

**GENERAL TERMS OF DELIVERY DFW EUROPE B.V.**

Version December 2022

**1. Definitions**

1.1 DFW: the private limited company DFW Europe B.V., with its registered office in (1721 PM) Broek op Langedijk at Dulleweg 43, listed with the Commercial Register of the Chamber of Commerce under number 04030602, as well as all companies affiliated to DFW Europe B.V.

1.2 Client: the party which gives DFW the instruction to perform work, including (but not exclusively) regarding the supply, assembly and maintenance of cremators, as well as to supply parts (including for cremators).

1.3 Parties: DFW and the Client.

1.4 Agreement: the agreements recorded In Writing between the Parties concerning the supply and assembly of installations including cremators, to perform (maintenance) work and/or to supply parts for cremators.

1.5 In Writing: on paper or (possibly as a scanned file) by e-mail.

1.6 Contract period: the agreed duration of the Agreement.

**2. Applicability**

2.1 These General Terms of Delivery apply to the Agreement. These General Terms of Delivery also apply to all quotations, offers, deliveries and (pre-existing) agreements between DFW and the Client. Not only DFW but also employees and the Board of Directors of DFW as well as persons or companies engaged or involved by DFW for the performance of the Agreement, can appeal to these General Terms of Delivery.

2.2 The Client with whom an agreement has been concluded on the basis of these General Terms of Delivery agrees to the applicability of these General Terms of Delivery to all future Agreements between the Client and DFW, as well as to the applicability of these General Terms of Delivery to (future) Agreements between the companies affiliated to the Client and DFW.

2.3 The applicability of the general (purchase) terms of the Client are expressly excluded by DFW.

2.4 Deviations from these General Terms of Delivery may only be agreed In Writing.

2.5 To the extent that any provision of these General Terms of Delivery is not (entirely) legally valid, this shall not affect the validity of the other provisions of these General Terms of Delivery. The invalid provision shall be deemed to have been replaced by operation of law by a valid provision which, in terms of legal effect, is as close as possible to the invalid provision.

2.6 If DFW does not always require strict compliance with these terms, this does not mean that the provisions thereof do not apply or that DFW, to any extent, would lose the right in other cases to require strict compliance with the provisions of these General Terms of Delivery.

**3. Offer**

3.1 DFW's quotation shall be deemed to be an offer. Each offer is non-binding, unless otherwise agreed In Writing. The offer is valid for 30 days after the quotation date, unless the quotation shows otherwise and unless an offer is withdrawn.

3.2 DFW is entitled to refuse applications or invitations to make an offer / quotation without giving reasons.

3.3 The quotation is based on the information provided by the Client at the time of application and on the prices applicable on the offer date. Verbal undertakings made by DFW are non-binding.

3.4 Apparent errors made in the quotation, website, order confirmation, advertisement, etc., are non-binding to DFW.

3.5 The Client shall keep confidential the information from the quotation and offer documents and is not allowed to publish this information for its own use or use by third parties.

3.6 If no Agreement has been concluded, all offer documents must be immediately returned to the address of DFW, at the first request of DFW, at the risk and expense of the Client.

#### **4. Formation of the Agreement**

4.1 If DFW has made an offer as referred to in Article 3 of these General Terms of Delivery, the Agreement will come into effect by an acceptance In Writing by the Client. Acceptance is in principle effected:

- upon signing the quotation;

4.2 If the acceptance (whether or not on minor points) deviates from the quotation included in the offer, DFW shall not be bound by it. The Agreement will then not be concluded in accordance with this deviating acceptance, unless DFW indicates otherwise.

4.3 The actions of the Parties may also show that the offer and acceptance took place in a different manner, as a result of which a legally valid Agreement also came into being.

4.4 Verbal or Written undertakings or agreements by or with employees of DFW shall only be binding on DFW if and as soon as an authorised director of DFW confirms them In Writing.

4.5 Each Agreement is concluded under the suspensive condition of sufficient availability of raw materials, goods, parts and manpower.

4.6 DFW reserves the right to review the creditworthiness of the Client and to provide data regarding the application - in this context - to an independent credit rating agency, which will process this data in its credit information system, also to support the decisions to be taken by the Client on the selection of potential business partners, the entering into or continuation of transactions and the conditions under which they are concluded, and to prevent overindebtedness, abuse and fraud in financial transactions.

