

**1. Applicability**

- 1.1 These Terms and Conditions apply to and form an integral part of— each special offer, quotation, delivery and agreement and to every other legal relationship of whatever nature by DSN, established in Leek, Lorentzpark 10-12, hereinafter referred to as “Supplier”, and Client ( as defined below) unless expressly agreed otherwise in writing.
- 1.2 In these Terms and Conditions the "Client" shall mean: The Party for whom the offer made by the Supplier is intended, to whom the Supplier has supplied and/or with whom the Supplier has entered into an Agreement.

**2. Conclusion and amendment of the Agreement**

- 2.1 All special offers and quotations made by the Supplier, in whatever form, are non-binding. An agreement is only concluded by written (order) confirmation from the Supplier or by actual implementation by the Supplier. Any offer that is made free of obligation may be withdrawn without delay after having been accepted. No agreement will be concluded in that case.
- 2.2 To the extent that the acceptance by the Client deviates in any respect from the offer made by the Supplier, the agreement will only come in force at the moment at which the Supplier accepts the deviation In writing and by doing so commits the realization and content of the Agreement by means of an order confirmation.
- 2.3 No cancellation period applies once an order confirmation has been sent.  
The Client can request that the Supplier agrees to the annulling (cancelling) of an Agreement that has already been placed but not carried out. An Agreement may not be cancelled before the Parties have reached an agreement In writing on the conditions of such cancellation including the amount of the cancellation costs and once the Supplier is of the opinion that all agreed cancellation conditions have been fulfilled. As long as the Parties have not reached an agreement as to the cancellation conditions or as long as the Supplier is of the opinion that the cancellation conditions have not been fulfilled, the Agreement shall continue and the parties shall remain mutually obliged to fulfil their obligations to one another under this Agreement.
- 2.4 Apparent spelling mistakes or mistakes in the special offers release the Supplier from the obligation to perform and/or any obligations to pay any subsequent compensation, also after the conclusion of the Agreement.

**3. Implementation of the Agreement**

- 3.1 Delivery in the Netherlands will take place in accordance with the applicable Incoterm CPT - Carriage Paid To (Client's address). Except for deliveries with an invoice amount up to EUR 500,- (excl. VAT), which are subject to EUR 50- (excl. VAT) shipping costs. Deliveries outside the Netherlands will take place in accordance with the applicable Incoterm EXW - Ex-Works (warehouse Leek, The Netherlands). When products have been picked-up EXW, the Client must fulfill three criteria's: 1) sign and return Transport Declaration form, provided by the Supplier; 2) sign and return CMR document, provided by the Supplier; 3) show Client's own transport invoice, which Client got from its own transport company. If not completed within one month after pick-up, the Client will be charged Dutch VAT accordingly.
- 3.2 The Supplier is entitled to deliver the goods in parts and to invoice these separately.
- 3.3 Goods shall be deemed to have been delivered, as soon as the Supplier has informed the Client

that the products are ready to be picked up by the Client or dispatched on behalf of the Client. From the moment of delivery, the delivered products are for the risk of the Client. The Client must pick up the goods within 2 weeks after the Supplier has informed Client that the products are ready. If the Client refuses to take delivery of the goods, or fails to provide information or instructions needed for the delivery, the Supplier shall be entitled to store the products at the expense and risk of the Client, without prejudice to the Client's obligation to pay.

3.4 If the Parties explicitly agree that the Supplier will arrange the transport of the products, both the costs as the risk of loss or damage during transport shall be borne by the Client.

3.5 The specification of delivery times in special offers, quotations, agreements or otherwise by the Supplier are made to the best of his knowledge and these terms shall be observed as much as possible, but they are indicative and never binding. When exceeding an estimated delivery time, the Supplier shall send a confirmation with a new delivery time.

3.6 If the Parties on request from the Client have agreed that deliveries shall take place on a specific day and that it shall be stipulated in writing before or on concluding this Agreement that later delivery shall not be acceptable, the Supplier shall, with respect to the exceeding of these agreed delivery times, not enter into default until it has been placed in default in writing and has been provided with a reasonable period for delivery.

