

## **GENERAL PURCHASING TERMS AND CONDITIONS**

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### **1. Definitions**

In these General Purchasing Terms and Conditions the following definitions shall apply:

- 1.1 "the Purchaser": Grote Hoef Beheer B.V. and its group companies, including but not limited to Dalosy Projecten B.V., Dalosy BVBA, Dalosy GmbH, Logi Label B.V., Dalosy Industrial Systems B.V., Dalosy Industrial Systems International B.V., Port & Mobile Solutions B.V., Mobile Solutions Partner B.V. and Dalhoef B.V.;
- 1.2 "the Supplier": the natural person or legal entity with whom the agreement concerning the supply of goods and/or services is/has been entered into;
- 1.3 "Agreement": any (legal) act pertaining to the preparation, conclusion or implementation of a (non-exclusive) agreement concerning the purchase of goods and/or services that the Purchaser concludes - or wishes to conclude - with the Supplier;
- 1.4 "the Parties": the Purchaser and the Supplier;
- 1.5 "Product(s)": the goods to be supplied and/or services to be provided by the Supplier pursuant to an Agreement.

### **2. Applicability**

- 2.1 These General Purchasing Terms and Conditions, each time in the latest version, are applicable to and form part of each Agreement.
- 2.2 The applicability of any general terms and conditions applied by the Supplier, regardless of the name thereof, shall always be expressly disregarded by the Purchaser and are explicitly not applicable to and/or do not form part of any Agreement.
- 2.3 Deviations from these General Purchasing Terms and Conditions can only be agreed expressly and in writing, which deviations shall then be exclusively applicable to the (legal) act that was subject to such deviation.
- 2.4 The inapplicability of these General Terms and Conditions to any (legal) act, whatever the ground, shall not alter the applicability of these General Terms and Conditions to other (legal) acts.

### **3. Acceptance**

- 3.1 An order of the Purchaser to arrive at an Agreement can only be accepted by the Supplier as a whole and without any changes. If a product specification drawn up by the Purchaser is available, it shall form an inextricable part of the Agreement.
- 3.2 The Purchaser is at all times authorized to change or revoke an order or to cancel an Agreement. In case of a change, revocation or cancellation of an Agreement, the Purchaser shall never be held to compensate any damage suffered by the Supplier, including but not limited to direct and/or indirect costs in whatever form, consequential damage, and loss of profit.
- 3.3 If the Purchaser wishes to change the Agreement, the Supplier shall be held to render its cooperation, it being understood that the Supplier shall not change the price per product unit to the detriment of the

Purchaser.

### **4. Quality / Third-party rights / Control**

- 4.1 The Products must be of excellent quality and must be produced and delivered in full conformity with the specifications and requirements defined by the Purchaser - including but not limited to applicable national, international and/or supranational (government regulations - and with the shown samples and models and further (product) specifications.
- 4.2 If the Supplier wishes to engage third parties for the production of (parts of) the Products by such third parties or otherwise, the Supplier shall not be entitled to do so without the prior written approval of the Purchaser.
- 4.3 If it turns out that the Products do not meet the agreed requirements, the Supplier shall immediately meet its obligations after all. Such obligations shall continue to rest with the Supplier, until the Products fully meet the agreed requirements. All costs payable for any (warranty) obligations of the Supplier shall be borne by the Supplier.
- 4.4 If the Supplier proves unable to deliver the Products in accordance with the provisions in the previous paragraphs, the Supplier shall be held to notify the Purchaser thereof immediately in writing and with motivation, and to render its cooperation towards reaching the solution(s) that the Purchaser shall deem fit, without affecting any right of the Purchaser in this respect, including but not limited to the right of compensation of all damage and/or dissolution of the Agreement.
- 4.5 The Supplier guarantees without any proviso and irrevocably that it is authorized to enter into the Agreement, that the Products are not encumbered by any third-party rights, including but not limited to industrial and intellectual property rights, that with respect to the Products and packaging the legal regulations and government regulations of the country of destination have been met, and that the supplied Products meet all product specifications as supplied by the Purchaser respectively agreed between the Parties.
- 4.6 The Supplier guarantees without any proviso that the requirements set in the articles 4.1 through 4.5 shall be met at all times.
- 4.7 The Purchaser is entitled to inspect the Products after delivery. If this inspection reveals that the Products do not have the right quality, the Purchaser shall notify the Supplier thereof. The Supplier shall subsequently pick up the rejected Products from the Purchaser within two weeks and at its own expense. If the Supplier fails to do so, the Purchaser shall be entitled, without prejudice to all other rights or claims, to have the Products delivered to the Supplier at the expense and risk of the Supplier.
- 4.8 The Parties expressly preclude the application of the statutory deadlines of Section 7:23 Dutch Civil Code and Section 6:89 Dutch Civil Code.

