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The logo for Kiki van Eijk, featuring the word "kiki!" in a white, lowercase, handwritten-style font on a solid yellow rectangular background.

KIKI VAN EIJK

## GENERAL CONDITIONS

### Article 1      Definitions

- 1.1 In these General Conditions the terms listed below have the following meaning, unless otherwise expressly stated:
- a. **Contractor:** *Kiki van Eijk operating under the name of Kiki!*, having its registered office and maintaining a place of business at Zwaanstraat 1, (5651 CA) Eindhoven, the Netherlands;
  - b. **Principal:** the party that gives the Contractor the Assignment for the supply of Products and/or the performance of Work;
  - c. **Assignment:** the request from the Principal to the Contractor to supply Products and/or perform Work against payment;
  - d. **Work:** all the things that the Contractor does and/or produces and/or performs and/or causes to be done and/or causes to be produced, and/or causes to be performed, all of this in the broadest sense of the word, including the design, production, transport, supply and installation of the Product, as well as advising and providing services on location;
  - e. **Product:** the object, of any nature whatsoever, that is produced and/or supplied by the Contractor in the context of the Assignment, either directly or indirectly, all of this in the broadest sense of the word;
  - f. **Offer:** an offer from the Contractor to the Principal to supply Products and/or to perform Work; and
  - g. **Agreement:** the rights and obligations of the Contractor and the Principal arising from the Offer and the Assignment, as confirmed by the Contractor in writing.

### Article 2      General

- 2.1 These General Conditions apply to all Offers, Assignments and Agreements between the Contractor and the Principal, except insofar as the parties have expressly departed from these General Conditions in writing.
- 2.2 These General Conditions also apply to all Agreements between the Contractor and the Principal in the performance of which the Contractor uses the services of third

parties.

- 2.3 Any additions to or departures from these General Conditions will be valid only if expressly agreed in writing.
- 2.4 The applicability of any conditions of the Principal is expressly excluded.
- 2.5 If one or more of the provisions of these General Conditions is/are void or is/are declared void, the other provisions of this General Conditions will continue to apply. The Contractor and the Principal will agree on new provisions to replace the provisions that are void or that have been declared void, whereby the purpose and scope of the original provisions will be observed.

### **Article 3 Offers and Assignments**

- 3.1 All Offers from the Contractor will be without commitment, unless they specify a term for acceptance.
- 3.2 All information provided in the Offer, including but not limited to the information contained in catalogues, pictures, drawings and standardisation sheets, is provided by the Contractor to the best of its knowledge and ability, but without the Principal being able to base any rights on that information. The Principal is aware that the information provides a general impression of the Products and/or Work offered.
- 3.3 Prices and offers referred to in the Offer will not automatically apply to future Assignments.
- 3.4 If an Offer from the Contractor contains an offer without commitment and that offer is accepted by the Principal, the Contractor will have the right to revoke the Offer within two working days after receipt of the acceptance.
- 3.5 Offers must be accepted by the Principal in writing. If the Principal fails to do so, but nevertheless agrees to the commencement of the performance of the Offer by the Contractor, the content of the Offer will be deemed to have been agreed on.
- 3.6 The Principal will be bound by and upon the Assignment being given.
- 3.7 If a natural person gives an Assignment to the Contractor on behalf of the Principal or for its account, he or she declares by signing the Offer and/or the Assignment that he or she is authorised to do so. That person will be jointly and severally liable in addition to the Principal for all the obligations arising from the Assignment.
- 3.8 All agreements concluded by persons employed at the Contractor will be binding on the Contractor only after they have been confirmed in writing by the Board of Directors and/or by persons with representative powers at the Contractor, and after receipt by the Contractor of all the information and goods required for the performance of the Agreement.
- 3.9 Only what has been accepted as such in writing by the Contractor will be regarded as an Assignment. Written confirmation of an Assignment from the Contractor together with these General Conditions will constitute the entire Agreement between the parties. Any further oral agreements and conditions will not be binding on the Contractor until they have been confirmed by the Contractor in writing.
- 3.10 If the Assignment differs – whether or not on minor points – from the offer made in the Offer, the Contractor will not be bound by the Offer. In that case the Agreement will not be concluded in accordance with that differing Assignment, unless the Contractor indicates otherwise.