#### **5. Prices**

5.1 Unless otherwise indicated, the above-mentioned prices are in euros (€), exclusive of turnover tax.

5.2 Unless otherwise stated, all prices and rates are based on a normal working week (of DFW) from Monday to Friday. Any work performed - at the request of the Client - outside DFW's normal working hours shall be charged at the rates and surcharges set out in the Agreement.

5.3 All waiting hours or downtime for DFW's personnel will be settled on the basis of the rates set out in the Agreement.

5.4 If, after the conclusion of the Agreement between DFW and the Client, circumstances arise which justify a change in the agreed price/contract price, i.e. cost price factors, DFW shall be entitled to change the price accordingly, without this leading to termination of the Agreement by the Client. Cost price factors include in any case, but are not limited to, changes in exchange rates, taxes, import duties, levies, or other governmental charges and factors that caused the increase of raw materials, energy prices, wages and such other matters that were not reasonably foreseeable at the time of concluding the Agreement.

#### **6. Payment**

6.1 All invoices shall be paid by the Client in accordance with the payment terms/payment schedule described in the quotation or in the Agreement.

Unless otherwise agreed In Writing, payment must always be made in accordance with the payment schedule and within two weeks after the date of the invoice in question.

6.2 DFW is always entitled to require a down payment or advance payment from the Client.

6.3 There is no entitlement to set off or suspend payment on the part of the Client.

6.4 In the absence of specific conditions, the Client shall always pay 100% of the purchase/contract price to DFW immediately after acceptance of the offer.

6.5 In case of doubt concerning the Client's liquidity position, DFW is entitled to impose additional requirements regarding advance payment, or to request that security be provided by establishing a right of pledge, a bank guarantee or a deposit. If the Client refuses to do so, DFW is entitled to suspend and/or terminate its work with immediate effect, without prejudice to DFW's right to claim alternative compensation.

6.6 The payment term is to be regarded as a strict deadline. Agreed or communicated successive payment terms (e.g. postponement), if any, shall also be regarded as a strict deadline in each case.

6.7 After expiry of the payment term, the Client shall be in default by operation of law without further notice of default being required, and owe DFW default interest of 1.5% per month. The Client shall also be liable for all extrajudicial collection costs, being a minimum of 15% on the invoice amount.

6.8 Payments made by the Client shall first be applied to settle all interest and costs payable and subsequently those invoice amounts that have been outstanding for the longest period.

## **7. Performance of the Agreement**

7.1 DFW is entitled to have work performed by third parties.

7.2 DFW shall make every effort to perform the work to the best of its ability and in doing so is obliged to do everything that may be required of DFW according to the nature of the Agreement, apply by virtue of law, the requirements of reasonableness and fairness or the usage of DFW.

7.3 The Client shall ensure that DFW will receive the licences, exemptions, orders or approvals on time, required for the work or the use of installations in respect of which has been agreed that these will be made available by, or on behalf of, them.

7.4 DFW is not obliged to commence the performance of its work until all necessary information, data or goods stipulated to be provided by or on behalf of the Client are in its possession, it has received the agreed first instalment, and the necessary permits, exemptions, etc. have been issued.

7.5 Unless expressly otherwise agreed In Writing, the (delivery) terms have been determined to the best of DFW's knowledge and shall be observed to the extent possible. If a given term is exceeded once, it shall not place DFW in default nor entitle the Client to compensation.

## **8. Modifications**

8.1 If, during the performance of the Agreement, it becomes evident that for the proper performance thereof and/or on the instructions of competent (government) agencies it is necessary to modify or supplement the Agreement, the Parties shall promptly modify the Agreement in mutual consultation. If this is the case, neither Party shall be entitled to terminate the Agreement, nor shall there be any entitlement to additional compensation.

8.2 As a result of a modification or supplement within the meaning of Article 8.1 of these General Terms of Delivery, the amount originally agreed upon may be increased or decreased, depending on the contract variations. DFW shall, to the extent possible, provide a quotation in advance. Modifications of the Agreement may also change the originally given term of performance.

