

**STANDARD TERMS OF DELIVERY OF THE DUTCH ASSOCIATION OF SUPPLIERS  
TO THE PRINTING AND ALLIED INDUSTRIES (VLGA)  
FILED AT THE CHAMBER OF COMMERCE IN THE HAGUE**

**1. GENERAL**

- 1.1 Applicability of the standard terms and conditions used by any other party is explicitly dismissed.
- 1.2 The present standard terms shall apply to all cases in which a member of the Dutch Association of Suppliers to the Printing and Allied Industries (hereinafter referred to as "the **Supplier**") enters into an agreement with another party whereby the Supplier acts as a (potential) seller and/or supplier of goods and/or services, and the Supplier wishes to use the present standard terms and conditions. Any transactions in which the Supplier does not act in his own name but as an agent of a manufacturer, importer or other supplier shall not be governed by the present terms.
- 1.3 Any disputes arising between the Supplier and the other party shall be exclusively adjudicated by the competent court in the Supplier's place of business, unless:
- (a) any mandatory provisions prescribe otherwise; or
  - (b) the Supplier, as plaintiff or petitioner, chooses for the competent court in the place of business or domicile of the other party.
- 1.4 All legal relationships between the Supplier and the other party shall be governed by Netherlands law.
- 1.5 In the present standard terms and conditions, "in writing" shall also be understood to mean "via e-mail".

**2. PRICES**

- 2.1 Any offers made by Supplier shall be free of engagement. Unless expressly provided otherwise, any offers made by Supplier shall be considered invitations to enter into negotiations. An agreement shall have come about between parties if and when Supplier confirms the other party's order in writing or executes the order.
- 2.2 All prices stated in Supplier's offers are exclusive of VAT and of the cost of packaging, as referred to in article 3.3, unless otherwise agreed on.

- 2.3 Provided Supplier has made an offer and / or concluded an agreement in advance, he reserves the right to increase his rates in the interim if any relevant change in market conditions occurs, including but not limited to any change in foreign currency rates so that it becomes or has become more expensive for Supplier to procure services or goods, including raw materials; or any increase in raw material prices for any other reason; or any increase in wage and / or other costs, as calculated by any third party from whom Supplier procures goods or services. Supplier implementing an interim price increase does not entitle the Customer to terminate the agreement, unless a price is increased by more than 20%.
- 2.4 Supplier is entitled to charge the other party with any import duties, turnover tax and any other taxes and duties relating to the delivery of the goods, unless explicitly agreed otherwise.

### **3. DELIVERY AND COSTS THEREOF**

- 3.1 Deliveries shall be made *ex works*, as defined in the Incoterms 2000. If transport and goods in transit insurance are necessary, the Supplier shall determine the method of transport and the insurance to be taken out for the transport. Transport shall be at the risk of the other party, provided that the other party shall be entitled to any payment under the transport insurance. In the agreement, variations may be made from this provision.
- 3.2 The Supplier shall be entitled to offset any payment to be received from insurers against any debt owed by the other party.
- 3.3 Packaging shall be passed on at cost price, unless explicitly agreed otherwise. Cost price of the packaging shall mean: in the case of resale of goods in packed state, any packaging costs charged to the Supplier himself and, in the case of goods being packed by the Supplier, the cost of the materials used (including unusable residual materials) and the labour costs made on account of the packaging activities. Separate agreements may be made on deposits.
- 3.4 Any delivery dates agreed on with the Supplier shall be indicative only and shall not be deemed to be firm dates.
- 3.5 The Supplier shall be entitled to fulfil any obligation(s) assumed by him in parts.
- 3.6 Any goods shall be delivered in accordance with the description given in the order confirmation. Subsequent deliveries of parts need be made only if the Supplier is able to do so.
- 3.7 If the other party requests the Supplier to deliver a good with the greatest speed, the risk of incorrect and/or incomplete delivery shall be borne by the other party.

