



General terms and conditions Smile Plastics Netherlands BV

Article 1. General

1.1 In these general conditions, the following definitions shall apply:

- Smile Plastics or contractor: the private companies Smile Plastics Netherlands B.V. and/or any other company affiliated to Smile Plastics.

- Principal: any natural or legal person (including: relations, tenants, buyers, etc), who purchases services or Goods from Smile Plastics or with whom Smile Plastics concludes or negotiates an agreement.

- Additional work: All those activities, operations and Goods that are performed or delivered during the performance of the agreement and that are more or different from what was originally agreed, such as but not limited to

(i) extension of the work/deliveries at the request of the Client;

(ii) modification of the work leading to an extension or aggravation of the work;

iii) additions or changes to the work necessary for the proper and professional performance of the agreement and/or due to changes in (government) regulations or new (government) regulations;

(iv) additions or changes to the work necessitated by non-compliance by the customer with his obligations under the agreement;

(v) deviations from offsettable quantities.

- Goods: all (plastic) products to which these general terms and conditions apply including raw materials, semi-finished products, finished products and residual products.

1.2 These general terms and conditions form part of all offers, invoices and agreements and apply to all related legal acts between Smile Plastics and its principal. Deviations from these conditions must be expressly determined or approved in writing by Smile Plastics in advance.

1.3 The client cannot invoke any stipulations deviating from these general terms and conditions unless these have been expressly accepted by Smile Plastics in writing. The applicability of the client's general terms and conditions is expressly excluded.

1.4 Retention and acceptance of an offer, invoice or agreement by the principal means explicit acceptance of these conditions as drawn up and/or provided by Smile Plastics.

1.5 It is established between Smile Plastics and the principal that - once contracted under the applicability of these general conditions - these general conditions shall also apply to subsequent offers and agreements.

Article 2. Offers, prices, price changes and changing circumstances and deadlines

2.1 Offers made by Smile Plastics are entirely without obligation. Acceptance takes place by signed return by the customer and/or by commencement/delivery (and thus acceptance by the customer/other party) of the service or good/goods. Offers shall remain valid until the date stated on the offer. Smile Plastics shall only be bound after it has confirmed the assignment in writing or, in the absence thereof, after Smile Plastics has actually commenced the assigned work. An acceptance deviating on minor points shall not bind Smile Plastics, contrary to Article 6:225(2) of the Dutch Civil Code. In such cases, the agreement shall be concluded on the terms of the offer made by Smile Plastics.

2.2 Illustrations, catalogues, drawings, technical descriptions, measurements, weights, reports, models and other information provided by Smile Plastics regarding the appearance or quality of the Goods to be delivered and regarding the nature of the services to be provided by Smile Plastics, only give a general representation of Goods and do not bind Smile Plastics.

2.3 Prices are expressed in euros and are exclusive of turnover tax, other government levies/surcharges, packaging/embalage and additional work. As regards transport, prices are based on easily accessible and drivable places.

2.4 Prices are exclusive of transport costs and (fuel) surcharges unless Smile Plastics has explicitly confirmed this in writing in advance.

2.5 Due to (unforeseen) circumstances and/or hidden defects not taken into account in the offer and/or agreement, an offer and/or agreement will lose its validity and Smile Plastics will make a new offer or propose

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a new agreement. This also applies in the case of additional work on the understanding that additional work already carried out can always be charged for.

2.6 Even after the conclusion of a contract, Smile Plastics is authorised to correct obvious pricing errors if such pricing is obviously incorrect and/or based on an obvious clerical error.

2.7 If, after the date of acceptance of the order or during the term of the agreement, the costs for Smile Plastics increase due to a circumstance beyond its control, such as -but not limited to- the situation that a supplier of Smile Plastics changes its prices, and/or the euro devalues and/or taxes, social security contributions, import duties, freight costs, energy tariffs, gas prices, government measures, etc. change, Smile Plastics will be entitled to change its prices accordingly.

2.8 Without prejudice to the provisions of this article, Smile Plastics has the right to adjust its prices each year in accordance with cost price developments in the sector.

2.9 As long as an order and/or delivery has not been completed, Smile Plastics is entitled to charge instalment invoices in the interim.

2.10 If Smile Plastics is unable to place its (potential) claims under the contract with a credit insurer at its convening terms, Smile Plastics will be entitled to unilaterally dissolve the contract or request advance payment. In the event of dissolution, the principal shall not be entitled to compensation for damages.

2.11 The terms stated by Smile Plastics are not deadlines. Delivery terms are approximate and do not bind Smile Plastics, unless expressly agreed otherwise. Exceeding a stated term does not entitle the customer to compensation, suspension or dissolution of the agreement. Smile Plastics has the right to carry out the work or processing in the order it prefers, at its own discretion, whether or not in parts.

