



General Terms and Conditions KZM B.V.

Dutch version Filed on the 18th of September 2019 with the Chamber of Commerce in Rotterdam

The General Terms and Conditions of KZM B.V. (hereinafter referred to as: "these conditions") apply to any agreement with, or any actions arising therefrom, by KZM B.V. (hereinafter referred to as: "KZM").

A copy of these conditions can be viewed on or downloaded of the website of KZM: www.kzmbv.com/voorwaarden, they are filed with the Chamber of Commerce in Rotterdam and will be sent free of charge immediately upon request. Such a request may in any event be made by e-mail to: info@kzmbv.com.

Article 1 Definitions

In the absence of an explicit provision to the contrary, the following terms in these conditions will mean:

KZM: The private limited liability company ("Besloten vennootschap met beperkte aansprakelijkheid") KZM B.V. established under Dutch law at Industrieweg 7, (1775 PV) Middenmeer, registered with the Trade Register of the Chamber of Commerce under number: 75517051, VAT number.: BTW nr.: NL860310115B01, supplier and the user of these general terms and conditions.

The other party: any party (natural or legal person) who enters into an agreement with KZM or to whom KZM has submitted an offer or quotation to which these conditions apply.

Agreement: any contract, concluded in whatever way, not being a contract of carriage, between KZM and the other party, or any changes or additions to it, as well as any actions or legal actions taken in preparation of, and in execution of, that agreement.

Assignment: an assignment of the other party for KZM for delivery of products or to purchase products.

Products: all goods or products that KZM delivers in assignment for the other party and/or in relation to an agreement.

Article 2 Applicability of these conditions

2.1 These conditions will, in any event, apply to the processing contract from the moment the other party approaches KZM about this matter, also when third parties are involved. The applicability of any (general terms and) conditions used by the other party will be expressly dismissed.

Derogation from these conditions will only be possible in the event that this has been explicitly agreed to in writing beforehand.

2.2 All the provisions of these conditions between the parties are effective, to the extent that the parties have not explicitly derogated from these conditions in writing.

If KZM tacitly permits derogation from these conditions, this will not affect their right to demand immediate and strict compliance with the conditions. The other party can never enforce any right, or have any rights enforced in the event that KZM applies these conditions flexibly, and/or does not always demand strict compliance with the provisions of these conditions.

2.3 These conditions also apply to all agreements in which third parties must have to be engaged in order to carry them out.

2.4 In the event of lack of clarity as regards the content of these conditions, or if any circumstances have not been regulated by these conditions, these will be explained or clarified by KZM at the request of the other party, while observing the spirit of these conditions.

2.5 If any provision of these conditions is null and void or is voidable, the other provisions of these conditions will remain in full force. In that event, KZM will draw up provisions to replace the void and/or voidable provisions. In doing so, the purpose and meaning of the void and/or voidable provision will be taken into account as far as possible.

2.6 Once the other party has entered into a contract under these conditions, the other party is considered to have tacitly agreed with the applicability of these conditions to agreements concluded afterwards with KZM.

Article 3 Quotes and agreements

3.1 Quotations made by KZM, and agreements made with KZM, will only be binding once they have been explicitly agreed upon in writing with KZM. An agreement will only be binding if KZM has confirmed this in writing or if KZM has already started to carry out the agreement.

3.2 If the circumstances in which the agreement was drawn up between the other party and KZM, change in such a way that, as a result, compliance with the agreement, or a part of it, cannot reasonably be expected from one of the parties, the parties agree to consult one another about interim changes to the agreement.

If no express reference is made to these conditions, they will still apply, regardless of the how the agreement came into effect.

If the changed circumstances arise through actions of and/or at the request of, and/or under the responsibility of the other party, any costs incurred arising from additional work will be charged to the other party.

Article 4 Execution and delivery

4.1 KZM is free to execute the contract as it sees fit, and when doing so, will observe the requirements of good workmanship. Agreements will only be defined as an obligation to perform to the best of one's abilities and may never contain an obligation to produce a certain result.

KZM is entitled to have certain activities executed by third parties, if and in so far as a good performance of the contract so requires.

4.2 If the other party requests KZM for an inspection or advice, no rights may be derived from them at any time. An inspection by or advice from KZM is always free of obligation.