#### **Article 4      Materials of the Principal**

- 4.1 With the Contractor's approval the Principal may supply materials and/or raw materials that the Contractor may process into Products at the Principal's instructions.
- 4.2 The Contractor will not be liable for any unsound materials and/or raw materials supplied by or on behalf of the Principal, irrespective of whether they correspond with the sample shown by the Principal.
- 4.3 The Principal and the Contractor will agree beforehand on the exact quantities and dimensions of the materials and raw materials to be supplied and on what exactly must be done with the latter.

#### **Article 5      Price and costs**

- 5.1 The prices in the Offers will be denominated in euros and will be exclusive of VAT and other government charges and exclusive of any expenses to be incurred in the context of the Agreement, including but not limited to the costs of travel, delivery, research and administration.
- 5.2 A composite Offer will not obligate the Contractor to perform part of the Assignment for a corresponding part of the specified price.
- 5.3 If the quoted price is exceeded due to additional work or interruption of the Work, at the request or due to actions of the Principal, the Contractor will have the right to charge those additional costs to the Principal and to adjust the ultimate invoice amount accordingly on the basis of the actual costs later to be specified.
- 5.4 The Contractor will have the right to charge callout charges to the Principal, unless otherwise agreed.
- 5.5 Work by the Contractor will be performed during normal working hours. Normal working hours are Mondays to Fridays, from 9 a.m. to 6 p.m. If the Principal wishes to have the Work performed outside those normal working hours, the Contractor will have the right to charge a supplement in addition to the normal hourly rate.

#### **Article 6      Timetable**

- 6.1 The Contractor will state a term for the performance of the Assignment in the Offer.
- 6.2 The term stated for the performance of the Assignment will be indicative only and may not be regarded as being of the essence, unless that has expressly been agreed.
- 6.3 The mere exceeding by the Contractor of the term for the performance of the Assignment may not be regarded as breach of contract by the Contractor and will not entitle the Principal to any damages, dissolution of the agreement or non-fulfilment or suspension of any obligation towards the Contractor.
- 6.4 The Contractor will inform the Principal in writing of the period by which the term will be exceeded, if and as soon as that is foreseeable, while setting a new indicative term for performance of the Assignment. The maximum extension period will be the same as the first period.
- 6.5 If the Contractor exceeds the term for a second time, the Contractor and the Principal will consult again. The second exceeding of the term referred to here will not entitle the Principal to any damages, but only to dissolution of the Agreement, provided that the Contractor is to blame for the exceeding of the term. If both parties so wish, the Contractor will submit a new Offer to the Principal.

- 6.6 If the Principal has already paid the Contractor the price due in full or in part before dissolution of the Agreement, the Contractor will repay the amount in question to the Principal, unless it is agreed that the amount will be set off against another or a new Assignment.

#### **Article 7 Amendment of the Assignment**

- 7.1 If it becomes apparent during the performance of the Assignment that proper performance of the Assignment requires amendments or additions to the Work to be performed, the parties will amend the Assignment accordingly in a timely manner in consultation.
- 7.2 If the parties agree that the Assignment will be amended or supplemented, the agreed timetable may be exceeded through no fault of the Contractor. The Contractor will inform the Principal accordingly as soon as possible. The provisions of Article 6.4 and 6.5 of these General Conditions will not apply in the case referred to here.
- 7.3 If the amendment or addition to the Assignment has financial and/or other qualitative consequences, the Contractor will inform the Principal accordingly beforehand.
- 7.4 If a fixed fee has been agreed on, the Contractor must indicate to what extent the amendment or addition to the Agreement will result in that fee being exceeded.
- 7.5 Any contract variations resulting from amendments or additions to the Assignment will be payable by or will benefit the Principal.
- 7.6 If the Principal makes such amendments during the performance of the Assignment that, in the Contractor's opinion, the Assignment can no longer be performed or is not or no longer suitable for the agreed purpose of the Assignment, the Contractor may dissolve the Agreement prematurely at any stage without owing any damages.
- 7.7 Such dissolution will be without prejudice to the Principal's obligation to pay the Contractor all the costs incurred until the moment of the premature termination, as well as the costs resulting from the premature termination.