### **4. SET-UP, ASSEMBLY AND REPAIRS**

- 4.1 Unless explicitly agreed otherwise in writing and in advance, the Supplier, when making available any fitters or other staff, shall always charge the other party with all hours of working and travelling, as well as with any additional costs, according to the rates used by the Supplier.
- 4.2 If goods are set up and assembled by Supplier on the other party's premises, the other party is obliged to enable the fitter(s) to safely set up and assemble the goods, giving his full cooperation (including the engagement of auxiliary staff) and making available, free of charge, any required hoisting, transport and other equipment and any cleaning materials for purposes of setting up and assembling the goods, unless agreed otherwise. If the other party fails to fulfil this obligation, the

Supplier shall be entitled to pass on to the other party the costs of any safety measures to be taken, any auxiliary staff to be called in and any tools to be provided.

- 4.3 If the set-up and assembly of goods by Supplier requires any construction works, such as earthwork and brickwork, the laying of foundations as well as the laying of pipes for gas, electricity, water or compressed air and the installing of driving gear, then the other party shall be responsible for constructing and laying these and for paying the costs thereof.

The owner of the premises where the machine is to be delivered shall ensure that the premises are in conformity with any relevant NEN standards in terms of structure, brickwork and foundation as well as gas, water, compressed-air and electricity systems, and driving gear.

- 4.4 Any additional costs resulting from the fact that a fitter cannot start performing his activities immediately upon arrival or must interrupt his activities because of the preparatory work not being ready or for any reason whatsoever for which the Supplier is not responsible can be charged in full by the Supplier to the other party.
- 4.5 If goods cannot be set up and/or assembled during office hours, any additional costs resulting therefrom may be charged by the Supplier to the other party.
- 4.6 The Supplier shall not accept any liability for the electrical equipment and/or the installation of delivered goods other than that which the producer thereof has laid down in his terms of delivery.
- 4.7 The other party shall be responsible for any special safety measures and other provisions, whether or not required to be taken under government regulations, insofar as not otherwise agreed in advance. The costs thereof shall be for the other party's account, and no such measures shall be taken by Supplier unless explicitly agreed between the parties.
- 4.8 Any orders to the Supplier for performing any repair, overhaul and maintenance work on any delivered goods, as well as for rendering any services or giving any advice in respect of any delivered goods, shall be subject to the condition that any statement of the period needed for the activities as well as any quotation shall always be free of engagement.

## **5. TERMS OF PAYMENT**

- 5.1 Each invoice sent by the Supplier must be paid by the other party within such period and in such way as stated on the relevant invoice. Payment must be made in euros, unless a different currency has been agreed on.
- 5.2 In case of overdue payment of any invoice sent by Supplier to the other party:
- (a) all payment obligations of the other party shall become due and payable immediately, whether or not the Supplier has invoiced the other party in respect thereof;
  - (b) the other party shall owe, as from the invoice date, statutory commercial interest, as referred to in Section 6:119(a) of the Dutch Civil Code, on the invoice amount and on any other amounts then payable; and
  - (c) the Supplier shall be entitled to charge any extrajudicial collection costs to the other party.
- 5.3 Each payment by the other party shall firstly serve as settlement of any extrajudicial collection costs payable by the other party and of any court costs and shall next be set off against any interest payable by the other party, and next against the oldest outstanding claims, irrespective of any instructions to the contrary given by the other party.

5.4 The other party can raise objections against any invoice only within the term of payment, but not later than 14 days following the invoice date.

## **6. RETENTION OF TITLE AND OTHER SECURITIES**

6.1 The Supplier shall retain the title to any goods delivered or to be delivered by him, until the following has been settled to him in full:

- (a) the consideration due by the other party for all goods delivered or to be delivered and all activities performed or to be performed under the agreement;
- (b) all claims resulting from the other party failing to comply with such agreement.

6.2 The other party shall not be allowed to invoke any right of retention as for custody charges relating to goods delivered by Supplier, nor to set off such charges against any considerations it is due.

6.3 If the other party creates a new good from or partly from the goods referred to in article 6.1, this shall be deemed to be a good that the Supplier creates for himself, and the other party shall keep such good for the Supplier as owner until all obligations referred to in article 6.1 have been fulfilled.

