to any items intended for use within the Netherlands.
2. The warranty referred to in paragraph 1 of this article will be valid for a period of 1 year following delivery, unless dictated otherwise by the nature of the items delivered or agreed otherwise between the parties. If the warranty given by DNL regards an item that was manufactured by a third party, the warranty will be limited to the warranty given by the manufacturer of the item in that respect, unless stated otherwise.
3. Any warranty will expire if a defect has occurred as a result of, or ensues from, injudicious or improper use thereof, incorrect storage or maintenance thereof by the Contracting Party and/or third parties, if the Contracting Party or third parties have made, or tried to make, changes to the item without DNL's written consent, other items were attached to such items which should not have been attached thereto or if such items were processed or adapted in any manner other than as prescribed. The Contracting Party will not be entitled to any warranty if the defect has occurred as a result or a consequence of any circumstances beyond DNL's control.
4. The Contracting Party will be required to inspect, or cause the inspection of, the items delivered immediately at such time as the items are put at its disposal or the relevant services have been provided. The Contracting Party will thereby be required to inspect whether the quality and/or quantity of the items delivered is in accordance with that which had been agreed and meets the requirements agreed between the parties in that respect. Any - visible or invisible - defects must promptly, but in any event not later than within fourteen days of discovery, be reported to DNL. The report must contain as detailed a description of the defect as possible, so as to enable DNL to respond adequately. The Contracting Party must give DNL the opportunity to investigate, or cause the investigation of, a complaint.
5. In derogation of the provisions of article 9.4, consumers will be subject to a term of 2 months.
6. In no event will any complaints lodged by the Contracting Party in good time suspend its payment obligation. In such event, the Contracting Party will remain under the obligation to take delivery of, and to pay for, the other items ordered and the assignment given to DNL.
7. If a defect is reported later, the Contracting Party will no longer be entitled to repair, replacement or compensation.

8. If it has been established that an item is defective, and a complaint in that respect has been lodged in good time, DNL will, at its option, replace or arrange repair of the defective item, or pay replacement compensation in that respect to the Contracting Party, within a reasonable term of receipt of the returned item or, if return shipment is not reasonably possible, written notice of the defect by the Contracting Party. In the event of replacement, the Contracting Party will be under the obligation to return, and transfer title to, the replaced item to DNL, unless indicated otherwise by DNL.
9. After expiry of the warranty period, all costs of repair or replacement, including administrative charges, costs of shipment and call-out charges, will be invoiced to the Contracting Party.
10. In derogation of the statutory prescription periods, the prescription period for all claims and defences vis-à-vis DNL and the third parties engaged by DNL in the performance of an agreement, will - save as provided otherwise in provisions of mandatory law - be one year.

#### **Article 11. Withdrawal/return shipment**

1. The Contracting Party will have a period of 14 days within which it may withdraw from the agreement for convenience. If the Contracting Party wishes to exercise this right, the Contracting Party may notify DNL thereof by means of an unambiguous statement.
2. In no event can any products already used, damaged or the packaging of which is damaged be returned. The rationale behind this is that the products can be viewed as they could in a physical shop.
3. Return shipments will, except in the situations where DNL has made an erroneous shipment, not be accepted until after approval by DNL. If the provisions of paragraph 2 do not apply or in the event of any other provisions agreed in respect of return shipment, DNL will virtually always grant its approval.
4. In the event of return shipment, except in the situations where DNL has made an erroneous shipment, the Contracting Party will be responsible for the costs of transport.
5. DNL will endeavour to refund the amount relating to the purchase of the goods within 14 days of receipt of such goods by way of transfer to the Contracting Party's account.

#### **Article 12. Liability**

1. If the Contracting Party should be in default of proper performance of its obligations vis-à-vis DNL, the Contracting Party will be liable for any and all damage suffered by DNL as a direct or indirect result.
2. Any liability that may arise on DNL's part will be limited to the arrangements made in this provision.
3. DNL will not be liable for any damage, of any nature whatsoever, suffered as a result of DNL's reliance on (incorrect and/or incomplete) information provided by or on behalf of the Contracting Party. Moreover, DNL will not be liable for any damage or costs arisen as a result of failure to comply with the agreement or the conditions set forth herein.
4. Any liability that may arise on DNL's part will be limited to twice the invoice value of the order, or at least to that part of the order to which the liability relates.
5. DNL's liability will in any event at all times be limited to the amount paid out by its insurer, if any.
6. DNL will be liable for direct damage only.
7. Direct damage will be understood exclusively as the reasonable costs of assessment of the cause and scope of the damage, to the extent that such assessment relates to damage within the meaning of these terms and conditions, the reasonable costs, if any, incurred to ensure that DNL's defective performance is in compliance with the agreement, to the extent attributable to DNL, and reasonable costs incurred in order to prevent or mitigate damage, to the extent that the Contracting Party demonstrates that such costs have resulted in mitigation of direct damage within the meaning of these general conditions.
8. In no event will DNL be liable for any indirect damage, including consequential damage, lost profit and/or lost turnover, lost savings and damage as a result of business interruption.
9. The limitations of liability as set forth in this article will not apply if it is established that the damage is attributable to wilful misconduct or gross negligence on the part of DNL, or third parties engaged by it or its (managerial) staff.
10. The limitations of liability set forth in this article will also extend to any private individuals and/or legal entities affiliated with DNL.

#### **Article 13. Indemnity**

1. The Contracting Party will indemnify DNL and/or any private individuals or legal entities affiliated with it against any claims of third parties that may suffer damage in connection with the performance of the agreement - including delivery and presence of the product - except in the event of wilful misconduct or gross negligence on the part of DNL. If DNL should be held liable in that respect by any third parties, the Contracting Party will be required, on request, to provide DNL with all such information as may be necessary and promptly to perform all such acts as may reasonably be expected of it in such event. If the Contracting Party fails to take adequate measures, DNL will, without any notice of default being required, be

entitled to take such measures itself. Any costs and damage on the part of DNL and third parties arising as a result will be entirely at the expense and risk of the Contracting Party.

**Article 14. Intellectual property**

1. The intellectual property rights in any images, sketches, schedules, designs, models, and any other items relating to the performance of the agreement, created by DNL and/or on the instructions of the Contracting Party, irrespective of whether costs have been charged in that respect, will be owned exclusively by DNL.
2. DNL will have the right to use the knowledge gained as a result of performance of an agreement for other purposes as well, to the extent that no strictly confidential information of the Contracting Party is disclosed to any third parties as a result.

**Article 15. Applicable law and disputes**

1. All legal relationships to which DNL is a party will be governed exclusively by the laws of the Netherlands, even if all or part of an obligation is to be performed abroad or if the relevant party to the legal act has its place of business or residence there. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
2. The court in the place where DNL has its registered office will have exclusive jurisdiction to hear any disputes - including those which are considered to be disputes by one of the parties only -, unless required otherwise by provisions of mandatory law. Nevertheless, DNL will be entitled to submit the dispute to the court that, according to the law, has jurisdiction.
3. The parties will not address the court until after they have used their best efforts to find an amicable solution to a dispute.

**Note**

Although the greatest care has been taken to ensure that the translation of the Terms of Purchase - originally drafted in the Dutch language - is as accurate as possible, DNL Kunststoffen B.V. excludes any liability for any errors in this translation. DNL and the supplier agree that the agreement(s) that they have concluded with one another are governed solely by the Terms of Purchase in the Dutch language as aforementioned and that the translation of these Terms if of no legal whatsoever.