#### **Article 8 Supply of Products/Product properties**

- 8.1 The Products will be deemed to have been delivered as soon as they have left the offices and/or warehouses of the Contractor or of the Contractor's supplier.
- 8.2 If possible and if the Principal so wishes, the Contractor will arrange for the transport of the Product. The Contractor will charge the costs of the transport separately, unless otherwise expressly stated in its offer or otherwise agreed in writing between the parties. The risk in the transport will be borne by the Principal, unless otherwise expressly agreed in writing.
- 8.3 Delivery may be effected at a third party at the Principal's express written request.
- 8.4 The delivery term specified by the Contractor will be indicative only and may therefore be exceeded. The Principal cannot derive any rights from the delivery term stated.
- 8.5 If the Principal wishes the Contractor to store (whether or not temporarily) the Products already paid for by it, the Contractor will be entitled to charge a fee yet to be agreed on for doing so.
- 8.6 Only if the Principal and the Contractor reach agreement on this point in writing may Products be supplied on trial and/or may a trial setup be installed at the Principal.
- 8.7 The provisions of Article 8.6 will apply only to the Products as available at the Contractor. If the Principal expressly wishes the Products to be produced otherwise

and if the Contractor is willing to comply, the Contractor will arrange for this within the limits of reasonableness, but only against payment by the Principal of the costs (or extra costs) involved.

- 8.8 If delivery is made on trial, the Agreement between the Contractor and the Principal will be deemed to have been concluded subject to the condition precedent that the Products meet the Principal's wishes. The Principal must inform the Contractor within a term to be agreed on in writing that it does not wish to purchase the Products in question, failing which the Agreement will be deemed to have been concluded.
- 8.9 Products may be made available on loan. The provisions of Article 8.7 regarding the implementation required by the Principal will apply accordingly.
- 8.10 Products may be made available on loan for a specified period and for a fee to be specified in an Agreement.
- 8.11 The Principal will care as a diligent debtor for the Products made available on trial and/or on loan.
- 8.12 The provisions recorded in these General Conditions will apply in full to delivery on trial and/or on loan.
- 8.13 At the end of the agreed term (Article 8.8 and 8.10) or if no Agreement is concluded (Article 8.8), the Principal will be required to return the Products to the Contractor for the Principal's own accounts and in the same condition that the Products were in at the moment of delivery to the Principal.
- 8.14 The Principal will be liable for the Products delivered during the entire term of the delivery on trial and/or on loan. That term will commence on the moment of delivery of the Products to the Principal and will end the moment the Products are returned to the Contractor by the Principal.
- 8.15 The Principal will inspect the Products delivered immediately upon their delivery and will immediately report any damage or deviations to the Contractor in writing. Immediate reporting means no later than 24 hours after delivery of the Products. Absent such direct reporting, the Contractor will be deemed to have delivered to the Principal entirely in accordance with its obligations.
- 8.16 If the damage or deviations referred to in Article 8.15 are of such a nature that the proposed use of the Product by the Principal is reasonably impossible, the Contractor will arranged at the Principal's request within a reasonable period for repair or replacement of the Product in question.
- 8.17 If at the end of the agreed term or before that time the Principal indicates that it wishes to keep the Products, the Principal will owe the price in question. Settlement and/or setoff against the usage fee and/or other amounts previously paid will in no event be allowed. In that case these General Conditions will apply in full.
- 8.18 Insofar as the nature of the Product so requires and insofar as reasonably possible, the Contractor will ensure that the specific conditions of use of the Product are made available to the Principal.
- 8.19 The provisions of Article 8.18 will not alter the fact that the Principal is required to verify the Product's special or other specifications before the Product is used. By accepting these General Conditions, the Principal declares that it is aware that the Product received by it has special properties and has or may have special conditions of use.

