

## General Sales terms of Dutch Mushroom Projects BV

Filed at the Chamber of Commerce under number 12022661 (version February 2019).

### Article 1 Definitions

- 1.1 In these general conditions, the following terms will be understood to have the meanings assigned to them below:
- a. "**DMP**": Dutch Mushroom Projects BV, having its registered office at St. Josephstraat 11, 5961 GL Horst, the Netherlands;
  - b. "**Agreement**": these General Sales terms, together with the relevant order confirmation(s) issued by DMP and/or the relevant agreement between DMP and the Customer, which set forth the terms and conditions for the delivery of Products and/or the supply of Services by DMP to the Customer;
  - c. "**Customer**": means each person or entity that enters into an Agreement with DMP
  - d. "**Product**" or "**Products**": products and installations for the cultivation of mushrooms and other foods offered or supplied by DMP and all related products in the broadest sense;
  - e. "**Service**" or "**Services**": the services and work, connected to the Products or otherwise offered or supplied by DMP.

### Article 2 Applicability

- 2.1 These terms apply to all quotations and offers of DMP and/or to all Agreements concluded with DMP, as well as the performance of such.
- 2.2 These terms are applicable to the exclusion of any (purchase) terms used by the current or potential Customer.
- 2.3 The Customer may only rely on conditions which differ from these terms if and in so far as these have been accepted in writing by DMP.

### Article 3 Quotations, orders and Agreements

- 3.1 All quotations by DMP are free of engagement. Orders and acceptances of quotations by the Customer are irrevocable.

- 3.2 DMP is only bound if it has confirmed acceptance of the order in writing or has commenced execution.
- 3.3 Verbal undertakings or agreements by or with its staff bind DMP only after and in so far as DMP has confirmed this in writing.
- 3.4 Any inaccuracies or alleged inaccuracies in DMP's order confirmation should be communicated to DMP in writing within 2 business days of the date of the confirmation, failing which the order confirmation will be considered to be an accurate and complete representation of the agreement and the Customer will be bound to it.
- 3.5 These general terms are applicable in full to any changes in the Agreement.
- 3.6 If an order or assignment is not granted to DMP, the quotation or offer, complete with designs, sketches, drawings, illustrations, models, programs, etc. will be returned by the Customer to DMP free of charge within 14 days after the date when the decision was made not to grant the order or assignment to DMP. Failure to return the quotation or offer and all related documents and information is subject to a penalty of EUR 450 per day to be incurred by the Customer and payable to DMP until the quotation or offer and all related documents and information are returned to DMP.

#### **Article 4 Conformity**

- 4.1 Indications of quantities, quality, performances and/or other characteristics relating to DMP's Products and Services are prepared with as much care as possible, but DMP cannot guarantee that deviations will not occur. These indications must therefore be considered approximations and are not binding. The Customer should check conformity with quantities, quality, performances and/or other characteristics stated by or agreed with DMP when the Products and/or Services are delivered.
- 4.2 Illustrations, descriptions, catalogues, information provided on the website, advertising material and quotations do not bind DMP.
- 4.3 The Customer must make certain that the Products to be ordered and/or ordered by him and the associated packaging, labelling and other information comply with all the regulations laid down in this respect by the authorities in the country of destination. The use of the Products and their conformity with the government regulations is at the risk of the Customer.

## **Article 5 Data and indemnity**

- 5.1 The Customer guarantees the correctness, completeness and reliability of the data, drawings, instructions and information supplied to DMP by him or on his behalf. DMP is not obliged to check this. DMP is only obliged to (continue) to execute the order if the Customer has provided all the data and information reasonably required by DMP. Furthermore, if data necessary for performance of the Agreement is not available to DMP, or is not available on time or in accordance with the agreements, or if the Customer fails to fulfil his obligations in some other way, this can have serious consequences for the delivery time and DMP has the right to charge for the costs incurred as a result in accordance with its usual rates.
- 5.2 If an order has to be executed according to designs, drawings or other instructions from the Customer, DMP will charge the Customer a separate price for this, unless otherwise agreed in writing.
- 5.3 The Customer will indemnify DMP as well as DMP employees for claims by third parties, including DMP employees, who suffer loss or harm in connection with performance of the Agreement as a result of the actions of the Customer or his failure to act, the incorrectness or incompleteness of data, drawings, instructions and/or information supplied by or on behalf of the Customer and/or unsafe situations in his firm or organisation.