## **5. Prices**

- 5.1 The agreed price is fixed and contains all costs in connection with the fulfilment of the obligations of the Supplier. Except for express written acceptance by the Purchaser, the price cannot be increased, and any extra costs of the Supplier shall not qualify for compensation. The price is exclusive of VAT, but inclusive of other (local) taxes and/or levies.
- 5.2 The Supplier cannot invoice any costs to the Purchaser in connection with offers or quotations of the Supplier, unless the Parties have expressly agreed otherwise in writing in advance.
- 5.3 Included in the prices are the costs of standard packaging and delivery in accordance with the agreed Incoterm. The price furthermore includes all preparatory and other work that is necessary to meet the requirements, descriptions and specifications defined by the Purchaser.
- 5.4 The Supplier is held at all times to base its offers for new orders - and to accept new orders - on the existing agreed prices, and thus to (continue to) deliver Products, except if an insofar as the Purchaser has agreed to the price change in writing.

## **6. Payment**

- 6.1 Payment of the Products shall exclusively be effected based on a prior correct invoice and at the exclusive discretion of the Purchaser, and within a period of 60 days of receipt of the invoice.
- 6.2 The Purchaser is entitled to set off all and any of its debts and/or debts of its group companies towards the Supplier against all and any claims of the Purchaser or any of its group companies against the Supplier or group companies of the Supplier.
- 6.3 Without prejudice to its statutory rights (to suspend performance), the Purchaser is authorized to suspend all payments to the Supplier, as long as the Supplier or any of its group companies is in default towards the Purchaser with respect to the fulfilment of obligations from (other) Agreements between the Parties.

## **7. Incoterms**

- 7.1 Delivery shall be effected in accordance with the provisions of the Incoterms declared applicable by the Purchaser, published by the International Chamber of Commerce, as valid on the date of the Agreement, and as stated in the order of the Purchaser. If the order or the Agreement does not contain any specification, delivery shall be effected based on Incoterm Delivery Duty Paid.
- 7.2 Transfer of the risk of for instance damage or loss of Products shall also be governed by the applicable provisions of the chosen Incoterms.

## **8. Delivery deadline and delivery**

- 8.1 The Supplier is held to deliver the Products at all times by the agreed delivery deadline. This agreed delivery deadline is of crucial importance, meaning that it shall qualify as final date. Late delivery shall put the Supplier in default without

requiring any further notice of default. Split delivery is only permitted with the prior written approval of the Purchaser.

- 8.2 Upon first request of the Purchaser, the Supplier shall postpone the delivery by a reasonable period to be determined by the Purchaser.
- 8.3 If no delivery deadline has been agreed, the shortest customary deadline shall apply and the Purchaser shall have the right to set an interim delivery deadline to the Supplier as the Purchaser shall deem reasonable.
- 8.4 As soon as any circumstances occur or are foreseeable that make it impossible to deliver in time, the Supplier shall notify the Purchaser immediately in writing, stating the nature of this circumstances, the measures that it shall take or has taken, and the likely duration of the delay, for lack of which it can no longer rely on these circumstances at a later stage. The Supplier cannot rely on force majeure if it has not fulfilled these obligations.

