

Terms and conditions

DAMA Truckbekleding

Article 1: Definitions

The present general conditions of sale and delivery use the following definitions:

- 'Contractor' or 'DAMA': DAMA Truckbekleding of Sittard;
- 'Customer': the (legal) entity entrusting a task to DAMA or placing an order with DAMA or with whom DAMA concludes an agreement.

Article 2: Applicability

1. The present terms and conditions shall apply to all tenders, legal relationships, quotes and agreements in which DAMA supplies goods and/or services of any kind whatsoever.
2. Departures from, and additions to, the present terms and conditions shall be valid only if agreed expressly in writing.
3. By placing an order, the customer accepts the present terms and conditions. DAMA may amend the said terms and conditions. The amended conditions shall come into force as soon as the customer places a new order.
4. DAMA expressly rejects the applicability of third-party conditions of sale, delivery conditions or other conditions.
5. The present terms and conditions shall equally apply where DAMA requires to call upon third parties for the performance of the agreement.
6. Should any clause in the present terms and conditions be or become invalid, the remaining clauses in the present terms and conditions shall remain fully in force, and the parties shall be required to make every effort to agree

on a replacement clause which is valid and which reflects the original intentions of the parties as closely as possible.

7. DAMA may at any time impose (more detailed) requirements on communications between parties or the performance of legal actions by email.

Article 3: Tenders

1. All tenders and other statements by DAMA are non-binding unless indicated otherwise by DAMA expressly in writing. The customer shall vouch for the accuracy and completeness of the demands, specifications and other data provided to DAMA by it or on its behalf, on which DAMA bases its tender.
2. Tenders by DAMA shall not automatically also be valid for subsequent orders.
3. DAMA cannot be held to its tender if the customer should have understood that the tender or part of the tender contained an obvious mistake or error.

Article 4: Formation of agreements

1. Agreements for the supply of goods and/or services shall be binding upon DAMA only after written confirmation or confirmation by email. Actual implementation by DAMA or by a (pro-forma) invoice sent (by email) by DAMA shall count as written confirmation of the offer.
2. If the accuracy of the written confirmation is not disputed within 8 days in writing or by email, it shall be binding upon DAMA and the customer.
3. Additions, changes, further agreements and/or cancellations shall

be valid only if agreed in writing or by email.

4. DAMA reserves the right at any time to refuse assignments and/or orders without giving any grounds.
5. Cancellation of the agreement is not possible.

Article 5: Price

1. Unless indicated to the contrary, all prices are expressed in euros, net of value-added tax (VAT), other levies which may be imposed by the government, packaging costs, transport costs and transport insurance.
2. If, after the date on which the agreement is formed, one or more factors in the cost price rise or if there is an increase in export duties or other duties or taxes or an increase in the rate of exchange of the euro against the foreign currency in which DAMA purchases the goods, even if this happens because of foreseeable circumstances, DAMA shall be entitled to increase the agreed price correspondingly and the customer shall not have the right to terminate the agreement. If part of the agreed goods and/or services have already been delivered, the provisions of the present clause shall nevertheless apply with regard to the goods and/or services still to be delivered by DAMA.
3. If the customer fails to pay the sums owing in a timely manner, the customer shall, without the need for any warning or service of default, be liable to pay legal interest on the outstanding sum. If, after a warning or legal notice of default, the customer fails to settle the claim, DAMA may refer the claim, in which case the customer will then be liable, in

addition to the total sum then owing, to reimburse all judicial and extrajudicial costs, including costs calculated by external experts as well as the costs determined at law.

