

#### **Article 1: Definitions**

In these general terms and conditions the terms below are defined as follows:

- a. "Customer": the party that provides the Supplier with the assignment for the execution of work.
- b. "General Terms and Conditions of Sale, Supply and Payment": the provisions in the present
- c. document.
- d. "Supplier": the private company with limited liability Van Keulen Interieurbouw Nijverdal B.V.
- e. "Offer(s)": the work specified to a greater or lesser extent and the estimated budget of the costs related to this work.
- f. "Assignment": the agreement between the Supplier and the Customer, whereby the Supplier will execute work for the benefit of the Customer.
- g. "Party/Parties": The Customer and the Supplier, either individually, or jointly.
- h. "Price": The amount included in the Assignment, which the Supplier will charge to the Customer.

#### **Article 2: Applicability**

- 2.1 The General Terms and Conditions of Sale, Supply and Payment apply to all Offers, including all tenders, agreements and deliveries of the Supplier, as well as to any other legal relationship between the Supplier and the Customer.
- 2.2 The provisions in these General Terms and Conditions of Sale, Supply and Payment can only be derogated from if this has been agreed expressly and in writing.
- 2.3 If these General Terms and Conditions are in conflict with the arrangements expressly agreed in writing between Parties, the arrangements expressly agreed in writing will prevail over these General Terms and Conditions.
- 2.4 The applicability of (a reference to) the General Terms and Conditions of the Customer are expressly rejected by the Supplier. The terms and conditions applied or declared applicable by the Customer, will only apply if the Supplier has agreed to these in writing. In the event of conflict between the General Terms and Conditions of Sale, Supply and Payment of the Supplier and the general terms and conditions of the Customer, the provisions in the general terms and conditions of the Supplier will apply.

#### **Article 3: Offer process**

- 3.1 The offers made by the Supplier are without obligation, unless this is derogated from in the offer.
- 3.2 With regard to the offers from the Supplier, which are based on the designs elaborated by the Customer, or the details provided by the Customer, materials, images, drawings prescribed by the Customer etc., the Supplier can assume the accuracy of these details.
- 3.3 The details set out by the Supplier in the catalogues, images, drawings and suchlike will not be binding, unless Parties have agreed otherwise in writing.

#### **Article 4: Advice, designs and materials**

- 4.1 The advice provided by the Supplier is only of a general nature and without obligation.
- 4.2 The Supplier does not accept responsibility for the functional suitability, being the suitability of the materials, or the part for the purpose for which it is intended in accordance with the design of the Customer, of the materials prescribed by the Customer and for parts and/or materials that are made available or prescribed by the Customer personally.

#### **Article 5: Conclusion of the agreement**

- 5.1 An agreement between Parties shall be concluded:
  - a. by means of the written acceptance by the Customer of the Offer from the Supplier after receipt of the Offer by the Customer.
  - b. by the start of the execution of the work.
- 5.2 After acceptance of the Assignment, the Supplier has the right to withdraw the Offer for two working days.
- 5.3 The Assignment includes the work and materials described in the Offer.
- 5.4 Parties can terminate the Assignment at any time (in the interim) with due regard to a reasonable notice period. Cancellation without a notice period is possible if the other Party is unable to pay its debts, ceases its activities, or if a receiver, administrator, or liquidator is appointed.

#### **Article 6: Performance of the agreement**

- 6.1 The Customer will be responsible for acquiring the necessary permits, exemptions and similar decisions, which are necessary for the execution of the Assignment.
- 6.2 The following work is not included in the agreed price of the Assignment, unless Parties make another arrangement regarding this:
  - a. chopping, breaking, bricklaying, carpentry, plastering, painting, wallpapering, repair work, or other structural work of whatsoever nature, nor the connection charges for connection to the head tubes network of the sewerage, to gas and water, or to the electricity network;
  - b. the extra help for moving the parts that are not being treated by the Supplier personally, as well as the hoisting equipment or gear and hoists;
  - c. taking measures for the prevention of damage to goods present at or near the work;
  - d. the extra costs of the removal, related to the nature of the materials to be removed, such as in the case of hazardous building materials and/or chemical waste.
- 6.3 The delivery periods stated by the Supplier in the Assignment can never be regarded as final deadlines, unless Parties have expressly agreed otherwise in writing.
- 6.4 Parties will agree in the agreement on the manner in which the Supplier will deliver the work. If Parties do not agree anything regarding this, the delivery will take place ex factory, which means that the Supplier will make the work, achieved on the basis of the Assignment, available to the Customer in the factory or the warehouse. The transport will take place at the expense and risk of the Customer. If the Customer requests that the delivery of goods takes place in a manner other than the usual manner, the costs attached thereto will be at the expense of the Customer.

