

GENERAL TERMS AND CONDITIONS (Goods)



1 Definitions

1.1 This agreement (the "**Agreement**") is constituted by (i) these General Terms and Conditions and (ii) the relevant Purchase Order and (iii) all Annexes attached to the Purchase Order. In the event of any conflict between the terms of these General Terms and Conditions, the relevant Purchase Order and the Annexes, the following order shall prevail: 1/ the relevant Purchase Order, 2/ these General Terms and Conditions and 3/ the Annexes.

1.2 As used in these General Terms and Conditions and unless the context requires otherwise, the following words and expressions shall have the following meanings:

- (a) "**Annexes**" means any and all annexes attached to the Purchase Order;
- (b) "**DDR**" means the Documents and Data Requirements attached to the Purchase Order;
- (c) "**Buyer**" means the company by whom an order is placed;
- (d) "**Goods**" means the goods or equipment specified in this Agreement;
- (e) "**Defective Goods**": means Goods, or part thereof, that are (i) not free of defect, and/or (ii) not in conformity with this Agreement;
- (f) "**Performance Tests**" means tests aimed at demonstrating whether the Goods performs in accordance with the Performance Guarantees, as further detailed in this Agreement;
- (g) "**Parties**" means Buyer and Seller and "**Party**" means either of both;
- (h) "**Purchase Order**" means a purchase order for the Goods;
- (i) "**Seller**" means the party which accepts to supply the Goods pursuant to this Agreement;
- (j) "**Warranty Period**" means the period of twenty-four (24) months commencing at the arrival of the relevant Goods at the Buyer's premises.

2 Seller Acceptance

These General Terms and Conditions and the relevant Purchase Order (together with all Annexes thereto and all documents referred to therein) contains the entire agreement between the Parties with respect to its subject matter. By confirming at any time any Purchase Order by Buyer, or performing at any time a delivery of Goods pursuant to a Purchase Order by Buyer, Seller acknowledges these General Terms and Conditions and irrevocably agrees to be bound by them. These General Terms and Conditions shall apply to the exclusion of any general or specific conditions communicated by Seller.

3 Object of the Agreement

Under the terms of the Agreement, Seller shall sell to Buyer and Buyer shall purchase from Seller the Goods as specified in this Agreement. Seller shall, within the limits of its scope, provide

everything required, whether of a temporary or permanent nature, for the complete supply, commissioning, testing, start up and certification of the Goods and for the remedying of every defect in the Goods and shall ensure that, when completed, the Goods shall be fit for the purposes for which it is intended as set forth in the Agreement.

4 Characteristics of the Goods

Seller shall supply Goods that are new, free of defect and in conformity with the specifications as set out in this Agreement (the "**Specifications**"). Seller warrants with respect to the storage, handling, production, processing, manufacturing, packaging, shipping and delivery of the Goods to Buyer that the Goods fully comply with all applicable laws and regulations, including (without limitation) relating to health, safety, environment, security, hygiene, quality, hazardous materials or toxic substances etc.. All Seller's warranties and conditions that are implied by applicable law are specifically incorporated in this Agreement.

5 Change Orders

Buyer may at any time request changes to the Goods and/or the Specifications. Upon receiving any such request, Seller will promptly advise Buyer of the impact, if any, on the price and delivery schedule specified in this Agreement. If Buyer issues a written authorisation to proceed with the change, then the Agreement will be considered to be amended to incorporate such changes. If Seller is unable or unwilling to meet the requested changes or revised Specifications, Buyer shall have the right to purchase the Goods elsewhere.

6 Delivery of Goods

6.1 Delivery of the Goods shall be in accordance with the applicable Incoterm 2010 (English version) set out in the relevant Purchase Order.

6.2 Deliveries shall be made according to the agreed delivery schedule set forth in this Agreement. Unless expressly stated otherwise, all delivery times are binding.

