

## **GENERAL CONDITION XXLLED**

### **1. Applicability**

1. These general terms and conditions apply to - and form an integral part of - every offer, quotation and agreement that pertains to XXLLED, Burg. Visschersstraat 135, 6235EB Ulestraten hereinafter referred to as "supplier".
2. In these general terms and conditions, "the customer" means any (legal) person who orders and / or purchases goods from or through the "supplier".
3. These conditions can only be deviated from, if parties have explicitly agreed in writing.

### **2. Formation and amendment of the agreement**

1. All offers and quotations made by the supplier – in any form - are without obligation unless a term for acceptance is included in the offer. First an agreement is concluded by written (order) confirmation from the supplier or by actual execution by the supplier.
2. All indications in offers, quotations or agreements and the appendices thereto, such as : illustrations, drawings, measurements, weights, yields and colors, and in addition the properties of any test specimens provided are only indicative. Minor deviations are therefore not at the expense and risk of the supplier.
3. Obvious misstatements or errors in the offers from supplier release it from the duty of fulfilment and / or any obligations to pay damages arising therefrom, even after the conclusion of the agreement.

### **3. Execution of the agreement**

1. Delivery takes place in accordance with the applicable Incoterm: Ex Works. If the customer refuses delivery at the agreed time, or fails to provide information or instructions necessary for the delivery, the supplier is entitled to store the products at the expense and risk of the customer.
2. Goods shall be deemed to have been delivered as soon as the supplier has informed the customer that the goods - whether or not yet to be assembled in whole or in part - are ready at the supplier or at a third party to be picked up by the customer or the customer to be sent. From the moment of delivery the delivered goods are at the risk of the customer.
3. If the parties expressly agree that the supplier takes care of the transport of the products, both the costs and the risk of loss or damage during transport are at the expense of the customer.
4. The specification of delivery terms in offers, quotations, agreements or otherwise is always done by the supplier to the best of its knowledge and these terms will be observed as much as possible, but they are not binding.

### **4. Prices**

1. All prices are in euros and are exclusive of sales tax and other levies imposed by the government. Any special extra costs related to the import and / or customs clearance of goods to be delivered by the supplier to the customer are not included in the price and are therefore at the expense of the customer.
2. Exceptions only by agreement and written confirmation of supplier.

3. The amounts shown in the supplier's offers are based on the prices, wages, taxes and other factors relevant to the price level during the offer. If after the (order) confirmation changes occur in one or more of the aforementioned factors, the supplier is entitled to adjust the agreed price accordingly. If, pursuant to the present provision, a price increase is made and the amount increases to more than 10% of the total first agreed amount, the customer has the right to dissolve the agreement in writing within eight days after it has been or could become aware of the price increase.

## **5. Payment**

1. Payment must always take place within 7 days after the invoice date. The customer is not entitled to set off any claim against the supplier against the amounts charged by the supplier.
2. Supplier is always entitled to deliver or invoice delivered goods per partial delivery.
3. Payment shall be effected by payment or transfer to a bank or giro account indicated by the supplier. Supplier always has the right to demand security for the payment or advance payment, both before and after the conclusion of the agreement, such as suspension of the execution of the agreement by the supplier, until the security has been provided and / or the advance payment has been received by the supplier. If payment in advance is refused, the supplier is entitled to dissolve the agreement and the customer is liable for the damage resulting therefrom for the supplier.
4. The Supplier is entitled to suspend the delivery of products that it holds for the customer in connection with the performance of the agreed work until all payments due to the Supplier are complete.
5. If payment does not take place on time, the customer is legally in default without a notice of default being required. From that moment on, the customer shall owe statutory commercial interest to the supplier as referred to in Article 6: 119a of the Netherlands Civil Code.
6. In the event that no payment has yet been received after the expiry of a further payment term stipulated in a written warning, the customer will owe a fine equal to 10% of the principal sum owed by the customer to the supplier, regardless of whether the supplier has incurred extrajudicial collection costs and without prejudice the right of the supplier to claim damages.
7. Without prejudice to the other rights of the supplier pursuant to this article, the customer is obliged to compensate the supplier for the collection costs that the supplier has had to make and which goes beyond sending a single summons or only doing a - not accepted - settlement proposal to gather simple information or to compile the file in the usual way. These costs are determined on the basis of the guidelines applicable at the time to courts in the Netherlands.
8. The applicability of article 6:92 Dutch Civil Code has been excluded with regard to the penalty clause included in this article.

## **6. Guarantee**

1. If the supplier provides the customer with warranty with regard to the work or products it has delivered or will be delivered, it will expressly inform the customer in writing. In the absence of such express written notice, the customer cannot invoke the warranty, without prejudice to his legal rights arising from mandatory provisions.

2. If an appeal to the customer's guarantee would be well-founded, the supplier will repair the products to be delivered -to the choice of supplier- or yet deliver as agreed, unless this would have become demonstrably pointless to the customer. If the supplier informs the customer to proceed with the repair, the customer will return the delivered products to the supplier at its customer's expense and risk.
3. Any supplier's warranty obligations stop, if faults, defects or imperfections with respect to those goods are the result of incorrect, careless or incompetent use or management of delivered goods by the customer or third parties engaged by the customer or if they are the result of one of external causes such as fire or water damage, or if the customer or a third party has made changes to the goods delivered by the supplier without permission from the supplier.

