

## **GENERAL TERMS AND CONDITIONS GMT BENELUX B.V.**

### **1. General**

- 1.1 Party / contractor / vendor / supplier / GMT Benelux B.V.: further referred to as GMT, Chamber of Commerce number: 12034488
- 1.2 Agreement: the agreement between GMT and all other legal entities or natural persons.
- 1.3 Activities: All activities that are associated with, or that ensue from, the agreement between the parties for which purpose the required materials are supplied, shall also be governed by the present agreement and terms and conditions
- 1.4 Other party / client / buyer/ purchaser: all natural or legal entities who can be considered to be the other party under this agreement.
- 1.5 Should the general terms and conditions or the agreement stipulate that a declaration or statement have to be provided in writing, this requirement is also fulfilled if the declaration is provided by electronic means.
- 1.6 The stored version of the electronic message transmitted or received by GMT, shall be deemed to be proof thereof, barring evidence to the contrary by the other party.
- 1.7 Without having to obtain permission from the other party, GMT is authorised to engage the services of third parties, auxiliaries and/or subcontractors for the activities or services, on each occasion that GMT considers this is necessary to ensure the work is carried out correctly and accurately.
- 1.8 Without having to obtain permission from the other party, GMT is authorised to utilise machines from third parties under the terms of rent, lease or otherwise for the activities or services, on each occasion that GMT considers this is necessary to ensure the work is carried out correctly and accurately.
- 1.9 These general terms and conditions are written in the Dutch, German and English languages. In the event of a dispute or inconsistency between the Dutch text and the German or English text, or a difference in the interpretation thereof, the general terms and conditions written in Dutch shall prevail.

### **2. Applicability of the general terms and conditions**

- 2.1 These terms and conditions apply to all quotations, agreements, activities and actions performed in execution of the agreement or purchase transaction by or with GMT, all obligations ensuing from that plus all actions aimed at forming and/or executing the agreement, including the quotation.
- 2.2 These general terms and conditions apply to the exclusion of all other general terms and conditions of the other party now and in the future.
- 2.3 If one or more provisions in these terms and conditions are null and void, or become null and void, this does not affect the validity of the remaining terms and conditions. The provision that is invalid or inadmissible is or shall be considered to have been replaced by a provision that is legitimate and which comes as close as possible to the purpose of the invalid or inadmissible provision.

### **3. The quotation/the realisation of the contract**

- 3.1 An agreement, and additions and/or changes that relate to this become effective with GMT, once GMT has provided written confirmation (of the order) after it has received a copy of GMT's quotation that has been signed as approved and returned.
- 3.2 The content of the quotation/order confirmation determines the content of the agreement and shall be deemed to reflect the agreement accurately and completely.
- 3.3 In respect of agreements for which no order confirmation is sent because of the quantity and the nature, the invoice or advance bill shall also be considered to be an order confirmation.
- 3.4 If the other party does not agree to the relevant content of the agreement, the latter has to communicate this in writing within eight days of the date of the (order) confirmation, but in any case before the date of delivery.

#### **4. Quotations/complaints/samples**

- 4.1 All quotations that are issued are fully subject to contract and only count as an invitation to issue an order.
- 4.2 All quotations are valid for 30 days from the date of the relevant quotation, unless otherwise explicitly stated.
- 4.3 If a model, drawing, sample, draft or proposal is shown and/or provided, this is purely by way of indication, such that the capacity, quality and/or quantity of the items and/or services to be supplied can deviate from those, unless agreed otherwise in writing.
- 4.4 Samples and/or models that are supplied remain the property of GMT. These have to be returned to GMT within two months of the date of delivery, in default of which the cost price of the samples and/or models in question shall be charged to the other party, on each occasion without prejudice to the right to reclaim the relevant products, if necessary in legal proceedings.