## **Article 6 Descriptions, models and resources**

- 6.1 Quotations issued by DMP, as well as drawings, calculations, descriptions, models, recommendations, specifications and other information produced or supplied by DMP, tools, designs, lists of materials, (test) Products, (test) equipment or (test) software made available by DMP remain the property of DMP, irrespective of whether the cost of them is charged to the Customer.
- 6.2 The copyright and/or other intellectual property rights in all items, recommendations etc., as referred to in clause 6.1, which are produced by DMP, whether or not on behalf of the Customer, or which are supplied to the Customer, belong to DMP.
- 6.3 The items, recommendations etc. referred to in clauses 6.1 and 6.2 may not be copied or made public in full or in part without the prior written approval of DMP and may not be shown to third parties, made available, disposed of or mortgaged, except with the prior written approval of DMP.
- 6.4 DMP retains the exclusive right in the information which is contained in the items, recommendations etc. referred to in clauses 6.1 and 6.2, even if the cost of them has been charged to the Customer.
- 6.5 If DMP shows or provides a model, sample or specimen, such will only have been shown or provided as an indication. The features of the Products to be delivered may deviate from the model, sample or specimen, unless the contrary is expressly agreed.

## **Article 7 Consultancy**

- 7.1 DMP shall try to the best of its ability to achieve the results intended with its recommendations, calculations, drawings and other information supplied, but it does not give any guarantee of this. All recommendations made by DMP and also all calculations, drawings and other specifications or information supplied by DMP (for example, concerning qualities, capacities and/or results) are therefore completely free of engagement and are supplied by DMP by way of non-binding information.
- 7.2 DMP is not liable for any direct or indirect loss or damage, in any form and for any reason whatsoever, arising out the advice and/or information referred to in clause 7.1, except in the case of intent or gross fault by DMP. The Customer indemnifies DMP for all claims by third parties in this respect.

- 7.3 The Customer will treat all recommendations, calculations, drawings, quotations and other information supplied by DMP as strictly confidential and will only use them for the purpose for which the recommendations, calculations, drawings, quotations and/or other information is intended.
- 7.4 The Customer is not permitted to copy, record or make public the content of recommendations, calculations, drawings, quotations and/or other information supplied by DMP without the prior written permission of DMP, or in any other way to make them available to third parties, inform third parties of them or to offer them any such opportunity.

#### **Article 8 Intellectual property**

- 8.1 All intellectual and industrial property rights relating to the Products and the design thereof, software of DMP, items developed, manufactured or issued and/or used by DMP during the performance of the Agreement, including quotations, drawings, packagings, manuals, advertising material and images, as well as all results, including goods, resulting from the Services are vested in DMP, unless otherwise agreed in writing.
- 8.2 The Customer is prohibited from removing or changing any indication relating to copyright, trademarks, trade names or other rights of intellectual or industrial property relating to the Products, software and/or other items of DMP, unless otherwise agreed in writing.
- 8.3 DMP warrants that the Products supplied by it do not as such infringe intellectual property rights of third parties. If DMP nevertheless has to acknowledge that or if a court finds in a final and conclusive judgment in a legal action against DMP that Products supplied by DMP do in fact infringe intellectual property rights of third parties, then DMP will replace the Products or items concerned with Products which do not constitute an infringement, or acquire a licence right under the intellectual property right concerned, or take back the Products concerned subject to repayment of the price paid for them, less the depreciation regarded as usual, at the option of and solely at the discretion of DMP. In that case, DMP does not owe the Customer any further compensation and is not obliged to indemnify the Customer in this respect in legal or other proceedings.

- 8.4 If an order has to be executed in accordance with designs, drawings or other instructions from the Customer, the Customer guarantees that this does not result in an infringement of the intellectual or industrial property rights or other rights of third parties. The Customer indemnifies DMP for all claims of third parties resulting from an infringement of their intellectual or industrial property rights, whether or not these relate to compensation.