## **7. Complaints**

1. Any complaints about a product delivered by the supplier must be promptly communicated to the supplier by the customer in writing and with motivation. If 30 days after delivery of the products have expired, the customer can no longer be justified, unless the defect at the time of the delivery would not have been perceptible in a careful and timely inspection. In that case, the customer must inform the supplier of the defect in writing and motivated within 5 days after the defect has become known or known to the customer.
2. Without prior written consent, the supplier is not obliged to accept returns from the customer. The receipt of return shipments does not in any case imply acknowledgment by the supplier of the ground for return as stated by the customer. The risk with regard to returned products remains with the customer until the products have been credited by the supplier.
3. If the customer invokes an agreed upon guarantee arrangement but the appeal then turns out to be unjustified, the supplier has the right to charge the customer for the activities and costs of investigation and repair that have resulted from this appeal in accordance with its usual rates, with a minimum of € 100.00.

## **8. Ownership**

1. All products delivered and supplied by the supplier remain the supplier's property under all circumstances, as long as the customer has any claim by the supplier, including in any case the purchase price, extrajudicial costs, interest, penalties and any other claims as referred to in article 3:92, paragraph 2 BW, has not complied.
2. The customer is obliged to store the products delivered under retention of title with due care and as recognizable property of the supplier.
3. The customer is not authorized to pledge the products delivered under retention of title to third parties, to encumber them in any other way or to transfer them in whole or in part, provided that such transfer is carried out in pursuit of the usual business activities, the customer takes place.
4. If the customer fails to comply with its payment obligations towards the supplier or the supplier has good reason to fear that the customer will fail in these obligations, the supplier shall be entitled to take back the goods delivered under retention of title. The customer shall cooperate and give the supplier free access at all times to its premises and / or buildings for the inspection of the goods and / or for exercising the rights of the supplier. After collection, the customer will be credited for the market value, which can in no case be higher than the original price that the customer with the supplier was agreed, less the costs incurred by the supplier from the repossession.

## **9. Dissolution and termination**

1. The customer is deemed to be in default if it does not fulfil any obligation from the agreement or does not fulfil it on time, as well as if the customer does not comply with a written warning to fully comply within a set reasonable period.
2. In the event of default by the customer, the supplier is entitled without any obligation to pay damages, and without prejudice to the rights accruing to it, to dissolve the agreement in whole or in part by means of a written notice to the customer and / or the amount owed by the customer to the supplier. immediately claim the entire amount and / or invoke the retention of title.
3. Supplier is entitled to dissolve the agreement with immediate effect if the customer requests suspension of payments or bankruptcy or is applied for or all or part of its assets are seized. All invoiced amounts will then become immediately due and payable. Supplier will never be liable for any compensation for damages due to this termination.

## **10. Force Majeure**

1. Supplier is not liable if a shortcoming is the result of force majeure. During the period of force majeure, the obligations of the supplier are suspended. If the period in which the fulfilment of the obligations by the supplier is not possible due to force majeure lasts longer than three months, both parties are entitled to dissolve the agreement without judicial intervention, without any obligation to pay compensation in this respect.
2. The term 'force majeure' as referred to in this article is understood in any case to mean unforeseen circumstances, also of an economic nature, which arose out of fault or the fault of the supplier, such as, among other things, serious malfunction in the company, forced downsizing of the production, strikes and exclusions, both at supplier and at supply companies, war, hostilities, state of siege, mobilization, either in the Netherlands or in any other country where any supplier or subcontracting locations are located, delays in transport or delayed or faulty delivery of goods or materials or parts by third parties including supplier suppliers.
3. If at the onset of force majeure the supplier has already partially fulfilled its obligations, or only partially fulfils its obligations, it is entitled to invoice the already delivered or the deliverable part separately and the customer is obliged to pay this invoice as if it concerned a separate agreement.

## **11. Liability**

1. The supplier is only liable for damage the customer suffers, if and to the extent that this damage is the direct result of intent or deliberate recklessness of the supplier's supervisors.
2. The total liability of the supplier shall in all cases be limited to compensation for direct damage, whereby the total amount to be paid by the supplier to the customer on account of any reversal obligations and compensation of damage will never be more than the . stipulated price (excluding VAT) for that agreement.
3. Supplier is not liable for damage, if and insofar the customer has insured itself against the relevant damage or could reasonably have insured it.

## **12. Disputes and applicable law**

1. If there is a lack of clarity regarding the interpretation of one or more provisions of these general terms and conditions, then the interpretation of that provision (s) must take place 'in the spirit' of these general terms and conditions.
2. Dutch law applies to an agreement concluded with the supplier. Foreign legislation and treaties including the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (Vienna Sales Convention) are excluded.
3. Any disputes relating to this agreement or arising from this agreement shall in the first instance be settled by the competent court in the district in which the supplier is established at the time of concluding this agreement.