#### **5. Prices/costs**

- 5.1 Prices are given in Euros (€) and exclude turnover tax
- 5.2 Prices are based on the factory prices, exchange rates and charges applicable at the time of the estimate, including import levies and transport fees; these are the factors that determine the price.
- 5.3 Delivery shall only take place carriage paid when the order amount exceeds € 200.00. Below an order amount of € 200.00, the transport costs shall be charged separately.
- 5.4 GMT has the right to increase the stated or agreed prices and costs on the grounds of an increase in the price-determining factors after issue of the quotation or after the conclusion of the agreement, even if that increase could have been anticipated. In that case, if the increase exceeds 10%, the other party is entitled to dissolve the relevant agreement.

#### **6. Payment**

- 6.1 The payment period is always thirty days (at the latest) from the date of invoice. On the expiry of this period of time and in the absence of payment, the other party is in default (by law).
- 6.2 Settlement by the other party is not permitted, unless the counterclaim has been explicitly acknowledged by GMT.

- 6.3 GMT reserves the right to seek full or partial advance payment and/or the provision of security, or to send invoices prematurely and to demand payment thereof from the other party, in the absence of which GMT has the right to suspend fulfilment of its obligations. GMT also has the right to invoke this article during the execution of the agreement.
- 6.4 If a payment has not been received within the agreed payment period, GMT is entitled to charge 1% interest each month on the invoice amount as from the date of expiry, or to charge a percentage of that; this interest shall be calculated as compound interest. All of the above is without prejudice to the statutory (commercial) interest to be charged on the relevant amount.
- 6.5 All judicial and extrajudicial costs that have to be incurred by GMT in order to ensure fulfilment of the other party's obligations, or to recover compensation from the other party, shall be borne by this other party. The parties agree expressly that the actual costs (of the proceedings) are also owed insofar as these exceed the liquidated rate applied by the law courts.
- 6.6 Failure to pay any claim means that all other outstanding claims, irrespective of their due date or quality, are immediately due and payable.
- 6.7 Payment has to be made into the account designated by GMT.
- 6.8 The payments that are made always serve to settle, first of all, all interest and costs that are owed, then due and payable debts that have been owed for the longest period of time, even if the other party indicates that the payment relates to another and/or later invoice, or claim.

## **7 Cancellation, retention and dissolution**

- 7.1 If the other party is in default on account of late payment or has otherwise not fulfilled its obligations under the present contract, without prejudice to its legal rights, and barring the obligations in the other articles of this contract, GMT is authorised to suspend the fulfilment of orders, or to dissolve the contract either in part or in full.
- 7.2 In the event of suspending its performance, exercising a right of retention or dissolving the present contract pursuant to this article, GMT can never in any way be held liable for any form of damage.

## **8 Bankruptcy**

- 8.1 Should the other party become bankrupt, or if it is placed under moratorium on payment or custodianship (pursuant to the Dutch Civil Code or the Dutch Bankruptcy Act (Faillissementswet), or if the company is closed down or subsequently wound down or liquidated, the other party shall be deemed to be in default by operation of law and GMT is entitled, without being liable to pay damages and without prejudice to the rights accruing to it and without notice of default or lawful intervention being required to that end, to dissolve the agreement in full or in part or to declare the agreement dissolved, or to suspend the (further) execution of the agreement. Where appropriate, GMT is entitled to claim immediate settlement of anything accruing to it.

## **9 Delivery and risk, obligation to purchase**

- 9.1 The delivery dates provided for materials/services shall not be considered to be fixed deadlines. Overrunning the delivery date cannot result in failure to perform until written notice of default has been given.
- 9.2 The delivery date becomes effective once the agreement has been entered into, all information required by GMT to execute the service has been given to GMT and the payment, if and to the extent that this has to be made beforehand, has been received.
- 9.3 The delivery takes place ex factory.
- 9.4 In terms of actual delivery, GMT does not have to transport the item any further than to where a vehicle can and may travel across a properly passable site.
- 9.5 The other party is obliged to render the required assistance with the service to be performed by GMT.
- 9.6 The other party is obliged to take delivery of the products/items at the time that these are delivered by GMT, or by a third party on behalf of GMT, or at the time at which these are made available to the other party in accordance with the agreement.
- 9.7 If the other party refuses to take delivery, or makes delivery impossible, GMT is entitled to store these materials at the expense and risk of the other party.
- 9.8 The goods are considered to have been delivered and the risk in connection with these goods transfers to the other party, as soon as the relevant goods are placed in the vehicle for transport, including when the other party is not responsible for the transport and when assistance by the other party, as referred to in this article, is deemed to have been refused.