## **Article 9      Performance of the Work**

- 9.1 The Contractor will make every effort to carefully perform the Assignment, to promote the Principal's interests to the best of its ability and to aim for a result that is usable for the Principal.
- 9.2 The Principal will ensure that all information of which the Contractor indicates that it is necessary or which the Principal should reasonably understand to be necessary for the performance of the Agreement is made available to the Contractor in a timely manner. If information required for the performance of the Agreement has not been made available to the Contractor in a timely manner, the Contractor will have the right to suspend the performance of the Agreement and/or to charge the extra costs resulting from the delay to the Principal in accordance with the rates applied.
- 9.3 The Work will be performed in accordance with the Agreement between the parties and at the location on which the Principal and the Contractor have agreed in writing.
- 9.4 The Principal must ensure for its own account and risk that the Work can be performed in the correct manner and in a timely manner, whereby the Principal will ensure, among other things:
- that the available rooms in which the Work will be performed meet the requirements of the applicable legislation on Working Conditions;
  - that light and electricity in all those rooms function properly and are available to an adequate degree and at a reasonable distance; and
  - that the goods and tools supplied by the Contractor for the performance of the Work can be transported to the place of the Work in an appropriate manner and using appropriate means of transport, without any hindrance from other work of the Principal or third parties engaged by the Principal, and can be stored in rooms that can be locked and that are accessible only to the Contractor and third parties engaged by it, whereby the Principal must ensure that it holds those goods as a diligent debtor.
- 9.5 If it has been agreed that the Agreement will be performed in phases, the Contractor may suspend the performance of parts that belong to a following phase until the Principal has approved the results of the preceding phase in writing.
- 9.6 The Contractor's advice will be given to the best of its knowledge. However, the Contractor accepts no liability whatsoever for any advice given orally and/or in writing.
- 9.7 Advice from the Contractor will in no event release the Principal from the obligation to perform an investigation of its own of the Products to be supplied and/or the Work to be performed to ensure that they are suitable for the proposed purpose. The same applies to information on the composition of goods, parts of goods and their possibilities of use.
- 9.8 Without prejudice to the provisions of Article 9.5, the Contractor will be fully in charge of all the Work. The Principal will approve upon accepting the Offer the result arising from the Work and cannot avoid its obligation to pay the agreed price on the grounds of that result. The provisions of Articles 5 and 15 of these General Conditions will apply in full in this context.

#### **Article 10** Third parties

- 10.1 The Contractor will have the right to engage third parties in the performance of the Assignment.
- 10.2 If the Contractor contracts the performance of the Assignment in full or in part to one or more third parties at the Principal's request and with its approval, the Contractor will be deemed to be expressly authorised by the Principal to act as a lawful representative of the Principal in the relationship between the Contractor and the third party or third parties, unless otherwise expressly agreed in writing.

- 10.3 Agreements to be concluded with that third party or those third parties by the Contractor on behalf of the Principal will be deemed to have been directly concluded between the Principal and that third party or those third parties. The Contractor does not accept any liability in that context, by any name whatsoever and in any form whatsoever.
- 10.4 The Contractor will receive reasonable compensation for its Work in question in this context as a representative of the Principal.
- 10.5 The Principal indemnifies the Contractor against any claims from third parties that incur a loss in connection with the performance of the Agreement, for which loss the Principal or third parties is/are to blame.

