

## **A. GENERAL TERMS & CONDITIONS CdmZ**

The Dutch version is the original and prevails.  
The English version is a free translation only.

Unless agreed otherwise in writing, in a separate agreement the legal relationship between parties is governed by these General and Particular Terms and Conditions, which the customer declares to have taken note of, and which prevail over the own purchase conditions of the customer.

In accordance with the specific activities developed by CdmZ for his customer, the Particular Conditions, sub B, and additionally sub C will apply.

All offers are without engagement. Taxes are not included in the price. All given prices are based on the wages, National Insurance contributions and material prices, which are in force on the day of the offer. Official price changes, such as the ones provided by legal provisions, automatically involve corresponding changes to the prices established in the contract. This proportional rise may apply to a part of the command, or to the order as a whole.

Tupe clause:

Any proposal and / or quotation the Company submits, is formulated on the express condition that its calculated labour cost will not be adversely affected by labour cost increases as they might result from the safeguarding of employees' rights, such as but not limited to effects resulting from the Council Directive 2001/23/EC of 12 March 2001. Such effects and costs, resulting in higher labour cost levels being incurred thus, affecting our initial cost calculation, will be for account of the customer.

Transportation or shipment of vehicles or goods, by which means of transport whatsoever, occurs at the consignee's risk, even if forwarding is free of charge.

If we act as an intermediary only, the guaranty on the products delivered by us, is identical and limited to the one the supplier or manufacturer granted us.

All our invoices have to be paid in cash at the address mentioned on the invoice, unless agreed differently in writing in a separate document between parties, or if an expiry date is mentioned on the invoice.

No compensation between our invoices and claims is allowed.

### **Payment-securities for CdmZ:**

#### **Good delivered by CdmZ:**

All goods which are not fully paid, remain entirely our unrestricted property, notwithstanding Civil Code, Article 1583; in case of advances, these will serve as compensation for expenses and loss of profit.

b) Goods owned by the principal:

Liens and payment/payment securities: see B,9.

An overdue payment entitles us to cease further deliveries or services and suspend all activities in order not to let credits accumulate any further and this without warning from us.

Late delivery of goods or services (i.e.: on a later date than the one provided for that delivery or service), provided same is not due to bad faith or a major mistake of CdmZ, can never

imply cancellation of the order or breach of contract, nor give right to any compensation whatsoever.

In case of non-payment cash or on the stipulated expiry date, a conventional interest, at the rate (at the date of issuing: 10,50%) stipulated in the Belgian statute dd. 02.08.2002 on 'Bad Debt', will be legally due without warning, counting from the issue date of the invoice or from the provided expiry date. Every started month will be charged for as a full month.

Moreover, the amount of the invoice will legally and without warning be increased with 15% and at least 100,00 €, as fixed and irrevocable indemnification for compensation of cashing expenses of the claim (such as personnel and administration expenses, file management and follow-up, influences on financial management, etc.) in application of Civil Code, Articles 1147 and 1152. This compensation is due on top of interests on overdue payments, recoverable costs of the lawsuit and compensation of material damages and loss of profit. Parties agree explicitly that this compensation is fixed and that, notwithstanding Civil Code, Article 1231, it cannot be changed, even if non-payment is only partial.

Cheques and bills of exchange only become valid after their payment. If there are costs, these are at the expense of the buyer or the customer.

Drawing and/or accepting bills of exchange or other negotiable documents does not imply novation and does not constitute a derogation from the General Terms and Conditions. If bills of exchange are accepted, costs are at the expense of the buyer or the customer.

In case of non-payment at the expiry date of one invoice, the balance due of all other invoices, even if they have not expired, becomes ipso facto immediately payable.

As a mutual guaranty and engagement for quick settlement of disputes, both parties accept that disputes are excepted to be (in as much as possible) resolved by way of mediation, and only after that in accordance with art. 17.

### **Liability, Claims, Time Bar**

CdMZ has an obligation to use fair, reasonable endeavours, but not to guarantee a specific result.

CdMZ is only liable for the direct damages, caused by his proven fault (see B, 5).

Complaints about delivery of goods and services or execution of jobs have to be made at the time of delivery and they must be motivated and confirmed by registered mail within eight (8) days after the date of delivery or realisation. These complaints do not suspend the obligation of payment.

CdMZ will not take out cargo insurance on behalf of the Customer, and will only insure its liability in conformity with these conditions.

Act of God clause: CdMZ shall not be liable for any damages, or losses, or any consequences of whatsoever nature arising from breach of the agreed services, which is caused by an Act of God or Force Majeure, or government or regulatory of authority, by fire, hail, snowfall, flood, inundation or storm or unusual atmospheric circumstances, atmospheric or industrial fall-out, airborne contamination, ordinary wear and tear and deterioration inherent to open-air storage, bird droppings, by war, terrorism, vandalism, riot or civil commotion, strikes or labour disputes or breakdown in or interruption on communications or, in general terms, by any other reason, event or circumstance beyond CdMZ's control or which CdMZ cannot prevent by the exercise of reasonable diligence.