Article 3. Complaints

3.1 The principal must lodge a notice of default for any shortcoming in the fulfilment of Smile Plastics' obligations with Smile Plastics no later than 7 working days after the principal has discovered or reasonably should have discovered the shortcoming and notify Smile Plastics in writing, giving reasons, failing which the principal's rights in this regard shall lapse.

The principal's rights in this regard shall also lapse if the principal attempts to remedy (or have remedied) an (alleged) defect himself without Smile Plastics' written consent.

3.2 If a complaint is (partially) accepted, Smile Plastics will be given the opportunity to still perform properly. Smile Plastics' liability is limited to fulfilling these obligations. The subsequent fulfilment of these obligations shall constitute sole and full compensation. If performance is not possible because the customer does not give Smile Plastics this opportunity, Smile Plastics will be released from its obligations and the agreement will be undone mutually, without Smile Plastics being obliged to compensate any damage.

3.3 Notices of default as referred to in this article shall not suspend the customer's payment obligations.

Article 4. Payment, default, dissolution, retention of title and securities

4.1 All amounts owed by the principal to Smile Plastics shall be paid within the agreed term or, in the absence of an agreed term, within thirty days of the invoice date, failing which the principal shall be in default by operation of law and therefore without further notice of default and shall owe Smile Plastics contractual default interest of 1% per month. In the event of late payment, the principal will be in default without further notice of default being required.

4.2 All receivables shall become immediately due and payable in full if and as soon as the principal i) defaults on one or more of its obligations towards Smile Plastics, ii) is declared bankrupt, iii) applies for a moratorium, iv) an attachment is levied on all or part of the principal's Goods, v) the principal loses the free administration of its assets, vi) the principal ceases its business. Furthermore, in such cases Smile Plastics will be entitled, at its discretion, to dissolve the agreement (in part) immediately and without further notice of default being required and to undo the (legal) consequences thereof, such with the right to compensation.

4.3 The principal shall not be entitled to apply any deduction, set-off, suspension or compensation in respect of amounts charged to the principal by Smile Plastics pursuant to an agreement existing between Smile Plastics and the principal.

4.4 All costs related to collection shall be borne by the principal. From the date on which the principal is in default, the principal shall, in addition to the principal sum, owe the extrajudicial collection costs. The compensation for extrajudicial collection costs will be determined in accordance with the Decree on Compensation for Extrajudicial Collection Costs. If Smile Plastics has brought its claim before a court (including arbitration and binding advice), the principal shall be obliged to reimburse the costs associated with such proceedings.

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4.5 Retention of title

4.5.1 All Goods supplied by Smile Plastics shall remain Smile Plastics' property until the principal has properly fulfilled all (payment) obligations arising from the agreement(s) concluded with Smile Plastics, unless there is only an order for the processing of the principal's Goods.

4.5.2 As long as full payment of all of Smile Plastics' claims has not been made by the principal, the principal shall not be permitted to dispose of the Goods delivered, to remove them from his actual control, to alienate them, to mix them with other Goods, to make them a main or constituent part of other Goods, to pledge or encumber them or to enter into other legal transactions in this regard, unless Smile Plastics has given its prior written consent.

4.5.3 In the event Smile Plastics no longer retains ownership of the Goods it has delivered to the principal, the principal hereby grants Smile Plastics in advance a first right of pledge on all Goods delivered and to be delivered by Smile Plastics, as well as on the principal's claims arising from insurance of the Goods as referred to in 4.5.6. This pledge serves as additional security for all existing and future claims Smile Plastics has or will have against the principal. The principal declares that he is authorised to effect the pledge and that the pledged Goods and receivables are not or will not be subject to any limited rights or have been established in advance.

4.5.4 The principal grants Smile Plastics an irrevocable authorisation to perform all legal acts for and on behalf of the principal to establish the pledge insofar as such establishment has not already taken place. The applicability of Article 3:68 of the Dutch Civil Code is excluded. Without prejudice to the foregoing, the principal is further obliged to perform all (legal) acts that are or may be required in the context of the aforementioned pledges at Smile Plastics' first request.

4.5.5 As soon as the principal fails to fulfil his obligation(s), Smile Plastics shall be entitled to repossess the Goods or to take possession of them as pledgee, without prejudice to Smile Plastics' other rights under the law. The Customer hereby authorises Smile Plastics to enter the place(s) where the Goods are located, including any third-party locations, for the aforementioned purpose.