Article 6: Payment

1. All payments must be received by DAMA within the payment period stated on the invoice, unless otherwise agreed in writing.
2. Invoices are paid by the customer in accordance with the payment conditions set out in the invoice. Unless specifically stipulated, the customer shall pay within 14 days of the invoice date. The customer shall not be entitled to offset or suspend a payment.
3. On the expiry of the payment deadline, the other party shall automatically be in default, and DAMA shall be entitled to calculate interest of 1% per month on the outstanding payment as from the ultimate payment deadline until the day on which full settlement is made. For this purpose, part of a month shall count as a whole month.
4. If the due date is not respected, all the judicial and extrajudicial costs of whatever kind that DAMA has to incur to secure payment of its claim(s) against the other party shall be payable by the defaulting other party. Extrajudicial costs are estimated at 15% of the principal, with a minimum of € 125.00. If DAMA demonstrates that it has incurred higher costs, which were reasonably necessary, those costs shall also be taken into consideration for reimbursement.
5. In the event that the customer does not comply in full with its payment obligations, or is late in doing so,

including the payment of interest on late payment and costs, then DAMA shall be entitled, on or after the formation of the agreement, before providing (further) services, to demand an advance from the customer. If the customer and DAMA have agreed that an advance is to be paid, then DAMA will provide no services until the advance has been paid to DAMA.

Article 7: Despatch and delivery

1. The provisions in the present article shall apply where the agreement concluded between DAMA and the customer contains no provisions to a different effect.
2. If goods are available from stock, they will be despatched directly after the order is received. DAMA will charge delivery costs for the despatch of goods ordered.
3. DAMA will determine how goods will be despatched and packaged, unless the customer instructs DAMA otherwise in good time in writing. Packaging is not taken back by DAMA.
4. If goods are despatched by DAMA's own carriers or by hauliers working on its behalf, delivery shall be conducted by handing the goods over at the postal address notified by the customer to DAMA and tendering them to the physical person present at the delivery address.
5. Unless the goods are collected by the customer from DAMA's warehouse, they shall be carried using a means of transport of DAMA's choice. If the customer demands another means of transport, extra costs for this shall be payable by the latter.
6. If the goods are presented in vain at the delivery address or dropped off at

the post office, the risk shall pass to the customer at the point at which the goods were presented in vain or dropped off at the post office.

7. Carriage costs are payable by the customer, unless the carriage costs have been factored into the price, in which case DAMA will indicate this explicitly.
8. In cases where goods are collected by the customer, delivery shall occur as soon as the goods leave the warehouse or the business premises of DAMA. In such cases, the goods shall always be carried at the customer's own risk, even where the (transport) documents may suggest otherwise.
9. The customer shall sign for receipt. This will only not be the case if the customer has grounds for refusal under the law.
10. If the customer refuses to accept the delivery or is negligent in the provision of information or instructions necessary for the delivery, the articles shall be stored at the customer's risk.
11. DAMA's obligation of delivery shall be satisfied, unless proven otherwise, as soon as the goods delivered by DAMA are presented to the customer. In the case of home delivery, the carrier's report shall serve as full proof that the delivery has been presented, unless proven otherwise.
12. In the event of refusal of the goods presented, return carriage and storage costs, as well as the risk of damage or degradation of the goods refused, shall pass entirely to the customer, unless the customer has sound grounds for invoking the right to be released from the purchase or the replacement of the good.

