

General terms and conditions of delivery and payment of:

Leembouw Nederland Carl Giskes V.O.F.  
Tweede Helmersstraat 51  
1054 CD AMSTERDAM  
The Netherlands

Listed in the trade register of the Chamber of Commerce in Amsterdam  
under file number 33241015 0000  
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#### **ARTICLE 1: APPLICABILITY**

1. These general terms and conditions are applicable to all offers and to all agreements in respect of purchase and sale and/or carrying out activities and/or offering services by Leembouw Nederland Carl Giskes V.O.F. established in Amsterdam, hereinafter to be referred to as "Leembouw".
2. The buyer or the client will be indicated in the following as "the other party". If, in the following, a regulation specifically deals with the situation in which the other party is a natural person who does not operate in the execution of an occupation or company, he will be indicated as "the consumer".
3. Deviating general terms and conditions shall only form part of the agreement entered into between the parties if and in so far as these have been explicitly agreed on between the parties in writing.
4. Under "in writing" the following is understood in these general conditions: per e-mail, per fax or any other manner of communication that can be compared to this, in view of current technology and the socially applicable opinions.
5. If the other party accepts or retains an offer or order confirmation, which makes reference to these general terms and conditions without comment, this shall constitute the other party's agreement to the applicability of these general terms and conditions.
6. If (part of) a provision laid down in these general terms and conditions is not applicable this shall not affect the applicability of the remaining provisions.

#### **ARTICLE 2: AGREEMENTS**

1. Agreements to purchase or sale shall only be binding upon receipt of written confirmation from Leembouw.
2. Supplements or amendments to the general terms and conditions or supplements or amendments otherwise applied to the agreement shall only be binding receipt of written confirmation from Leembouw.

#### **ARTICLE 3: OFFERS**

1. All offers, quotations, price lists, delivery times, etc. issued by Leembouw are without engagement, unless they contain a term of acceptance. If an offer/quotation contains an offer without engagement, which is accepted by the other party, Leembouw reserves the right to revoke the acceptance within 2 working days of the acceptance being received.
2. Offers are based on implementation of the agreement under normal circumstances, unless parties have explicitly agreed differently in writing.
3. The prices handled by Leembouw as well as the prices mentioned in the offers, quotations, price lists etc. are excluding VAT and eventual expenses. These expenses can, amongst other – though not exclusively – consist of travelling expenses, transport expenses and expense claims from contracted third parties. These prices apply "Ex works Nieuwland", unless parties have explicitly agreed to the contrary in writing.
4. Indicated and/or presented samples, brochures, drawings, models, indications of colours, sizes, weights and other descriptions, are as detailed as possible, though only apply as indication. No rights can be attached to these, unless parties have explicitly agreed differently in writing.
5. The samples, brochures, drawings etc. mentioned in the previous section of this article remains the property of Leembouw at all times, also when they are made available as an

(expenses) compensation, unless parties have explicitly agreed differently in writing. These have to be returned upon the first request by Leembouw. They may not be copied or presented to third parties for inspection without written authorisation from Leembouw.

6. Leembouw has the right to charge the other party for the expenses that are connected to the presentation i.e. quotation as long as Leembouw has informed the other party of these expenses in writing in advance.
7. A. If between the date on which the agreement is entered into and the time of delivery the cost price of the articles ordered/materials used increases and/or amendments are made by government and/or trade unions to wages, terms of employment or social provisions, Leembouw shall be entitled to pass these increases on to the other party. Should Leembouw publish a new price list between the above-mentioned dates and should this come into effect, then Leembouw shall be entitled to charge the other party the prices stated in this list.  
B. It applies for the agreement entered into with the consumer that a price increase may be calculated 3 months after the realization of the agreement in the above mentioned sense i.e. charged. With a price increase as mentioned above in this article within a period shorter than 3 months, the other party is entitled to cancel the agreement.

#### **ARTIKEL 4: CONSULTING THIRD PARTIES**

If and for as far as required by a proper implementation of the agreement, Leembouw has the right to have specific activities i.e. deliveries performed by third parties.