4.3 KZM bases the execution of their activities on the information provided by the other party. KZM may assume from this that the information provided by the other party is correct and complete.

The other party ensures that it will provide KZM with any information in time, which KZM indicates to be needed or which the other party should reasonably understand to be needed for the execution of the agreement.

If the information needed for the execution of the agreement is not provided to KZM in time, KZM is entitled to suspend the performance of the agreement and/or charge the other party with any costs incurred arising from the delay at the customary rates.

4.4 Both KZM as well as the other party guarantee that all information received from the other party will be treated as, and remain, confidential. This provision also applies after the termination of the agreement.

4.5 Minor deviations from dimensions, weights, quantities, colours and other such data stated, shall be allowed. Normal bona fide commercial practice shall determine whether there is a matter of minor deviations. Weighings, measurements and counts performed by or in order of KZM will always be leading.

4.6 If the other party sells or disposes of the goods, or part of the goods, the other party is not released from its contractual obligations towards KZM.

Article 5 Delivery, terms and transfer of risks

5.1 Unless expressly agreed otherwise in writing, the delivery is done of 'ex works' ('af magazijn'). The delivery period and/or performance period are determined by KZM by approximation and determined on the basis of the circumstances as they are known.

5.2 (Parts of the) activities, assignments or products are considered 'delivered' if KZM has informed the other party in writing that the activities are completed, the other party has approved the relevant activities or has taken it (partially) into use or if the other party does not approve the work on the basis of some minor defects or missing parts that can be repaired or delivered within 30 days and that cannot stand in the way of the use of the work.

5.3 The other party is obliged to purchase the products the moment these are made available to him. If the other party refuses to purchase or is negligent in providing the information or instructions necessary for the delivery, the products will be stored for the account and risk of the other party. The other party will in that case be due all additional costs, including in any event storage costs and transport costs.

5.4 An agreed term for the providing of a service or assignment by KZM is never a deadline and is purely indicative. In the event of a late delivery, the other party must declare KZM in default in writing and offer KZM a reasonable term in which to still deliver, before KZM can be declared in default. An agreed term commences the moment the other party has provided KZM all the information requested by KZM.

5.5 If and for as long as the goods to be delivered are located in a warehouse and/or storage area of KZM, the goods are held for the account and risk of KZM. As soon as the goods to be delivered have left the warehouse and/or storage of KZM, then these products are for the account and risk of the other party and the products are regarded as having been delivered.

5.6 Notwithstanding that stated in the preceding subsection of this article, the other party and KZM can agree that KZM arranges the transport. The risk of storage, loading, transport, delivery are then also held by the other party. The other party can take out an insurance against these risks.

That stated in the preceding paragraphs also applies if the other party opts to store the products (temporarily) or to have them delivered at a designated location (of a third party), even if this requires multiple transports.

5.7 If the other party exchanges a product and continues the product to be exchanged whilst awaiting the new product, the risk of the item to be exchanged continues to be held by the other party up until the moment it is in the possession of KZM.

5.8 If it has been explicitly agreed in writing that delivery takes place by way of transport of KZM for the risk of KZM, in deviation of articles 5.1 and 5.5 of these terms and conditions: if and for as long as the products to be delivered are located in a warehouse and/or storage and/or in means of transport of KZM, then these products are for the account and risk of KZM.

5.9 If delivery does take place without prior consultation or agreement about price, quantity, composition and/or conditions, the other party is bound by the price and conditions stated by KZM.

5.10 As soon as the goods to be delivered by KZM have been delivered at the agreed location of the other party and/or the other party or its authorised representative signs for the correct receipt, then these products are for the risk and responsibility of the other party and the products are regarded as been delivered.

Article 6 Payment and costs

6.1 Unless otherwise explicitly agreed in writing, are all prices and fees in Euro (€) and are the exclusive of VAT and any other taxes and levies.

6.2 If the prices of suppliers or wages, (transport)costs, import duties, levies and/or other surcharges or costs, under any title whatsoever, are subject to increases and/or surcharges after accepting the agreement, KZM is entitled to add these increases in prices and fees to their existing agreements and/or orders. These increases in prices or rates will be binding on the other party.