## **10 Complaint and guarantee**

- 10.1 The other party is obliged to immediately check the quality and quantity of the goods or the items that are delivered. If the other party does not lodge a complaint as soon as possible and in any event within one week after receipt of the delivered goods, the quantity and quality stated on the consignment notes, delivery notes, invoices, deeds of delivery or similar documents are considered to be correct.
- 10.2 Invisible defects have to be reported within seven days of discovery. The date and time of discovery have to be demonstrated by means of written proof.
- 10.3 The buyer is not entitled to complain if the defect is totally or partially the result of unconventional, improper, injudicious or careless use, if the product has been modified, adapted, used or converted, or if the product has been transferred to third parties.
- 10.4 Complaints may be rejected if GMT does not have or is not given the opportunity to examine the relevant defect at the first request.
- 10.5 If GMT acknowledges the defect, at its discretion, it shall replace the defective product, or credit the other party for the price of the relevant product or resolve the problem differently, without the other party being able to claim any form of compensation.
- 10.6 Submitting a complaint does not release the other party from any obligations with respect to GMT
- 10.7 All materials shall be delivered, subject to the legal conditions that are laid down in relation to delivery and tailored to the purpose or the intended purpose respectively.

## **11 Retention of title**

- 11.1 All goods supplied by GMT remain the property of GMT until the time of full payment of all claims that GMT has against the other party under the present agreement and terms and conditions.

## **12 (Temporary) impediment to compliance**

- 12.1 If the agreed activities cannot be performed temporarily, cannot be performed for 3 months at the very most, cannot be performed, or can only be performed in part, on account of force majeure at GMT, GMT shall immediately contact the client, the purpose being to come to an arrangement for alternative execution.
- 12.2 GMT's failure to fulfil its obligation as a result of breach of contract and/or shortcoming by or at its suppliers, subcontractors and/or carriers and in the event of fire, strike or lockout, fracas or riots, war, government measures, including export, import and transit prohibitions, frost and all other circumstances, which are of such a nature that the commitment can no longer be demanded from GMT, cannot be deemed imputable to GMT, neither can this be considered to be at the expense and risk of GMT. Should these circumstances occur and last for a period of more than 6 months, GMT is entitled to dissolve the agreement instead of fulfilling it.

## **13 Intellectual property**

- 13.1 The purchaser indemnifies GMT and exempts GMT in respect of all claims by third parties on the grounds of an (alleged) breach of a right to industrial and intellectual property as a result of the use of items, designs or other details, made available to the other party, as a consequence of storage or delivery by GMT of the items also manufactured in accordance with those details.
- 13.2 Along with the relevant materials/services, GMT does not transfer the industrial and/or intellectual property right associated with the relevant item, neither are licences granted in this way. Barring insofar as the foregoing is not explicitly agreed.

## **14 Liability**

- 14.1 GMT is only liable with respect to the other party and only obliged to compensate for loss insofar as this ensues from this article.
- 14.2 GMT is under no circumstance liable for indirect losses, including but not limited to, loss of information, lost profits, consequential damage, lost savings or damage on account of business standstill.
- 14.3 GMT limits its liability for the loss suffered by the other party resulting from its attributable shortcoming in complying with the agreement, if and insofar as the liability is covered by insurance, up to a maximum of the amount of the payment made by the insurance company, except for in the event of deliberate intent and/or gross negligence.
- 14.4 Cases that fall outside the scope of the provisions in the previous paragraph, can only result in GMT being obliged to pay compensation that is limited to once the invoice amount of the relevant delivery.
- 14.5 GMT explicitly does not accept liability, cannot be sued by the other party and is indemnified against damage:
- a. resulting from and following a repair and/or modifications performed on products or parts of products by the other party or third parties;