#### **ARTICLE 5: DELIVERY, DELIVERY PERIODS**

1. Indicated periods in which the objects have to be delivered i.e. activities have to be performed, can never be considered as fatal terms, unless parties have explicitly agreed differently in writing. If Leembouw does not - or not in time - meet their obligations from the agreement, a default notice will have to be issued in writing.
2. With delivery in sections, every delivery or phase is considered as an individual transaction and can be invoiced per transaction by Leembouw.
3. The risk regarding the supplied objects becomes that of the other party at the moment of delivery.
4. Shipping, i.e. transport of ordered objects occur in a manner to be determined by Leembouw, but for the account and risk of the other party. Leembouw is not liable for damage of whatever nature and form that is connected with the shipping i.e. transport, whether or not suffered due to the actions. All this, unless parties have explicitly agreed differently in writing.
5. In the event it appears impossible to deliver goods to the other party or to perform the activities to be carried out due to a fault that lies within the realm of the other party's responsibility, Leembouw retains the right to store the goods at the expense and risk of the other party. Leembouw shall notify the other party in writing of any goods stored and/or the impediment to the performance of the activities to be carried out and shall also propose a reasonable period of time in which the other party shall provide Leembouw with the opportunity to resume the activities and/or to deliver the goods.
6. In the event the other party, upon expiry of the period established by Leembouw as reasonable as stipulated in the previous section of this article, remains in default with respect to the satisfaction of his obligations, the other party is deemed to be negligent should 1 (one) month elapse after the date of expiration, calculated from the date of storage and/or impediment to the performance of the activities to be carried out. Leembouw then has the right to dissolve the agreement in writing in full or in part, to be effective immediately, without prior or further notice, without judicial intervention and without being obligated to compensate for damages, costs or interests.
7. The provisions in this article are without prejudice to the other party's obligation to pay the stipulated and/or payable price as well as any storage and/or other costs which have been agreed upon.
8. Leembouw is entitled to demand payment in advance or can insist that the other party must furnish some form of security that will ensure that the other party is able to meet its financial obligations before starting deliveries and/or starting activities.

## **ARTICLE 6: SUPPLYING DATA FOR THE BENEFIT OF ADVICE**

1. The other party is obliged to supply Leembouw with all data which Leembouw deems necessary to effectively carry out advisory activities, in the format required and at a time further defined.
2. Leembouw reserves the right to postpone the execution of advisory activities until the moment the other party will have met the obligation mentioned in the previous paragraph.
3. The other party ensures that the data supplied is correct and complete. The other party protects Leembouw against consequences arising from the incorrectness and/or incompleteness of the data.
4. The other party will inform Leembouw about developments which take place within the organisation and which are or can be relevant to the execution of the advisory activities and any additional and/or new orders given.
5. Leembouw will treat the data supplied to him by the other party as strictly confidential and will not put it at the disposal of third parties without the consent of the other party.

## **ARTICLE 7: PROGRESS, IMPLEMENTATION OF ACTIVITIES**

1. Leembouw can not be forced to start with the delivery of the objects i.e. the implementation of the activities earlier than after all information necessary are in their possession and they have received the eventually agreed (part)payment. With delays originating due to this, the indicated delivery terms will be adjusted proportionately.
2. When, through no fault of Leembouw, the deliveries or activities cannot take place as normal or without interruption, Leembouw is entitled to charge the other party for any costs arising from that, including call out charges.
3. If it appears during the implementation of the agreement that this is unrealizable, whether as a result of circumstances unknown to Leembouw, whether due to any circumstances beyond control, Leembouw has the right to claim that the agreement be updated to such an extent that its execution becomes possible, except for when this will never be possible as a result of the unknown circumstances or circumstances beyond control. Leembouw then has the right to full compensation of the activities i.e. supplies already performed by Leembouw.
4. All expenses that are made by Leembouw in the scope of the implementation of the agreement on request by the other party are entirely for the account of the last-mentioned, unless parties have explicitly agreed differently in writing.

## **ARTICLE 8: RETURNABLE PACKAGING**

1. Any packaging used for the delivery of goods which is returnable remains the property of Leembouw and may not be used by the other party for purposes other than those for which they were intended.
2. Leembouw is entitled to charge the other party for deposit fees. Leembouw is obligated to accept this packaging in return, provided it is returned to him carriage paid, for the price which had been charged to the other party, within a period after the delivery date to be determined by Leembouw.
3. In the event the packaging has been lost, damaged, or is incomplete, then the other party is responsible for this damage and thus relinquishes its right to a repayment of the deposit fee.
4. Should it appear necessary packaging will be charged to the other party at cost price and will not be accepted in return. This shall remain at the discretion of Leembouw.