Article 8: Delivery deadlines

1. All (delivery) deadlines stated or agreed by DAMA are drawn up to the best of its knowledge on the basis of the information known to DAMA when entering into the agreement.
2. The delivery deadlines given by DAMA are always approximate and are not fixed deadlines, unless otherwise expressly agreed in writing. The delivery deadline begins once all the necessary information is in DAMA's possession and the invoice, or at least the advance, is paid, if and to the extent that such has been agreed.
3. DAMA will make every effort to take account as far as possible of (delivery) deadlines in agreements. The mere fact of missing a stated or agreed (delivery) deadline does not place DAMA in default. In all cases, on that account also if the parties have expressly agreed a maximum deadline in writing, DAMA shall be in default for exceeding a deadline only after the customer has served written notice to it.
4. DAMA shall not be bound by (delivery) deadlines, whether maximum or otherwise, which could not be met because of circumstances outside its control which have arisen after the agreement was entered into. Similarly, DAMA can likewise not be bound by a delivery deadline, whether maximum or otherwise, if the parties have agreed a change to the content or scale of the agreement (extra work, changes to specifications, etc.). If a deadline looks at risk of being missed, DAMA and the customer shall consult each other as quickly as possible.
5. DAMA shall be obliged to take the stated delivery deadline into account as far as possible, but shall not be liable for the consequences of missed deadlines which DAMA could not reasonably have foreseen. The fact of such deadlines being missed shall not oblige DAMA to pay any compensation, neither shall it give the customer the right to cancel the order or refuse to accept delivery.
6. Notwithstanding the provisions set out in the present terms and conditions with regard to the extension of the delivery deadline, the delivery deadline shall be extended by the duration of the delay arising from DAMA's side as a result of failure by the customer to satisfy any of the obligations arising from the agreement or collaboration to be required from it for the purposes of the implementation of the agreement.
7. DAMA shall be entitled to fulfil the agreement by means of partial deliveries, unless otherwise agreed explicitly in writing, and/or the nature of the agreement itself does not allow.

Article 9: Risk and transfer of ownership

1. After the goods concerned have left DAMA's warehouse, or actually after the goods are classed as having been delivered within the meaning of Article 7, the customer shall carry the risk for all direct and indirect damage which may occur to or through the said goods.
2. The goods shall be transported at DAMA's risk until they have been delivered to the customer. Returns from the customer shall be transported at the latter's risk.
3. Damage to goods caused by destruction of packaging shall be at the customer's risk.
4. If the customer sends DAMA goods for processing, repair, inspection or other purposes, such goods shall remain,

while with DAMA, at the customer's risk. The customer must make its own arrangements for such goods to be adequately insured.

Article 10: Title reservation, specification, retention and collateral

1. All goods supplied to the customer shall remain the property of DAMA until all sums owing by the customer for the goods delivered or to be delivered, or activities carried out or to be carried out, as well as any further sums, including fines, interest and costs, owing by the customer because of failings in the payment obligation have been paid in full to DAMA.
2. Until ownership has been transferred, the customer may not charge, sell, deliver or dispose of the goods. In the event of failure to comply with the payment obligation by the customer, DAMA shall be entitled to take back the goods, or have them taken back.

Article 11: Guarantees

1. Unless explicitly stated otherwise in the agreement and/or in the guarantees and service certificate in respect of the relevant good, and notwithstanding the restrictions imposed hereinafter, DAMA shall guarantee both the soundness of the good delivered by it and the quality of the material used and/or delivered for it for a period of 12 months from the date of delivery.
2. DAMA offers no more extensive guarantee on delivered goods than the guarantee (conditions) of the manufacturer of the said goods, although without affecting the rights of the customer stemming from legally binding provisions.

3. DAMA shall never be liable for the ultimate suitability of the goods for each individual application by the customer, or for any advice with regard to the use or application of goods.
4. Defects falling under the guarantee set out in indent 1 hereof shall be rectified by DAMA at no cost via repair or replacement of the defective goods.
5. The guarantee set out in indent 1 above shall in no case cover defects which arise in, or are partly or wholly the result of:
 - a. non-compliance with requirements and/or instructions associated by DAMA with the use of the goods delivered, or the intended normal use;
 - b. normal wear and tear and changes of colour;
 - c. the applicability of any government provision with regard to the nature or quality of the materials used;
 - d. materials or goods used in agreement with the customer;
 - e. materials, goods, working methods and constructions, to the extent applied at the customer's explicit instructions, and materials or goods supplied by the customer or on its behalf;
 - f. applications, processing or repairs carried out by the customer or third parties on goods and/or services delivered;
 - g. exposure to abnormal circumstances or other careless handling by the customer or third parties.
6. If the customer does not satisfy any obligation arising for it out of the agreement concluded with DAMA, or out of an associated agreement, or does not satisfy it properly or does not satisfy it in a timely manner, DAMA shall not be bound to offer any

guarantee, however it may be named, with regard to any of those agreements.