6.3 Seller shall give Buyer twenty (20) days prior written notice before any item of Goods is ready for delivery.

6.4 In case of non-compliance with the agreed delivery schedule, Buyer shall be entitled, at its sole discretion, without limitation to any other rights or remedies provided by law, either to (a) a price reduction of one per cent (1%) per week, as of the third (3rd) week of delay, such reduction being limited to a maximum of ten per cent (10%) of the total price specified in the Purchase Order, (b) terminate the Agreement with immediate effect, without any indemnity being due by Buyer, or (c) reject the parts of the Goods that have been delivered late (d) purchase the Goods elsewhere and any additional costs shall be reimbursed by Seller. Buyer's acceptance of any Goods after the time specified will not be construed as a waiver of any of Buyer's rights resulting from such lateness.

6.5 Seller shall immediately notify Buyer in case Seller becomes aware that it is likely that it will not be able to comply with the agreed delivery schedule.

6.6 Buyer reserves the right to request changes to the delivery schedule. Upon receiving any such request, Seller will promptly advise Buyer of the impact, if any, on the price specified in the Purchase Order. If Buyer issues a written authorisation to proceed with the change, then the Purchase Order will be considered to be amended to incorporate such changes. If Seller is unable or unwilling to meet the requested revised delivery schedule, Buyer shall have the right to purchase the Goods elsewhere.

7 Risk and Title to Goods

7.1 The risk relating to the Goods shall be transferred to Buyer in accordance with the applicable Incoterm 2010 (English version) set out in the relevant Purchase Order and, in case no applicable Incoterm 2010 (English version) has been specified, at the same time title to the Goods is transferred to Buyer.

7.2 Buyer shall take full title of the Goods when the Goods arrive at the premises of Buyer or, if earlier, at the moment mentioned in the Purchase Order.

8 Inspection of Goods and Warranty Period

8.1 Buyer shall have the right to inspect and/or test the Goods prior to its shipment or packaging, if any, at the Seller's or its subcontractor's premises. Seller shall provide any sample and product data related to the Goods as Buyer may require to conduct such inspection.

8.2 Seller shall inform Buyer in a timely manner so as to enable Buyer to conduct the inspection mentioned under Clause 8.1, and, in any case, no later than twenty (20) days prior shipment or packaging, if any, of the Goods.

8.3 In the event of any Defective Goods, Buyer shall have the right, at its sole discretion, within the Warranty Period, in addition to any other rights or remedies provided by law, to (i) accept the Goods at a price reduction, (ii) require Seller to repair the Goods, at Seller's expense, (iii) require Seller to replace non-conforming Goods with conforming Goods, at Seller's expense, or (iv) terminate the Agreement with immediate effect, without any indemnity being due by Buyer.

8.4 When any Defective Goods has been fully repaired or replaced, the relevant Warranty Period for that repaired or replaced item shall be extended by a period equivalent to the original Warranty Period.

8.5 If Seller fails to repair or replace any Defective Goods within thirty (30) days from the notification by Buyer to Seller of a Defective Goods, Buyer shall have the right, without limitation to any other rights or remedies provided by law, to (a) terminate the Agreement with immediate effect, without any indemnity being due by Buyer, or (b) obtain alternative supplies from other sellers or suppliers and Seller shall be liable for all reasonable and necessary claims, expenses, and costs which may be incurred by Buyer to repair or replace the Goods.

9 Documentation

9.1 Seller shall provide all information, designs and drawings required for the purposes of constructing, erecting, installing, testing, commissioning, handing over, operating, maintaining, repairing, adjusting, reassembling or replacing any part of the Goods.

9.2 Seller shall prepare operation and maintenance manuals in such a manner as to enable Buyer to fully and efficiently operate the

Goods and to inspect, maintain, adjust, dismantle, re-assemble and repair any and all parts of the Goods.

9.3 Whenever required by law, Seller shall appoint independent certifying authorities (to be approved by Buyer) and coordinate with them to inspect and test fabrication of the Goods. Seller shall be responsible for obtaining their certificates required by law and for issuing Seller's declarations required by law.

