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# General Sales Conditions

Revision: 5

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## Article 1 - Applicability

- 1.1 These general terms and conditions apply to - and are an integral part of - any quotation, offer and agreement for delivery by De Jong Gorredijk BV, hereinafter DJG, of goods of any kind, unless expressly and in writing agreed otherwise.
- 1.2 In these general terms and conditions, "the counterparty" means: every (legal) person or identity who orders and / or purchases goods from DJG.
- 1.3 Changes in these terms and conditions are only valid if expressly agreed in writing between both Parties.
- 1.4 Applicability of other general terms and conditions, in particular general terms and conditions of the counterparty is expressly excluded.

## Article 2 - Closing and amendment agreement

- 2.1 All offers made by DJG, in whatever form, are without obligation unless otherwise indicated in the offer. A contract is concluded only by a written (order) confirmation of DJG or the start of carrying out the offer by DJG.
- 2.2 Changes to an agreement are only valid if expressly agreed in writing between both parties.

## Article 3 - Indications, appendices, mistakes, documents and data made available

- 3.1 All indications in offers, quotations and the appendices, such as images, drawings, measurements, weights, yields and colors and also the characteristics of any specimens provided, are only indicative. Deviations are not at the risk and/or expense of DJG.
- 3.2 Obvious errors or mistakes in the offers from DJG release her from the obligation to fulfill the contract and/or compensate damages arising from these errors and mistakes, also after conclusion of the agreement.
- 3.3 Offers from DJG as well as drawings, software, descriptions, models, tools, etc. made by DJG remain property of DJG, regardless of whether costs have been charged to the counterparty for these items. This also applies to manufacturing and construction methods, and other information necessary to produce the goods of DJG, even if costs have been charged to the counterparty, unless agreed otherwise in writing.  
The counterparty is not permitted to make copies of this information or make them available to third parties, except for the execution of the agreement and only with the written consent of DJG.
- 3.4 The counterparty guarantees to DJG the correctness and completeness of the documents and information made available to DJG necessary for the making of the offer and/or the fulfillment of the agreement.

#### Article 4 - Delivery

- 4.1 Delivery by DJG takes place FCA location of DJG in Gorredijk (Incoterms 2010) unless expressly agreed otherwise. If the counterparty refuses to receive the goods at the agreed time, or fails to provide information or instructions that is/are necessary for the delivery of the goods by DJG, DJG is entitled to store the goods at the expense and risk of the counterparty and these goods are deemed to have been delivered.
- 4.2 Goods shall be deemed to have been delivered as soon as the counterparty has collected the goods, or the goods are set on transport commissioned by the counterparty. From the moment of delivery, the goods are at risk of the counterparty.
- 4.3 If the parties expressly agree that DJG takes care of the transport of the goods, both the costs and the risk of loss and/or damage during transportation are for the account of the counterparty .
- 4.4 Delivery times mentioned in offers, quotations, agreements or otherwise are always given by DJG to the best of her knowledge, but DJG is never bound by these delivery times.

#### Article 5 - Prices

- 5.1 All prices are in euros and are exclusive of sales tax and other taxes and levies imposed by the government. Any additional costs related to the import and/or customs clearance of items to be delivered by DJG to the counterparty are not included in the price and are therefore at the expense of the counterparty. The same applies to other government levies.
- 5.2 The amounts shown in the offers of DJG are based on the prices, exchange rates, wages, taxes and other price levels relevant factors known at the time the offer is made. If after conclusion of the agreement changes take place in one or more of the said factors, DJG is entitled to unilaterally dissolve the agreement if these changes lead to an increase in the agreed price of more than 5%, without the counterparty being entitled to claim damages.

#### Article 6 - Payment

- 6.1 Invoices of DJG must always be paid within 30 days after the date of the invoice. The counterparty is not entitled to deduct any counterclaim whatsoever from the amounts due to DJG. Nor does the counterparty have the right to suspend payment of amounts due to DJG.
- 6.2 DJG always has the right to send an invoice per partial delivery.
- 6.3 Payment is made by deposit or transfer to a bank account designated by DJG. DJG always has the right, both before and after the conclusion of the agreement to demand security for payment or demand advance payment, such under suspension of performance of the agreement by DJG, until the security is provided and/or the advance payment has been received. If the counterparty refuses to offer security or payment in advance DJG is authorized to dissolve the agreement and the other party is liable for the damages of DJG resulting from this dissolution.
- 6.4 DJG is entitled to suspend delivery of goods to the counterparty until the counterparty has paid all amounts due to DJG.
- 6.5 If a payment is not made within the time specified in article 6.1, the counterparty is legally in default. From that moment on the counterparty owes DJG the statutory commercial interest as mentioned in Article 6: 119a Dutch Civil Code (artikel 6:119a Burgerlijk Wetboek).
- 6.6 Without prejudice to the other rights of DJG under this article, the counterparty is obliged to reimburse all costs incurred by DJG to claim the amounts due by the counterparty.

## Article 7 - Guarantee

- 7.1 The warranties related with DJG products are described in the warranty description rev.1 dated June 2019, which form an integral part of these General Sales Conditions.
- 7.2 Any claim under the guarantee must be made by the counterparty in the manner stipulated in article 8, failing which the legal effects specified in this article will enter into effect.
- 7.3 In case DJG delivers replacement goods under this guarantee scheme, the ongoing guarantee scheme remains in force for these replacement goods as mentioned in the warranty description.
- 7.4 The alleged non-compliance by DJG with its obligations under this guarantee does not relieve the counterparty from any obligation arising from any agreement with DJG.

