

Terms and Conditions - v5

LDPA Led Displays Parts & Accessories

15-10-2019

GENERAL TERMS & CONDITIONS OF LDPA LED DISPLAY PARTS & ACCESSORIES BV, WITH ITS REGISTERED OFFICE AND ITS PRINCIPAL PLACE OF BUSINESS AT DIJKSTRAAT 2, HOOGELON, THE NETHERLANDS.

Article 1. Applicability of these conditions

1.1 These conditions of LDPA Led Display Parts & Accessories B.V., hereinafter referred to as: "contractor" apply to all quotations to and sales agreements with third parties. Changes to any agreement between contractor and third parties shall only be valid if agreed in writing between contractor and third parties, hereinafter referred to as principal.

1.2 The applicability of general terms and conditions of the principal is hereby expressly excluded, with the exception of written approval of contractor.

1.3 All quotations have a term of validity of one month, unless the quotation specifies otherwise.

1.4 All quotations are submitted subject to unforeseen circumstances – at the discretion of contractor. All additional costs arising from these circumstances are for the account of the principal and will be invoiced separately.

Article 2. Agreement

2.1 Oral agreements shall only be valid if confirmed in writing by contractor. These agreements are also subject to these general trading conditions.

2.2 For contractor, there will only be obligations arising from agreements after written confirmation by contractor of the conclusion of the specific agreement. Any arrangements or agreements with subordinate members of his staff shall not be binding upon contractor, insofar as such agreements are not confirmed in writing by an authorised employee, according to the commercial register, or by the contractor itself. In this context, subordinate members of staff are construed by contractor as all employees and associates who are not listed in the commercial register as director or authorised representative.

2.3 Each agreement concluded by or with contractor shall be dissolved by operation of law, without requiring any notice of termination, with the obligation on the part of the principal to compensate all damage, costs and interest suffered by contractor, if the principal:

- a. dies or decides to wind up his company or business operations;
- b. applies for a moratorium of payments or his bankruptcy is applied for or declared;
- c. is attached on his movable and/or immovable properties;
- d. upon entering into the agreement has made an incorrect or incomplete statement of facts, or has concealed circumstances known to him, insofar as said incorrectnesses, incompletenesses or concealments are of such a nature that contractor would not have concluded the agreement, or would not have concluded the agreement in the same manner, had he known the actual circumstances.

Article 3. Quality and description

The contractor undertakes in respect of the principal to deliver the goods in conformity with the description, quality and quantity as further described in the quotation, or as is indicated in the purchase agreement.

Article 4. Packaging, shipping and delivery

4.1 De contractor undertakes in respect of the principal to properly package the goods to be delivered, and to secure the goods in such a way that they reach their destination in good condition with normal transport conditions. The principal takes out the customary transport insurance.

4.2 Unless agreed otherwise, deliveries are made from the warehouse in The Netherlands, payment before delivery.

4.3 An agreed delivery time is not a strict deadline.

Article 5. Retention of title and purchasing risk

5.1 Contractor reserves title to the delivered goods until the full payment of the purchase price, as well as of all the additional costs, and all outstanding receivables regarding previous agreements, regardless of whether these are already due and payable. The title and risk of the goods shall transfer to the principal in case of delivery and full payment as described above.

5.2 During the time that the goods are not yet the property of the principal, the principal is not authorised to alienate these goods, or to encumber the goods in any (other) manner, and the principal is obliged to manage the goods with due and proper care.

5.3 If there is reasonable doubt on the part of the contractor with regard to the payment capacity of the principal, the contractor is entitled to postpone the delivery of the ordered goods until the principal has offered sufficient security, in the opinion of the contractor, for payment. The principal is liable for any damage suffered by the contractor due to this delayed delivery.

5.4 Contractor, or his authorised agent, shall at all times be entitled to enter the premises where the delivered goods are located, as long as the purchase price has not been paid. The principal undertakes to lend his cooperation to this, and hereby authorises the contractor or his authorised representative to carry this out.

Article 6. Right of retention

Contractor is entitled to retain all matters or other goods which the contractor has in his possession of the principal until the principal has paid all he owes the contractor by virtue of the agreement (or due to the non-fulfilment of the agreement).

Article 7. Force majeure

7.1 The delivery term mentioned in article 4 shall be extended by the period during which the contractor is prevented to fulfil his obligations due to causes occurring through no fault of his own or beyond his control.

7.2 If the delivery is postponed longer than two months due to force majeure, then both the contractor and the principal shall be authorised to terminate the agreement. In that case, the contractor is merely entitled to compensation of any costs he has incurred.

7.3 Contractor can never be held liable for any consequential damage having arisen from date-related failures in any delivered equipment.