### **Article 9 Facilities**

- 9.1 The Customer shall ensure the timely acquisition of all permits, exemptions and other permissions necessary for the performance of the order placed by the Customer, as well as the suitability of the location for the installation of the Product and the performance of the Services and the timely acquisition of financing, if required. If the Customer cannot acquire the permits, exemptions and other permissions, a suitable location and/or financing on time, DMP is entitled to terminate the Agreement immediately without any prior notification being necessary. If, however, the Customer gives the assignment or order or a similar assignment or order to a third party within 12 months after the termination of the Agreement by DMP on the above grounds, the Customer is liable for any damages suffered by DMP due to the non-performance of the Customer and subsequent termination of the Agreement. The damages suffered by DMP will be set at 15% of the purchase/contract price, without prejudice to the right of DMP to prove and claim greater damage.
- 9.2 The following work is not included in the price stated by or agreed with DMP for the Services:
- a. the costs of ground, pile-driving, demolition, foundation, bricklaying, carpentry, plastering, painting, wallpapering, repair or other structural work;
  - b. the costs of connecting gas, water, electricity, sewerage or other amenities;
  - c. the costs for preventing or restricting damage to items;
  - d. the costs for additional help for moving those components which are not to be dealt with by DMP itself as well as all hoisting machines, tackle and other machines to be used for this work;
  - e. the costs for removal correlating with the nature of the material to be removed, such as dangerous goods and/or chemical waste; and

- f. travelling and accommodation expenses.
- 9.3 The Customer shall ensure that DMP staff can perform the Services unhindered and at the agreed time and that any reasonable facilities desired by DMP staff are made available free of charge. In any event, the Customer shall ensure the free provision of energy and water, heating, materials, disposal facilities for residues, a lockable dry storage space and the prescribed on-site facilities on the basis of applicable regulations.
- 9.4 The Customer shall be obliged with respect to DMP staff to adopt the same safety measures it adopts with respect to its own staff.
- 9.5 The Customer is liable for all damage resulting from loss, theft, fire or damage to tools, materials and other items of DMP and/or DMP staff at the place where the Services are being carried out.
- 9.6 If a delay occurs in the performance of the Agreement as a result of the fact that the Customer has failed to meet its obligations ensuing from this Article, the performance will take place as soon as DMP's schedule permits such. The Customer will be liable for all resulting damage and costs for DMP.
- 9.7 The Customer is obliged to take out adequate insurance that provides coverage against damage caused by or relating to the deliveries of Products and Services provided, damage to the work and the property of the Customer and/or third parties and other damage.

## **Article 10 Prices**

- 10.1 Prices quoted by DMP or agreed with DMP exclude VAT, import and export duties, excise duties and other taxes or levies imposed or charged in relation to the Products and Services and their transport as well as the transport itself and the packaging, unless explicitly stated otherwise.
- 10.2 Unless otherwise agreed in writing prices quoted by DMP are in euros and calculated for delivery ex works (Incoterms 2010).
- 10.3 Necessary packaging will be charged to Customer at cost price. Whether packaging is necessary is at DMP's discretion.

- 10.4 DMP is entitled to charge a supplement to cover order and administration costs for orders below a size fixed by DMP, in accordance with the rules applicable at DMP at the time the contract is concluded.
- 10.5 With regard to Products and Services which have not yet been delivered, DMP reserves the right to alter selling prices, discounts and/or terms of sale in respect of the prices, discounts and/or terms of sale applicable on the day of the delivery. In that case, the Customer has the right to cancel the Agreement, in so far as it has not already been executed, by means of a registered letter sent to DMP within 8 days of notification of the change, unless the change is to his advantage.
- 10.6 If cost-determining factors, including taxes, excise duties, import duties, exchange rates, wages, the prices of goods and/or services (whether or not obtained from third parties by DMP), change after the offer and/or the conclusion of an Agreement, DMP is entitled to adjust the prices accordingly.
- 10.7 If DMP undertakes to perform additional Services without a price expressly being laid down in the Agreement for that purpose, it will be entitled to charge a reasonable fee for those additional Services.
- 10.8 Changes to the order will, in any event, result in additional work if a change to the design is involved, if the information provided by the Customer is not in line with the actual situation and/or if estimated data are deviated from. Additional work will be calculated on the basis of the value of the price-determining factors that apply at the time that the additional work is carried out.
- 10.9 If the Customer makes materials, raw materials or other articles available for the performance of the Agreement, DMP has the right to include an amount in the price which is equal to 10% of the cost price of these materials.