8.3 The Client accepts the possibility of modification of the Agreement, including the change in price and term of performance.

8.4 If the Client requests modification of the Agreement, DFW shall first provide a price quotation. Without being in default as a result, DFW may refuse the Client's request to modify the Agreement if this may have consequences for the work to be performed or the goods to be delivered in this context from a qualitative and/or quantitative point of view.

## **9. Layout and facilities of workplace and building site**

9.1 The Client shall timely provide free access to the site, the building and the location on, or in, which the work must be performed, free of charge, as well as ensure clean, safe and healthy conditions as well as suitable storage space there.

9.2 The Client is responsible for the condition of the buildings/locations where the work is performed and the installations or parts thereof surrounding, under, in or on the buildings/locations where the work is performed, and for the circumstances preventing or seriously obstructing the performance of the work. The Client is obliged to timely warn DFW, its personnel and any third parties it has engaged about hazardous situations. In case of hazardous situations, the Client shall take effective action and control measures to ensure a safe working environment.

9.3 The Client shall ensure that in the locations where the work is performed, DFW shall be able to use, in time and free of charge, the required mains services and facilities, such as electricity, (potable) water, gas, compressed air, telecom or sewer connection.

9.4 The Client is responsible for the timely connection of the installation to the public networks. DFW shall, to the best of its abilities, provide the Client with the assistance required for applying for this connection.

9.5 Outside DFW's working hours/presence, the Client shall be responsible for the goods and properties of DFW, such as materials, instruments or tools supplied for the work.

## **10. Acceptance and completion**

10.1 As soon as DFW has indicated In Writing that the results of the work are ready for acceptance and the Client does not inspect the results within the reasonable term set by DFW and accepts the results, whether or not conditionally, or refuses the results while identifying the defects, the results of the work are considered to have been accepted tacitly.

10.2 Small defects that can be repaired before the next payment term are no ground for refusal provided they do not prevent the commissioning of the installation.

10.3 After acceptance, the results of the work are considered to have been delivered. DFW has the right to divide delivery into a number of partial deliveries. If the results of the work are (tacitly) accepted by the Client, the time of acceptance is considered to be the day the notification referred to in paragraph 1 was sent.

## **11. Conformity**

11.1 DFW exclusively guarantees the use of the installation (cremator, or parts thereof) for its usual purposes. If the installation is used for a purpose other than its usual purpose, DFW cannot guarantee its usability, unless the Parties have agreed a special use of the installation In Writing in the Agreement.

11.2 The Client has an independent obligation to provide all information relevant to the performance of the Agreement by DFW and, furthermore, the Client is obliged to make available on time and in the desired form and manner, all data and documents which DFW, in its opinion, requires for the proper performance of the concluded Agreement. It is not a matter of non-conformity if deviations are the result of a failure to meet the above-mentioned obligation to provide information.

11.3 If a model, design, drawing or visualisation has been shown or provided by DFW, it is assumed to have only been shown or provided as an indication. Considering the capacity of the installation, the product may differ from the model, design, drawing or visualisation previously shown.

11.4 DFW is entitled to deliver installations which differ slightly from the models, designs, drawings or visualisations shown, to the extent that these differences do not affect the identity and quality of the agreed goods and services.

11.5 Minor differences shall not entitle the Client to any compensation.

## **12. Term for lodging a complaint**

12.1 The Client is deemed to have detected any defects and/or complaints regarding the installation within two months after delivery. The Client must then give DFW notice of default In Writing within 2 weeks after it has detected the defect or after the complaint has arisen and provide a reasoned and detailed report of the alleged shortcoming, at the risk of forfeiture of its rights.

12.2 After DFW has received notice of default, it will investigate the merits of the complaint. If DFW believes that the Client's complaint is well-founded, the Client must give DFW the opportunity to remedy the defect.

12.3 The submission of a complaint shall not suspend the Client's payment obligation towards DFW. Nor shall the Client have the power to suspend payment.

### **13. Suspension and termination in the event of bankruptcy**

13.1 DFW has the power to suspend performance of its obligations or to terminate the Agreement if the Client loses its power to disposal of its income or capital, is declared bankrupt or has applied for a suspension of payment.

