

## General Terms and Conditions of Sale and Delivery (version 2019)

### Article 1: Definitions

#### 1) SUPPLIER

Supplier refers to Supplier and all of its affiliated or related entities, including, but not limited to, its parent, subsidiary, affiliated companies, their officers, directors, employees and agents, individually and collectively.

#### 2) CUSTOMER

a) Any party acting as agent for the customer, the party ordering goods or services on behalf of himself, herself or itself and others;

b) The person signing Supplier's credit application, service order, bill of lading, delivery receipt or ticket;

c) The store, factory, warehouse, shipping company, accepting agent, contractor or subcontractor of the job site, store, warehouse, transportation company, accepting agent;

d) The person accepting and/or ordering Supplier's goods and services acknowledges that he or she has the actual and apparent agency authority to bind the customer and owner of the property the product will improve, to the terms and conditions of this agreement, all of whom are included in the term "Customer"; and

e) The person paying the invoices of Supplier, signing Supplier's service orders, delivery tickets, bills of lading or other Supplier contracts, acknowledges that he or she is the agent of the customer and/or any entity who is benefited by the Supplier's product, and that they are said person's agent.

#### 3) EQUIPMENT

"Equipment" refers to any goods and service, item of supply or equipment or property ordered or purchased by Customer or the Customer's agent from Supplier or provided by Supplier, including, but not limited to: valves, pipe, fittings, product or general equipment, supplies, parts, materials, supplies and/or merchandise sold by Supplier or provided in connection with Supplier's provider capabilities or needed by Supplier to assist Supplier in the performance and delivery of its product to Customer, but "Equipment" excludes "Services" as defined below.

#### 4) SERVICE(S)

"Services" refers to all employees or agents furnished by Supplier as consultants and/or to perform any function, including the operation of equipment which performs any function, trucks or other merchandise necessary to perform any function when operated by Customer's employees or agents or the Supplier's employees or agents on Customer's job or to satisfy the Customer's order or orders.

#### 5) OFFER

An offer by Supplier to the Customer specifying the work according to materials, price and delivery period.

## 6) AGREEMENT

the agreement between Supplier and the Customer, recorded in a contract signed by the parties or in an order confirmation signed by Supplier.

## 7) DELIVERY

the period between the formation of the agreement and the agreed moment of delivery.

## 8) IN WRITING

by letter, fax or electronically.

### **Article 2: Applicability**

1. These general terms and conditions apply to every offer, Agreement and ensuing obligations of and with Supplier.
2. Departures from these conditions may only be in writing and only apply in respect of the specific agreement to which the departure relates.
3. If any provision of these general terms and conditions or of an Agreement entered into under application of these general terms and conditions, by judicial opinion appears not to be (legally) valid, the other provisions remain in full force. If and insofar as any provision in these general terms and condition is by judicial opinion not (legally) valid, it shall be converted into a legally acceptable provision which, as regards purport, is as close as possible to the invalid provision and the Agreement.
4. By the mere fact of an order to Supplier, the Customer relinquishes any existing terms and conditions on its part, however named and however filed, so that only the current terms and conditions apply to all Agreements.
5. In the event of a conflict between the content of the Agreement entered into between the Customer and Supplier and these general terms and conditions, the provisions in the Agreement prevail.

### **Article 3: Offers and agreements**

1. All Offers or quotations are completely without obligation and are valid for the term as indicated by Supplier.
2. Orders to Supplier are deemed to be an irrevocable offer as long as the order has not been refused by Supplier.
3. An Agreement is only formed by the signing of the contract by both parties or by Supplier accepting the order by means of a written order confirmation. This also applies to the orders which have already been accepted on behalf of Supplier by representatives or intermediaries and to the verbal promises by representatives or intermediaries made on behalf of Supplier.
4. The Agreement is formed on the condition precedent that the Customer, on the basis of information to be gathered by Supplier, shall appear to be sufficiently creditworthy, such to be assessed in line with the standards of the usual conditions of the credit insurer of Supplier.
5. If Supplier has stipulated additional payment security, the condition precedent applies that Supplier has received an agreed (partial) advance payment and/or received a

bank guarantee and/or after an irrevocable (confirmed) L/C has been accepted by Supplier in writing.

6. Customer shall be responsible for all customs fees, duties, and foreign, federal, state or local taxes (including, sales, use, excise or similar taxes and foreign withholding taxes).