#### **Article 11 Guarantee and complaints**

- 11.1 The Contractor will give a guarantee of 12 (twelve) months on the Product on the conditions set out below, commencing on the date of their delivery, unless the Contractor sets a different term in writing upon the conclusion of the Agreement.
- 11.2 Any defects of the Product that manifest themselves to the Principal within that term will be repaired free of charge by the Contractor with due observance of Article 11.3 to 11.11. Any faulty parts will become the Contractor's property after being replaced free of charge.
- 11.3 Guarantee provisions will apply only if the Products supplied or Work performed is/are used in accordance with their intended use. Injudicious use of or inadequate care for the Products and/or Work by the Principal, and failure to comply with the conditions of use or to do so in full, will preclude any right of complaint and will result in lapse of the guarantee(s).
- 11.4 The Principal is aware that hairline fractures in varnish are unavoidable in varnished products. Such complaints do not come under the guarantee or under the right of complaint.
- 11.5 The following also do not come under the guarantee:
- damage to varnish and chrome, scratches and/or spots on inox and/or glass, decolouration of wood, textile or fibre materials that are unavoidable for technical reasons or are generally permitted by general trade practice, unless such damage is directly due to an error in the construction designed by the Contractor;
  - minor deviations of any other nature, such as minor changes in the construction and/or dimensions that do not essentially change the external appearance of goods compared with the offer and/or drawing and/or Work previously performed/Products previously delivered in the event of subsequent orders.
- 11.6 The Principal cannot derive the right to refuse to take delivery of the Product or to replacement, repair or damages from the aforesaid damage and/or deviations.
- 11.7 Complaints regarding the quality of Products supplied and/or Work performed by the Contractor must be made known to the Contractor by the Principal in writing, failing which the Contractor will be deemed to have made delivery to the Principal entirely in accordance with its obligations.
- 11.8 The following terms will apply to the written notification by the Principal:
- if the defect is visible: within seven days of delivery;
  - in the case of hidden defects: within five days after the defect has been

- established or could have been established, all of this with due observance of the guarantee period stipulated by the supplier and accepted by the Contractor;
- in the case of fragile goods, including but not limited to mirrors, marble and glass: immediately.

- 11.9 If a complaint has been filed in a timely and correct manner, the Contractor will investigate the defects reported, provided that they fall within the guarantee period and otherwise meet the conditions stipulated in the supplier's guarantee provisions and will in that case repair them to the best of its ability and as soon as possible.
- 11.10 The Principal will provide the Contractor with all the information that the Contractor considers necessary or relevant regarding the circumstances in which the defect occurred. The parties acknowledge that not all defects can be repaired.
- 11.11 Upholstery materials and Products that the Contractor regards as art are not covered by the guarantee. Products of which fewer than 8 (eight) are manufactured and textile designs, including but not limited to upholstery materials and carpets, of which fewer than 20 (twenty) are manufactured will in any event be regarded as art. User objects may also be regarded as art and are not automatically excluded from this definition.
- 11.12 The Principal is aware that a Product's apparent purpose does not automatically mean that the Product can actually be used for that purpose. The provisions of Article 8.18 and 8.19 will apply in full in this context.
- 11.13 The calibration of clocks and the adjustment of mechanical parts in Products do not come under the guarantee.

## **Article 12 Liability, damage and insurance**

- 12.1 The Contractor will not be liable for:
- a. errors or defects in the material and/or the information and/or the room and any and all things made available by the Principal;
  - b. misunderstandings, errors or shortcomings in the performance of the Assignment, if they are related to or caused by actions of the Principal, such as failure to supply (or to do so in time) full, proper and clear materials and/or information and/or the provision of incorrect and/or incomplete materials and/or information;
  - c. errors or shortcomings on the part of third parties engaged by or on behalf of the Principal;
  - d. damage to the Principal or third parties (or their property) caused by improper use of the Product or arising from the properties of the Product;
  - e. defects in quotations from suppliers or the exceeding of quotations of suppliers;
  - f. errors or shortcomings in or defects of the Product if the Principal, in accordance with the provisions of Article 11, has not filed a complaint in writing and in time or has otherwise given its approval, or has not given the Contractor the opportunity to perform an inspection and/or to remedy the defects in a timely manner;
  - g. errors or shortcomings in or defects of the Product if the Principal has failed to produce or cause the production of a specific model, prototype or trial, and those errors would have been visible in such a model, prototype or trial; and
  - h. errors or shortcomings in or defects of the Product that are due to the assembly of the Product by the Principal.
- 12.2 The Contractor can be held liable only for direct damage for which it is to blame. Direct damage means only:
- a. reasonable costs incurred in establishing the cause and the scope of the loss, insofar as the establishing relates to damage as referred to in these General Conditions;
  - b. any reasonable costs involved in having the defective performance by the Contractor comply with the Agreement; and

