

## GENERAL TERMS AND CONDITIONS OF DELIVERY, PROTECT-FLEETSUPPORT BV

### **Article 1 Definitions**

In the context of these General Terms and Conditions, the following terms will be understood to have the meaning given below, unless explicitly stated otherwise.

User: Protect-Fleetsupport BV, the User of the General Terms and Conditions;

Client: the buyer, the person instructing the User to perform work on his behalf, the counterparty of the User;

Agreement: the agreement to supply accessories or equipment, and/or to install or fit accessories or equipment.

### **Article 2 General Provisions**

2.1 These General Terms and Conditions shall apply to each and every offer, quotation and Agreement between the User and a Client that has been declared to be subject to these General Terms and Conditions, unless parties have expressly agreed in writing to deviate from these General Terms and Conditions.

2.2 These General Terms and Conditions shall also apply to all agreements with the User for the execution of which the User has engaged of one or more third parties;

2.3 Any deviations from these General Terms and Conditions are only valid if they have been explicitly agreed upon in writing;

2.4 The applicability of any purchase or other general conditions on the part of the Client is expressly rejected;

2.5 If one or more of the provisions in these General Terms and Conditions become null and void or should be quashed, the remaining provisions of these General Terms and Conditions remain applicable. The User and the Client will agree to new provisions to replace the null or void provisions, whereby the purpose and scope of the original provisions must be respected.

2.6 If it is unclear how one or more provisions of these General Terms and Conditions should be interpreted, they shall be interpreted in accordance with 'the spirit' of these General Terms and Conditions.

### **Article 3 Offers and Quotations**

3.1 All offers are free of obligation unless the offer includes an acceptance term;

3.2 Quotations by the User are free of obligation, unless stated otherwise. The User is

only bound to the quotations if the acceptance thereof is confirmed by the other party in writing within 14 days, unless stated otherwise;

3.3 The prices stated in the offers and quotations are in Euros and are exclusive of VAT and other government levies, as well as exclusive of shipping and handling costs, unless otherwise indicated;

3.4 If the acceptance differs from the offer given in the quotation, whether or not on subordinate points, the User shall not be bound by it. In that case, the Agreement is not concluded in accordance with said deviating acceptance, unless the User indicates otherwise in writing;

3.5 A compound quotation shall not oblige the User to perform a part of the order against a corresponding part of the given price;

3.6 Offers and quotations shall not apply to future orders.

3.7 An offer or quotation shall be considered void if the product to which the offer of quotation refers has become unavailable in the time between the offer and the acceptance.

3.8. Protect-Fleetsupport BV reserves the right to charge costs in the amount of € 2.75 per installation for any use of small materials.  
Protect-Fleetsupport BV is not obliged to state this on its quotations.

#### **Article 4 Samples and Models**

4.1 If a sample or model has been shown or provided to the Client, this shall be considered to be no more than an indication, unless it is expressly agreed that the product to be delivered must be identical;

4.2 Any drawings, images, dimensions and weights included in catalogues, flyers, price lists and appendices to quotations that have been provided by the User are intended to offer a general representation of the products' specifications. Small deviations can never give rise to any compensation.

#### **Article 5 Execution of the Agreement, Delivery**

5.1 The User will execute the agreement to the best of his knowledge and ability and in accordance with the requirements of good professional practice on the basis of current scientific knowledge and developments.

5.2 If and to the extent required for the proper execution of the Agreement, the User has the right to have certain work performed by a third party;

5.3 The Client shall ensure that all information that the User indicates is necessary or that the Client could reasonably understand to be necessary for the execution of the Agreement is provided to the User in good time. If the information required for the execution of the Agreement is not provided to the User in a timely fashion, the User has the right to suspend the execution of the Agreement and/or charge additional costs resulting from the delay to the Client in accordance with the usual rates;

5.4 The User shall not be liable for damages of any kind if the User has relied on incorrect and/or incomplete information provided by the Client, unless this incorrectness or incompleteness should have been known to the User.

5.5 If the User or third parties engaged by the User in the context of the order perform work at the location of the Client or at a location designated by the Client, the Client shall make available free of charge any facilities that are reasonably desired by those employees.