## **ARTICLE 9: COMPLAINTS AND RETURN SHIPMENTS**

1. The other party has to, immediately after receipt of the objects or the termination of the activities, check these. If the other party established visible defects, errors, imperfections and/or fault, it has to be indicated on the delivery note i.e. the waybill and Leembouw must immediately be notified, or the other party has to inform Leembouw of this within 24 hours after receipt of the objects i.e. termination of the activities, followed by an immediate written confirmation to Leembouw.

2. Other claims have to be reported to Leembouw via registered letter and with an addition of photographic material on which the defect is clearly visible, within 8 days after receipt of the objects i.e. termination of the activities.
3. Notwithstanding the specifications in sections 1 and 2 of this article, the specifications under section 8 of article 10 are also considered concerning the agreement entered into with the consumer.
4. If the above-mentioned complaint has not been reported to Leembouw within the above-mentioned term, the goods shall be deemed to have been received in good order and/or activities to be performed considered to have been executed satisfactorily.
5. Ordered objects are delivered in the wholesale packaging in stock at Leembouw. Slight deviations regarding indicated measures, weights, numbers, colors, etc., do not apply as shortcomings by Leembouw.
6. Claims do not extend the payment obligations of the other party.
7. Leembouw must be allowed to be able to investigate the complaint. If a return is necessary in order for the investigation of the complaint to be completed, it will only be for the account and risk of Leembouw if last-mentioned has explicitly indicated their written approval for this before hand
8. In all cases, return will only occur in a manner determined by Leembouw and in the original packaging. Returns occur for the account and risk of the other party, unless Leembouw has declared the claim to be valid.
9. If the objects have changed nature and/or compilation, are entirely or partially adjusted or processed, damaged or re-packed after delivery, every right to a claim will expire.
10. In case of valid claims, the damage will be settled according to the specifications in article 10.

#### **ARTICLE 10: LIABILITY AND GUARANTEE**

1. Leembouw performs their task as can be expected from a company in this branch, but does not accept any liability for damage, including death and bodily injury, consequential damage, business losses and/or stagnation damage, that is the result of actions or neglect from Leembouw, their personnel or by third parties appointed by them, except for as far as there is talk of intention and/or conscious recklessness from themselves, their management and/or their managing personnel, or if it appears differently from legal stipulations of compelling right, particularly with regard to product liability.
2. Notwithstanding the specifications in the other sections of this article, the liability of Leembouw – based on anything at all – is limited to the amount of the net price of the supplied objects or the performed activities.
3. Notwithstanding the specifications in the previous sections of this article, Leembouw will never be liable for compensation that amounts to more than the insured amount for as far as the damage is covered by an insurance entered in by Leembouw.
4. Leembouw guarantees the usual normal quality and reliability of that which is delivered; the actual lifespan thereof can never be guaranteed.
5. If visible errors, imperfections and/or defects are found in the supplied objects or the performed activities that should already have been present at the time of delivery, Leembouw is committed to repair these objects or the result of the performed activities- to be decided by Leembouw - free of charge or to replace this.
6. The items produced by Leembouw are furnished with a guarantee by Leembouw.
7. If the items supplied by Leembouw – and bought by third parties – have been furnished with a guarantee by the manufacturer, that guarantee will apply equally to both parties.
8. With relation to the agreement with the consumer, Leembouw considers the legally established guarantee terms.
9. A. In all cases the term within which Leembouw can be sued for assessed damages shall be restricted to 6 months, commencing from the moment at which the obligation to provide compensation is established.  
B. Contrary to sub A of this section, a maximum period of 1 (one) year applies for the consumer.
10. The other party loses his rights towards Leembouw, is responsible for all damages and indemnifies Leembouw against all claims by third parties in respect of damages if and in so far as:

- A. damage mentioned above has originated due to incompetence use and/or in contradiction with instructions and/or advice from Leembouw and/or incorrect storage of the supplied object by the other party;
- B. damage mentioned above originated due to the other party not having acted according to the instructions and/or advice given by Leembouw;
- C. damage mentioned above originated due to errors, incompleteness or irregularities in information, materials, information carriers etc. that were provided and/or prescribed by or on behalf of the other party to Leembouw;
- D. damage mentioned previously originated because the other party themselves or a third party, commissioned by the other party, has performed activities to the supplied, without prior written authorisation from Leembouw;
- E. damage mentioned before originated because the other party provided inadequate or incorrect information to Leembouw and Leembouw has based and/or performed the activities to be performed on the previously mentioned information.