## **Article 11 Payment**

- 11.1 Unless otherwise agreed in writing, payment of DMP invoices must be made within 30 days of the invoice date, without any discount or set off, in the currency stated on the invoice and solely in the way indicated on the invoice.
- 11.2 If the Agreement entails Services payment will take place in the following instalments:
- a. 30% at order;



- b. 65% before shipment of the Products, materials etc., pro rata the value of each shipment;
  - c. 5% within 60 days of shipment of the last Products, materials etc.
- 11.3 At all times DMP has the right to request full or partial payment in advance and/or otherwise to obtain security for payment.
- 11.4 DMP is entitled to invoice separately for partial deliveries.
- 11.5 If a payment is not received on time, an interest payment of 2% above the statutory commercial interest with a minimum of 12% per year on the outstanding amount, calculated from the due date up to and including the day of payment, where part of a month is regarded as a full month, is payable on the invoice amount by the Customer without further notice of default.
- 11.6 All costs related to collection will be charged to the Customer. The extrajudicial collection costs will amount to at least 15% of the amount to be collected, with a minimum of EUR 200.
- 11.7 The Customer renounces any right to offset amounts owed by both sides. DMP is always entitled to deduct what it owes the Customer from what the Customer and/or companies affiliated to the Customer owes/owe DMP, whether or not payable.
- 11.8 The entire invoice amount is payable immediately and in full if an agreed instalment is not paid promptly on the due date, and also if the Customer is declared bankrupt, requests (temporary) suspension of payment, the statutory debt-rescheduling rules (WSNP) are declared applicable to him or an application is made for the appointment of a receiver for him, if the items and/or claims of the Customer are attached, if the Customer dies, goes into liquidation or is wound up. If any of the aforementioned situations arises, the Customer is obliged to inform DMP of this immediately.
- 11.9 Payments made by the Customer always go first of all to settle the costs owed, and then to pay the interest due and finally to pay the payable invoices which have been outstanding for the longest, even if the Customer states that the payment relates to a later invoice.

## **Article 12 Delivery time and delivery**

- 12.1 Delivery of the Products will be ex works (Incoterms 2010), unless otherwise agreed.

- 12.2 If the Agreement includes Services the Services will be considered performed/complete if:
- a. the Customer approves the Services;
  - b. the Customer starts using the Product and/or Services, in which context the use of part of the Product and/or work by the Customer will mean that this part will be considered as performed/complete;
  - c. DMP has informed the Customer in writing that the Services have been completed and the Customer has not protested in writing within 5 working days of this notification; or
  - d. DMP considers the Services as completed, even if the Customer does not approve the Product or Services because of minor defects or missing parts, provided these minor defects or missing parts can be repaired or supplied within 30 days and which do not prevent commissioning.
- 12.3 Quoted and agreed delivery times are approximate and should never be regarded as a deadline. Exceeding a delivery time does not oblige DMP to pay compensation, nor does it give the Customer the right not to comply with or to suspend its obligations arising out of the Agreement. However, the Customer is entitled to cancel the Agreement if and in so far as DMP does not execute the order within a reasonable period set by the Customer, which is at least equal to the delivery time initially quoted or agreed. In that case, DMP will not owe any compensation.
- 12.4 The delivery time is based on the work conditions applicable at the time the Agreement is concluded and on prompt delivery of the items required by DMP in order to comply with the Agreement. If a delay occurs as a result of a change in work conditions and/or the late delivery of items required by DMP, the delivery time will be extended in so far as this is necessary.
- 12.5 The delivery time will be extended by the length of the delay which occurs on the part of DMP as a result of non-compliance by the Customer with any obligation arising out of the Agreement or cooperation requested from him with regard to performance of the Agreement.
- 12.6 The Products will be at the Customer's risk from the time of delivery. Ownership of the Products will pass to the Customer on delivery, subject to Article 15.