5.6 The Client indemnifies the User for any claims from third parties that suffer damages in connection with the execution of the Agreement, which are attributable to the Client;

5.7 Goods are delivered from the warehouse of the User, unless otherwise agreed;

5.8 If goods are delivered on location, the User is entitled to charge possible delivery costs.

## **Article 6 Modification of the Agreement**

6.1 If during the execution of the Agreement the proper execution of the Agreement proves to require any modification or addition of work to be performed, the parties will promptly and by mutual agreement amend the Agreement accordingly;

6.2 If both parties agree that the Agreement must be amended or supplemented, this may affect the time of completion of its execution. The User will inform the Client of this as soon as possible;

6.3 If the amendment or supplementation to the Agreement has financial and/or qualitative consequences, the User will inform the Client thereof in advance;

6.4 If a fixed price has been agreed upon, the User shall indicate the extent to which the amendment or supplementation to the Agreement will result in an exceedance of the price.

## **Article 7 Execution Period, Delivery Time**

7.1 If a completion time has been agreed upon for certain activities, this shall never constitute a mandatory time limit. When a completion time is exceeded, the Client must therefore give the User notice of default in writing;

7.2 If the User has specified a time for the delivery of goods, it must be understood to be indicative. A specified delivery time shall never constitute a mandatory time limit. When a delivery time is exceeded, the Client must give the User notice of default in writing.

## **Article 8 Prices**

8.1 Parties will agree upon a fixed price. If no fixed price has been agreed upon, the price will be determined on the basis of the number of hours or parts thereof actually worked. The price shall be calculated in accordance with the usual hourly rates of the User and remains valid for the period in which the work is performed, unless a different hourly rate is agreed upon;

8.2 If the User and the Client agree upon a fixed price or hourly rate, the User shall nevertheless be entitled to increase the price or rate;

8.3 The User is entitled to pass on price increases if the User can demonstrate that the costs of wages or parts, for example, have increased significantly between the time of the offer and the delivery or completion;

## **Article 9 Payment**

9.1 Payment must be made within 14 days following the date of invoice, in a way to be indicated by the User and in the currency in which it is declared, unless the parties have agreed otherwise. Objections to the amount of any invoice does not suspend the Client's payment obligation;

9.2 If the Client continues to default on his obligation to pay within 14 days following the date of invoice, the Client shall be in default by operation of law. The Client shall then owe an interest of 1% per month or part thereof, unless the statutory commercial interest or the statutory interest rate is higher, in which case the highest interest rate shall apply. The interest on the amount to be redeemed will be calculated from the day the Client is in default until the moment the full amount has been paid. In addition, an increase of 10% of the invoice amount shall also be payable in case of failure to pay on the due date of the invoice;

9.3 In the event of liquidation or bankruptcy, entrance of the Client into legal debt rescheduling under the Debt Rescheduling for Natural Persons Act, seizure or moratorium of payment on the part of the Client, any amounts receivable by the User from the Client are immediately due and payable;

9.4 In the event of bankruptcy of the Client, the User is entitled to offset all invoice amounts, even if the payment term has not yet expired, against goods given into the custody of the User by the Client;

9.5 Payments made are first used to reduced costs, subsequently to reduce the interest still due, and finally to reduce the principal sum and current interest.

## **Article 10 Retention of Title**

10.1 The User reserves the retention of title on all products and goods delivered or to be delivered, including designs, sketches, drawings, software, (electronic) files, etc., until the date on which the Client has fulfilled all payment obligations to the User;

10.2 The payment obligations referred to in the preceding paragraph consist of the payment of the purchase price of the products, plus costs arising from the work performed in connection with their delivery and any claims due to negligence that is attributable to the Client's failure to fulfil his obligations. This includes, but is not limited to, compensation for damages, extrajudicial collection costs and interest and any penalties imposed.

10.3 The Client is not entitled pledge or encumber in any way products that are subject to the retention of title.

10.4 If third parties seize goods delivered under retention of title, or wish to establish or assert rights to these goods, the Client must immediately inform the User thereof;

10.5 The Client shall be obliged to insure, and keep insured, the goods delivered under retention of title against fire, explosion and water damage, and theft. The relevant insurance policy must be submitted for inspection upon the first request of the User. The User is never liable for the loss of goods delivered by the Client under retention of title. The Client bears the risk at all times.

10.6 In the event that the User wishes to exercise the rights of ownership referred to in this Article, the Client at this time already gives his unconditional and irrevocable permission to the User or third parties designated by the User to enter all places where property of the User is located and to retrieve that property.