Unless otherwise explicitly agreed, KZM is entitled to implement price and/or rate increases, which could include, but are not confined to, interim increases in wages, fuel and materials.

6.3 Earlier quotations, tenders, prices and/or hourly rates do not automatically apply to new contracts and/or assignments.

6.4 KZM is entitled to send invoices by email, which the other party is obliged to pay within a period of thirty (30) days after the invoice date, without applying a discount or deduction, into an account to be specified by KZM at a later date. In the event late payment, the other party will be in default ipso jure, without any further notice of default being required.

Pending the completion of the contract, KZM is entitled to send interim invoices.

6.5 The late or incomplete payment of the invoice authorises KZM to suspend the performance of the activities. If the other party fails to fully pay on time, KZM will invoice the statutory interest after thirty (30) days after the date of invoice, and KZM retains the right to invoice the extra-judicial costs thirty (30) days after the first summons, calculated in accordance with the most recent legislation.

6.6 KZM has the right of retention in respect of all information, documents and other goods held by the other party, until the other party has paid all that he owes KZM.

6.7 Payments made by the other party will always first be applied to settle all interest payable and costs, and secondly the invoices due and payable which have been outstanding for the longest period.

6.8 If in KZM's opinion the other party's financial position or payment record gives cause for concern, KZM will be entitled to request the other party for some immediate security, or additional security in some form, or advance payment, the amount to be decided by KZM. If the other party fails to provide the requested security, KZM will be entitled, without prejudicing any of their other rights, to immediately suspend further performance of the agreement, and everything that the other party owes KZM will be immediately due and payable. KZM is not liable for any damage that may arise from such a suspension of performance.

In the event of the other party's liquidation, bankruptcy or suspension of payment, all of KZM's claims as well as the obligations of the other party towards KZM, will be immediately due and payable.

Article 7 Liability and indemnity

KZM is only liable to the extent that this is reflected in this article. The limitations of KZM's liability do not apply if the damage is intentional or attributable to gross negligence on the part of KZM.

7.1 KZM's liability will at all times be limited to the amount that would be paid out by their insurer for the damage in question. If the insurer does not compensate KZM, then KZM's liability will be limited to the invoice amount for the activities and/or services from which the damage arose, or at least to that part of the agreement to which the liability relates.

7.2 KZM is not liable for acceptable wastage as a result of processing, observing the various processing operations and/or the various goods or kinds of goods.

7.3 KZM is not liable for damage of any kind of damage whatsoever:

- a. if she based the performance of her activity and/or service on inaccurate and/or incomplete information provided by the other party;
- b. in case of force majeure;
- c. for activities carried out by third parties;
- d. for indirect and consequential damages, including loss of profit, loss of savings and loss due to business interruption.

7.4 The other party indemnifies KZM against claims from third parties relating to or arising from the legal relationship between KZM and the other party. This shall also include that the other party explicitly indemnifies KZM against claims from third parties regarding the right of intellectual or industrial property concerning information provided by the other party to KZM, which is used for the performance of the agreement.

7.5 If the other party provides information carriers, electronic files or software and suchlike, to KZM, the other party guarantees that these materials are free from viruses and defects. Any damage arising from the use of these materials will be compensated by the other party.

7.6 In no circumstances will the burden of proof rest with KZM.

Article 8 Force majeure

8.1. KZM cannot be held to fulfil any obligation if KZM is hindered in doing so as a result of a circumstance that is not the result of a fault or negligence of KZM and that neither under the law nor pursuant generally accepted principles can be considered to be for the account of KZM.

8.2 During the period in which force majeure continues, KZM may suspend their obligations to the agreement. If this period is longer than 14 days, both parties are entitled to terminate the agreement with immediate effect and without prior (written) notice and/or notice of default being required, and without any obligation to pay damages to the other party. If the situation above occurs when part of the agreement has been performed, the other party must comply with its obligations towards KZM up until that moment. In that event, KZM is entitled to separately invoice for what has already been performed and for the part still to be performed.