Article 8. Warranty and Liability

8.1 Any liability of contractor in respect of principal for, or in connection with, failures on the delivered goods occurring during the warranty period shall be limited to repair free of charge or replacement of a defective good or a part thereof, at the discretion of the contractor. Contractor shall never be liable for any indirect damage, unless it is caused by his intent or gross negligence. Warranty is only then applicable when no faulty use, faulty placement or faulty assembly of the delivered is being identified by the contractor.

8.2 Within a period of one year after the date of the invoice of the contractor, the client may use the invoice date of the first invoice from the principal delivery to its client which contains the delivered products, as the effective starting date of the warranty period. Provided that the principal submits to contractor an electronically generated invoice and a consignment note as proof of delivery of the products to the specific client. If no electronic invoice and waybill are available, the date of the invoice of contractor will count as effective date of the warranty of the items involved. Principal will receive for each item to which this is applicable a manufacturer's warranty of 2 years, counting from the aforesaid effective date. This warranty has been built up as follows: in the first 2 months contractor provides a full warranty including the picking up and returning of the items offered by principal for warranty handling. For each items returned regardless of the nature a return order (RMA) must be applied for at all times. A requested RMA is valid for one month after it has been issued. Without an RMA a warranty claim will not be taken up. After the first 2 months up to and including the 2nd year the principal, after applying for a Return Order (RMA), must himself return the items offered for warranty handling. The returning of the items under the warranty in this period is for the account of the contractor. All parts subject to wear and tear are beyond the scope of the warranty in the 2nd warranty year, at the discretion of contractor. No warranty is provided on lamps. The consequences of the degradation process cannot be claimed under warranty. LED Sub-pixel failure of less than 3% are out of warranty. With each report under the warranty an invoice of contractor must be submitted. If principal cannot submit any invoice, each right to the warranty lapses.

8.3 Save for the provisions regarding warranty in this article, contractor excludes any liability, insofar as such liability has not been mandatorily provided by the law and/or does not mandatorily arise. The liability of contractor towards principal, by any reason whatsoever, will never exceed the total purchase price of the relevant agreement or the amount paid by the insurance company.

Article 9. Price and Payment

9.1 The prices used are based on the time of the fixed costs prevailing for the offer. If these prices change, the contractor will reserve the right to charge the prices prevailing on the date of delivery (for example relating to daily prices aluminium, exchange rates, and the like). Costs not included in the purchase price, such as freight charges,

will be charged separately.

9.2 The principal is obliged to transfer payment before shipment, without costs for the contractor, to the bank account stated on the invoice, unless the contrary has been agreed upon on the order confirmation.

9.3 Failure to observe the payment period confers the right to the contractor to charge default interest, without a demand letter being required for that purpose. This default interest amounts to 1% per month, unless the statutory commercial interest is higher, in which case the latter is applicable. Each power of principal to suspend, grant discounts or effect a settlement is hereby excluded.

9.4 If the principal fails to fulfil his payment obligations in a timely manner and fails to comply with a notice of default with a one-week term, or acts contrary to any clause in the agreement, is found to have made incorrect notifications, has been declared bankrupt, applies for a moratorium, or if goods owned by him are seized, or if he is placed under guardianship or otherwise loses the right to dispose of his property or part thereof, unless the receiver or administrator acknowledges the obligations arising from this agreement, the contractor is entitled to dissolve the purchase agreement in court. In this case the principal is liable in respect of any losses suffered by the contractor including at any rate lost profit, costs of transportation and other costs.

9.5 If contractor, due to the failure to fulfil his payment obligations, proceeds to take extrajudicial measures, the costs hereof will be for the account of the principal, with a minimum amount of Euro 250,00.

Article 10. Complaints

10.1 Any complaints must be filed at the contractor in writing or by email within ten working days upon receipt of the invoice, on pain of forfeiting the right to do so.

10.2 Contractor is obliged to take note of such complaint filed only if the principal concerned has fulfilled all his obligations towards the contractor at the time that the complaint is filed, regardless of the agreement between him and contractor that such an obligation arise from.

10.3 Transit damage must be reported to the contractor within 2 working days upon receipt of the shipment.

10.4 Any return shipments must always be sent carriage paid. Each return shipment must be accompanied by a letter stating the reason for returning the good. Shipments without carriage paid will be refused unless the contrary has been agreed upon in writing.

Article 11 Expiry period legal claims

Legal claims against contractor must be instituted – on pain of the lapse of the right to do so – within 1 year after principal has first reported the relevant claim to contractor.

Article 12. Applicable Law and Choice of Forum

12.1 All offers and agreements are exclusively subject to the law of the Netherlands.

12.2 Any disputes arising from and connecting to an agreement with contractor will be exclusively decided by the Court of Eindhoven, notwithstanding the power of contractor to bring the dispute before the Court which is competent in the place of residence and/or place of business of principal or take provisional or protective measures at a different venue.

The Netherlands, 2019