4.5.6 As long as the Goods are owned by Smile Plastics or Smile Plastics has a lien on the Goods, the principal shall properly insure the Goods. In the event of any payment under such insurance, Smile Plastics will be entitled to the damages. Insofar as necessary, the Client undertakes in advance to cooperate in everything required for this purpose.

4.5.7 The Client shall do and omit to do everything necessary to safeguard Smile Plastics' property rights.

4.5.8 If any third party wishes to seize the Goods delivered under retention of title or to establish or exercise any other right to them, the principal shall immediately inform Smile Plastics.

4.6 At Smile Plastics' first demand, the principal shall be obliged to provide security for what the principal owes or will owe Smile Plastics.

4.7 Retention and pledge

- a. Smile Plastics shall have a right of retention on Goods and documents in its possession in connection with the agreement vis-à-vis anyone demanding their release.
- b. Smile Plastics can always exercise the right of retention against the principal or consignee for that which is or will be owed to Smile Plastics by the principal on any account whatsoever.
- c. Smile Plastics may also exercise the right of retention granted in paragraph 4.7.b. for that which is still owed to Smile Plastics by the principal in connection with previous agreements.
- d. At Smile Plastics' first request, the principal shall provide security for freight, duties, taxes, levies, premiums and other costs incurred or required to be incurred by Smile Plastics on behalf of the principal.
- e. All consequences of not (timely) meeting an obligation to provide security, including a delay in delivery, shall be borne by the principal.

Article 5. Force majeure

5.1 If and insofar as circumstances arise under which Smile Plastics can no longer reasonably be required to fulfil the agreement in full, Smile Plastics shall be entitled to invoke force majeure without any obligation to compensate any resulting damage on the part of the principal. Force majeure shall include: strike, excessive absenteeism of personnel, transport difficulties, storm, fire, serious damage and/or other calamities which disrupt Smile Plastics' business process, restrictive government measures, including in any case import and export bans, quota restrictions and business interruptions at Smile Plastics or at Smile Plastics' suppliers as a result of which Smile Plastics cannot (or can no longer) fulfil its obligations on time or in full.

5.2 Force majeure may lead to (partial) dissolution, in which case the parties will mutually undo the consequences of the agreement. Force majeure will never lead to liability for damages on the part of Smile Plastics.

Article 6. Provisions regarding offer of Goods

Besides and in addition to his obligations as included in the agreement, the Customer is obliged to observe the following instructions and act accordingly:

6.1 Offering of Goods

6.1.1. Client is obliged to:

- a. To consult with Smile Plastics regarding the method of offering Goods;
- b. To pack and label the Goods in such a way as prescribed by law, possibly supplemented by what has been further agreed between the principal and Smile Plastics in this regard;
- c. To promptly provide Smile Plastics with all required instructions regarding the services to be performed;
- d. At least indicate, either by means of a separate written statement or on the waybill
 - i. the origin of the Goods
 - ii. the nature and composition of the Goods
 - iii. the quantity of the Goods.

6.1.2 The principal guarantees the quality of the Goods it has delivered. More specifically, the Client guarantees that these Goods comply with the quality specified by it as well as that they do not contain any contamination. Any damage resulting from a deviating quality or contamination delivered by the Client shall be borne by the Client.

6.1.3 In the event of an agreement for transport to or from a destination specified by the principal, the principal shall provide Smile Plastics with the documents required for such transport in a timely manner. The principal guarantees that these documents have been drawn up truthfully and without errors;

6.1.4 The Client shall at all times provide Smile Plastics with further information, on request, regarding the nature, composition and origin of the Goods;

6.1.5 Customer shall comply with the regulations and instructions applicable on Smile Plastics' premises.

6.1.6 The Customer shall enter Smile Plastics' premises at his/her own risk. Smile Plastics shall not be liable for damage to persons and/or Goods caused on its premises.

6.2. Acceptance of Goods

6.2.1 Receipt and acceptance will not take place without Smile Plastics having been provided by the principal with a description of the nature, properties and composition of the Goods.

6.2.2 Smile Plastics shall be entitled to take samples and/or analyse the Goods offered and to analyse these (or have them analysed). The costs associated with this shall be for the account of the Client.

6.2.3 The Client shall pay the agreed price to Smile Plastics and immediately take back the Goods if, in Smile Plastics' opinion, the Goods offered do not match the nature and composition of those Goods stated by the Client.

6.2.4 Acceptance and acceptance by Smile Plastics shall not lead to transfer of ownership. Unless expressly agreed otherwise in writing, the Goods supplied by the Client shall remain the property of the Client.

6.3 Requirements

6.3.1 In the event of a contract of carriage, the principal shall additionally be obliged:

In case of cross-border transport of Goods, to indicate whether this transport falls under the national regulation on cross-border transport of hazardous waste, or under any other international laws or regulations applicable to the cross-border transport.