9.4 Upon Buyer's request but not later than upon successful Performance Tests, Seller shall provide Buyer with a complete and finally updated set of the following documents: (i) as-built drawings, (ii) certificates and declarations (if applicable) and (iii) operation and maintenance manuals. The Goods shall not be considered to be accepted by Buyer until Buyer has received all abovementioned duly updated documents relating to the Goods.

9.5 If, due to any reason attributable to Seller (including Seller's subcontractors), Seller fails timely to deliver any documentation item noted as "STLD" (subject to liquidated damages) in the DDR according to the contractual delivery dates indicated in the DDR, Seller shall pay liquidated damages for late delivery, in the amount of zero point five percent (0.5%) of the total price specified in the Purchase Order per calendar day of delay, starting from the first calendar day after the contractual delivery dates specified in the DDR, with a maximum of five percent (5 %) of the total price specified in the Purchase Order.

10 Performance Testing

10.1 If this Agreement provides for a performance guarantee in relation to the Goods, Seller represents and warrants that the Goods shall perform in accordance with the guaranteed performance criteria set out in this Agreement (the "Performance Guarantee").

10.2 Seller shall carry out Performance Tests of the Goods in the presence of Buyer. Such Performance Tests shall occur within the term set out in this Agreement. The Performance Tests shall demonstrate that the Goods meets the Performance Guarantee. Upon successful completion of the Performance Tests, Buyer shall issue to Seller a certificate confirming acceptance of the results which shall, in any event, not be issued less than five (5) calendar days following completion of the Performance Tests.

10.3 If the Performance Tests fail for reasons which are not attributable to Seller, Buyer and Seller shall agree on a new date within ten (10) days of the end of such term to re-conduct such Performance Tests.

10.4 If the Goods do not meet the Performance Guarantee throughout the duration of the Performance Tests, then Seller shall at its cost and risk, remedy the causes of such deficiency by making modifications, adjustments, repairs, additions to and/or replacements with utmost diligence, after which the above testing procedure shall be repeated.

10.5 In the event the Goods has not successfully passed the Performance Tests within two (2) months from the commencement of the Performance Tests, Buyer may, at its sole discretion, elect to (i) accept the Goods at a price reduction, (ii) require Seller to replace the non-conforming Goods with Goods meeting the Performance Guarantee, at Seller's expense (iii) grant additional time to Seller for making good the deficiencies at Seller's cost and risk and proceeding again with Performance Tests or (iv) terminate the Agreement with immediate effect, without any indemnity being due by Buyer.

10.6 If Seller fails to replace the non-conforming Goods with Goods meeting the Performance Guarantee within thirty (30) days from the request by Buyer to Seller to replace the non-conforming

Goods, Buyer shall have the right, without limitation to any other rights or remedies provided by law, to (a) terminate the Agreement with immediate effect, without any indemnity being due by Buyer, or (b) obtain alternative supplies from other sellers and any additional costs shall be reimbursed by Seller. Seller shall be liable for all reasonable and necessary claims, expenses, and costs which may be incurred by Buyer as a consequence of this failure.

11 Price

Seller shall sell to Buyer the Goods at the prices set out in the relevant Purchase Order. The prices are expressed in the currency mentioned in the relevant Purchase Order. Prices are firm and valid for the duration of the Agreement. Seller shall bear, and the Agreement is deemed to include, all taxes, levies, imposts, duties, charges, fees, contributions, deductions or withholdings, of any kind or nature, whether corporate or individual, and any interests, penalties or expenses in respect thereof, levied in connection with the Goods, except V.A.T. Transport costs, insurance costs, customs duties will be covered by the Incoterm 2010 (English version) chosen in the relevant Purchase Order.