#### **4. Prices**

4.1 All prices are in Euros and are exclusive of VAT and other levies imposed by the government. Any costs relating to the import and/or clearance of goods to be delivered by the Supplier to the Client are not included in the price and therefore shall be for the account of the Client.

4.2 The amounts indicated in the special offers of the Supplier are based on the prices existing during the special offer, rates, wages, taxes and other factors relevant for the market price level. The Supplier may, among other things, increase the price.

#### **5. Payment**

5.1 Unless expressly agreed otherwise in writing, payment must always be made within 14 days after the invoice date. The Client is not entitled to offset any claim against the Supplier with the amounts charged by the Supplier. Any objections against the amount of the invoices do not suspend the payment obligation.

5.2 The Supplier shall at all times be entitled to invoice delivered goods per partial delivery.

5.3 Payment shall be made by deposit or transfer to bank or giro account indicated by the Supplier. The Supplier shall at all times be entitled to demand adequate security for the payment or demand advance payment both before and after the conclusion of the Agreement, subject to suspension of the performance of the Agreement by the Supplier, until the security has been provided and/or the advance payment has been received by the Supplier. If such security or advance payment would be refused, the Supplier is entitled to terminate the Agreement and the Client is liable for the resulting damage for the Supplier.

5.4 The Supplier is entitled to suspend the delivery of products which it has in its possession for the Client in connection with the execution of the agreed work, until all payments due to the Supplier by the Client are paid in full.

5.5 If payment is not made on time, the Client shall be in default by operation of law without notice of default being required. From that moment on the Client owes the Supplier interest on the outstanding amount of 2% per month, unless the statutory interest is higher in which case the

statutory interest applies. All extrajudicial and judicial collection costs shall be borne by the Client, to be set at a minimum of 15% of the amount owed by the Client, with a minimum of € 500,- without prejudice to any other rights of the Supplier including the right to claim actual damage.

## **6. Warranty**

- 6.1 Warranty on the products is limited to the warranty provided by the producer of the product. The Supplier shall only guarantee that the products supplied, at the point of delivery, shall comply with the product specifications and that they possess the properties confirmed by the Supplier to the Client in writing before or on conclusion of this Agreement.
- 6.2 Without prejudice to Article 7.1, the warranty obligation of the Supplier is at any time limited to, at the option of the Supplier, replacement or repair of the product, unless such repair or replacement cannot reasonably be expected of it. The Supplier shall be free to carry out repairs itself, to outsource this or to engage third parties.
- 6.3 All warranty obligations of the Supplier shall lapse if faults, defects or imperfections with respect to the products are the result of (i) incorrect, careless or improper use or management of the products, (ii) an external cause such as fire or water damage, or (iii) to the products without the Supplier's consent.

## **7. Complaints**

- 7.1 The Client must check the delivered products immediately upon receipt for any visible defects, or carry out this check after notification that the products are at the disposal of the Client. Any visible defects must immediately be stated on the invoice and/or transport documents and reported in writing to the Supplier within 48 hours, including the reference of the shipping invoice, failing which the Client shall be considered as having received the goods in good order, complete and free of (visible) damage or shortcomings and the Supplier shall no longer have to deal with these complaints.
- 7.2 Any complaints relating to non-visible defects to the delivered products must be reported in writing to the Supplier within eight days after the Client has discovered them, failing which the Client shall be considered as having received the goods in good order, complete and free of (non-visible) damage or shortcomings and the Supplier shall no longer have to deal with these complaints. Complaints with regard to non-visible defects shall be subject to a maximum complaint period of 3 months after delivery, after which period the Supplier shall not be obliged to deal with these complaints.
- 7.3 After the expiry of the terms referred to in this Article 7 the Client shall be deemed to have approved the delivered products and all rights of the Client in this respect shall lapse.
- 7.4 Without prior written consent, the Supplier is not obliged to accept returns of the Client. Receipt of returns does not imply acknowledgement by the Supplier of the grounds for return shipment stated by the Client. The risk with respect to returned products shall remain at the Client, until the products are credited by the Supplier.
- 7.5 If the Client appeals for a possibly agreed warranty scheme and the appeal subsequently turns out to be unjustified, the Supplier has the right to charge the work and costs of research and repair that have ensued from that appeal to the Client in accordance with its usual rates, with a minimum of €500,-.