13.2 If the Agreement is terminated, the amounts due from DFW to the Client shall be immediately due and payable. If DFW suspends performance of its obligations, it shall retain its claims under the law and the Agreement.

13.3 DFW shall not be liable for any damage incurred by the Client as a result of the early termination of the Agreement by DFW or DFW suspending or terminating the performance of the Agreement.

### **14. Specific stipulations regarding maintenance agreements**

14.1 The Contract period is stipulated in the Agreement. Termination of a continuing performance agreement shall take place at the end of the Contract Period subject to a notice period of at least three months.

14.2 The Client is not permitted to terminate the Agreement early during the Contract Period.

14.3 After the agreed Contract Period has expired, the Agreement shall be tacitly renewed.

Termination shall take place subject to a notice period of at least three months.

14.4 Should circumstances occur during the Contract Period which were not foreseen with respect to the cost price when the continuing performance contract was concluded, DFW is entitled to implement a price increase immediately. Examples of factors that justify a price increase include (but are not limited to) increases in tax rates, increases in raw material prices and increases in energy prices.

14.5 If price changes pursuant to the stipulations referred to in Article 14.4 result in an increase of more than 20% over the initial agreed price, the Client is entitled to terminate the Agreement subject to a notice period of three months.

### **15. Intellectual property and penalty**

15.1 The intellectual and industrial property rights on all goods, data and (technical) information provided to the Client shall remain with DFW. DFW has the exclusive right to disclose, realise and reproduce these goods, data and information and the Client has the exclusive user right thereto.

15.2 The documents issued by DFW to the Client, such as designs, drawings, technical descriptions or contract documents shall become the property of the Client and may be used by the latter in accordance with the rights contained in legislation in the field of intellectual and industrial property, after the Client has fulfilled its financial obligations towards DFW.

15.3 The Client is not allowed to repeatedly install the installation built according to the design of DFW, in whole or in part, without the express Written consent of DFW. DFW has the right to attach conditions to this consent, including payment of a fee. The provisions of this paragraph shall apply mutatis mutandis to the goods manufactured according to the design of DFW.

15.4 The Client only has the right to have a third party build the installation according to the design of DFW without its intervention and approval, if the Agreement has been terminated because of a breach that can be attributed to DFW, as well as in the event of force majeure as described in Article 18 of these General Terms and Delivery. In this case, DFW is not liable for defects insofar as these are attributable to the installation by, or on behalf of, the Client.

15.5 The user right of the Client with regard to the software developed and provided by DFW is not exclusive. The Client may only use this software in its own company or organisation and only for the technical installation for which the user right has been granted. The user right may relate to several installations, to the extent stated in the Agreement.

15.6 The right of use is non-transferable. The Client is not allowed, in any manner whatsoever, to make the software and the carriers on which the software is recorded available to a third party or to let a third party use the software. The Client is not allowed to reproduce the software or to make

copies of the software. The Client shall not modify the software other than in the context of error recovery. The source code for the software and the technical information produced while developing are not provided to the Client, unless otherwise agreed In Writing.

15.7 In the case of breach of this Article, the Client shall forfeit an immediately payable fine of €250,000, without prejudice to DFW's right to compensation for actual damages.

## **16. Liability**

16.1 DFW shall not be liable towards the Client or third parties for direct and indirect damages. In particular, DFW shall not be liable for damages:

16.1.1 that is wholly or partly the result of unusual, inappropriate, improper or careless use of the installation; which also includes failure to comply with the instructions given and everything that is included in the instructions for use;

16.1.2 that is wholly or partly the result of normal wear and tear or maintenance and/or any other modification not carried out by DFW;

16.1.3 that is wholly or partly the result of failure to perform regular maintenance;

16.1.4 that is wholly or partly the result of installation, assembly, modification and/or repair by the Client itself or by a third party;

16.1.5 if the installation has been modified, adapted, used or processed by the Client;

16.1.6 if the delivered item has been obtained in whole or in part by DFW from third parties and DFW itself cannot claim compensation under a guarantee from the third party in question;

16.1.7 consisting of a relatively minor difference in quality, finish, size, composition and the like, which is not unusual in the industry or if the defect was technically unavoidable;

16.1.8 that is wholly or partly the result of transport problems, fire, trade bans, violent or armed actions and breakdowns in energy supplies or in the hardware or software of DFW or third parties.