- 6.5 The Supplier has the right to execute the work, forming part of the Assignment, in parts and deliver this in parts to the Customer, unless Parties make another arrangement regarding this.
- 6.6 If the Customer remains in default of taking receipt of the goods, ensuing from an Assignment, achieved by the Supplier, also including the execution of all acts that can be reasonably expected from the Customer in order to enable the Supplier to deliver, the Supplier will be entitled, without prejudice to the right of the Supplier to compensation:
- a. to store the goods at the expense and risk of the Customer, in which case the Supplier must be regarded to have completely fulfilled its obligations on the basis of the agreement;
  - b. to sell (let sell) the goods, after the Customer has been given notice of default by the Supplier, for and on behalf of the Customer, subject to the obligation to pay the proceeds to the Customer, after deduction of the claims accruing to the Supplier, including in any event the storage costs;
  - c. to extrajudicially terminate the agreement wholly or partly;
- 6.7 The delivery made in the context of an Assignment cannot be returned, unless Parties make other arrangements regarding this.

#### **Article 7: Changes**

- 7.1 If, after the conclusion of the Assignment Parties wish to implement changes to the Assignment, these changes must be recorded in writing. Parties agree that approval by email constitutes a recording in writing. Thereupon the recording in writing will form part of the agreement.
- 7.2 The costs attached to the changes referred to in article 7.1 concern contract extras.

#### **Article 8: Working conditions and assembly**

- 8.1 The location designated by the Customer will be the location for the execution of the work.
- 8.2 The Customer must ensure that the Supplier can start the work on the agreed day. In this context the Customer must ensure that the work environment is tidied, safe and properly accessible.
- 8.3 The Customer must ensure that the work in the context of the Assignment will be deemed to be possible to take place under normal working conditions and during the normal working hours applicable at the Supplier. If the work must take place, wholly or partly, outside the normal working hours, the allowances included in the Collective Labour Agreement will be charged.
- 8.4 The Customer must ensure that the Supplier can execute the work without interruption. In this context the Customer must inter alia ensure:
- a. the availability of gas, water and electricity (light and power) at the location, or in the space where the work must be executed;
  - b. that the workspaces are clean, dry and sufficiently heated;
  - c. that the means of transport suitable for this purpose (such as lifts, pallet trucks and suchlike) can be transported to the assembly location of the goods;
  - d. that other work, such as in particular also work of third parties, will not hinder the transport within the building concerned, or the assembly;
  - e. that dry and lockable storage spaces are available for the purpose of the goods not (yet) assembled and materials and tools;
  - f. that the work that is not executed by the Supplier, such as electrical, chopping, breaking, bricklaying, concrete plastering and painting work is executed in a timely and correct manner.

#### **Article 9: Completion**

- 9.1 The work executed by the Supplier will be delivered as soon as possible after the completion of the work. The Customer will invite the Supplier for this purpose. If the Customer does not invite the Supplier within 5 working days after the execution of the last work in the Assignment, the Supplier will be deemed to have approved the executed work.
- 9.2 The work executed by the Supplier will be regarded as delivered when the Customer takes the work into use, always provided that due to the taking into use of a part of the work, that part will be regarded as delivered.
- 9.3 Minor defects that can be repaired by the Supplier in a simple manner, cannot be a reason for the Customer to withhold approval. In that case a note on the inspection list will suffice.
- 9.4 The delivery can still take place if any part cannot be delivered at the same time as the delivery due to a cause that cannot be attributed to the Supplier.