All claims are time barred one (1) year after delivery.

Remarks and restrictions concerning the invoice and/or General Terms and Conditions on it, must be transmitted by registered mail within eight (8) days after the date of the invoice. For settlement of disputes this term is thirty (30) days.

## **Competent Court / Applicable Law**

The legal relationship between the parties is governed by Belgian Law, and the Court of Commerce of Bruges has exclusive jurisdiction.

## **B. PARTICULAR CONDITIONS FOR CARGO HANDLING**

These are the particular conditions applicable if CdMZ is acting in its capacity of cargo handlers, i.e.: in all circumstances, but iro V.E.C.-activities, the conditions sub C will become applicable additionally. The BBGZ conditions quoted hereafter, are applicable. (BBGZ= Professional Organisation of cargo handlers in the ports of Brugge and Zeebrugge)

This is iro the activities of CdMZ for storage, shunting, transport, discharging and loading of vehicles and material/cargo.

Quote, BBGZ conditions:

Except in case of application of more specific conditions, each assignment (whether in writing or not) entrusted to a cargo handler or a company related with the latter is concluded, subject to the imperative stipulations hereinafter.

In these stipulations the following terms respectively mean:

Principal: he who consigns an assignment to the goods processor for processing goods.

Cargo handler: he who accepts and performs the assignments.

Processing: this means moving, unloading, loading, accepting, delivering, sorting, measuring, weighing, counting, treating, sampling, repackaging, guarding, storing and depositing the goods in depots or elsewhere. This enumeration is not limitative, but it is merely illustrative.

Transporting goods in the harbour area through the help of means of transport should be interpreted as processing and not as transport.

The assignment and the responsibility of the cargo handler finishes at the moment that the goods to be processed according to the instructions of the principal are loaded in the ship's perimeter and/or to be deposited on the own premises and from the sheds of the goods processor, even in case when the person, who should receive the goods is not present at the delivery, or does not deliver a receipt as is customary. In case a receipt is required, this should be mentioned in writing and in advance, indicating the person/form or the service that will supply the receipt.

The goods remain on quays and in sheds at the expense and the risk of the receivers, the shippers or their principals, or their appointees. The latter have to cover themselves with insurance, with cession of redress for fire risks.

The principal commits himself to draw the attention of the cargo handler in writing on all the characteristics and qualities of the goods and their wrapping, which might be of any importance for processing and safety.

The cargo handler is only liable for the damage that directly results from a concretely proven own fault and/or from a fault by his appointees. Proof by way of any legal or factual presumption, is excluded. Failing a written declaration of the value of the good to be processed at the moment of the order and after the written acceptance by the goods processor, the liability is restricted in any case to 620,00 € per package and for bulk goods to 124,00 € per ton.

Any recourse against the goods processor expires at the end of the activities.

All costs caused by delay of the goods processor and in spite of his will, will be at the principal's expense.

Bills and invoices of executed jobs as well as rents should be paid within thirty (30) days after the invoice date. In no way payment can be made dependent on special circumstances, or on good execution of the invoiced or other commitments. In case of late payment, by right an interest on overdue payments equal to the discount rate of the Belgian National Bank increased by 2% is due. Moreover, but only after serving notice the due amount should be increased by the costs necessary for the recovery, which is a lump sum fixed on 20% of the first portion of 3.719,00 € with a minimum of 25,00 €; on 10% on the second portion above 3.719,00 € up to 61.974,00 € and on 5% on the portion above 61.974,00 €.

Without prejudice to the provisions in article 5 any legal action against the cargo handler expires after the term of one (1) year, unless a shorter term is provided for in the law.

Right of retention: all claims on the principal constitute an undivided claim; even those that have no bearing on previous assignments and on goods that are not in process anymore. The cargo handler is entitled to keep the goods that are entrusted in his possession and not to deliver them as long as his claim is not satisfied.

Any and all disputes fall exclusively within the competence of the Court of Bruges, even in cases of claims by mediation, plurality of defendants and lawsuits abroad.

In cases of disputes the Dutch text is prevailing.

The present conditions have been deposited at the Kamer voor Koophandel en Nijverheid (the Chamber of Commerce) in Bruges on February 10th, 1989 and came into effect from March 1st, 1989 onwards.

Unquote BBGZ conditions

**NOTE.**

Article B-7 is deleted and is replaced by article A-9+10.

If CdMZ is acting as freight forwarder, then the (latest edition) General Condition of the Belgian Association of freight forwarders is applicable.

**C. CONDITIONS FOR V.E.C. & P.D.I. ACTIVITIES**

These are the particular conditions for V.E.C. and P.D.I. activities, i.e.: additionally applicable, if CdMZ is acting as a V.E.C. (= Vehicle Enhancement Centre), or as a P.D.I. (= Pre Delivery Inspection). Activities such as vehicle inspection, cleaning, modification, repair, painting, accessories, upgrading.

