

**CdMP-Purfleet Ltd**  
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## **A. GENERAL TERMS & CONDITIONS CDMP-PURFLEET LTD**

1. Unless agreed otherwise in writing, in a separate agreement, the legal and contractual relationship between the 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.  
If CdMP-Purfleet Ltd provides certain services which are qualified as those in the nature of forwarding, then additionally the BIFA Conditions (2005 Edition, or the latest version) will apply.
2. If these conditions are made available in other languages than English, the English version is to be considered as the original one in case of discrepancy in wording / dispute.
- 3.1. 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.  
Offers and quotations are valid for 30 days only.
- 3.2. Invoice-terms:  
All invoices (unless stipulated otherwise on the invoice, or in a separate written contract) are to be paid promptly (i.e. at the latest within 8 days).  
Bad debt: interests and contractual indemnity for business disturbance: any sums remaining unpaid at the expiry of the payment-period (6a) shall automatically, and without prior notice, bear interest thereafter and interest will be calculated retro actively starting with the invoice date.  
Such interest to accrue from day-to-day at a rate of interest fixed by the ECB (European Central Bank). Calculation method: as it was determined in the Belgian Statute of August 2<sup>nd</sup>, 2002, which is bringing into force the European directive 2000/35/EG of June 29<sup>th</sup>, 2000, increased by 7 percent points, and rounded upwards up till the higher halve percent-point.  
However the applicable interest rate shall never be less than 12% per annum, whatever the highest.  
If within a term of 15 days, following the putting-on-notice, by means of a registered letter, the debtor still fails to pay, then the amount claimed will be increased "de iure" with 10% extra, with a minimum of 500 Euro and a maximum of 50.000 Euro, by way of a lumpsum – indemnification for additional administration, follow-up of debtor position (credit control services) and disturbance of trade.

### 3.3. Credit facilities:

If (deviating from the general principle that all invoices are to be paid promptly as stipulated above) the Company has exceptionally granted payment facilities in writing (e.g. a 30 days payment term granted on the invoice itself, or in a separate written agreement a customer-specific payment term and/or credit limit were granted) then the benefit of such credit facilities is given under the dissolving condition of strict observance and compliance by the Customer to these credit terms.

Non-compliance with the credit terms as granted (i.e.: general ones mentioned on invoices, or specific agreements), and regardless the nature/magnitude of the breach, (such as e.g. exceeding the payment term with 1 day, or exceeding the credit limit with 1 €), will be sanctioned, without prior notice, with the automatic cancellation and withdrawal of the granted credit facility as a whole, and accordingly then all outstanding invoices will ipso facto become due at once, and interests thereon will be due as from the issuing date of the invoice(s). Payment terms mentioned on the invoices shall then become null and void and shall read "prompt payment" instead.

If no such prompt payment is received, then the Company is entitled to exercise all securities, liens etc. as stipulated elsewhere in the present Terms & Conditions and to stop performance immediately.

If and when credit terms have been breached and accordingly automatic cancellation has taken place, then, - once the Customer has rectified his breach of contract - credit terms can only be reinstated in writing, and such reinstatement is to be granted/signed by the competent staff of the Company.

Pending such written reinstatement, further bookings/shipments/billings cannot be construed as a tacit waiver of this automatic cancellation of credit facilities.

Credit facilities (payment terms and/or a monetary limit) are a discretionary favour, not a "right", and are always granted on a temporary 'ad hoc' basis and evaluation, for an undetermined period, and taking into consideration available solvency data and market information. Accordingly credit facilities are subject to constant review, can be reformulated or made subject to additional security being put up, and/or can be cancelled (such decisions will be notified in writing) at any time, without any obligation of the Company to motivate this decision, and no indemnity whatsoever shall be due in that respect.

### 3.4. Transfer of employment / TUPE

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.

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

5. 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.

6. 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.