- 12.7 The Customer is obliged to accept the Products immediately at delivery and if DMP arranges transport after arrival at the place of destination. The Customer shall make provision for adequate loading and unloading facilities and for rapid unloading.
- 12.8 Loading and unloading as well as wrapping up are for the account of and at the risk of the Customer, even if DMP provides assistance in this.
- 12.9 If the Customer does not accept the Products or does not come to collect them or have them collected, they will be stored for the account of and at the risk of the Customer for as long as DMP deems desirable and/or necessary. In this case, and also in the case of any other (attributable) fault on the part of the Customer, DMP at all times has the authority to require compliance with the Agreement, or to cancel the Agreement, at the option of DMP and without prejudice to its rights to compensation for the loss suffered and the profit lost, including the costs of the storage.
- 12.10 DMP is not obliged to meet a request by the Customer to deliver again or later. If, however, DMP proceeds to do so, the costs involved with this shall be paid by the Customer.
- 12.11 DMP is entitled to perform an Agreement in parts and to require payment of the part of the Agreement that is performed.
- 12.12 Without prejudice to the provisions of Article 10, DMP determines the way in which the Products are packed.

### **Article 13 Force majeure**

- 13.1 If DMP is prevented from complying with the Agreement by reason of force majeure, DMP is entitled to suspend execution of the Agreement, and accordingly it may no longer be bound to any delivery time. In that case, the Customer does not have a right to compensation for loss, costs or interest.
- 13.2 A force majeure event includes any act, event, non-happening, omission or accident beyond DMP's reasonable control and includes in particular (without limitation): (i) strikes, lock-outs or other industrial action; (ii) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war; (iii) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster; (iv) impossibility of the use of railways, shipping, aircraft, motor

transport or other means of public or private transport; (v) impossibility of the use of public or private telecommunications networks; (vi) cyberterrorism or any other kind of cyberattack, security incident, data corruption and/or loss (vii) the acts, decrees, legislation, regulations or restrictions of any government; (viii) defects in machinery; and (viii) the non-delivery or late delivery of products or services to DMP by third parties engaged by DMP.

- 13.3 If there is a situation of force majeure, DMP is entitled to cancel the Agreement in respect of the part which is not feasible, by means of a written declaration. If the situation of force majeure lasts longer than 90 days, the Customer is entitled to cancel the Agreement in respect of the part which is not feasible by means of a written declaration.
- 13.4 If DMP has already partially fulfilled its obligations when the force majeure situation occurs or if it can fulfil its obligations only in part, it is entitled to invoice separately for the part which has already been delivered or, as the case may be, is available for delivery, and the Customer is obliged to pay this invoice as if it is related to a separate Agreement.

#### **Article 14 Warranty and complaints**

- 14.1 DMP warrants the soundness of the Products and Services supplied by it in accordance with what the Customer may reasonably expect under the Agreement. Should defects nevertheless occur in the Products and/or Services supplied by DMP, then DMP will improve its Services, repair these defects (or have them repaired) or will supply the components necessary for repair (or have them supplied), replace all or some of the Products in question or make a reasonable price reduction, at the option and solely at the discretion of DMP. This warranty applies for a period of one (1) year after delivery, unless otherwise expressly agreed in writing.
- 14.2 In any case, the warranty does not cover defects which occur in or (partly) as a result of:
- a. normal wear and tear;
  - b. the failure of (the staff of) the Customer to comply with instructions or regulations, or as a result of other than the normal use provided for;