#### **Article 4: Price**

1. Unless agreed otherwise in writing, the prices are based on Ex Works, Tilburg, the Netherlands (EXW, according to the Incoterms as in force at the time the offer was made). 'Tilburg' in this article means the business site of Supplier in Tilburg. The prices are exclusive of turnover tax and other government levies imposed on the sale and delivery, and of packaging, packing, shipping costs and clearance charges.

2. If after the date the Agreement is entered into, four calendar months pass and the performance of such in accordance with the Agreement has not been completed by Supplier, a rise in the cost-determining factors - even if such occurs as a result of foreseeable circumstances - may be charged on to the Customer.

The payment of the price rise as referred to in paragraph 2, takes place at the same time as the payment of the principal sum or the last instalment.

#### **Article 5: Payment**

1. Payment must be made without any deduction and/or set-off by the Customer within 30 days from the invoice date to Supplier in euros, unless agreed otherwise in writing.

2. Only payment by means of a transfer into one of the bank accounts in the name of Supplier leads to a discharge of the Customer.

3. The right of Customer to offset its claims on Supplier is excluded unless Supplier is in liquidation.

4. Any claims on the guarantee do not suspend the payment obligations of the Customer.

5. In the event of a failure to pay or late payment, the Customer shall be in default by the mere expiry of the term without any demand or notice of default being required. From the moment the payment should at the latest have taken place, the Customer owes interest on what is due to Supplier of 1.5% per month compounded on an annual basis, such without prejudice to other legal possibilities on the part of Supplier and without prejudice to the right of Supplier to claim compensation for the loss it suffers as a result. In the event of delay of more than 30 days in payment due, Supplier is entitled to terminate the agreement full or partial without liability of claim against Supplier for doing so and without prejudice to the right of Supplier to claim compensation for the loss it suffers as a result of the termination.

6. All costs incurred, both judicial and extrajudicial costs, relating to the collection of the claim of that owed by the Customer and not paid on time, are for the account of the Customer. The extrajudicial costs related to the collection are a fixed sum of 15% of the principal sum to be claimed with a minimum of €1.000, without Supplier having to demonstrate that these costs have been incurred. The WIK (Wet normering buitengerechtigke incassokosten) is not applicable.

7. If Supplier is the successful party in a legal action, all the costs it has incurred in connection with this action are for the account of the Customer, irrespective of any court order for costs.
8. If the Customer fails or is late in its payment obligations, the full purchase price to be paid to Supplier becomes immediately due and payable up to the full amount, irrespective of the state of the work or delivery and Supplier may claim immediate payment of such and suspend the work until full payment has been received. This provision does not affect the provisions in article 10(2).
9. Payments to Supplier will first be applied to the costs, subsequently to the interest and then to the oldest invoices.
10. Supplier is entitled, during or after entering into the Agreement, before performing or continuing to perform, to demand from the Customer that it immediately provides payment security in a form to be determined by Supplier (including (partial) advance payment). If the Customer fails to provide the requested security, Supplier is entitled, without prejudice to its other rights, to immediately suspend the further performance of the Agreement or to terminate the Agreement wholly or in part without any notice of default or judicial intervention being required, without prejudice to its right to compensation of the loss suffered. In that event, all that the Customer owes Supplier, on whatever ground, also becomes immediately due and payable.
11. Any objections against an invoice must be submitted to Supplier in writing within eight (8) working days from the invoice date stating reasons. After this term has expired, complaints are no longer processed and the Customer has forfeited its rights in respect of the matter. Objections against the amount of the submitted invoices do not suspend the payment obligation of the Customer.

#### **Article 6: Delivery (period)**

1. Supplier endeavours to deliver the purchased goods within the period stated in the order confirmation. On exceeding of the delivery period, Supplier is obliged to notify the Customer of this. The delivery period is never a strict deadline. Exceeding the delivery period does not entitle the Customer to claim compensation for any possible loss suffered, unless the parties have agreed otherwise in writing.
2. The delivery period commences when the applicable Agreement has been formed in accordance with the provisions in article 3(3) to (5) inclusive, all technical details have been agreed, all necessary information, definitive drawings etc. are in the possession of Supplier and all the conditions and formalities required for the performance of the order have been satisfied.
3. The delivery period is based on the circumstances applicable at the time the Agreement was entered into and on the timely delivery of the materials ordered by Supplier for the performance of the work. If, through no fault of Supplier, a delay arises as a result of a change in the aforementioned circumstances or due to the fact that materials ordered in good time required for the performance of the work have not been delivered on time, the delivery period shall, insofar as required, be extended.
4. Save in the event of an intentional act or gross negligence on the part of Supplier, exceeding the delivery period by six calendar months or less does not give grounds for terminating the Agreement by the Customer. If a delivery period is exceeded by more than six calendar months, the Customer is entitled to terminate the agreement for that part of