7. Payment-securities for CdMP-Purfleet Ltd

- a) Good delivered by CdMP-Purfleet Ltd:  
All goods which are not fully paid, remain entirely our unrestricted property. In case of advances, these will serve as compensation for expenses and loss of profit.
- b) Goods owned by the customer:  
Rights 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. CdMP-Purfleet Ltd is entitled to exercise a lien and to keep the goods that are entrusted in his possession and not to deliver them as long as his claim is not satisfied.
- c) All companies/legal entities being a member of the Cobelfret Group of Companies (the link with the Cobelfret group will be established on bases of the relevant company chart) will on basis of reciprocity be entitled to make use and invoke the payment securities and liens stipulated in the conditions of other group-companies, and will be entitled to enforce securities and liens upon goods held within the group, i.e. under the custody of other group-companies, regardless whether these goods are on the group's vessels and crafts, trucks, trailers, containers, premises or terminals.
- d) Cross default clause in favour of CdMP-Purfleet Ltd and his Group.  
CdMP-Purfleet Ltd is a member of a Group: the Cobelfret Group of Companies (C.G.O.C.).  
A default or breach of any nature whatsoever by the Customer of any of its obligations under the present Conditions towards CdMP-Purfleet Ltd, will be considered to constitute a material breach of its obligations (of any nature whatsoever) towards each entity of the C.G.O.C. and will entitle any entity of the C.G.O.C. - immediately and without further notice - to suspend or terminate any of its contractual obligations towards the Customer, to trigger/accelerate its contractual rights vis-à-vis such Customer and/or to enforce any security or surety granted to it by the Customer. Such breach will automatically cancel and render all credit facilities null and void and accordingly will make each outstanding invoice become due immediately.  
If the Customer is a part of a Group, a default or breach committed by any entity of the Customer's Group towards any entity of the C.G.O.C. will be considered a breach by the Customer under the present Conditions and will give rise to the right of any entity of the C.G.O.C. as described in the preceding paragraph.  
In addition, in the case the Customer is a part of a Group, the Customer hereby guarantees for the benefit of any specific Company involved under the present Conditions or any other relevant entity of the C.G.O.C. (as the case may be) the due and punctual performance by each and every entity of the Customer's Group of any and all of such entity's obligations towards the relevant entity of the C.G.O.C.  
CdMP-Purfleet Ltd can enforce bad debts against assets of any company in the Customer's Group, which has received these Terms and Conditions and – based thereupon – has transacted business with the C.G.O.C.  
Any breach by the Customer/the Customer's Group towards any entity of the C.G.O.C. will automatically render all credit lines, payment facilities and payment terms granted to any company of the Customer's Group under the present conditions null and void vis-à-vis any entity of the Customer's Group: the payment of all services rendered and invoiced by any entity in the C.G.O.C. will then become due with immediate effect.

8. 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.
9. 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

- CdMP-Purfleet Ltd, can never imply cancellation of the order or breach of contract, nor give right to any compensation whatsoever.
10. In case of non-payment cash or on the stipulated expiry date, interests 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.
  11. The customer shall pay to the Company in cash, or as otherwise agreed, all sums when due, immediately and without reduction or deferment on account of any claim, counterclaim or set-off. The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.
  12. No payment by cheque.
  13. 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.
  14. In case of non-payment at the expiry date of one singular invoice, the balance due of all other invoices, even if they have not expired, becomes ipso facto immediately payable. All credit terms are instantly revoked and cancelled for all outstanding amounts, in case of (partial) overdue debt.
  15. As a mutual guaranty and engagement for quick settlement of disputes, both parties accept that disputes are to be (in as much as possible) resolved by way of mediation, and only after such attempt will be litigated in accordance with the jurisdiction clause sub part "C".
  16. Complaints about delivery of goods and services or execution of works have to be made at the time of delivery and they must be introduced and motivated by registered mail within eight (8) days after the date of delivery or realisation. These complaints do not suspend the obligation of payment. All claims are time barred one (1) year after delivery.
  17. 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.
  18. General Principles of Liability / Time Bar  
CdMP-Purfleet Ltd has an obligation to use fair, reasonable endeavours, but not to guarantee a specific result.  
CdMP-Purfleet Ltd is only liable for the direct damages, caused by its proven fault or negligence. CdMP-Purfleet Ltd is only liable for the damage that directly results from a positively 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 unit / package, or unless specified differently in part "B".

**Act of God:**

Any damage or loss caused, or any delay or failure of CdMP-Purfleet Ltd to perform its obligations, shall be excused if, and to the extent that it is caused by an event or occurrence beyond the reasonable control of CdMP-Purfleet Ltd and without its own fault or negligence, such as, by way of example and not by way of limitation 'Act of God' or 'Force Majeure', actions by governmental authority (whether valid or invalid), fire, floods, windstorms, explosions, riots, natural disasters, industrial fall out and airborne contamination, insufficient through put of parts, disturbance of production of suppliers, bad performance of suppliers, wars, terrorism, sabotage, labour problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labour equipment or transportation, or court injunction or order; provided that written notice of such delay, including the anticipated duration of the delay, shall be given within ten (10 days).

Any recourse against the goods processor expires at the end of the activities. Without prejudice to this provision, any legal action against CdMP-Purfleet expires after the term of one (1) year, unless a shorter term is provided for in the law.