8.3 In these General Terms and Conditions, in addition to its definition provided by law and case law, force majeure is understood to mean all external, foreseeable or unforeseeable causes which KZM cannot influence, but which as a result, partly or wholly prevent them from fulfilling their obligations towards the other party, or as a result of which KZM cannot be reasonably expected to fulfil their obligations.

These will include (if and in so far as these circumstances make performance either impossible or unreasonably complicated): strikes in other companies other than those of KZM, strikes in the KZM's company; a general shortage of required materials and other goods and activities and/or services required to deliver the agreed performance; unforeseeable halts in the production at suppliers or other third parties on whom KZM depends; general transport difficulties; any government measures; illness; fire; earthquakes; theft; operational and power failures; force majeure affecting an engaged third party and technical failures.

Article 9 Complaints

9.1 The other party has the obligation to examine if the delivered goods by KZM are in compliance with the agreement. If visible defects are discovered, the other party must inform KZM accordingly in writing within eight (8) days after delivery. In case of non-visible defects the other party must inform KZM accordingly in writing within fourteen (14) days after discovery respectively the moment the defect could reasonably have been observed, though within a maximum of six (6) months after delivery. The other party can no longer invoke any right relating to a complaint and/or defect after expiry of said terms.

9.2 In case the other party is not present or represented at time of delivery or on the location of the delivered goods within the complaint period and/or before the term to complain has expired, the other party must take care - on his own expense and risk - that he is timely aware of the condition of the delivered goods and that KZM will be timely informed in the event there is a defect.

9.3 All complaints concerning an invoice of KZM, must be notified in writing to KZM within eight (8) days after send date of the invoice. After this term has expired, the other party will be deemed to have agreed with the invoice issued. Objections against the amount of the submitted invoices do not suspend the obligation to settle them.

9.4 In the event of a complaint about the contract performed or an activity and/or service supplied, KZM is free to choose between changing the rate charged, improving or re-performing the rejected activities free of charge, or terminating part of the contract (or remaining work) in exchange for a refund proportionate to the amount already paid by the other party. If it is no longer possible or useful to perform the activities agreed upon, KZM will only be liable within the limits laid down in article 7 of these conditions. The other party is not entitled to terminate the agreement in case of a complaint or when delivered goods do not correspond to the agreement.

9.5 Returned items and/or exchanged items are only accepted with the explicit prior permission in writing of KZM, whereby the products are not damaged, used, packaged differently, with the exception of products returned with other than suitable speed (at least within 8 days after delivery), sold at special (offer) terms and conditions and/or prices, tailor-made products or products that could have come in contact with chemicals and/or water.

9.6 The other party explicitly indicates upon requesting the returning of the items that none of the preceding subsection applies. The condition of the returned items upon receipt by KZM determines the acceptance. KZM determines whether to proceed with crediting or exchanging the products. The delivery costs for returning the items and the risk of this transport are for the account of the other party.

Article 10 Termination of the agreement

10.1 Notwithstanding KZM's other contractual rights, including the right to receive damages from the other party, any breach of the other party's obligations will entitle KZM to wholly or partly terminate the agreement with immediate effect, and without prior (written) notice of default being required, and/or to suspend or interrupt their activities. In the aforementioned case, the other party is not entitled to any payment of damages or costs by KZM.

10.2 If, in the event of liquidation, an application is made for suspension of payment, for bankruptcy, or to seize the other party's assets – provided the attachment is not revoked within three months - KZM is free to terminate the agreement at once and with immediate effect, without any obligation on their part to pay damages or other compensation, and/or without prior (written) notice of default being required. Notice of default is not required for this judicial intervention. In that case, the amounts owed to KZM by the other party will be immediately due and payable.

10.3 KZM is entitled to suspend performance of the agreement if the other party does not comply with the payment conditions, or does not fulfil its obligations in some way; all this without prejudice to KZM's right to claim damages.

Article 11 Retention of title

11.1 If after the expiry of the delivery date, the goods have not been collected, they shall remain available to the other party. Uncollected products shall be stored at the expense and risk of the other party. KZM may always exercise the power as referred to in Article 6:90 of the Dutch Civil Code.

11.2 The goods delivered by KZM remain the property of KZM until the other party has complied with all obligations arising out of all purchase agreements he has concluded with.