- c. improper storage, maintenance or use by the Customer or end-user;
  - d. work by third parties, erection/installation or repair by third parties or by the Customer, without prior written approval from DMP;
  - e. the application of any government regulation concerning the nature or quality of materials used;
  - f. Products or items produced and supplied according to designs, drawings or other instructions from the Customer;
  - g. items which have been supplied to DMP by the Customer for processing or performance of an Agreement or which have been employed in consultation with the Customer;
  - h. components obtained by DMP from third parties, in so far as these third parties have not provided DMP with a warranty;
  - i. the processing of the Products by the Customer, unless DMP has expressly given written permission for this without any reservation;
  - j. vandalism, weather conditions or other external causes.
- 14.3 The Customer should inspect or have others inspect the Products and Services supplied immediately upon delivery, failing which every right to complain and/or a warranty will lapse. Any complaints relating to the quantity of the Products supplied and transport damage should be noted immediately on the consignment or delivery note, failing which the quantities stated on the consignment or delivery note will constitute conclusive proof with respect to the Customer of the fact that the correct quantities of Products have been received and that these Products have been received without any transport damage.
- 14.4 The Customer must notify DMP by registered letter of any complaints relating to the Products and Services or the performance of the Agreement within 8 days of the Customer having discovered the defect or 8 days after the Customer could have reasonably discovered the defect. If complaints are not submitted on time, every claim with respect to DMP will lapse.
- 14.5 If the Customer complains, the Customer will be obliged to offer DMP the opportunity to examine the Products and Services in order to determine the defect. The Customer will be obliged to keep the Products and Services about which a complaint has been

made available to DMP, failing which every right to specific performance, repair, termination and/or compensation will lapse.

- 14.6 Sold Products may only be returned to DMP, for any reason whatsoever, following prior written authorisation and dispatch and/or other instructions from DMP. The transport and all associated costs are for the account of the Customer. The Products remain for the account of and at the risk of the Customer at all times. DMP will reimburse the transport costs if it is established that there is an attributable fault on the part of DMP.
- 14.7 Any defects relating to a part of the Products and/or Services delivered do not give the Customer the right to reject or refuse the entire delivery of Products and/or Services.
- 14.8 Any right to warranty or complaint is extinguished if the Products have been transported, handled, used, treated or stored wrongly or contrary to instructions given by or on behalf of DMP, or if the usual measures/regulations have not been observed, and also if the Customer has not complied with any obligation to DMP arising for him out of the underlying Agreement, or has not complied appropriately or on time.
- 14.9 Complaints do not suspend the Customer's payment obligations.
- 14.10 After a fault has been detected in a Product or Service, the Customer is obliged to do everything to prevent or restrict damage, and this expressly includes possible immediate suspension of use, treatment, processing and/or sale.
- 14.11 The Customer should inform DMP in writing of any inaccuracies in invoices within 5 working days of the invoice date, failing which the Customer will be considered to have approved the invoice.
- 14.12 Any repair or replacement under this warranty does not affect the original warranty period and does not result in a renewal of the warranty period.

### **Article 15 Retention of title**

- 15.1 DMP retains ownership of the Products delivered or to be delivered, until its claims relating to the Products delivered or to be delivered have been met in full by the Customer, including the claims resulting from failure to comply with one or more Agreements.

- 15.2 If the Customer fails to comply with his obligations, DMP has the right to recover the Products belonging to it (or have them recovered) from the place where they are located, at the expense of the Customer.
- 15.3 The Customer does not have the right to pledge Products which have not yet been paid for or to transfer ownership of them, other than in the context of normal business practice.
- 15.4 The Customer is obliged to exercise due care when keeping the Products supplied under retention of title and to keep them as identifiable property of DMP.
- 15.5 The Customer is not entitled to any right of retention vis-à-vis DMP in respect of the Products supplied by DMP.
- 15.6 If third parties wish to establish or invoke any right on the Products delivered subject to retention of title (including attachment) the Customer is obligated to inform DMP immediately. Failure to inform is subject to a penalty of 10% of the unpaid part of the purchase/contracting price to be incurred by the Customer and payable to DMP.
- 15.7 The Customer is obliged to insure the Products against fire, explosion, (water) damage, theft and other possible loss for the duration of the retention of title period. At the first request, the Customer will provide DMP with a copy of the insurance policy.
- 15.8 For deliveries in Germany, DMP and the Customer hereby agree to the exclusive application of German law with regard to (the agreement of) retention of title rights. In such cases, the following shall apply in deviation from Articles 15.1 to 15.3:
- a. DMP retains the ownership of the delivered Products as security for all claims to which it is entitled under the present and future business relationship until all claims against the Customer (and its group companies) have been settled;
  - b. DMP's ownership shall extend to any new object manufactured by processing the delivered Products. The Customer shall manufacture the new object for DMP to the exclusion of its own acquisition of ownership and shall keep it in safe custody for DMP. This shall not give rise to any claims against DMP;
  - c. If DMP's delivered Products are processed with goods of other suppliers whose ownership rights also continue in the new object, DMP shall acquire co-ownership in the new object together with these other suppliers - to the exclusion of the Customer's acquisition of co-ownership - whereby DMP's co-ownership share corresponds to the