## **8. Retention of title**

- 8.1 All products delivered and to be delivered by or on behalf of the Supplier shall remain the Supplier's property up to the point at which the Client has fulfilled all due obligations towards the Supplier.
- 8.2 The Client is obliged to store the products delivered subject to retention of title with due care and as recognizable property of the Supplier.
- 8.3 The Client shall not be entitled to pledge or otherwise encumber or carry over the delivered products under retention of title in whole or in part to third parties, as long as the ownership thereof has not been transferred to the Client, except insofar as this transfer takes place in the exercise of the usual business activities of the Client.
- 8.4 If the Client fails to fulfil its payment obligations towards the Supplier or if the Supplier has good reason to fear that the Client will fail in those obligations, the Supplier shall be entitled to take back the delivered goods subject to retention of title. The Client shall at all times grant the Supplier free access to its sites and/or buildings for the purpose of inspecting of the goods and/or exercising the Supplier's rights. After repossession, the Client shall be credited for the market value, which in no case shall be higher than the original price agreed upon by the Client with the Supplier, minus the costs incurred by the Supplier in taking back the goods.

## **9. Suspension and dissolution**

- 9.1 The Client shall be deemed to be in default if the Client fails to (timely) fulfil any obligation under the Agreement or does not do so on time, as well as if the Client does not comply with a written warning to still fully comply within a reasonable period of time.
- 9.2 The Supplier shall be entitled to suspend the fulfilment of the obligations or to dissolve the Agreement in whole or in part, if:
- the Client is in default;
  - after concluding the Agreement, the Supplier learns of circumstances giving good reason to fear that the Client will not fulfil his obligations.
  - upon the conclusion of the Agreement the Client was requested to provide security for the fulfilment of his obligations under the Agreement and this security has not been provided or is insufficient.
  - the Client applies for moratorium of payments or bankruptcy or bankruptcy is requested against him or all or part of his assets are seized.
  - circumstances arise of such nature that fulfilment of the Agreement is impossible or can no longer be required or according to standards of reasonableness and fairness or if other circumstances arise of such nature that unaltered maintenance of the Agreement cannot reasonably be expected.
- 9.3 The Supplier shall never be obliged to pay any compensation due to this suspension, dissolution or termination.
- 9.4 In case the Agreement is terminated, the claims of the Supplier against the Client shall be immediately due and payable, without prejudice to other rights of the Supplier including the right to claim compensation.

## **10. Force majeure**

- 10.1 The Supplier shall not be liable if a failure is the result of force majeure. During the period of force majeure, the Supplier's obligations shall be suspended. If the period in which the Supplier's fulfilment of the obligations by the Supplier is impossible due to force majeure lasts longer than three months, both parties shall be entitled to terminate the Agreement without judicial intervention, without any

obligation to pay compensation.

- 10.2 The term “force majeure” as referred to in this Article shall in any event be understood to mean circumstances, which have arisen through no fault of the Supplier, such as serious disruption of the company, forced reduction of the production, strikes and lock-outs, both at the Supplier’s premises and at those of his subcontractors, war, hostilities, state of siege, mobilisation, either in the Netherlands or in any other country where any branches of the Supplier or his subcontractors are established, delays in the transport or delayed or incorrect delivery of goods or materials or parts by third parties including subcontractors of the Supplier.
- 10.3 If the Supplier has already partially fulfilled his obligations when force majeure occurs, or can only partially fulfil his obligations, the Supplier shall be entitled to invoice the already delivered or deliverable part separately and the Client shall be obliged to pay this invoice as if it concerned a separate agreement.
- 10.4 If the Supplier is prevented from fulfilling its obligations towards one or more but not all of its customers or Clients due to force majeure, the Supplier shall be entitled at its own discretion to decide which obligations it shall fulfil, towards which customers and Clients and in which order.