### **Article 11 Collection Fees**

11.1 If the Client is in default or fails to fulfil his obligations in a timely fashion, all reasonable costs necessary to obtain satisfaction outside a court of law will be for the account of the Client. In any event, the Client will be liable for collection fees in case of a financial claim. The collection fees shall be calculated in accordance with the collection rate as recommended in collection matters by the Dutch Bar Association;

11.2 If the User has incurred higher costs, which were reasonably necessary, these shall also be recoverable;

11.3 Judicial and execution costs are also for the account of the Client.

### **Article 12 Research, Complaints**

12.1 Any complaints about the work performed and/or goods delivered must be lodged in writing with the User by the Client within 8 days following discovery, and no later than 14 days after the completion of the work. The notice of default must include a description of the failure that is as detailed as possible, allowing the User to react adequately;

12.2 The Client is obliged to inspect all delivered goods at the moment of delivery, or to have them inspected. This includes an inspection by the Client of the quality and quantity of the delivered goods to ascertain that it corresponds to what has been agreed upon. Any visible defects or deficits must be reported to the User in writing within three working days following delivery. Non-visible defects or deficits must be reported within three weeks following discovery and no later than 4 months following delivery;

12.3 If a complaint is well-founded, the User will perform the work or replace the goods as agreed, unless this has become demonstrably meaningless for the Client. The latter must be indicated in writing by the Client;

12.4 If the work still to be performed is no longer possible or meaningful, the User will only be liable within the limits of the provisions of Article 15.

## **Article 13 Cancellation**

If the Client wishes to cancel the Agreement with the User after it has been concluded, but before the User has begun executing the Agreement, 10% of the agreed order price including VAT will be charged to the Client as a cancellation fee, without prejudice to the right to full compensation for damages, including loss of profit.

## **Article 14 Suspension and Termination**

14.1 The User is competent to suspend the fulfilment of his obligations or to terminate the Agreement if: - The Client fails to (fully) fulfil the obligations arising from the Agreement; - circumstances that have come to the knowledge of the User after the conclusion of the Agreement give good reason to fear that the Client will not fulfil his obligations. In the event that there is good reason to fear that the Client will not (fully) or improperly fulfil his obligations, suspension shall only be allowed in so far as the failure justifies this; - The Client has been requested to provide security for the fulfilment of his obligations at the time of the conclusion of the Agreement, and this security has not yet or insufficiently been provided.

14.2 Furthermore, the User is entitled to terminate the Agreement, or have it terminated, if any circumstances occur of such a nature that compliance with the Agreement is no longer possible or can no longer be required in fairness, or if any circumstances occur of such a nature that an unaltered continuation of the Agreement can no longer reasonably be expected;

14.3 If the agreement is terminated, any claims by the User on the Client shall be immediately due and payable. If the User suspends the fulfilment of his obligations, he shall retain his rights under the law and the Agreement;

14.4 The User retains the right to claim damages.

## **Article 15 Liability**

15.1 The Client must inform the User of any damages suffered by him within 6 months after he has become aware of the damages, or could have become aware of them.

15.2 With the exception of warranties and guaranteed results explicitly agreed upon by the User, the User accepts no liability.

15.3 Should the User be liable, this liability is limited to what is stated in the General Terms and Conditions.

15.4 The User shall only be liable for direct damages. Liability for any form of consequential damage is expressly excluded.

15.5 If the User is liable for any damage suffered by the Client, the obligation of the User to pay compensation is always limited to the maximum amount paid by his insurer in the present case. If the insurer does not pay or the damage is not covered by the insurance, the obligation to pay compensation is limited to the amount of the invoice for the order that has caused the damage.

15.6 User is never liable for damages to third parties.

15.7. The Client must take all measures that are necessary to prevent or limit the damage.

15.8 If User is required to perform work or deliver goods on the basis of information provided in documents supplied by or on behalf of the Client, the User is not responsible for the content, accuracy and completeness of these documents.

15.9 The User is not liable and the Client may not invoke the warranty if the damage is the result of:

- (a) improper use, inappropriate use or use of the product that is contrary to its purpose;
- (b) the use of the product contrary to the instructions, advice, manuals, leaflets and such as provided by or on behalf of the User or the manufacturer and/or importer;
- (c) improper storage or incorrect/poor maintenance or failure on the part of the User to (sufficiently) insure the products and goods delivered by the User;
- (d) other work or modifications to the product have been carried out by or on behalf of the Client, without the explicit prior consent of the User.