12 Payment

Buyer shall pay correctly rendered invoices within sixty (60) days as of the end of month in which the invoice is received, according to the payment term as set out in the Purchase Order. Should the delivery fail to conform to the Specifications, the payment period shall be extended until the Agreement has been properly fulfilled. Where payment is to be made by instalment, failure of Buyer to pay any instalments in due time shall not entitle Seller to treat such failure as a repudiation by Buyer of the whole Agreement. If a Party does not pay a sum of money when it falls due the other Party is entitled to the legal interest upon that sum from the time when payment is due to the time of payment. Buyer may set off any amounts owing to it by Seller, whether or not Seller disputes such amounts, against any amounts Buyer owes Seller. Seller agrees that any credit balance will be paid to Buyer upon Buyer's written request.

13 Suspension of Performance

Buyer may, by written notice to Seller, suspend further performance of the Agreement. Such notice shall specify the date and the estimated duration of the suspension. Such suspension shall not exceed more than ninety (90) calendar days. Upon receiving any such written notice of suspension, Seller shall suspend further performance of the Agreement. When Buyer withdraws the suspension by written notice to Seller before the ninety (90) calendar days expire, Seller will resume performance of the Agreement and will notify Buyer of the new delivery date. When the ninety (90) calendar days expire, Seller will give written notice to Buyer within fifteen (15) days after the ninety (90) calendar days of suspension have past that automatic cancellation is applicable. For every calendar day of suspension, a penalty fee of 0,02% of the total price (or that part on hold) may be charged by Seller to Buyer, invoiced per month. If Seller wishes to exercise its right to charge such penalty fee, the respective invoice must be issued and received by Buyer at month end. Payment of such penalty fee shall be made within sixty (60) days as of the end of month in which the invoice is received.

14 Early Termination

14.1

Either Party shall be entitled, without prejudice to any other rights it may have, to terminate the Agreement forthwith, wholly or partly, by notice in writing to the other party, without a court intervention or additional formality (*de iure*) and without any indemnity being due, if: (a) the other Party is in default of any of its obligations under the Agreement and fails, within 30 (thirty) days of the date of the terminating Party's notification in writing of the existence of the default, either to rectify such default if it is reasonably capable of being rectified within such period or, if the default is not reasonably capable of being rectified within such period, to take action to remedy the default, or, (b) on the occurrence of an Insolvency Event in relation to either Party. "Insolvency Event" in relation to a Party means any of the following: (i) a meeting of creditors of a Party being held or an arrangement or composition with or for the benefit of its creditors being proposed by or in relation to such party; (ii) a charge holder, receiver, administrative receiver or similar person taking possession of or being appointed over or any distress, execution or other process being levied or enforced on the whole or a material part of the assets of a Party; (iii) a Party ceasing to carry on business or being unable to pay its debts within the meaning of the laws of Belgium; (iv) a Party or its directors giving notice of their intention to make an application to the court for the appointment of an administrator; (v) a petition being presented (and not being discharged within 28 days) or a resolution being passed or an order being made for the administration, opening of the insolvency procedure or the winding-up, bankruptcy or dissolution of a Party; or (vi) the happening in relation to a Party of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets.

14.2

In case of early termination, each Party shall be entitled to recover from the other Party or such other Party's representative all costs and damages incurred by the terminating Party as a result of such termination.

15 Force Majeure

The Agreement shall be suspended, without liability, in the event and to the extent that its performance is prevented or delayed due to any circumstance beyond the reasonable control of the Party affected, including but not limited to: Acts of God, war, armed conflict or terrorist attack, riot, fire, explosion, accident, flood, sabotage, governmental decisions or actions (including but not limited to prohibition of exports or re-exports or the failure to grant or the revocation of applicable export licenses) or labour trouble, strike, lockout or injunction. If either Party is delayed or prevented from performance of its obligations by reason of force majeure for more than hundred and eighty (180) consecutive calendar days, either Party may terminate the then unperformed portion of the Agreement by notice in writing given to the other Party, without liability.