6.4 As long as the title to any good belongs to the Supplier, the other party shall be able to dispose thereof only within the scope of its ordinary business operations.

6.5 If the other party fails to fulfil the obligations referred to in article 6.1, the Supplier shall be entitled to take back the goods belonging to him from the place where these are. To that end, the Supplier shall be allowed to enter the premises concerned. All costs relating to the taking back of goods by Supplier shall be borne by the other party.

6.6 As security for all that which the Supplier claims or will claim from the other party at any time, the other party hereby pledges to the Supplier, who accepts this pledge, all goods of which the other party will become the (co-)owner as a result of specification, accession or confusion with the goods delivered and/or to be delivered by the Supplier.

6.7 If Supplier has reasonable cause to fear that the other party will fail to fulfil any of his obligations and, in any case, if: (i) the other party is declared bankrupt, files a petition for suspension of payments, offers any composition to its creditors or becomes a ward of court; (ii) the other party liquidates its business or any part thereof; (iii) an attachment is made on the delivered or other goods at the other party's expense; (iv) the delivered goods are seriously damaged; (v) the other party fails to fulfil any existing obligation to the Supplier; (vi) the other party assumes any obligations elsewhere which seriously endanger the fulfilment of any existing obligations to the Supplier, then the Supplier shall have the right, without prejudice to any other rights conferred to him by law and without any warning being required, to take back the delivered goods, without this leading to dissolution of the agreement or without the Supplier being obliged to refund any payments already received, and with the right to claim compensation from the other party on account of decrease in value of the goods or for any other reason.

6.8 If the Supplier has reasonable cause to fear that the other party will not fulfil any of its obligations promptly, the other party shall be obliged, on the Supplier's first demand, to establish satisfactory security forthwith in such form as demanded by the Supplier, and, if required, to supplement such security, for the fulfilment of all of its obligations. As long as the other party fails to meet such demand, the Supplier shall be entitled to suspend the fulfilment of his obligations.

6.9 In the cases referred to in article 6.7, the Supplier shall be allowed to take the goods back from the place where they are located. To that end, the Supplier shall be allowed to enter the premises

concerned. All costs relating to the taking back of goods by the Supplier shall be borne by the other party.

- 6.10 If the value of the goods taken back by the Supplier is to be determined, the valuation shall be carried out by an expert to be designated by the Supplier. Such valuation shall take into account the price at which, on the day of retrieval, the Supplier can acquire new goods of the same nature as the retrieved goods; taking the price referred to as a basis, the valuation shall also take into account the decrease in value resulting from use, damage, aging and the decrease in saleability of the retrieved goods, for whatever reason.
- 6.11 To determine the decrease in saleability of retrieved goods, the valuation shall also take into account the costs of an overall technical inspection to be incurred by the Supplier in the event of a possible resale.

## **7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1 The intellectual property rights in any goods delivered by Supplier remain vested in Supplier.
- 7.2 If in the fulfilment by Supplier of any of his obligations under an agreement, any intellectual property rights arise, such rights shall accrue to Supplier, unless otherwise agreed in writing.
- 7.3 Supplier does not warrant that the delivered goods do not infringe on any (intellectual property) rights owned by any third party.

## **8. SUPPLIER'S WARRANTY**

- 8.1 In respect of any new and used machines - as for the latter machines, however, only in so far as such machines have been sold by the Supplier as overhauled machines and the Supplier has explicitly given a warranty thereon - the Supplier gives a warranty on the proper working thereof for six months from delivery, as referred to in article 3, provided always that the Supplier's warranty or warranties shall never go beyond or deviate from the warranty or warranties given to him by the producers or by other supplier(s) from whom he acquired the delivered goods. If a delivered machine is operated for more than 8 hours per working day on average, the warranty period shall be shortened proportionally.
- 8.2 The Supplier shall be obliged to replace or repair any broken or faulty parts, in so far as the producer or the supplier who manufactured such parts enables the Supplier to do so. This obligation shall exist only within such term and under such reservation as stated in article 8.1, and without prejudice to the provisions stated below.
- 8.3 Any defects in the proper working must be notified to the Supplier in writing within 14 days from detection, and in any case not later than 14 days from expiry of the warranty period.
- 8.4 In the event of being challenged, any claims on account of the Supplier's guarantee obligations should be enforced at law within 12 months from expiry of the term referred to in the first paragraph hereof, on penalty of lapse of rights.
- 8.5 The Supplier shall never be bound by any warranty, if and as long as the other party has not fulfilled any of its obligations under any agreement, especially its payment obligations.
- 8.6 Any machines dispatched in disassembled condition are given a warranty only if such machines are assembled under the supervision of the Supplier.