#### **Article 10: Prices and Payment**

- 10.1 The Price included in the Assignment will be charged to the Supplier. All prices are excluding VAT.
- 10.2 The Price will be deemed to be quoted in Euro. If another currency is set out in the invoice, this will be converted into Euro at the current exchange rate applicable in that case.
- 10.3 The Supplier will hand over an invoice to the Customer for the amount owed by the Customer. Payment must take place:
- a. net cash at the delivery of the work or
  - b. by means of payment or transfer to the bank account set out by the Supplier on the invoice.
- 10.4 If the work involves a Price higher than € 10,000, plus VAT, the work will be invoiced in instalments:
- 60% of the Price must be paid at the providing of the Assignment;
  - 30% of the Price must be paid at the start, before the commencement, of the work;
  - 10% of the Price must be paid at the delivery of the Assignment;
  - Following the delivery of the work, the Supplier will draw up a final account, which will also include any contract variations.
- A payment term of 8 days applies to the progress invoices. A payment term of 30 days applies to the invoice ensuing from the final account.
- 10.5 If the work involves a Price up to and including € 10,000, plus VAT, the work will be charged by means of one single invoice. A payment term of 30 days applies to this invoice.
- 10.6 If, after the conclusion of the agreement, there is a change in the calculation of the wage costs and cost of materials, of turnover tax, or due to other circumstances, including calculation changes for technical reasons and price increases of materials, the Supplier will have the right to adjust the agreed Prices.
- 10.7 The Customer will not be entitled to suspend the payment of an invoice, or to set off the payment of an invoice against an amount that the Customer can claim from the Supplier.

- 10.8 After the expiry of the payment term and after payment has been demanded once to pay with regard to a reasonable period, the Customer will be in default without the requirement of notice of default. In that case the Customer will owe the statutory commercial interest over the amount still outstanding to the Supplier. The Customer will also owe the accrued exchange rate loss to the Supplier.
- 10.9 The judicial as well as the extrajudicial costs with regard to the claiming and collection of the payments, which are not received by the Supplier from the Customer in a timely manner, will be at the expense of the Customer.
- 10.10 Payments from the Customer will principally serve to settle the interest and exchange loss owed, as referred to in subclause 8 of this article 11, and thereupon to settle the judicial and extrajudicial costs referred to in subclause 9 of this article 11, and thereafter to settle the claim that has been outstanding the longest.
- 10.11 The entire purchase price or contract price will be in any event immediately due and payable in case of no prompt payment of the agreed instalment on the due date, if the Customer is declared bankrupt or goes into liquidation, applies for moratorium, or the Customer's placement under guardianship is applied for, or the provisional or final application of debt rescheduling is pronounced with regard to the Customer, if attachment is levied on the goods or the claims of the Customer, when the Customer dies, goes into liquidation, or is dissolved.

**Article 11: Force majeure**

- 11.1 In the event of force majeure on the part of the Supplier, the Customer will not be entitled to terminate the agreement (extrajudicially). In that case any shortcomings on the part of the Supplier cannot be attributed to the Supplier.
- 11.2 There will be force majeure in the situations included hereinafter: However, this list is not exhaustive. It concerns the following situations:
- in the event of lack of raw materials;
  - in the event of interruptions of operations or transport of whatsoever nature;
  - if there is an industrial action;
  - in the event of quarantine obligations on the part of the Supplier;
  - if there is an epidemic or a pandemic;
  - if a state of emergency is declared;
  - if there is a war situation or this is pending;
  - if the third parties engaged by the Supplier do not perform (in a timely manner);
  - if hindrances are caused by measures, laws or decisions of international, national or regional (government) agencies, including import prohibitions or trade bans;
  - if the suppliers and/or subcontractors of the Supplier do not or do not in a timely manner fulfil their obligations;
  - if there is a fire, as a result of which the Supplier cannot fulfil its obligations;
  - if the materials to be processed are lost.