**Delivery.**

Delivery is conditional upon the correct, timely arrival of goods purchased by us or to be provided to us.

Unless agreed differently, all deliveries are "ex-works". CdMZ will not take out cargo insurance.

Exceeding the delivery period will not grant the customer any right to indemnification of whatever nature, or non-respect by the customer of his obligations towards CdMZ.

In case of Act of God, we are entitled to postpone deliveries during the Force Majeure-period. Act of God/Force Majeure will include: strikes, excessive absenteeism due to illness, insufficient through put of parts, fire, actions of authorities, disturbance of production at supplier's, bad performance from suppliers.

In case of Act of God, CdMZ cannot be held liable for any indemnification.

For off spec or colour, which does not exceed minor differences in colour detail, we cannot accept responsibility. Such minor discrepancy will not entitle the customer to refuse delivery.

**Acceptance.**

The customer has a duty to inspect the vehicles delivered by CdMZ immediately. The customer declares having received the vehicles in good, complete condition, unless within two (2) days from delivery CdMZ has been informed that damage or discrepancies have been formed upon delivery.

If a third party (haulier) is involved between CdMZ and the customer, the customer has to make reservations on the waybill in conformity with the CMR Convention. The absence of such reservations will constitute proof in favour of CdMZ that vehicles were delivered in good, complete, condition.

If the customer has not formulated protest within two (2) days after delivery towards CdMZ, this silence will imply acceptance of the goods in good condition. This does not affect the following clause 4 (Guarantee).

In case of dispute iro the date of delivery: the sign off date for taking receipt of the vehicle at CdMZ is applicable. If the customer formulates a claim, he has to leave the vehicle untouched, until CdMZ had the opportunity to inspect the vehicle or the goods and verify the claim, CdMZ has to be granted the possibility of a joint survey. If this right to a joint survey was not observed, the principal's claim is forfeited.

**Transport & handling costs.**

Unless otherwise agreed in writing, the transport of vehicles in connection with a specific order, takes place at the risk and expense of the customer.

Return of vehicles can only take place after agreement of CdMZ.

## **Guarantee.**

V.E.C.-works carried out: principle

V.E.C.-works are carried out as per technical specification and instructions of the customer, this iro of choice of work method and materials. As a rule, modifications will be performed as per strict instructions and procedures dictated by the customer and materials will be used as per customer's choices. The customer has the exclusive liability therefor, CdMZ is only a performer, accordingly CdMZ's responsibility is limited to the actual performance. The guarantee clauses have to be read and construed in this context.

If vehicles show defects within twelve (12) months after delivery (defects resulting from a wrongful workmanship, assembly, mounting, or modification), these vehicles/goods will be repaired or replaced by CdMZ. CdMZ is not liable to pay for whatever additional costs of the customer of whatever nature. All claims against CdMZ will be time barred twelve (12) months after delivery.

In case of dispute iro the date of delivery; the sign-off date for taking receipt of the vehicle at CdMZ is applicable.

CdMZ is not liable to provide any guarantee, if the customer (or his end user) has made himself any modifications or repairs, or has used the vehicle or goods in an abnormal way or for an abnormal purpose.

If the customer intends to invoke these guarantee clauses, it is his duty to report (in writing) the nature of the discovered deficiencies within eight (8) days after he noted these deficiencies, or reasonably should have noted it.

The vehicle(s) is (are) to be left in an unchanged condition until CdMZ had the possibility to investigate the complaint. If not, any claim will become nul and void.

The cost for returning the vehicles to CdMZ is always for account of the customer.

The travelling expenses and labour cost are always for the account of the customer.

The application to the guarantee will not trigger a new guarantee period, unless if otherwise agreed in writing.

We reserve the right to make the fulfilment of our obligations under the guarantee conditional upon the complete payment of our invoices, and the fulfilment by the customer of his obligations.

Vehicles, for which the guarantee is invoked, will have to be presented and collected afterwards at our premises as per agreed practical arrangements. If the customer does not respect these arrangements then CdMZ is entitled to consider his claim under the guarantee as being forfeited.

**4.10. The liability limit of CdMZ for V.E.C.-activities is:**

- as a maximum: the actual repair cost, for a repair at/by CdMZ at their premises;

**4.11. Recall by the customer is a commercial decision by the customer, and as such cannot be opposed to CdMZ.**

A recourse action against CdMZ is only open in case of proven gross negligence, and in that case is limited to maximum:

per vehicle/unit: the cost that was initially invoiced by CdMZ to the customer for the V.E.C.-works carried out on that unit; this is the absolute maximum per vehicle;

in the aggregate: for a series of vehicles/units subject to a recall for the same cause: the amount is as defined sub 1 x number of vehicles, and limited to a maximum of 100.000,00 €.

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