## **9. Packaging and transport**

- 9.1 The Products must be properly packed and secured and - if the Supplier takes care of the transport - transported in such a way that the transported Products reach the place of delivery in good and undamaged condition and that unloading at the place of delivery can be done safely. The Supplier is responsible for compliance with the national, international and/or supranational regulations with respect to its packaging and transport of the Products as well as packaging and transport by or on behalf of carriers contracted by the Supplier. The Purchaser may advise the Supplier, to the best of its expertise but without accepting any liability, with respect to packaging and the transport as well as regarding the relevant regulations and provisions. The Purchaser is entitled to refuse the deliverable Products in case of non-compliance with the aforementioned regulations and provisions.
- 9.2 The Purchaser is at all times entitled to return the packaging materials to the Supplier at the expense of the Supplier.
- 9.3 Document and transport data must be made available by the Supplier to the Purchaser well before the arrival date.

## **10. Transfer of ownership**

- 10.1 The Purchaser shall obtain the ownership of the Products after their delivery or payment, whichever occurs earlier. The Supplier shall explicitly not obtain reservation of title with respect to the Products.
- 10.2 In the event of a postponed delivery pursuant to article 8.2 of these General Terms and Conditions, and by way of deviation from article 10.1 of these General Terms and Conditions, the Purchaser shall obtain the ownership of the Products at the moment when these are stored for the benefit of the Purchaser.
- 10.3 The Supplier can never exercise any lien towards

the Purchaser, nor any right to complain about the Products.

## **11. Intellectual property rights**

- 11.1 All and any intellectual property rights to Products especially developed for the Purchaser, as well as all software, rest with the Purchaser or shall be transferred to the Purchaser. With respect to all and any intellectual property rights attached to Products that are not especially developed for the Purchaser, including but not limited to the necessary software for such Products, the Supplier herewith grants an irrevocable and unlimited licence with respect to the use of such intellectual property rights.
- 11.2 The Purchaser is entitled, pursuant to article 11.1, to transfer all its intellectual property rights and/or licences - or that it has transferred - to third parties or to grant a (sub) licence thereto to third parties.

## **12. Warranty and force majeure / indemnification / insurance**

- 12.1 Unless agreed otherwise in writing, the Products are subject to a warranty period of at least five years after delivery of the Products.
- 12.2 The Supplier is not permitted to rely on force majeure regarding the warranties stated in these General Terms and Conditions or any warranties stated elsewhere in the Agreement. Any directions or instructions of the Purchaser shall not alter the (warranty) obligations of the Supplier.
- 12.3 The Supplier shall indemnify the Purchaser against all and any rights that third parties (may) exercise towards the Purchaser due to any breach by the Purchaser and/or the Supplier of any third-party right, including but not limited to breach of industrial and intellectual property third-party rights in connection with the Products.
- 12.4 The Supplier shall indemnify the Purchaser against all and any claims by third parties, including but not limited to customers of the Purchaser, for compensation of damage due to failure to perform and/or defects in connection with fulfilment of the Agreement by the Supplier.
- 12.5 The Supplier has taken out a third-party liability insurance, containing contractual and statutory liability insurance cover (property damage and personal injury) and product liability insurance cover. Upon first request of the Purchaser, the Supplier shall submit a copy of the relevant insurance policy. The Supplier has an insurance cover at a minimum amount of 1.5 million Euros per damage event.

## **13. Failure to perform and liability**

- 13.1 Failure to perform on the part of the Supplier and/or third parties engaged by the Supplier, regardless of whether they are employed by the Supplier or not, and defects with respect to material(s) used by the Supplier shall be fully at the risk of the Supplier and shall be deemed attributable. Except in case of force majeure to be evidenced by the Supplier, the Supplier cannot rely on non-attributability of any failure to

perform. Force majeure shall in any event not include: lack of staff, strike, breach of contract by third parties engaged by the Supplier, transport problems of the Supplier or third parties engaged by the Supplier, inoperability of auxiliary materials, cash-flow or solvency problems on the part of the Supplier and government measures against the Supplier.