- 8.7 If the other party makes any repair or alteration, of whatever nature, to any delivered goods without the explicit permission of the Supplier, and this shall explicitly include any rearrangement or reassembly following a removal or relocation, other than made by or on behalf of the Supplier, any claim under the warranty and any right of complaint in respect of such delivered goods shall lapse.
- 8.8 The warranty as set out in article 8.1 shall never relate to any defect in the proper working caused by normal wear and tear nor to any defect in the proper working caused by injudicious, incorrect or careless handling, overloading, unsuitable equipment, faulty engineering structures, unfit building ground or chemical, electrical, electronic or electrotechnical influences, including a temporary or prolonged voltage fluctuation in the electricity grid.
- 8.9 Except for the case mentioned in article 8.1, used machines shall never be given a warranty.
- 8.10 Any temporary inability to dispose of any delivered goods in connection with the necessity of making repairs shall never oblige the Supplier to pay any damages, nor shall it suspend the existing payment obligations in any way whatsoever.
- 8.11 The provisions concerning warranty contained in article 8.1 shall apply by analogy to any replacement parts delivered by the Supplier.
- 8.12 If the Supplier fails to fulfil his obligation to replace or repair some good within a reasonable term, even after having been warned to do so, his liability shall be limited to the reasonable costs that the other party had to incur to have the repair made or, if the repair would cost more than half of the original purchase price, to have the replacement carried out by a third party. In the case of repair, the costs payable therefor shall never exceed half of the original purchase price. In the case of replacement, the Supplier shall never have to pay more than the original purchase price, and in that case the delivered good must also be returned to the Supplier.

## **9. COMPLAINTS**

- 9.1 Unless a warranty has been provided - in which case the provisions of the warranty shall apply - the Supplier shall be obliged to handle any complaints, only if these have been submitted to the Supplier in writing.
- 9.2 Goods cannot be returned to the Supplier without his prior written permission; if this permission is given, the relevant goods shall be returned carriage paid, unless the Supplier accepts the complaint.
- 9.3 Furthermore, any complaint should be submitted as soon as possible, but not later than 14 days from delivery or -in the case of invisible defects - within 14 days after such defects could reasonably have been detected. The other party shall be obliged to inspect any delivered goods immediately following delivery.
- 9.4 Any claim or defence based on facts justifying the assertion that any delivered good should fall short of the agreement shall be barred by lapse of 1 year from delivery.
- 9.5 If any delivered good falls short of the agreement, the Supplier shall be bound, at his option, only to deliver that which is lacking, to repair the delivered good or to replace the delivered good.

## **10. LIABILITY**

- 10.1 The Supplier shall not be liable for any damage which is not attributable to gross negligence or intention on the part of the Supplier or any of his executive staff, or which has come into being as a result of circumstances that are not at the risk of the Supplier.

- 10.2 The Supplier shall not bear the risk of any damage caused by: (i) gross negligence or intention on the part of any persons called in by the Supplier for the execution of the agreement, (ii) the unsuitability of any goods used by the Supplier for the execution of the agreement, (iii) any third party exercising one or more of its rights toward the other party relating to a failure of the other party to meet an agreement concluded between the other party and such third party, (iv) strikes, lockouts, illness, import, export and/or transit prohibitions, transport problems, non-fulfilment of obligations by suppliers, interruption of operations, natural and/or nuclear disasters, war, threat of war and/or civil commotions or (v) any other form of force majeure as referred to in Section 6:75 of the Dutch Civil Code.
- 10.3 In no case shall Supplier be liable for:
- (a) any loss arising, either directly or indirectly, from the set-up or assembly of any goods delivered by him on a foundation or surface that is unfit for such purpose; and
  - (b) any loss arising, either directly or indirectly, from unprofessional or injudicious operation by the other party or from the use of improper materials by the other party; and
  - (c) any trading or consequential loss, nor for any loss of profit incurred as a result of the way in which the set-up or assembly work is carried out.
- 10.4 The other party shall indemnify the Supplier from and against any compensation, cost and damage which the Supplier might incur, arising from any claims filed by third parties on account of any defect in any good delivered by the Supplier to the other party, or on account of the use thereof by the other party.