ratio of the invoice value of the delivered Products to the total invoice value of all co-processed reserved goods;

d. The Customer hereby assigns to DMP - as security - his claims from the sale of the delivered and in the future to be delivered Products, together with all ancillary rights, to the extent of DMP's share of ownership;

e. In the event of processing within the framework of a contract for works and/or services, the claim for payment of these works and services up to the amount of the proportionate amount DMP's invoice for the (co-processed) delivered Products shall be assigned to DMP here and now;

f. As long as the Customer duly fulfils his obligations arising from the business relationship with DMP, he may dispose of the Products owned by DMP in the ordinary course of his business and collect the claims assigned to DMP himself;

g. In the event of default in payment or justified doubts as to the solvency or creditworthiness of the Customer, DMP shall be entitled to collect the assigned claims and take back the Products subject to retention of title;

h. Payments by cheque/bill of exchange shall not be deemed to have been made until the bills have been honoured by the Customer.

### **Article 16 Liability**

- 16.1 Except for the provisions of Article 14, the Customer does not have any claim against DMP on grounds of defects in or relating to the Products and/or Services delivered by DMP. Therefore, DMP is not liable for direct and/or indirect damage or loss, including personal injury and property damage, emotional damage, consequential damage (trading loss and/or loss resulting from standstill) and any other loss or damage, resulting from any cause, except in the case of gross fault or intent on its part.
- 16.2 Likewise, DMP is not liable in the aforementioned sense for the actions of its employees or other people who come within its sphere of risk, including (gross) fault or intent on the part of these people.
- 16.3 DMP is not liable for infringements of patents, licences and/or other third-party rights resulting from the use of data supplied by or on behalf of the Customer. Nor is DMP liable for damage to or loss of raw materials, semi-manufactures, models and/or other items made available by the Customer.



- 16.4 Damage to Products caused by damage to or destruction of packaging is for the account and at the risk of the Customer.
- 16.5 If DMP proceeds to exercise a right of suspension or cancellation on the basis of facts and/or circumstances known to it at that time, whereas it is irrevocably established later that such a right has been exercised incorrectly, DMP is not liable and not obliged to pay any compensation for loss, except in the case of intent or gross fault on its part.
- 16.6 In all cases in which DMP, without prejudice to the provisions of Article 16, is obliged to pay compensation, this compensation will never be higher than the invoice value of the Products and/or Services supplied that have resulted in the damage or in connection with which the damage has been caused with a maximum of EUR 250,000. If the damage is covered by DMP's business liability insurance, the compensation will never be higher than the amount actually paid out by the insurer in the case in question.
- 16.7 Any claim against DMP, apart from those which are acknowledged by DMP, lapses following the simple expiry of a period of 12 months from when the claim arose.
- 16.8 The Customer indemnifies DMP, its employees and third parties engaged by it to perform the Agreement against any claim by third parties, including claims based on product liability, in connection with the performance of the Agreement by DMP, regardless of the cause, and also against the costs incurred by DMP as a result.

### **Article 17 Cancellation and compensation**

- 17.1 The Customer may not cancel a given order and/or Agreement. If the Customer nevertheless cancels all or part of an order and/or Agreement, he is obliged to compensate DMP for all reasonable costs incurred for the purpose of executing that order, the work by DMP and the loss of profit by DMP, plus VAT.

### **Article 18 Confidentiality**

- 18.1 The Customer undertakes to observe strict confidentiality about the know-how, designs, drawings, prototypes, marketing plans, prices, information and other confidential business information of DMP of which it takes cognizance ("Confidential Information").

The Customer shall undertake all necessary precautions in order to observe the confidentiality of the Confidential Information. The Customer shall not in any way bring Confidential Information to the knowledge of third parties.