11.3 The other party is not permitted to encumber goods still subject to retention of title delivered and/or processed by KZM beyond the constraints involved. If third parties wish to attach or assert any right to goods delivered under retention of title the other party is obliged to inform KZM thereof as soon as may reasonably be expected.

11.4 After KZM has invoked its rights of retention, it may retrieve the products. The other party is obliged to render all cooperation under penalty of a fine of 10% of the invoice value of these goods per day.

11.5 If KZM cannot invoke its retention or title because the goods have been mingled, distorted or verified, the other party is required to pledge the newly formed goods to KZM. Additional costs for services, such as for the transportation or removal of products, shall be borne by the other party.

11.6 The property law consequences with regard to a good destined for export are governed by the law of the State of destination of the particular good if the retention of title based on the law of the State of destination does not lose its effect until the full price has been paid, unless KZM determines otherwise.

11.7 The other party is obliged at first request of KZM:

- to insure and keep insured the goods supplied under retention of title against fire, explosion and water damage and against theft, and to allow inspection of the insurance policy;
- to mark all the goods delivered under retention of title as being the property of KZM;
- to fully cooperate in every way, with all the reasonable measures that KZM wish to take concerning the goods to protect their retention of title and are not an insurmountable obstacle to the other party in the exercise of his everyday activities.

Article 12 Intellectual and industrial property

12.1 KZM, or her licensors, shall at all times remain the party entitled to the intellectual and industrial property rights, including, but not limited to, any copyrights, design rights, patent rights and trade rights, with respect to any goods and/or designs that are issued, sold, delivered and/or provided by KZM, even though these have been charged. KZM shall be considered the party entitled to all rights of industrial and/or intellectual property thereof, also if these rights have come into being within the framework of the agreement. Unless expressly and unambiguously allowed by KZM or by law, no part of goods and/or designs that are issued, sold, delivered and/or provided by KZM may be reproduced or copied in any way and/or distributed to third parties, of whom there are reasonable grounds to believe that they will violate the rights of KZM as meant in this provision.

The other party shall not be permitted to remove and or change any indication with respect to the rights of intellectual or industrial property from products of KZM.

12.2 In case of any violation of the abovementioned prohibitions, the other party forfeits a fine, which is not open to mitigation, of 40 % of the purchase price with a minimum of € 5.000,- per case or per manufactured good and an amount of € 2.500,- for each day the violation lasts. The other party also commits himself to impose the prohibition contained in this article, together with the penalty clause, on his legal successors in the form of perpetual clause, meaning that even his legal successors and their successors are bound towards KZM. In case of failure to comply with this obligation the other party will, respectively the legal successor of the other party, forfeit an immediately due fine, which is not open to mitigation, of € 50.000,- per case towards KZM.

Article 13 Final provisions

13.1 These conditions have been drafted in Dutch and English. The Dutch text and interpretations thereof shall at all times prevail over the English text.

13.2 All legal claims against KZM, any compensation entitlements included, expire and/or become due after a period of 1 year after the claim and/or allocation arose.

13.3 KZM reserves the right to make alterations and/or additions at any time to these conditions and/or to any provision. Such amendments will take effect at the announced time of entry into force. KZM will send the modified terms and conditions timely to the other party. In the event that no time is announced for an amendment to come into force, it shall come into effect for the other party, as soon as the latter is given notice to this effect. Until the amended version of these conditions enters into force, the version of these conditions, as if known by the other party before the amendments, expressly applies.

13.4 All agreements or legal relationships between KZM and the other party, and all potential deriving disputes thereof, shall be exclusively governed by the laws of the Netherlands. The aforementioned also applies when a legal relationship is wholly or partly endorsed abroad or when a party involved in an agreement or legal relationship has its domicile abroad. The Vienna Sales Convention is expressly excluded.

13.5 All disputes that may arise between KZM and the other party and which cannot be settled amicably, shall be settled by the court of The Hague (The Netherlands). This unless the rules of imperative law lead the court to declare that another (Dutch) court is competent.

13.6 The Dutch terms and conditions of KZM have been filed at the offices of the Dutch Chamber of Commerce on the 18th of September 2019. The most recently filed version or the version that was applicable at the time at which the agreement with KZM was formulated, shall be applicable at all times.