#### **ARTICLE 11: PAYMENT**

1. Payment has to take place within 30 days after the date of invoice on the account of Leembouw, also if, according to article 5, it can not be delivered, unless parties have explicitly agreed differently in writing.
2. If an invoice is not fully paid once the period referred to in paragraph 1 has lapsed:
  - A. the other party shall be charged 2% interest on late payments, without any further notice of default being required;
  - B. the other party shall owe Leembouw interest for overdue payments amounting to 2% per month to be calculated cumulatively over the principal sum. Parts of a month shall be treated as full months;
  - C. the other party shall, after having been pressed for payment by Leembouw, with regard to extrajudicial costs, owe a minimum of 15% of the total of the principal amount due plus the interest for overdue payment with an applicable minimum charge of € 150,00;
  - D. Leembouw is entitled to charge the other party an administration fee of at least € 20.00 for each reminder and demand for payment sent out to the other party. Leembouw will note this in the agreement and/or on the invoice.
3. At Leembouw's discretion, the agreement may be either partly or fully dissolved under the above or similar circumstances, without any notice of default or legal intervention being required. This may or may not be combined with a claim for damages.
4. If the other party did not fulfil their payment obligations, Leembouw is allowed to suspend the observance of the obligations to delivery or to the performance of activities entered into against the other party, until payment has been received or thorough surety has been set for this. The same already applies before the moment of neglect if Leembouw has a reasonable suspicion that there are reasons to doubt the credit solvency of the other party.
5. Payments made by the other party will first be used to pay off any outstanding interest and costs and will then be used to pay off the longest outstanding invoices, unless when making the payment the other party notes explicitly in writing that the payment is to be used to pay off a subsequent invoice.
6.
  - A. If the other party has, based on anything at all, one or more counter claim on Leembouw, or will obtain any, the other party rescinds the right of settlement regarding these claims
  - B. The specifications under sub A of this section does not apply to agreements with the consumer.

#### **ARTICLE 12: INTELLECTUAL PROPERTY RIGHTS**

1. Leembouw is and remains rightful claimant on intellectual property rights regarding contents and design of drawings, designs, constructions, products, software models, definitions or advice etc.
2. The execution of the rights mentioned in the previous section – including publication or transfer of information - is explicitly and exclusively reserved for Leembouw, both during as well as after completion of the implementation of the agreement.

3. Only after payment of the amount due to Leembouw as a result of an enclosed agreement, will the previously mentioned user right be transferred to the other party, unless parties have explicitly agreed differently in writing.
4. By supplying information to Leembouw, the other party declares that no infringement is made on the copyright or any other intellectual property right of third parties and they protect Leembouw both intra as well as extra judicially of all consequences, both financially and other, which could result from this.

#### **ARTICLE 13: RETENTION OF TITLE**

1. The goods supplied and the goods to be supplied shall continue to be the property of Leembouw up until such time when the other party has fulfilled his payment obligations towards Leembouw in relation to these goods. These payment obligations consist of paying the purchase price, increased by claims in respect of work carried out in relation to that delivery, as well as claims in respect of possible damages payable due to the other party not fully meeting his obligations.
2. The objects that fall under the retention of ownership may only be sold by the other party in the scope of the normal company operation.
3. If Leembouw claims a retention of title, the relevant agreement entered into shall be deemed to have been dissolved, without prejudice to Leembouw's right to claim damages, loss of profit and interest.
4. The other party is obliged to immediately inform the other party in writing about the fact that third parties are laying claim to matters, which by virtue of this Article are subject to a retention of title.

#### **ARTICLE 14: PLEDGE/WARRANTAGE**

Until such time as the other party has settled its payment obligations in relation to Leembouw in full, the other party is not entitled to pledge the goods supplied to third parties and/or to establish a non-possessory pledge on the goods supplied, and/or to have the goods supplied stored in effective control of one or several financiers (warrantage), as this shall be regarded as attributable non-fulfilment on his part. Leembouw can in that event immediately suspend his obligations arising out of the agreement, without any notice of default being required, or dissolve the agreement, without prejudice to Leembouw's right to damages, loss of profit and interest.