- 18.2 Confidential Information does not include information of which the Customer can show that (a) it was in its possession before it was disclosed by DMP (b) it is public knowledge (c) it has been obtained lawfully from a third party, without infringing any confidentiality obligation towards DMP (d) it has been developed independently by it without direct or indirect use of Confidential Information.

### **Article 19 Non solicitation**

- 19.1 Unless the Customer has obtained DMP's prior written permission to do so, the Customer will refrain from directly or indirectly concluding an employment contract with any person who is employed by DMP, or who has been employed by DMP in the previous 12 months, or from engaging such person to otherwise perform work for the Customer if that work is not to be performed pursuant to a contract concluded with DMP.
- 19.2 The prohibition set out in Article 19.1 enters into effect on the date that DMP and Customer enter into their first Agreement and ends after a period of 12 months has elapsed since DMP performed the most recent order for the Customer. In the event of infringement by the Customer or its affiliated companies of the obligations defined in Article 19.1, the Customer shall incur with respect to and for the benefit of DMP a penalty payable to DMP of EUR 25,000 for each infringement and of EUR 1,000 for each day that the infringement continues, without prejudice to the right of DMP to compensation for the loss caused by the infringement and without prejudice to its right to claim fulfilment of the obligation of Article 19.1.
- 19.3 With regard to DMP's staff that is assigned to the Customer or deployed to perform the Customer's work, the Customer is prohibited from assigning such staff to a third party or otherwise making the staff available to work for such third party unless the Customer has obtained DMP's express written permission to do so.

### **Article 20 Data protection**

- 20.1 In case and insofar DMP collects and processes any personal data of the Customer or for the benefit of the Customer in relation to the performance of an Agreement, such data will be treated and processed in accordance with applicable personal data protection legislation, including the General Data Protection Regulation (GDPR), the enactment law of the GDPR, after entering in to force the ePrivacy regulation and obligations resulting from any connected laws en regulations and take appropriate security measures.
- 20.2 In the event DMP in its opinion should be qualified as a processor within the scope of the GDPR, the Customer shall at the first request of DMP in addition to this Article enter into a Processor agreement with DMP based on the model supplied by DMP.
- 20.3 The Customer indemnifies and holds harmless DMP for any claims of third parties (including but not limited to government authorities), financial penalties and costs (including but not limited to legal costs), which are the result of any infringement of any legal obligation with regards to the processing of personal data.

### **Article 21 Representation**

- 21.1 If the Customer is acting on behalf of one or more other parties, he is liable vis-à-vis DMP as if he himself were the Customer, without prejudice to the liability of the other parties.

### **Article 22 Transfer of rights and obligations**

- 22.1 All Agreements between DMP and the Customer are binding on their respective successors and assigns.
- 22.2 The Customer may not transfer, assign, charge, sub-contract or otherwise dispose of an Agreement, or any of its rights or obligations arising under it, without DMP's prior written consent.
- 22.3 DMP may transfer, assign, charge, sub-contract or otherwise dispose of an Agreement, or any of its rights or obligations arising under it, at any time during the term of an Agreement.

### **Article 23 Final provisions**

- 23.1 The invalidity or voidability of any provision of these regulations or of Agreements to which these terms apply does not affect the validity of the other provisions. DMP and the Customer are obliged to replace provisions which are null and void or are annulled with valid provisions which, as far as possible, have the same meaning as the invalid or annulled provision.
- 23.2 The Agreement(s) between DMP and the Customer shall be governed by and construed in accordance with the laws of the Netherlands.
- 23.3 Any applicability of international conventions on the sale of movable goods which the parties can declare inapplicable is hereby expressly excluded. More particularly, the applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG 1980) is excluded.

The courts in the district of Limburg, the Netherlands, shall have exclusive jurisdiction for all matters regarding the Agreement(s) between DMP and the Customer, unless another court is competent on the basis of mandatory law. Either party shall use its best efforts to settle a dispute in an amicable manner. In deviation from this provision, DMP will also and at all times be entitled to submit a dispute or claim to the competent court for the place where the Customer has his registered or actual place of business.

Version, November 6th 2018