## 11. TERMINATION

The Supplier may terminate all or a part of an agreement with the other party with immediate effect without being liable to pay any damages and without prejudice to any other rights he may have, and without any notice of default or any court intervention being required, if:

- (a) the other party is declared bankrupt, files a petition for suspension of payments, offers any composition to its creditors or becomes a ward of court;
- (b) the other party liquidates its business or any part thereof;
- (c) a substantial part of the other party's assets or goods delivered by Supplier and held by the other party are attached at the other party's expense;
- (d) the other party fails to fulfil any of its obligations to the Supplier and fails to repair such failure within a reasonable period of time after having been demanded by Supplier to do so;  
or
- (e) the other party assumes any obligations elsewhere which seriously endanger the fulfilment of any existing obligations to the Supplier.

## 12. SECRECY

- 12.1 All competitively sensitive and company confidential information, of whatever form, including without limitation any price lists, product specifications, protocols and price and innovation campaigns), which the parties exchange or already have exchanged within the scope of any (possible) conclusion of an agreement or during the term of the agreement, or which they make or have made

available to one another for inspection, or which they are or have been confronted with, shall be deemed to be confidential (referred to below as the **Confidential Information**).

- 12.2 No party is allowed to use, copy or store any Confidential Information concerning the other party for any purpose other than the purpose for which it was provided. The other party's Confidential Information must be safely stored for a period that is not longer than is reasonably necessary for the execution of an agreement.
- 12.3 No party is allowed to disclose any Confidential Information concerning the other party to any third party in any way, unless it has obtained the other party's written permission to do so, or unless the law or any government body requires the relevant party to do so.

### **13. MISCELLANEOUS**

- 13.1 Supplier shall at all times be entitled to make setoffs.
- 13.2 Supplier shall at all times be entitled to postpone any of his obligations if he establishes a shortcoming in the fulfilment of any of the other party's obligations.
- 13.3 Supplier is authorised to outsource the execution of all or a part of an agreement to any third party.
- 13.4 Any samples and models are provided for reference purposes only and shall not be resold by the other party.
- 13.5 The other party is not allowed to transfer all or a part of the rights and obligations under an agreement to any third party without the Supplier's prior written permission. Supplier may attach conditions to any such permission. Supplier shall be entitled to transfer any of his rights or obligations to a group company.
- 13.6 Supplier reserves the right to make any changes or additions to these standard terms and conditions. Any changes and additions shall be notified to the other party in writing and shall take effect from the date determined by Supplier. If a change leads to the other party ending up in a less favourable position, such party may terminate the agreement - within 30 (thirty) calendar days of having been notified of the change - by the date when the new standard terms and conditions become effective.
- 13.7 In the event that any provisions of an agreement that is governed by these standard terms and conditions deviate from these standard terms and conditions, then the provisions of such agreement shall prevail.
- 13.8 Should any provision of an agreement and/or these standard terms and conditions be invalid, the other provisions of such agreement and/or these standard terms and conditions shall remain in full force and effect. If the invalid provision is a key clause, the parties shall agree on a new clause that corresponds with the parties' intent to the greatest possible extent. If the provision is not a key clause, Supplier shall adopt a new clause that comes close to the tenor of the invalid clause to the greatest possible extent.
- 13.9 The Supplier not invoking compliance with these standard terms and conditions or with any of its provisions shall not be construed as a waiver by Supplier of any right or remedy that Supplier has under these standard terms and conditions.

The Hague, February 2015