

**GENERAL PURCHASE CONDITIONS OF DE EFTELING B.V.,  
HAVING ITS REGISTERED OFFICE IN KAATSHEUVEL (MUNICIPALITY OF LOON OP ZAND)  
MAY 2013**

**NB: This is a translation**

**The Dutch version of these general purchase conditions is considered binding in all cases  
in the interpretation of the provisions of these general purchase conditions.**

**The Dutch version will be sent to you on request.**

**1. Applicability**

- 1.1 All purchase agreements concluded with de Efteling B.V., a private limited liability company (referred to below as “de Efteling”), are governed by the following general purchase conditions, unless the parties expressly agree otherwise in writing.
- 1.2 All the conditions subsequent described in these general conditions are fulfilled by operation of law, but only after de Efteling has invoked those conditions in writing in relation to the other party. The dissolution has retroactive effect to the date on which the agreement with de Efteling was concluded, or in any event to the earliest possible date, unless otherwise expressly agreed and/or otherwise expressly provided in these general conditions.
- 1.3 These purchase conditions apply not only to agreements regarding the purchase of goods, but also to agreements for the provision of services and/or contracting of work, or combinations of such agreements, whereby de Efteling is the principal. If applicable, the supply of goods must also be deemed to include the provision of services or the performance of work to the extent necessary.

**2. Purchase agreements with de Efteling**

A purchase agreement with de Efteling is concluded only in writing, on signature or co-signature of the agreement by a duly authorised employee of de Efteling. De Efteling may require of the other party that it use certain forms. That written agreement serves as evidence in law between de Efteling and the other party of the existence and content of the agreements made. Additions and/or amendments are binding on de Efteling only if again recorded in writing between de Efteling and the other party.

**3. Delivery/delay**

- 3.1 The carriage of goods is entirely for the other party’s account and risk.
- 3.2 The place of delivery is always a place to be stated by de Efteling, on de Efteling’s grounds, unless otherwise expressly agreed in writing. Delivery must be reported to de Efteling in writing, stating the nature and number of the goods delivered, and is completed as soon as de Efteling so confirms in writing to the other party.
- 3.3 If an agreed term is exceeded, the other party owes an immediately payable penalty, not subject to mitigation, of 10% of the invoice amount (subject to a minimum of €25), without prejudice to de Efteling’s right to demand performance and/or to recover the actual loss from the other party.
- 3.4 All terms quoted to de Efteling and the terms stated in the agreements concluded with de Efteling are of the essence; at the end of a term the other party is therefore in default by operation of law and the statutory commercial interest commences. If a term is exceeded, de Efteling has the right to declare that the agreement has been dissolved and to convert the obligation into an obligation to pay damages. Such conversion gives rise to an obligation for the other party to fully indemnify de Efteling.

- 3.5 If the agreement is dissolved, the other party must immediately repay de Efteling the purchase price paid and, in addition to the interest for late payment, must reimburse all other loss to de Efteling, in particular but not exclusively the costs of any replacement purchase and loss of profit.
- 3.6 If the agreement is dissolved as described in Articles 3.4 and 3.5, de Efteling will return the goods already delivered to it, for the other party's account and risk.
- 3.7 In the case referred to in Article 3.6 de Efteling furthermore has the right to keep the goods already delivered until the other party has repaid de Efteling the part of the purchase price already paid and/or the penalties due and/or the amount of the damages in their entirety.
- 3.8 At de Efteling's request the other party must temporarily suspend the dispatch of goods or the provision of services and must resume them at de Efteling's first request without claiming dissolution and/or damages.

#### **4. Prices**

- 4.1 The purchase price agreed on with de Efteling in any event includes but is not limited to the price of the goods, packaging and carriage, operating instructions, instructions for use, spare parts, service and guarantee costs including call-out charges and, if necessary, the costs of assembly and instruction.
- 4.2 All prices quoted to and/or agreed on with de Efteling are fixed during the entire term of the agreement. Additional costs, e.g. due to price increases, additional work and additional deliveries, may be charged only with de Efteling's prior written consent.

#### **5. Payment**

- 5.1 Unless otherwise expressly agreed in writing, the other party may not invoice de Efteling until the other party has correctly performed all its obligations under the agreement.
- 5.2 De Efteling will pay the agreed price within 60 days of receipt of a correct invoice, with due observance of the provisions of Article 5.1 above. The invoice must be sent to de Efteling's Creditor Accounts Department and must state a purchase order number and VAT number. De Efteling reserves the right to stipulate further conditions regarding the invoice.
- 5.3 The other party must send de Efteling a separate and itemised invoice for each order placed, expressly stating any discounts granted.
- 5.4 De Efteling has the right to demand of the other party that it provide security for de Efteling's benefit for possible repayment of all or part of the purchase price, if the circumstances so require. In that case de Efteling furthermore has the right to suspend payment of the amounts that it owes the other party until security has been provided to de Efteling's satisfaction.