## **B. PARTICULAR CONDITIONS**

1. Except in case of application of more specific conditions, or a separate written contract, each assignment for VEC/PDI works and generally all vehicle related performances (whether in writing or not) entrusted to CdMR-Purfleet Ltd or a company related with the latter is concluded subject to the imperative provisions hereinafter.
2. In these provisions 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.
3. 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.

4. 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.
5. All costs caused by delay of the goods processor and in spite of his will, will be at the principal's expense.
6. Delivery.
  - 6.1 Delivery is conditional upon the correct, timely arrival of goods purchased by us or to be provided to us.
  - 6.2 Unless agreed differently, all deliveries are "ex-works". CdMP-Purfleet Ltd will not take out cargo insurance.
  - 6.3 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 CdMP-Purfleet Ltd.
  - 6.4 In case of Act of God, we are exempt from liability for any damages or losses arising therefrom, and we are entitled to postpone deliveries and performances of services during the Force Majeure-period.
  - 6.5 In case of Act of God, CdMP-Purfleet Ltd cannot be held liable for any indemnification.
  - 6.6 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.

7. Acceptance.

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

If a third party (haulier or other carrier) is involved between CdMP-Purfleet Ltd and the customer, the customer has to make reservations (upon receipt of the vehicles into the custody of this carrier) on the waybill in conformity with the CMR Convention. The absence of such reservations will constitute proof in favour of CdMP-Purfleet Ltd that the vehicles were delivered in good, complete condition.

If the customer has not formulated protest within two (2) days after delivery towards CdMP-Purfleet Ltd, this silence will imply acceptance of the goods in good condition. This does not affect the following clause 9 (Guarantee).

In case of dispute in respect of the date of delivery: the sign off date for taking receipt of the vehicle at CdMP-Purfleet Ltd is applicable. If the customer formulates a claim, he has to leave the vehicle untouched, until CdMP-Purfleet Ltd has had the opportunity to inspect the vehicle or the goods and verify the claim. CdMP-Purfleet Ltd 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.

8. Transport & handling costs.

8.1 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.

8.2 Return of vehicles can only take place after agreement of CdMP-Purfleet Ltd.

9. Guarantee.

V.E.C.-works carried out:

V.E.C.-works are carried out as per technical specification and working instructions of the customer, this in respect 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 therefore, CdMP-Purfleet Ltd is only a performer, accordingly CdMP-Purfleet Ltd's responsibility is limited to the actual performance. The guarantee clauses have to be read and construed in this context.

9.1 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 CdMP-Purfleet Ltd itself, unless agreed otherwise. CdMP-Purfleet Ltd is not liable to pay for whatever additional costs of the customer of whatever nature. All claims against CdMP-Purfleet Ltd will be time barred twelve (12) months after delivery.

9.2 In case of dispute in respect of the date of delivery; the sign-off date for taking receipt of the vehicle at CdMP-Purfleet Ltd is applicable.

9.3 CdMP-Purfleet Ltd 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.

9.4 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 CdMP-Purfleet Ltd had the possibility to investigate the complaint. If not, any claim will become null and void.

9.5 The cost of returning the vehicles to CdMP-Purfleet Ltd is always for account of the customer.

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

9.7 The application to the guarantee will not trigger a new guarantee period, unless

- if otherwise agreed in writing.
- 9.8 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.
- 9.9 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 requirements and claims procedure, then CdMP-Purfleet Ltd is entitled to consider his potential claim under the guarantee as being forfeited.
- 9.10 The liability limit of CdMP-Purfleet Ltd for V.E.C.-activities is:  
- as a maximum: the actual repair cost, for a repair at/by CdMP-Purfleet Ltd at their premises;
- 9.11 Recall by the customer is a commercial decision by the customer, and as such cannot be opposed to CdMP-Purfleet Ltd. A recourse action against CdMP-Purfleet Ltd is only open in case of proven gross negligence, and in that case is limited to maximum:
- a) per vehicle/unit: the cost that was initially invoiced by CdMP-Purfleet Ltd to the customer for the V.E.C.-works carried out on that unit; this is the absolute maximum per vehicle;
- b) 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 €

## **C. JURISDICTION AND LAW**

These conditions and any act or contract to which they apply shall be governed by English law and any dispute arising out of any act or contracts to which these Conditions apply shall be subject to the exclusive jurisdiction of the English courts. For recovery of "bad debt", CdMP-Purfleet Ltd is entitled to issue the proceedings in any appropriate jurisdiction of their choice, at their discretion, e.g. in the jurisdiction where the customer has either his principal seat of business, or a subsidiary, or where debtor's assets are available for executing the judgement.