15.10 In all cases listed in the previous paragraph, the Client is fully liable for all resulting damage and explicitly indemnifies the User for all claims by third parties to compensation for any such damage.

15.11 The limitations of liability as included in this Article shall not apply if the damage is due to intent and/or wilful recklessness on the part of the User or his managerial staff.

## **Article 16 Warranty**

16.1 The goods delivered by the User shall comply with the technical requirements and specifications imposed by Dutch law;

16.2 The User provides a warranty to the direct Client or buyer for the goods delivered by him for the duration of any factory warranty;

16.3 This warranty is limited to: - factory errors, therefore not including failures and damage resulting from wear and improper or inappropriate use; - deliveries to Clients or buyers in the Netherlands;

16.4 This warranty expires: - in the event that the delivered goods are resold, unless the parties have explicitly agreed otherwise; - in case of changes, modifications or repairs to the delivered goods by a third party;

16.5 As long as the Client or buyer has not fulfilled the obligations arising from the Agreement concluded by the parties, the warranty provision may not be invoked;

## **Article 17 Transfer of Risk**

The risk of loss of or damage to goods that are subject to the Agreement will be transferred to the Client at the moment when these goods are legally and/or actually delivered to the Client and so brought under the control of the Client or a third party designated by the Client.

## **Article 18 Force Majeure**

18.1 The User is not obliged to fulfil any obligation of the Agreement if he is impeded in doing so by circumstances that are not attributable to him, neither by virtue of the law, legal action or according to generally accepted standards;

18.2 In the context of these General Terms and Conditions, force majeure is defined, in addition to the relevant definitions in the law and in case law, as all external causes, foreseen or unforeseen, which the User cannot influence, but which impede the User's fulfilment of his obligations. This includes strikes in the company of User;

18.3 The User also has the right to invoke force majeure, if the circumstance which prevents (further) fulfilment arises after the User should have fulfilled his obligations;

18.4 During the period in which the force majeure continues, the parties may suspend the fulfilment of their obligations. If this period lasts for more than two months, either of the parties shall be entitled to terminate the agreement without any obligation to pay compensation for damage to the other party;

18.5 To the extent that the User has already partially fulfilled or will still be able to fulfil his obligations under the Agreement at the time of occurrence of the force majeure, and that part fulfilled or to be fulfilled is of independent value, the User shall be entitled to submit a separate invoice for the part fulfilled or to be fulfilled. The Client is obliged to pay this invoice as if it were a separate Agreement.

## **Article 19 Confidentiality**

19.1 The parties are obliged to uphold the confidentiality of all confidential information obtained from the other party or from another source in the context of the Agreement. Information is considered to be confidential if this is communicated by the other party, or if this results from the nature of the information;

19.2 If the User is obliged pursuant to a statutory provision or a legal ruling to disclose confidential information to third parties designated by law or by the competent court, and is unable to avail himself in this regard of a legally defined privilege or one recognised or granted by the competent court, the User shall not be liable for damages and compensation, and the Client shall not be entitled to terminate the Agreement on the basis of any resulting damage.

## **Article 20 Disputes**

20.1 The court in the User's place of establishment has exclusive competent jurisdiction. The User shall nevertheless be entitled to submit the dispute to a court deemed competent by law or to arbitration.

20.2 If a dispute is to be settled by arbitration, each party shall appoint an arbitrator, who then choose a third arbitrator. The costs of arbitration will be borne by the convicted party, unless the arbitrators decide otherwise.

## **Article 21 Warranty**

Protect-Fleetsupport BV offers a two-year warranty on work performed by it. In addition, Protect-Fleetsupport BV is liable for any damages and failures (with the exception of molestation) that are a direct result of work performed by it. Complaints shall be made in writing within 8 working days (Mon-Fri), after which the entitlement expires. Protect-Fleetsupport BV reserves the right to remedy damages and failures itself without the intervention of a car dealer or other external parties. Protect-Fleetsupport BV is never liable for loss of income as a result of any downtime of objects due to damage or failures caused by the installation.

## **Article 22 Applicable Law**

22.1 All agreements between the User and the Client are governed by Dutch law.

22.2 All disputes regarding services or products provided by Protect-Fleetsupport BV or these General Terms and Conditions will be submitted to the competent civil court in Amsterdam.

## **Article 23 Location of General Terms and Conditions**

These General Terms and Conditions are filed with the Chamber of Commerce in Amsterdam.