#### **ARTICLE 15: BANKRUPTCY, NO AUTHORITY TO DISPOSE OF PROPERTY, ETC.**

Without prejudice to the provisions laid down in the other articles of these general terms and conditions the agreement entered into between the other party and Leembouw shall be dissolved without any legal intervention or any notice of default being required when the other party is declared bankrupt, applies for a temporary suspension of payment, or loses the authority to dispose of property and/or the full legal capacity with respect to his assets or parts thereof as a result of an attachment, being placed under tutelage or in some other way, unless the official receiver or administrator recognises the obligations arising out of the agreement as a debt of the estate.

#### **ARTICLE 16: FORCE MAJEUR**

1. If it is not possible for Leembouw to fulfil his obligations arising out of the agreement entered into with the other party due to circumstances beyond his control, and/or circumstances beyond the control of third parties/suppliers engaged in respect of the fulfilment of the agreement, or in the event that this may be ascribed to some other serious reason on the part of Leembouw, Leembouw shall be entitled to dissolve the agreement entered into between the parties, or to suspend his obligations towards the other party for a period of time he considers to be reasonable without being obliged to pay any damages. Should the above-mentioned situation arise when part of the agreement has already been fulfilled, the other party shall be obliged to fulfil his obligations towards Leembouw up until that time.
2. Circumstances beyond Leembouw's control and/or beyond the control of third parties/suppliers shall include: war, riots, mobilisation, internal or external commotion,

government measures, strikes and lockouts by staff or threats thereof and similar circumstances; disruption of the exchange rates that existed at the time when the agreement was entered into; business interruptions as a result of fires, accidents or other incidents and natural phenomena, irrespective of whether or not the non or non-timely fulfilment takes place at Leembouw, his supplier or third parties engaged by him in respect of the fulfilment of the agreement.

#### **ARTICLE 17: CANCELLATION AND DISSOLUTION**

1. A. The other party dissociates itself from all rights of dissolution of the agreement ex. article 6:265 and further Civil Code or other legal stipulations, unless enforceable legal stipulations oppose these. These apply under reservation of the right to cancel or terminate the agreement according to the present article.  
B. The specifications in sub A of this section are not applicable to agreements with the consumer.
2. Under annulment the following is understood in the scope of these general conditions: the termination of the agreement by one of the parties before commencement of the implementation of the agreement.
3. Under termination the following is understood in the scope of these general conditions: the termination of the agreement by one of the parties after commencement of the implementation of the agreement.
4. In case the other party terminated or annulled the agreement, he owes Leembouw a compensation to be further determined by Leembouw. The other party is obliged to compensate all expenses, damages as well as profit lost by Leembouw. Leembouw is entitled to charge the expenses, damages and lost profit and – to their own choice and depending on the already performed activities or supplies - 20 to 100% of the agreed price to the other party.
5. The other party is liable to third parties for the consequences of the annulment or cancellation and releases Leembouw from any liability.
6. Any sums already paid by the other party shall not be refunded.

#### **ARTICLE 18: APPLICABLE LAW/COMPETENT JUDGE**

1. The law of the Netherlands applies exclusively to the agreement entered into between Leembouw and the other party. Any disputes arising from this agreement shall also be settled according to Dutch law.
2. Contrary to the specifications under section 1 of this article, the legal consequences on goods in retention of ownership of objects intended for execution will, in case the legal system of the country or the state of the destination of the objects is more favourable for Leembouw, be controlled by that right.
3. Leembouw can at all times re-open disputes, forthcoming from the agreement, with the authorized Dutch judge. Leembouw also has authorization to re-open a case with the authorized judge in his place of residence, unless the magistrate is authorized.
4. In disputes with the consumer it applies that the consumer can, within 1 (one) month after Leembouw has informed them that the case will be submitted to a judge, state that he selects for settlement of the dispute by the legally qualified judge.

Regarding disputes resulting from an agreement entered into with a counter party that is established outside The Netherlands, Leembouw is entitled to handle according to the specifications under section 3 of this article, or – if chosen – to lodge the disputes with the qualified judge in the country or the government where the other party is established.