#### **6. Industrial/intellectual property and beneficial ownership**

- 6.1 All intellectual or industrial property rights that arise during the performance of the agreement at the other party and/or at third parties engaged by the other party are deemed to have been transferred to de Efteling when they arose. The agreement between de Efteling and the other party also serves as a deed of transfer of the rights transferred in accordance with this article. Insofar as necessary the other party furthermore grants an exclusive, unlimited and irrevocable licence for the operation (including publication, processing, modification and multiplication) of the goods delivered. Insofar as the other party uses third-party intellectual property rights, it warrants that those rights will be transferred to de Efteling in the same manner, so that de Efteling can freely exercise those rights also. Before using any third-party intellectual property rights the other party must obtain de Efteling's permission for such use.
- 6.2 The other party indemnifies de Efteling against any and all third-party claims regarding goods delivered to de Efteling, in particular but not limited to claims based on property law, such as claims regarding industrial/intellectual property and beneficial ownership, retention of title or other security.
- 6.3 The other party must transfer full and unencumbered ownership of the goods to de Efteling.

6.4 The other party must fully indemnify de Efteling and its customers against any third-party claims on the grounds of infringement of patents, copyrights and all other intellectual or industrial property rights and beneficial ownership rights vested in them.

6.5 If and insofar as the other party has reserved rights arising from any patent and/or patent licence in a written agreement, de Efteling may at any time use and repair the goods delivered without being guilty of infringement of the patent or licence.

## **7. Statutory requirements**

7.1 The other party warrants towards de Efteling that the design, composition and quality of the goods that must be delivered on the basis of the order comply in all respects with all applicable requirements and/or regulations stipulated in or pursuant to any statutory regulation, as they apply on the date of delivery. This warranty also applies to the de Efteling's intended (possibly intensive) use of the goods delivered by the other party.

7.2 All taxes, import duties and/or other charges and all requirements and/or regulations and/or guidelines imposed by the authorities are entirely for the other party's account and risk, unless otherwise agreed in writing and/or unless mandatory rules of law provide otherwise.

## **8. Property of de Efteling/confidentiality**

8.1 De Efteling remains the owner and/or the party entitled to all models, moulds, patterns, working drawings, construction drawings, plates, films, drawings, photographs, audio-visual productions, stamps and/or other image, sound and data carriers (such as USB sticks, CDs and DVDs) and/or other tools and the data they contain that have been made available to the other party by de Efteling. Any models, moulds, patterns, working drawings, construction drawings, plates, films, drawings, photographs, audio-visual productions, stamps and/or other image, sound and data carriers (such as USB sticks, CDs and DVDs) and/or other tools and the data they contain that have been produced or purchased by the other party for de Efteling and at its instructions become de Efteling's property or their ownership must be transferred to de Efteling at de Efteling's first request in the most appropriate manner for the goods in question.

8.2 The other party must keep the tools referred to in the preceding paragraph and the data they contain in a good condition and must insure them against fire and theft and keep them so insured for as long as they are under its supervision.

8.3 The other party must make those tools and all the data they contain available to de Efteling at its first request and in a good condition, without being able to exercise any right of retention.

8.4 If the tools that the other party returns to de Efteling are incomplete or damaged, either on the agreed delivery date or at the time referred to in Article 8.3, the other party is liable for damages towards de Efteling. De Efteling has the right to deduct those damages from the amount that it owes the other party.

8.5 The other party may not use the tools for any purpose other than to prepare for delivery the goods intended for de Efteling. It also may not make those tools available to third parties.

8.6 The other party is obligated towards de Efteling to observe confidentiality in respect of all the tools that are made available to it by de Efteling and all the information in the broadest sense of the word that is made available to it by de Efteling or that otherwise becomes available to it regarding de Efteling, including but expressly not limited to agreements, internal or other business data, information regarding contacts of de Efteling, organisational structures, photographs, sketches, planning schedules, texts, information on marketing activities, and prospective or current intellectual property rights.

8.7 The other party must therefore also observe confidentiality in respect of all transactions conducted with de Efteling and all information received in that context, if and insofar as no further agreement has been concluded in that regard. This duty of confidentiality continues to apply also after the term of the

original agreement with the other party. Unless otherwise expressly agreed with the other party in that agreement, this also means that the other party is not permitted, for instance, in any manner to disclose (e.g. on its websites) that the other party has supplied or will supply goods to de Efteling.