- b. resulting from inadequate cooperation, materials and/or incorrect or incomplete information provided by the other party;
  - c. resulting from inadequate and/or incorrect or incomplete information provided by official registers and other external sources.
  - d. resulting from unprofessional, incorrect or non-regulatory use of the items that are delivered, or use in a way other than the way stipulated by the manufacturer or by GMT .
  - e. resulting from a negative review by a third party/third-party expert, insofar as no mathematical, biological, chemical or physical scientifically recognised principle underlies this.
  - f. Arising on account of its lawful execution of retention, suspension and rights of dissolve, accruing to it by law or by virtue of this agreement.
- 14.6 Insofar as GMT is held liable by third parties, the other party undertakes to indemnify GMT for all consequences of this liability.
- 14.7 Any legal action for compensation against GMT is prescribed by the mere expiry of a year after the incident that has given rise to the claim. The other party has to inform GMT in writing of such an incident within one month after discovery, in the absence of which all rights of action against GMT become extinguished.
- 14.8 If and insofar as a third party can be held liable for damage, the other party should hold this third party liable first of all, if necessary judicially, in the absence of which the other party relinquishes its rights in this respect on GMT .

## **15 Contracting for Work**

- 15.1 In addition to the other provisions, in respect of contracted work, the following provisions apply in particular, with the exclusion of the other conditions of the agreement, if and insofar as these conflict with the conditions indicated below.
- 15.2 In the event that changes are made to the order and/or when the general safety regulations and/or when the regulations of energy suppliers, or legal regulations change either during the order or between the order and the fulfilment thereof, settlement will be made based on additional work and a reduction in work.
- 15.3 In the event of changes to the fulfilment of the order, when this cannot be blamed on the actions of the contractor and/or by the third parties that the latter has contracted, settlement will be made based on additional work and a reduction in work.
- 15.4 If during final settlement of the work it is found that the total of the reduction in work as referred to in this paragraph subsequently results in a decrease in the original contract price, barring a possible settlement of turnover tax, the contractor is entitled to an amount equal to 15% of this decrease on account of costs that have been incurred and lost profits.
- 15.5 The payment of the price owed for the services will be made as follows.
- 30% of the contract price immediately after the agreement has become effective;
  - 30% of the contract price when 30% of the term of the work stipulated in the agreement has been reached;
  - 30% of the contract price when 60% of the aforementioned term of the work has been reached.
  - 10% of the contract price when the work is delivered.
- 15.6 The delivery date of the work, or parts of the work, can be changed if more and/or additional work is assigned than is required, due to the aforementioned circumstances.

The contractor will announce and therefore lay down the extension of the term in writing.

- 15.7 The work shall be considered to have been delivered when it has been made available to the other party in good working order, and has been accepted by the other party. The work shall be considered to have been accepted if and insofar as, without inspection, the other party has informed the contractor that it considers the work complete, or if and as soon as the other party starts to use the work.
- 15.8 As soon as materials, parts or tools intended for, or required for, the execution through to placement of the work have been conveyed, the other party is responsible for the risk of damage, of whatever kind, to these materials, parts and tools, such as theft, fire, water damage, acts of war or damage, unless all of the above result from the negligence of the contractor and/or by the third parties that it has brought in.

## **16 Disputes**

- 16.1 All contracts entered into with GMT and corresponding conditions and the ensuing performance are governed by Dutch law.
- 16.2 All disputes deriving from the quotations and/or agreements, shall be settled by the court located in the place where GMT's registered office is located.
- 16.3 Applicability of the United Nations Convention on contracts for the international sales of goods (CISG Vienna 11 April 1980), as well as the applicability of the Vienna Sales Convention (Trv. 1981, 184, 1986, 61) are excluded.
- 16.4 The other party acknowledges that the characteristic performances of the present agreement take place in the Netherlands, including if these are performed in part elsewhere (agreed fiction). All agreements and/or actions shall be deemed to have been entered into or performed in the Netherlands.