## Article 8 - Complaints

- 8.1 The counterparty must notify DJG immediately after delivery of visible defects, but no later than 3 days after delivery by written and well documented notice under penalty of forfeiture of any warranty claims or claims for repair of these defects. Further, the counterparty should indicate such visible defects on the transport documents. Not-visible defects at the time of delivery must be notified to DJG in the aforementioned manner within a period of 3 days after discovery or after the defect could reasonably be discovered, under penalty of forfeiture of warranty claims or repair claims for these defects.
- 8.2 Legal claims with regard to reported defects expire within one year after the notifications as meant in article 8.1.
- 8.3 Without prior written permission, DJG is not obliged to accept goods returned by the counterparty. Acceptance of these goods by DJG does not imply in any case recognition by DJG of the grounds for the return shipment stated by the counterparty. The risk with regard to returned goods remains with the other party, until the defects in these goods are recognized by DJG.
- 8.4 If the other party invokes a warranty claim, but that appeal subsequently proves to be incorrect, DJG has the right to claim its costs incurred for examining the defect and other costs in accordance with its usual rates.

## Article 9 - Retention of title

- 9.1 All goods are under all circumstances delivered by DJG under retention of title, as long as DJG has any claim on the counterparty for delivered goods, including in any case the purchase price, extrajudicial costs, interest, fines and any other claims such as referred to in Section 3:92 (2) Dutch Civil Code.
- 9.2 Without prejudice to the provisions in this article, the risk of the goods passes to the counterparty at the time of delivery of the goods as mentioned in Article 4.  
The counterparty is obliged to handle the goods delivered under retention of title with the necessary care and keep them separated as identifiable property of DJG. The counterparty is also obliged to insure the goods sufficiently against all forms of damage.
- 9.3 As long as the ownership has not been transferred to the counterparty, the counterparty is not authorized to give a third party a pledge on the products delivered under retention of title, nor is the counterparty authorized to transfer the ownership in whole or in part to any third party, except insofar as this takes place for exercising the usual business activities of the counterparty.
- 9.4 If for whatever reason DJG can no longer invoke the retention of title on goods, the counterparty is obliged to offer another adequate form of security for the correct performance of her obligations under the agreement at the first request of DJG.

9.5 If the other party fails to fulfill its obligations towards DJG or DJG has good reason to fear that the other party will fail to live up to its obligations, DJG is entitled to take back the goods delivered under retention of title. The counterparty is obliged to fully cooperate with DJG and will give DJG free access to its grounds and / or buildings for the inspection of the goods and/or for exercising the rights of DJG arising from this article. After taking back the goods, the counterparty will be credited for the agreed price of the returned goods, minus the costs incurred by DJG for the repossession of the said goods and other damages suffered by DJG .

#### Article 10 - Dissolution and termination

- 10.1 The counterparty is deemed to be in default if and when he does not comply with any obligation of the agreement or fails to do so on time, without a notice of default being required, as well as if the other party does not comply with a written reminder to fulfill his obligations properly within a stated reasonable time.
- 10.2 In case of default by the counterparty, DJG is entitled, without any obligation for compensation of damages, and without prejudice to the other rights it is entitled to under the law and/or the agreement, at its discretion to dissolve the agreement in whole or in part extra judicially and/or claim immediate payment of the entire amount due by the counterparty and / or invoke the retention of title on delivered goods.
- 10.3 Without prejudice to paragraphs 1 and 2 DJG is authorized to dissolve the agreement extra judicially with immediate effect in the following cases:
- bankruptcy or suspension of payment of the counterparty;
  - seizure of such a part of the counterparty's assets that he no longer can meet his obligations;
  - liquidation and discontinuation of activities of the counterparty other than by bankruptcy.
- All claims of DJG against the counterparty in these cases are immediately due and payable. DJG will in these cases of termination never be obliged to pay any form of damages.

#### Article 11 - Force Majeure

- 11.1 DJG is not liable if a shortcoming is the result of force majeure. During the period of force majeure, DJG has the right to suspend its obligations. If the period in which the fulfillment of the obligations of DJG is not possible due to force majeure, lasts longer than six months, both parties are authorized to dissolve the contract extra judicially without the right of the other party to claim damages.
- 11.2 Force majeure in this article means, every circumstance that cannot be attributed to DJG, such as serious disruption in the company of DJG, forced downsizing of production, strikes and exclusions both at DJG and at supplying companies, war, hostilities, situations of martial law, mobilization, either in the Netherlands or in any other country where branches of DJG or of supplying companies are established, delays in transport or delayed or incorrect delivery of goods or materials or parts by third parties including suppliers of DJG. This list is not exhaustive, but merely intended as example.
- 11.3 If DJG has already partially fulfilled its obligations upon the occurrence of force majeure or can only partially fulfill its obligations due to force majeure, DJG is entitled to invoice the delivered or the deliverable part separately and the counterparty is obliged to pay this invoice as if it were a separate agreement.

#### Article 12 - Liability and indemnity

- 12.1 The liability of DJG is limited to the performance of the warranty obligations arising from article 7 except for damages due to intent and gross negligence.
- 12.2 The counterparty indemnifies DJG against all claims of third parties arising from the execution of the agreement, regardless of the nature of the claims and the nature of the damages. This also includes claims by third parties for infringement of intellectual property rights.

#### Article 13 - Disputes and applicable law

- 13.1 Dutch law applies to all agreements to which these general terms and conditions apply, with the exclusion of the United Nations Convention on international purchase agreements concerning movable property of 11 April 1980 (Vienna Purchase Treaty).
- 13.2 Any disputes relating to this agreement or those arising from this agreement will solely be settled at first instance by the Court of the Northern Netherlands, venue Leeuwarden. DJG has the right to bring a dispute before another dispute settlement authority, which also can be arbitration.