the obligation which has not yet been performed by means of a registered letter. If Supplier has already commenced with the manufacturing of the purchased goods, this right only exists if the delivery period is exceeded by nine months, on the proviso that the Customer in that case is obliged to purchase from Supplier that part of the purchased good which is ready, or all but ready, for a pro rata payment. However, the Customer is never entitled to any penalty payment or compensation.

5. If the performance of an order takes place by delivery in consignments, each delivery shall be deemed to be a separate transaction with all legal consequences. Each partial delivery is invoiced separately. The (payment) conditions set out in article 5 also apply to each partial delivery.

6. Unless agreed otherwise in writing, delivery will be on the basis of Ex Works, Tilburg, the Netherlands (EXW Tilburg Incoterms, as applicable at the time of the entering into of the Agreement). As regards the delivery period, the product is deemed to be delivered if it is ready for shipment at the agreed place and the Customer has been notified of this in writing and has had a reasonable opportunity to ensure that Supplier has placed the product in the possession of the (first) carrier to be appointed by the Customer, such without prejudice to the obligation of the contractor to perform any assembly/installation obligations.

7. Without prejudice to the provisions in paragraph 6, the Customer and Supplier may agree that Supplier shall be responsible for the shipment. The risk of shipment and unloading is in that case also for the Customer. The Customer may insure itself against these risks.

#### **Article 7: Not purchased goods**

Supplier shall notify the Customer on time of the exact moment the order has become ready. The Customer is under a purchase obligation. If the Customer does not take receipt of the goods at the agreed time, the Customer is in default without any further notice of default being required. If after the expiry of the delivery period, the goods have not been purchased, they remain at the disposal of Supplier. The Customer then has the opportunity for fourteen days to ensure that the goods will be shipped. If and insofar as the order is then still not collected, Supplier reserves the right to remove the goods, store the goods for the account and at the risk of the Customer, trade the goods, ship the goods for the account and at the risk of the Customer or terminate the Agreement. All costs arising from the above circumstances, including the costs of storage and possible lower revenue, are for the account of the Customer. The above applies without prejudice to any other rights Supplier is entitled to. Supplier may always rely on the authority of article 6:90 Dutch Civil Code. Any act by Supplier leaves the integral payment of the purchase price unaffected. If and insofar as Supplier has sold the goods to a different party, the purchase price received by Supplier in that case shall be deducted from the sum to be paid by the Customer. In the event Supplier terminates the Agreement, it is entitled to compensation of loss, which expressly includes consequential loss, it suffers as a result of the failure on the part of the Customer.

#### **Article 8: Retention of title**

1. Delivered goods remain the property of Supplier until the Customer has satisfied all its financial obligations in respect of this or similar Agreements and as soon as the Customer has paid the claims by Supplier due to failure in the performance of such an obligation, including interest and costs.

2. As long as the delivered goods are subject to the retention of title, the Customer is not entitled to transfer the ownership to third parties, offer the goods as security, encumber them or make them available to a third party in any other way. The Customer is nevertheless entitled to sell these goods in the ordinary course of its business.
3. After Supplier has invoked its retention of title, it may retrieve the delivered goods. The Customer shall allow Supplier to enter the place where these goods are kept.
4. Irrespective of the retention of title, from the moment of delivery, the goods are for the account and at the risk of the Customer.

#### **Article 9: Cancellation**

1. If and insofar as the Customer wishes to cancel the agreement, whilst this is through no fault of Supplier, this opportunity only exists under the express and written permission of Supplier.
2. In cases where Supplier agrees to the cancellation of the Agreement, it is terminated with mutual consent. The Customer is then obliged to pay Supplier all costs reasonably incurred in view of the performance of the agreement (including the costs of preparation, storage and suchlike), without prejudice to the right of Supplier to claim compensation for loss of profit and other loss. The Customer is also obliged to pay the costs resulting from the cancellation.
3. Supplier is entitled to cancel an order if, at the moment of delivery, the Customer has not fulfilled its earlier payment obligations towards Supplier or towards other creditors. The Customer cannot derive any rights from such cancellations.