## **11. Liability**

- 11.1 Any damage suffered by the Client and for which the Supplier can be held liable, shall be reimbursed to the Client solely in accordance with the following provisions, regardless of the grounds on which the claim for compensation is based.
- 11.2 If goods delivered by the Supplier are faulty, the Supplier’s liability against the Client shall be limited to what is provided for in these terms and conditions under “Warranties” and “Complaints”. Further liability is excluded.
- 11.3 All other damages shall be compensated by the Supplier, to the extent it concerns personal damage and/or property damage and if and to the extent that this damage is the direct result of intent or deliberate recklessness on the part of the Supplier’s managers. In any case no compensation will be paid for direct damages, including but not limited to loss of income or profit, damage due to stagnation or delay in business activities, damage due to loss of production, loss of working hours and/or labour costs incurred in vain, additional costs of purchasing elsewhere, damage due to rebuilding of lost information, missed savings or agreements, discounts or fines.
- 11.4 The Supplier’s liability shall be excluded in the event of:
- Direct and indirect consequences of the Client’s failing to adhere strictly to the use or operating instructions.
  - Normal wear and damage and/or wear due to improper use and as a result of overloading or any other form of abnormal use.
- Abnormal or unforeseen circumstances or at least circumstances with which the Supplier in all reasonableness need not have taken into account based on the details with which it was provided on concluding this Agreement.
- Damage against which the Client could have insured itself.
- 11.5 The Supplier’s total liability shall in all cases be limited to the amount of the payment made by the Supplier’s liability insurer in connection with the relevant issue.
- 11.6 The entitlement to compensation for damage lapses if no written appeal has been made within fourteen days after the discovery of the damage. Damage shall not be eligible for compensation if it becomes apparent later than twelve months after delivery of the product concerned.
- 11.7 The Client shall release and indemnify the Supplier from all third party claims for compensation due

to damage suffered by such third parties including claims due to product liability and the violation of intellectual property rights as a result of goods, including goods from the Supplier supplied by the Client to such third parties.

## **12. Intellectual property rights**

12.1 All intellectual property ("IP") rights to the product Supplied, developed or provided by the Supplier to or for the Client – including documentation, inventions, ideas, software, diagrams, equipment, samples, drafts, installations, solutions, analyses, designs, reports, quotations, etc., - shall remain exclusively with the Supplier or its licensor(s) or Supplier(s).

12.2 If any products sold by the Supplier to the Client in the Netherlands should unexpectedly violate any third party property rights for which the Client is held liable, the Client shall be obliged to inform the Supplier of this immediately In writing. The Supplier shall in such case be entitled to rectify this violation by:

- Granting the Client the right to use these products;
- Changing the products in such a way that this shall no longer constitute a violation;
- Delivering replacement goods that do not constitute a violation; or
- Refunding the Client for the purchase price once the Supplier has received the goods minus a reasonable fee for the period that the Client had the use of these products.

With respect to the violation of IP rights outside the Netherlands, the Client shall have no claim or demand against the Supplier.

12.3 The Supplier shall not be liable for the violation of any intellectual property rights or any other exclusive rights resulting from:

- Any change of or to products sold or delivered by or on behalf of the Supplier;
- Any use or application of such goods other than that prescribed by the Supplier or of which the Supplier may assume based on this Agreement;
- Integration, use or application with products not sold and delivered by or on behalf of the Supplier including (parts of) systems and networks;
- A software application that was not created by or on behalf of the Supplier.

## **13. Disputes and applicable law**

13.1 Agreements between the Supplier and the Client are governed by Dutch law, with the exception of the United Nations Convention on Contracts for the International Sale of Goods (CISG). All disputes between the Client and the Supplier shall be exclusively settled by the competent Court in Utrecht.

13.2 In case of differences in interpretation between the English and Dutch versions, the original Dutch version shall prevail.