## **9. Quality/specifications**

- 9.1 De Efteling will inspect or cause the inspection of goods of which it is desirable or necessary in de Efteling's opinion to check their proper functioning, within four weeks after they are put to use or are officially delivered. If de Efteling considers it necessary, it will give the other party the opportunity to attend that inspection.
- 9.2 If any defects are established in that inspection, the other party is obligated towards de Efteling to repair those defects free of charge as soon as possible, but no later than two weeks after a written statement from de Efteling.
- 9.3 If it is impossible or, in light of the time and costs involved, unjustifiable to repair the defects (at de Efteling's discretion), de Efteling has the right to reject the goods. De Efteling will inform the other party in writing of such rejection.
- 9.4 The provisions of Articles 9.1 to 9.3 apply accordingly to goods that need not be inspected but in respect of which it becomes apparent on delivery or within four weeks after they are put to use that they are not or not entirely in conformity with the provisions and specifications of the order.
- 9.5 With due observance of the provisions of the order and the related technical specifications, the goods to be delivered must in any event, but not exclusively:
- a) be in accordance with the order in terms of their quantity, description and quality;
  - b) be made of sound materials and be of sound design;
  - c) be equivalent in all respects to the samples or models made available or provided by de Efteling and/or the other party;
  - d) provide the performances (capacity, efficiency, speed and finish) that are stated in the order or, if not expressly stated, that are otherwise customary; and
  - e) be entirely suitable for the purpose made known to the other party.
- 9.6 If the other party breaches the provisions of Article 9.5, de Efteling has the right to return the goods or have them stored for the other party's account and risk and to suspend its payment obligations. The provisions of Articles 3.5 to 3.7 apply in full.
- 9.7 In the case referred to in Article 9.6 de Efteling also has the right to dissolve the purchase agreement in writing, in whole or in part, without any notice of default being required. The provisions of Articles 3.5 to 3.7 then apply in full.
- 9.8 The goods must be properly packaged and secured in such a way that they reach their destination in a good condition when transported in the customary manner. The other party must take out insurance to de Efteling's satisfaction against all risks during the transport.
- 9.9 If the other party has provided or arranged for the provision of pallets, packing cases, crates, containers, etc. for packaging and transport, de Efteling will return that packaging at the other party's request and for the other party's account and risk to the address stated by the other party, unless non-returnable packaging is involved.
- 9.10 If the goods are ready for dispatch but de Efteling is unable for any reason whatsoever to take delivery of the goods at the agreed time, the other party will keep and secure the goods at de Efteling's request and take all reasonable measures to prevent any deterioration in their quality, until they are delivered at de Efteling. At de Efteling's first request the other party will then deliver those goods within a term yet to be agreed.

## **10. Guarantees**

- 10.1 Unless otherwise expressly agreed with the other party in the agreement, the other party guarantees the goods delivered during their useful life that de Efteling can reasonably expect, subject to a minimum of two (2) years, starting on the date of delivery at de Efteling and/or the date on which they are put to use, in any event starting on the latest possible date. More specifically, the other party warrants during the guarantee period the quantitative properties described in Article 9.5(d) and free of charge repair or replacement of the goods in the event of defects that occur during normal use, unless the other party proves that the defects are due to careless use by de Efteling.
- 10.2 The other party warrants that all replaceable parts will be available throughout the useful life of the goods that can reasonably be expected.
- 10.3 The other party is liable for any damage to the goods or caused by the goods during the guarantee period, except in the event of intent or gross negligence on the part of de Efteling or its employees. The other party indemnifies de Efteling against any claims for damages or other claims of third parties, in particular but not exclusively of visitors of de Efteling.
- 10.4 In compliance with its guarantee obligations the other party will repair or replace the goods or their defective parts free of charge within the shortest possible term.
- 10.5 The other party bears the product liability and must take out adequate insurance to cover that liability. The other party indemnifies de Efteling against any and all third-party liability arising from and/or related to product liability.
- 10.6 If the other party permits de Efteling itself to repair the goods delivered by the other party, the other party is not released from its guarantee obligations. During the guarantee period de Efteling has the right to charge the costs involved in repairs made by de Efteling itself to the other party and/or to deduct those costs from the amounts that de Efteling owes the other party.
- 10.7 If the other party acts contrary to its guarantee obligations towards de Efteling, de Efteling will regard such act as breach of contract by the other party and will dissolve the purchase agreement in whole or in part in writing, after giving written notice of default setting a two-week term for performance. The provisions of Articles 3.5 to 3.7 then apply accordingly.

## **11. General/miscellaneous**

- 11.1 The agreements concluded with de Efteling are governed by Dutch law. The parties elect an address for service in this matter at de Efteling's office. The court in the place where de Efteling has its registered office has exclusive jurisdiction to hear and decide on any and all disputes arising from and/or related to agreements, offers, deliveries and the contracting of work with de Efteling.
- 11.2 If one or more of the provisions of these general conditions is/are void, the other party cannot rely on voidness and/or annulment of the entire agreement(s) concluded with de Efteling and/or these general conditions as a whole.
- 11.3 If one provision of these general conditions is declared void, de Efteling has the right to unilaterally insert a new clause.