**Article 12: Liability**

- 12.1 The Supplier makes efforts to execute the Assignment to the satisfaction of all Parties.
- 12.2 The Supplier will not be liable for any damage that the Customer might suffer related to the Assignment. In any event the liability of the Supplier is limited to the amount that is paid in the case concerned on the basis of the liability insurance taken out by the Supplier, plus the applicable amount of the deductible which is not borne by the insurer under the policy conditions. If no payment takes place pursuant to the liability insurance, any liability of the Supplier will be limited to the amount of the Assignment, unless the damage is the result of wilful misconduct or gross negligence on the part of the Supplier.
- 12.3 The Customer indemnifies the Supplier against all claims by third parties related to the work executed by the Supplier in the context of the Assignment.
- 12.4 In any event any claim against the Supplier, its personnel or others engaged by it, will lapse twelve months after the arising of the damage, which will be without prejudice to the provisions of article 13 subclause 2.
- 12.5 The Supplier and the third parties engaged by it will never be liable for intangible loss, trading loss, and consequential loss in whatsoever form and due to whatsoever cause.
- 12.6 The Customer will be liable for damage on the part of the Supplier, its personnel and others engaged by it, which is or they suffer due to, at, during or related to the work, regardless of due to whomsoever's wilful misconduct, gross negligence, or slight fault, this damage has arisen. Only if the Customer proves that the damage has arisen due to personal wilful misconduct or gross negligence on the part of whose damage would have been compensated, will the Customer not be liable.

**Article 13: Claims**

- 13.1 Within 10 days after the Customer has discovered, or should have discovered, that the Supplier has not properly executed the Assignment, the Customer must inform the Supplier of this in writing by registered mail. After the expiry of these 10 days the Customer loses the right to claim performance of the agreement.
- 13.2 The Customer must in any event within one year after the Assignment has been delivered issue summons to the Supplier with regard to the shortcoming on the part of the Supplier.

**Article 14: Retention of title**

- 14.1 The Supplier delivers the goods in the context of the Assignment subject to retention of title. The ownership of the Supplier will only transfer when the Customer has fulfilled all obligations under the agreement.
- 14.2 Prior to the transfer of ownership, the Customer will not be entitled to establish a mortgage right, a right of pledge, or a nonpossessory pledge on the goods delivered by the Supplier and undertakes towards third parties who want to establish such a right, that upon the first request from the Supplier, the Customer will declare not to be entitled to establish a mortgage right or right of pledge.
- 14.3 At the time at which the Customer has fulfilled all payment obligations ensuing from the agreement, the Supplier will provide the Customer with the ownership of the goods delivered subject to retention of a right of pledge of the Supplier, for the purpose of other claims that the Supplier has or will have against the Customer at any time.

**Article 15: Replacement and unforeseen circumstances**

- 15.1 Insofar as one or more provisions of this agreement is/are, wholly or partly, in conflict with, or will appear to be in conflict with rules of mandatory legal provision(s) - whether or not due to implementation of new regulations - resulting in consequences that do not correspond with the arrangements and intention of Parties, Parties will in that case enter into consultation with each other in order to agree an amendment of this agreement that will correspond with the existing regulations or interpretation thereof, which will be as much as possible in line with the arrangements and intention of Parties.
- 15.2 If such circumstances occur, which are not arranged in this agreement, but that are of such a nature that according to criteria of reasonableness and fairness this agreement cannot be maintained unaltered, Parties will enter into consultation in order to reach consensus regarding the amendment of this agreement. This amendment will be as much as possible in line with the original arrangements and intention of Parties.

**Article 16: Intellectual property rights**

Without permission from the Supplier, the Customer will not be entitled to use the designs, sketches, images, drawings, models, software, offers etc. provided by the Supplier to the Customer, or to show or hand these over to third parties, or to use these for the production of an equal or similar product.

**Article 17: Personal data**

- 17.1 By means of the Assignment the Customer gives permission to the Supplier for the processing of the Customer's personal data for the purpose of the execution of the Assignment. This personal data will only be accessible for the Supplier and will not be provided to third parties, unless the Supplier is obliged to do this pursuant to the law or a judicial decision.
- 17.2 The Supplier has published the privacy statement at <https://www.keulen.com/privacy-statement/>. In this privacy statement the Supplier informs the Customer of the manner in which the Supplier deals with the processing of the personal data of the Customer.

**Article 18: Applicable law**

- 18.1 The law of the Netherlands exclusively applies to the Assignment and these General Terms and Conditions of Supply and Payment.
- 18.2 Disputes ensuing from or related to the Assignment as well as disputed with regard to these General Terms and Conditions of Supply and Payment will be brought before the Overijssel court, location Almelo, if these form part of the jurisdiction of the court.
- 18.3 The Vienna Sales Convention (C.I.S.G.) does not apply.