- c. reasonable costs incurred to avoid or limit the loss, insofar as the Principal demonstrates that those costs have resulted in limitation of the direct loss as referred to in these General Conditions.
- 12.3 Liability of the Contractor for all loss other than that referred to in the preceding paragraph, such as indirect loss, including consequential loss, loss of profit, damaged or lost data or material, lost savings or damage caused by business stagnation, is excluded.
- 12.4 Except in the event of intent or gross recklessness of the Contractor, the Contractor's liability for loss on the grounds of the Assignment or a wrongful act committed towards the Principal will be limited to the invoice amount that relates to the part of the Assignment performed, reduced by the out-of-pocket expenses incurred by the Contractor and the costs of engaging third parties, and will in any event at all times be limited to the amount that the Contractor's insurer pays the Contractor in the case in question.
- 12.5 Any and all liability of the Contractor will lapse one year after the moment at which the Assignment was completed.
- 12.6 The Principal will be required, if reasonably possible, to keep copies and/or samples of data and materials made available by it until the Assignment has been completed. If the Principal fails to do so, the Contractor cannot be held liable for any loss that would not have occurred if those copies and/or samples had existed.
- 12.7 The Principal will be liable for any and all loss, by any name whatsoever, that is incurred or has been incurred by the property belonging to it, to the Contractor and/or to third parties, caused by the Principal itself, its staff or third parties designated by its staff.
- 12.8 The Principal will be liable towards the Contractor, in the same manner as for its own actions, for the actions of persons who use those goods with its approval and/or where the goods are delivered by the Contractor with its permission. The Principal hereby indemnifies the Contractor against any and all claims (by any name whatsoever) from third parties.
- 12.9 The Principal will be liable for all damage and/or injuries incurred by, or for the death of, the Contractor and/or third parties (or their employees or freelancers) caused by the Principal, its staff or third parties designated by its staff.

### **Article 13 Indemnity**

- 13.1 The Principal indemnifies the Contractor against any third-party claims regarding the Products supplied and Work performed by the Contractor.
- 13.2 The Principal indemnifies the Contractor in particular against any and all claims from third parties regarding portrait rights and/or intellectual property rights in respect of data or material provided by the Principal that are used in the performance of the Assignment.
- 13.3 If the Principal provides the Contractor with data carriers, digital data files or software, the Principal guarantees that the data carriers, digital data files or software are free from any viruses and defects.

### **Article 14 Suspension and dissolution**

- 14.1 The Contractor will have the right to suspend or cease the further performance of the Assignment if the Principal in any way fails to fulfil its payment obligation(s) and/or fails to make the required down payment.
- 14.2 Suspension and/or cessation by the Contractor as described in paragraph 1 of this Article will be without prejudice to the Principal's payment obligation(s). The consequences of suspension and/or cessation will be entirely for the Principal's

account and risk.

- 14.3 In the event of the breach on the part of the Principal in the fulfilment of one of its obligations under the Agreement concluded with the Contractor, the Contractor will give the Principal written notice of default and set a reasonable period within which the Principal may fulfil its obligation after all.
- 14.4 If the Principal is in breach of performance also within that period, the Contractor will have the right to dissolve the Agreement in full or in part, all of this without prejudice to the Contractor's statutory right to claim compensation of the loss incurred.
- 14.5 A shortcoming cannot be held against a party if it is due to a circumstance for which it is not to blame and that is not for its account by law or pursuant to a legal act or generally accepted principle.
- 14.6 Either of the parties may dissolve the agreement in full or in part in writing, without any notice of default, with immediate effect, if the other party – whether or not provisionally – is granted a suspension of payment, if a petition in bankruptcy is filed in respect of the other party or if the other party's business is liquidated or terminated otherwise than for a restart or a merger of businesses. The Contractor will in no event be required on the grounds of dissolution pursuant to this paragraph to refund any moneys already received or to pay any damages.
- 14.7 If the Principal at the moment of the dissolution as referred to in Article 14.6 has already received Products and/or Work in the performance of the Agreement, those Products and/or that Work and the related payment obligation will not be the subject of reversal, unless the Principal proves that the Contractor is in default in respect of those Products and/or that Work. Any amounts that the Contractor has invoiced prior to the dissolution in connection with what it has already performed or delivered in the performance of the Agreement will remain payable in full with due observance of the provisions of the preceding sentence and will fall due immediately at the moment of dissolution.
- 14.8 The Contractor reserves the right to dissolve the agreement in full or in part in the event of such changes of circumstances that it can no longer reasonably be required to perform, or performance would involve risks under criminal law.
- 14.9 In such cases the Contractor must notify the dissolution to the Principal in writing, which will not have the right to claim any damages in such cases.
- 14.10 In the event of full or partial dissolution of an Assignment by the Principal, all the costs incurred will be charged to the Principal in full, increased by the costs involved in the cancellation.