- 13.2 If the Purchaser believes that the Supplier does not meet its obligations, including but not limited to warranty obligations, this shall put the Supplier in default without requiring any further notice of default, and the Purchaser be entitled - without any judicial intervention and without being held to pay any damages - to dissolve the Agreement in whole or in part, unless the Supplier demonstrates that there is no failure to perform. If the Purchaser believes that there is a failure to perform, the Supplier shall be liable for all damage and expenses of the Purchaser and/or third parties, regardless of their nature, unless the Supplier demonstrates that there is no failure to perform. In such a situation, damage shall also include damage caused by business interruption and other consequential damage, as well as immaterial damage. In the event of partial dissolution, the Purchaser shall owe a reasonable part of the agreed price for the already supplied and accepted Products.
- 13.3 When reporting and handling damage, the Supplier shall follow the directions of the Purchaser. The Supplier shall not contact any third parties regarding the aforementioned reporting and handling of damage without the express prior written consent of the Purchaser.
- 13.4 If, in the event of a failure to perform on the part of the Supplier, the Supplier fails to fulfil its obligations correctly at a later stage within a reasonable period to be determined by the Purchaser, the Purchaser shall be entitled to outsource the fulfilment of the (remaining) obligations to third parties at the expense and risk of the Supplier, without affecting any of the warranties negotiated with the Supplier.
- 13.5 The Purchaser may in any event, but not exclusively, dissolve an Agreement, apart from the situations stated in this article 13, without requiring any notice of default and without any judicial intervention in any of the following circumstances: a bankruptcy petition or an application for an administration order with respect to the Supplier, liquidation of its capital in whole or in part, attachment on goods of the Supplier on court orders, and/or prejudgment attachment on goods of the Supplier that is not lifted within one month, transfer of the enterprise of the Supplier, negative publications in the press regarding the Supplier and/or its products, and the outsourcing of work by the Supplier to third parties with respect to the deliverable Products without the written prior consent of the Purchaser.
- 13.6 The Purchaser shall not accept liability for any damage suffered on the part of the Supplier, unless the damage is caused by wilful intent or deliberate recklessness on the part of the managers of the Purchaser only.

**14. Non-disclosure / public disclosure**

14.1 The Supplier is held to treat confidentially all information and data obtained directly and/or indirectly from the Purchaser. The Supplier shall not make such information and data available to third parties, except if necessary for the implementation of the Agreement, and the Supplier shall not apply the information and data for other purposes. The Supplier shall not obtain any right to the specifications, samples or other information and data made available by the Purchaser to the Supplier, even if these were manufactured by the Supplier as part of the assignment. Without the Purchaser's prior written consent, the Supplier shall not make any copies of the said data and information.

14.2 Without the Purchaser's prior written consent, the Supplier shall not make reference to any Agreement or publicly disclose any data with respect to any Agreement otherwise, and the Supplier shall not make any Products public, including but not limited to making these available at exhibitions and trade fairs, to dispose thereof, or to make these available to third parties.

**15. Applicable law and dispute resolution**

15.1 All and any Agreements and orders - whether cross-border or otherwise - and further agreements that may derive therefrom are exclusively governed by Dutch law. The applicability of the Vienna Sales Convention is expressly precluded, except if and insofar as explicit reference is made in the Agreement to a provision thereof.

15.2 All and any disputes following an order, an Agreement or any resulting agreements between the

Parties shall exclusively be settled through arbitration in accordance with the Arbitration Regulations of the Dutch Institute for ICT Mediation, having its registered office in The Hague, this without prejudice to the right of each of the Parties to request for a court order in (arbitration) injunction proceedings, and without prejudice to the right of each of the Parties to take prejudgment legal measures (please refer to [www.sgoa.org](http://www.sgoa.org)). The arbitration tribunal shall consist of 1 arbitrator, unless the Parties agree otherwise in specific situations. The arbitrator shall make a decision in accordance with the rules of law.

**16. Final provisions**

16.1 Headings of articles of these terms and conditions are inserted for convenience of reference only and do not form part of the relevant articles, nor shall they give such articles a narrower or broader interpretation.

16.2 All and any judicial and extrajudicial expenses incurred by the Purchaser regarding or caused by any failure to perform on the part of the Supplier with respect to its obligations under the order or the Agreement, including these terms and conditions, shall be fully borne by the Supplier, and amount to at least 15% of the value of the Purchaser's claim, subject to a minimum of EUR 150.

16.3 If any provision of these General Terms and Conditions is - or is declared - null and void, the other provisions shall remain in force, and the Parties shall enter consultations in order to agree on a new provision (or provisions), which shall approximate the purpose and the intention of the impaired provision(s) as much as possible.