7. If the customer proceeds to repair or carry out any other activity with regard to the goods delivered, without prior written approval from DAMA, or if it has such activities carried out for it, then DAMA shall carry no liability under the guarantee.

Article 12: Claims and complaint deadlines

1. The deliverable shall be deemed to comply with the agreement unless proven otherwise.
2. If the customer successfully shows that what is delivered fails to correspond to the agreement, the customer must report this to DAMA as quickly as possible after the discovery of the defect or after it should reasonably have discovered the defect, and in any case within no more than 7 days of completion of the agreement. Any oral report must be confirmed to DAMA direct in writing.
3. The delivery must be complete, and the customer must allow DAMA the opportunity to inspect the goods.
4. The customer must at all times take care to preserve goods.
5. Returns of goods delivered will be accepted only after prior written consent from DAMA.
6. Minor deviations in the goods delivered in terms of dimensions, colour, capacity, shape and packaging shall never serve as grounds for the customer to complain as set out in Article 13.2.

Article 13: Liability of DAMA: disclaimer

1. Aside from DAMA's liability in virtue of binding legal stipulations and the

general rules of reasonableness and fairness, DAMA shall not be obliged to make any compensation for damage of any kind, whether direct or indirect, including business damage to moveable or immovable goods or persons, whether belonging to the customer or to third parties.

2. DAMA shall not be liable for damage caused by incompetent use of the good delivered or by use of the good delivered for a purpose other than that for which it is objectively suitable.
3. Aside from cover under its liability insurance, DAMA's liability shall at all times be restricted to the net invoice value of goods delivered, or at least to that part of the assignment to which the liability attaches.
4. Any right to compensation shall arise only if the customer always reports the damage to DAMA as soon as it occurs. Claims against DAMA for compensation shall lapse automatically after 24 months from the claim.

Article 14: Suspension and dissolution

1. In the event of compliance with the agreement being prevented by 'force majeure', DAMA shall be justified either in suspending the performance of the agreement for a maximum of 6 months, or (partially) dissolving the agreement without DAMA being required to pay any compensation.
2. If the customer fails to perform any obligation arising for it from the agreement concluded with DAMA or associated agreements, if it performs them improperly or not in a timely manner, or if there are sound grounds to fear that the customer is not in a position, or will not be in a position, to honour its contractual obligations vis-

à-vis DAMA, and in the event of bankruptcy, suspension of payment, shutdown, liquidation or (partial) transfer of the undertaking from the customer, including the transfer of a significant part of its claims, and if an attachment is applied to the customer, and the said attachment is not lifted within a reasonably short period, then DAMA shall be justified, without serving notice, in suspending the performance of each such agreement for a maximum of 6 months, or (partially) dissolving them, without DAMA being required to pay any compensation and without prejudice to other rights falling to DAMA.

3. If circumstances occur with regard to persons and/or materials which DAMA uses or normally uses in the performance of the agreement, which are of such a kind as to render the performance of the agreement impossible or make it so difficult and/or unreasonably expensive that compliance with it can no longer reasonably be demanded, DAMA shall be entitled to dissolve the agreement.

Article 15: Confidentiality

1. The parties undertake to take sufficient measures to ensure confidentiality with regard to each

other's confidential data which may become known to them in the performance of the agreement.

Article 16: Applicable law

1. All tenders and agreements or the entire legal relationship between DAMA and another party shall be exclusively governed by the law of the Netherlands.
2. If, and to the extent that, any part of any clause in the present terms and conditions should seem to be at odds with any binding provisions of national or international law, it shall be deemed not to have been agreed, and the said terms and conditions shall otherwise be binding upon the parties.

Article 17: Disputes

1. If any disputes arise, the parties shall endeavour in the first instance to achieve an amicable solution.
2. If a dispute is referred to a legal body, the court of Limburg, location Maastricht shall have sole jurisdiction. DAMA reserves the right, as appropriate, to submit the dispute to the judge at the customer's place of business.