#### **Article 15      Payment and collection**

- 15.1 All payments must be received within 30 (thirty) days after the invoice date, unless otherwise agreed in writing.
- 15.2 If at the end of that period the Contractor has not yet received full payment, the Principal will be in default by operation of law and will owe interest equal to the statutory interest (or commercial interest).
- 15.3 If after a first reminder from the Contractor the term specified here for performance has ended, or if 3 (three) months have passed since the first invoice date and the Contractor has not yet received full payment from the Principal, the Contractor will be free, in addition to claiming the statutory interest referred to above, to increase the agreed sales price by the actual increase in value or price of the Product in the interim. This will apply without prejudice to the Contractor's right to dissolution of the Agreement and compensation of the loss incurred in accordance with the provisions of Article 14.4.

- 15.4 The Contractor will have the right at the start of the Assignment to demand full or partial payment in advance of the total agreed amount. In that case the Contractor will not commence the performance of the Assignment until the Principal has made that down payment. If the Agreement is dissolved on the grounds of non-fulfilment by the Principal of its obligations under the Agreement, or on the grounds of circumstances for which the Principal is to blame (or otherwise to blame), the down payments made by the Principal will not be repaid.
- 15.5 In the event of payment by bank or giro, the date of crediting of the Contractor's bank or giro account will be regarded as the date of payment.
- 15.6 All costs incurred by the Contractor, such as costs of legal proceedings and judicial and extrajudicial costs, including the costs of legal assistance, bailiffs and collection agencies, incurred in connection with late payment, will be payable by the Principal. The extrajudicial costs are set at at least 15% of the invoice amount, subject to a minimum of € 500, without prejudice to the Contractor's right to claim the actual costs if those costs are higher.
- 15.7 In the event of liquidation, bankruptcy, inclusion of the Principal in the statutory debt rescheduling arrangement under the *Wet Schuldsanering Natuurlijke Personen* (Natural Persons Debt Rescheduling Act) or a foreign equivalent of that Act, attachment or suspension of payment on the part of the Principal, the Contractor's claims against the Principal will fall due immediately.
- 15.8 If the Principal's financial position deteriorates after the conclusion of the Agreement but before the supply of the Products and/or the performance of the Work by the Contractor, and the Contractor can reasonably foresee that such deterioration will jeopardise the fulfilment of the obligations by the Principal, the Contractor will have the right to suspend the supply and/or the Work and/or to demand an amendment to the payment conditions.
- 15.9 Payments will first be deducted from the costs, then from the interest due and finally from the principal and the interest then remaining.
- 15.10 The Principal will owe the purchase price even if the Products are lost or if their value is reduced due to an event of force majeure on the part of the Contractor.

#### **Article 16      Retention of title**

- 16.1 The Products supplied by the Contractor will remain the Contractor's property until the moment of full payment by the Principal of any and all amounts that it owes the Contractor. The entire risk in the Products will be borne by the Principal as from the moment of delivery and/or installation.
- 16.2 The Principal must reimburse to the Contractor all the costs that the Contractor must incur in having its ownership right acknowledged and maintained, including the costs of legal assistance on the part of the Contractor.
- 16.3 The Contractor will have the right to take back the Products if it may reasonably be assumed that the Principal will be unable to fulfil its obligations. The above will be without prejudice to the Contractor's other rights arising from the breach in the performance by the Principal, including but not limited to damages.
- 16.4 The Principal will be required to insure the risk of fire, theft and other damage to the Products that have not or not yet been paid for or paid for in full, and to provide evidence of such insurance at the Contractor's request.
- 16.5 The Contractor will not have the right to encumber the Products with any right, including but not limited to a pledge or mortgage, until it has fulfilled all its obligations towards the Contractor.