16.2 Nevertheless, if DFW is insured against direct damage and the insurance provides coverage, DFW's liability with respect to direct damage shall in such case be limited to the amount paid out by the insurance company concerned, if, despite this provision, there should be liability for direct (property) damage.

16.3 DFW is in no way liable for indirect damage incurred by the Client or third parties, including consequential damage (i.e. all damage other than damage to the property delivered by the Client, including lost profits, lost sales, reputational damage, lost opportunities, additional costs incurred). Furthermore, DFW is not liable for damage due to loss of data, damage as a result of providing inadequate information, cooperation or materials by the Client.

16.4 Should DFW nevertheless be liable for damage, DFW's liability shall be limited to the amount paid out by DFW's insurance company. If, in any case, the insurer does not pay out or if the damage is not covered by the insurance, DFW's liability shall be limited to the invoice amount or at least to that part of the Agreement the liability relates to.

16.5 Only in the event of deliberate intent or wilful recklessness on the part of DFW, DFW cannot invoke this limitation of liability.

16.6 A claim for compensation cannot be considered unless the Client has given notice of the loss to DFW immediately after the damage has occurred, but in any event within two months of the damage occurring.

Subsequently, proceedings against DFW must be instituted by the Client within 1 year. Subject to the risk of forfeiting all rights.

16.7 The Client shall indemnify DFW against all third-party claims, including but not limited to the consequences of deficiencies, which liability, arising from the above, is excluded towards the Client.

## **17. Portfolio**

17.1 DFW is entitled to use the name of the Client as well as the services performed/installation completed for the Client and photographic material created in the process for promotional activities and its portfolio.

17.2 If the Client objects to the use of photographic or video material, it must be notified In Writing to DFW within 14 days after discovery of the use. The Client is not entitled to compensation.

#### **18. Force majeure**

18.1 Force majeure means each of the circumstances beyond DFW's control that (temporarily) prevents DFW from fulfilling its obligations.

Examples include extreme weather conditions, wars, social unrest, hyperdeflation/hyperinflation, power and ICT/telecom-related failures, computer intrusion, terrorism, theft, fire, illness of one or more of DFW's employees, as well as third-party failures (such as DFW's suppliers or subcontractors failing to deliver resources or materials in a timely manner), as a result of which DFW cannot meet its own obligations towards the Client.

18.2 If DFW cannot fulfil its obligations due to force majeure, all such obligations shall be suspended for the duration of the force majeure situation. If the force majeure situation has lasted more than three months, both Parties shall be entitled to terminate the Agreement In Writing out of court, without the parties being obliged to pay each other any compensation. Settlement shall in this case be made according to the status of the work. The costs already incurred, following from DFW's administration, including but not limited to personnel, energy, transport, material, subcontractor and storage costs, shall be leading in determining the status of the work.

18.3 In the event of a force majeure situation, DFW shall inform the Client as soon as possible.

#### **19. Retention of title**

The goods and installations supplied by DFW, as well as all goods intended for the work such as materials or parts, shall remain the property of DFW until the Client has met all its (payment) obligations in full with respect to this Agreement but also with respect to all other agreements concluded between the same Parties.

#### **20. Right of retention**

DFW is entitled to retain possession of everything supplied by the Client to DFW, as well as everything that DFW has manufactured for the benefit of the Client, until the Client has met all its obligations toward DFW or its affiliated companies.

#### **21. Extrajudicial costs, applicable law and competent court**

21.1 If the Client fails to meet its obligations arising from the Agreement and DFW must incur extrajudicial costs in order to induce the Client to meet its obligations and/or in order to obtain compensation for its damages, the Client shall be liable for these costs. In any case, the amount of the extrajudicial costs shall amount to 15% of the financial interest. DFW reserves the right to have the actual extrajudicial costs it has incurred compensated by the Client.

21.2 This Agreement is governed by Dutch law. The applicability of the Vienna Sales Convention (CISG) is explicitly excluded.

21.3 Disputes between the Parties shall be resolved to the extent possible by proper consultation.

21.4 Any disputes between DFW and the Client shall be settled by the competent court in Alkmaar.