16 Insurance

16.1

Seller represents that it has, and for so long as this Agreement is in force, will maintain at its own cost and expense, from a reputable insurance company, adequate and sufficient insurance for the type of business engaged into by Seller in compliance with all applicable regulations and in accordance with the standard expected for a company operating similar activities, taking into account the specifics of the contractual relationship with Buyer. In particular, Seller shall maintain, as a minimum, product liability insurance that shall be written for not less than €5,000,000 (five million euros) per occurrence, or as required by law, whichever is greater. Such coverage shall provide that the

policies will not be cancelled or materially altered until at least thirty (30) days prior written notice has been given to Buyer.

16.2 Seller shall provide Buyer with certificates of insurance evidencing such coverage, upon Buyer's first written request therefore.

17 Relationship of the Parties

Each Party is and shall perform its obligations under the Agreement as an independent contractor and, as such, shall have and maintain complete control over all of its respective employees, agents and operations. Neither Party nor anyone employed by it shall be, represent, purport to act or be deemed to be the agent, representative, employee or servant of the other Party.

18 Confidentiality

Seller shall keep confidential and not disclose to others without Buyer's prior permission in writing the terms of the Agreement, any computer programs, software, firmware, specifications, drawings, technical descriptions, designs, trade or business secrets, or information, whether of a technical or commercial nature relating to Buyer's products and/or business acquired pursuant to the Agreement and to use same only for the purposes specified in the Agreement. Notwithstanding the foregoing, Seller shall have the right to disclose such confidential information to its Sellers or sub-contractors for the purpose of performing its obligations under the Agreement, subject to such Seller or sub-contractor being bound by a written undertaking of confidentiality equivalent to that set out in this Clause 18. Nothing contained in this Confidentiality Clause shall apply to prevent Seller from disclosing information: (a) in its possession (with full right to disclose) prior to receiving it from Buyer, (b) which is public knowledge, (c) which it may independently receive, with no restriction on disclosure, from a third party, or (d) which is independently developed by an employee who has not had access to Buyer's confidential information. The obligations set out in this Clause 18 shall apply for a period of twenty (20) years from the date of the Agreement.

19 Intellectual Property

19.1 All intellectual property rights created or developed by Seller in connection with the Agreement shall remain the property of Seller and Seller grants Buyer a royalty free, non-exclusive, worldwide, perpetual license to use same in connection with the scope of Buyer's businesses. Notwithstanding the above, Buyer shall be entitled to copy any document related to the Goods. All Buyer's intellectual property used by Seller shall at all times remain vested in Buyer and may not be used by Seller for any purpose other than the performance of Seller's obligations under the Agreement unless otherwise authorised in writing by Buyer.

19.2 Seller represents and warrants that the Goods supplied to Buyer will not infringe any third party's intellectual property rights. Seller shall defend, indemnify and hold harmless Buyer on first written demand in respect of all losses, damages, costs, expenses and other liabilities (including attorneys and other professional fees) incurred by or awarded against Buyer in connection with any claim or action against Buyer by a third party for (alleged) intellectual property infringement related to the Goods.

20 Miscellaneous

No waiver by either Party with respect to any breach or default or of any right or remedy and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or

default or of any other right or remedy, unless such waiver be expressed in writing and signed by the Party to be bound. If any provision of the Agreement is held to be invalid in whole or in part, the validity of the remaining provisions shall not be affected. In such event, the Parties shall, if possible, substitute for such invalid provision a valid provision corresponding to the spirit and purpose thereof. Seller shall not assign novate, transfer, charge or otherwise deal with the Agreement or any of its rights, liabilities or obligations thereunder without Buyer's prior written consent. Buyer at his sole discretion and by notice shall have the right to assign, novate, charge or transfer any of its rights and/or obligations under the Agreement without Seller's prior written consent being required. The Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with Belgian law, excluding the UN Convention on Contracts for the International Sale of Goods (CISG). Any dispute arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of Arbitration of the International Chamber of Commerce, by one (1) or more arbitrator(s) appointed in accordance with said Rules, which Rules are deemed to be incorporated by reference into this Clause. The place of arbitration shall be Brussels, Belgium. The language to be used in the arbitral proceedings shall be English.