- 16.6 The Principal will immediately inform the Contractor of any attachment of the Products supplied under the Agreement concluded between the parties, and of any bankruptcy or petition for a suspension of payments on its part.
- 16.7 The Principal will be required immediately to inform the bailiff levying the attachment, the trustee or the administrator of the retention of title made by the Contractor.
- 16.8 In the event of full or partial damage to or loss of the Products supplied by the Contractor, due to any cause whatsoever, before the Principal has fulfilled its obligations arising from the Agreement, the Principal will transfer its rights towards the insurers to the Contractor up to the amounts then payable to the Contractor by the Principal, increased by interest and costs.

#### **Article 17 Right of retention**

- 17.1 If repair work that does not come under the guarantee provisions and/or maintenance work (insofar as applicable) is performed by the Contractor at the Principal's instructions, the Contractor will have the right to suspend the fulfilment of the obligation to surrender the Product until the costs of repair have been paid.

#### **Article 18 Intellectual property**

- 18.1 All possible and other intellectual property rights, including but not limited to patent, drawing, design, trademark and database right and copyrights – that arise from the Assignment and/or apply to the Products, will be vested in the Contractor. Insofar as such a right can be obtained only by means of a filing or registration, only the Contractor will be entitled to do so.
- 18.2 Notwithstanding the provisions of the preceding paragraph, in particular the copyrights regarding the Products will be vested in the Contractor if the Principal or a third party, without any written transfer of copyrights, makes the Products public as originating from it or has them made public in the manner described in Article 8 of the *Auteurswet 1912* (1912 Copyrights Act).
- 18.3 Unless otherwise agreed in writing, the performance of an investigation into the existence of intellectual property rights, including but not limited to patent, drawing, design, trademark and database rights, copyrights and portrait rights of third parties, does not form part of the Assignment.
- 18.4 Unless otherwise agreed in writing, the Contractor may at any time state his name on or remove his name from the Products (or cause the same to be done) in the customary manner and the Principal will not be permitted without prior permission to make the Products public or to multiply them (or cause the same to be done) without stating the Contractor's name, within the meaning of Articles 12 and 13 of the Copyright Act.
- 18.5 If the Contractor so desires, the Products to be multiplied must bear the © symbol, stating the Contractor's name and the year of first publication, or the year and/or number of the design registration.
- 18.6 The Contractor will have the right to protect or secure the Products (or to cause the same to be done) by means of technical or other facilities or measures. The Principal will not be permitted to circumvent, avoid or remove those technical facilities or measures made for the Contractor's benefit (or to cause the same to be done).
- 18.7 The working drawings, illustrations, prototypes, models, moulds, designs, design sketches, films and other materials and electronic or other files are and will remain the Contractor's property, irrespective of whether they have been made available to the Principal and/or third parties.

#### **Article 19 Confidentiality**

- 19.1 The parties will be required to observe confidentiality in respect of all confidential information that they have received from each other or from another source in the context of their Agreement. Information is confidential if that has been stated by the other party or if that arises from the nature of the information. All technical and cost-specific information regarding the Products and/or the Work will be regarded as confidential without exception.
- 19.2 If a party is required pursuant to a statutory provision or a court ruling to provide confidential information to third parties designated by law or by the competent court and in that context cannot invoke a statutory right or a right to refuse to give evidence acknowledged or allowed by the competent court, that party will not be required to pay any damages or compensation and the other party will not be entitled to dissolve the agreement on the grounds of any resulting damage.

#### **Article 20      Disputes**

- 20.1 These General Conditions, all Offers, Assignments and other agreements concluded between the parties will be governed by Dutch law, irrespective of the Principal's domicile and/or nationality and irrespective of the place of delivery of the Products and/or the performance of the Work.
- 20.2 The Court of Amsterdam, the Netherlands, will have exclusive jurisdiction to hear and decide on any disputes arising from these General Conditions and/or Offers and/or Assignments and/or other agreements concluded between the parties.

*Filed with the Chamber of Commerce in Eindhoven under number 17230806 , on 08-08-2008*

*A copy of the full General Conditions will be sent to you free of charge on request.*

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