Article 7. Suitability, risk

7.1 Smile Plastics does not guarantee that Goods processed and/or treated by Smile Plastics are suitable for the purpose for which the principal wishes to use them, not even if that purpose has been made known to Smile Plastics, unless expressly agreed otherwise in writing.

7.2 The risk (also for loss and/or damage) of Goods supplied by the principal will remain with the principal from delivery of goods by the principal up to and including collection of processed goods by the principal, unless in the event of intent or deliberate recklessness.

7.3 Smile Plastics' liability will be limited to the provisions of these general terms and conditions in article 8. in article 8.

Article 8. Liability of Smile Plastics, supervision, indemnifications and lapse of rights of the principal

8.1 Without prejudice to the other exemptions included in these general terms and conditions, Smile Plastics' liability to the principal for attributable shortcomings or wrongful acts shall be limited to the amount to which Smile Plastics' liability insurance gives claim in that specific case, which amount shall be increased by Smile Plastics' own risk.

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8.2 If in any specific case Smile Plastics' liability insurance does not provide cover for any reason whatsoever, Smile Plastics' liability shall be limited to a maximum of the invoice value of the relevant order with a maximum of €25,000.00 (in words: twenty-five thousand euros) per event or series of events.

8.3 Smile Plastics shall never be liable for indirect damage, immaterial damage, consequential damage and loss of profit, unless this is the result of intent or gross negligence by Smile Plastics.

8.4 The Customer is aware of the fact that in case of processing Goods, there may be supervision (opzicht) where this concerns the (liability) insurance which may lead to a far-reaching limitation of the cover on the (liability) insurance. Supervision exists during the time Smile Plastics -or another party on behalf of Smile Plastics- has goods of the customer or a third party in its possession. In any event, the damage in case of supervision (opzicht) shall be limited to € 25,000 (in words: twenty-five thousand euros).

8.5 Smile Plastics shall not be liable for damage and costs - however named and/or incurred - due to loss or destruction of the Goods supplied by the Client, except in the event of intent or gross negligence on the part of Smile Plastics.

8.6 Smile Plastics does not accept liability towards customers or other third parties on the part of the customers. In the event of any liability to customers or other third parties on the part of clients, liability to third parties shall in any event be limited to an amount of €25,000.00 (in words: twenty-five thousand euros).

8.7 Smile Plastics stipulates all legal and contractual defences which it can invoke to ward off its own liability vis-à-vis the principal or any third party, also on behalf of its subordinates and non-subordinates for whose behaviour it would be liable under the law.

8.8 The principal shall indemnify Smile Plastics, its employees and other (legal) persons engaged by Smile Plastics against all claims - however named and/or arising - of third parties for compensation for any damage suffered by such third parties, caused by or related to Goods delivered, processed or originating from Smile Plastics and/or work carried out by or on behalf of Smile Plastics, unless the damage is due to intent or gross negligence on the part of Smile Plastics.

8.9 Without prejudice to the aforementioned provisions, any claim for damages against Smile Plastics, unless Smile Plastics has acknowledged liability, shall lapse by the mere lapse of six months after the principal discovered or reasonably should have discovered the damage.

8.10 With regard to transport agreements, contrary to the provisions of this article, the liability provisions, limits and limitation periods pursuant to Book 8 of the Dutch Civil Code and the AVC 2002 (Algemene Vervoerscondities 2002) and, in the event of cross-border transport, the CMR Convention (Convention relative au Contrat de Transport International de Marchandises par Route) shall apply.

Article 9. CO2 rights

9.1 CO2 savings realised and reported by Smile Plastics shall accrue to Smile Plastics to the exclusion of any rights of the principal, unless any deviation has been confirmed in writing by Smile Plastics to the principal.

Article 10. Partial nullity

10.1 If any of the stipulations or part thereof of these general terms and conditions or any part of the underlying agreement(s) should be null and void or declared null and void, the content of the stipulation(s) of these general terms and conditions shall remain unaffected, or the underlying agreement(s) shall remain in force.

10.2 If the case as described in the first paragraph arises, Smile Plastics and the principal shall make a valid arrangement for the null and void or nullified passage which reflects and corresponds to Smile Plastics' and the principal's intention with the underlying null and void or nullified passage as much as possible.

Article 11. Miscellaneous

11.1 Dutch law shall apply to disputes. The applicability of the Vienna Sales Convention is expressly excluded.

11.2 The District Court of Limburg shall have exclusive jurisdiction to hear any such dispute.

11.3 These general terms and conditions have been filed with the Chamber of Commerce.

11.4 The latest amended text of these general terms and conditions shall apply.