#### **Article 10: Suspension and termination**

1. If the Customer fails to comply with one or more of its obligations properly, in full and on time or if there are grounds to fear that the Customer will not comply with its obligations properly, in full and on time as well as in the event the Customer dies, is declared bankrupt or applies for a moratorium, proceeds to wind up its company, is placed under guardianship, its products are wholly or partially seized or otherwise appears to be insolvent, the Customer is deemed to be in default by operation of law and Supplier is entitled to suspend the Agreement with a reasonable term or terminate the Agreement in respect of the unperformed part without intervention by the court being required or take any other measure it deems suitable without any obligation to pay compensation.
2. In all these cases, any claim on the Customer becomes immediately due and payable and Supplier is entitled to recoup the loss from the Customer it has suffered in the performance of the Agreement, including any loss of profit of Supplier. This loss is determined at 50% of the agreed price, without prejudice to the right of Supplier to claim full compensation.
3. The Customer undertakes to indemnify Supplier against claims by third parties as a result of the suspension or termination of the Agreement.
4. Slight deviations with the usual or reasonable tolerances, do not entitle the Customer to termination, complaints, rejection, replacement or compensation.

#### **Article 11: Force majeure**

1. If Supplier is unable to fulfil its obligations as a result of force majeure, the delivery period shall be extended with the duration of this force majeure without Supplier being liable to pay any compensation for loss.
2. Force majeure in these general terms and conditions means any circumstance beyond the control of Supplier - even if it was already foreseeable at the time of the formation of the Agreement - which permanently or temporarily prevents the performance of the Agreement as well as, insofar as not yet included, war, threat of war, terrorism, civil war, impeding government measures, riot, work strikes, exclusion of workers, transport problems, fire, machine failure and other serious failures in the company of Supplier or its suppliers.
3. If on the commencement of the force majeure, Supplier has already partially fulfilled its obligations or is only able to partially fulfil its obligations, it is entitled to invoice the already delivered or deliverable part separately and the Customer is obliged to pay this invoice as if it concerned a separate Agreement. In addition, Supplier has the right to amend the content of the Agreement in such a way that its performance remains possible.
4. If the force majeure situation has continued for more than six months, both Supplier and the Customer are entitled to terminate the Agreement. In that event, the Customer is not entitled to any compensation.

#### **Article 12: Liability**

1. Except in the event of an intentional act or gross negligence on the part of Supplier and subject to statutory liability on the basis of mandatory provisions, Supplier is never liable for any loss suffered by the Customer. Supplier's liability is limited to the performance of the guarantee obligations set out in article 13.
2. If and insofar as, despite the provisions above, any liability rests on Supplier, for whatever reason, this is limited to the sum to which Supplier's liability insurance entitles in the relevant case. If the insurer, for whatever reason, does not make a payment, Supplier's liability is limited to the sum equal to the net invoice value of the relevant goods. A series of connected loss-causing incidents is deemed for the application of this article to be one incident/claim.
3. In the event of liability of Supplier, the obligation to compensate for the loss is fully satisfied by repairing, improving or replacing all that bought by the Customer, all this at the full discretion of Supplier.
4. Supplier is not obliged to carry out repair work if the Customer does not properly perform all the obligations arising for it from the relevant Agreement or not does not perform those on time. The alleged failure to carry out repair work by Supplier does not release the Customer of the obligations which arise for it from the Agreement with Supplier.
5. Complaints in respect of defects must be made in writing as soon as possible after their discovery, but at the latest within fourteen days. On the exceeding of this term, any claim against Supplier for such defects lapses. Legal proceedings must be brought within one (1) year of the complaint being made in good time, at the risk of such a claim lapsing.
6. Defects which can only be discovered at a later stage must within seven calendar days from discovery be notified to Supplier in writing, at the risk of the right to this end lapsing. The 'within a reasonable period' as referred to in article 6:89 Dutch Civil Code is in all cases set at seven calendar days.
7. Liability for any form of indirect loss, consequential loss, immaterial or trading loss including, for example, business interruption loss and loss of profit, loss as a result of

personal accidents or loss arising from claims of third parties against the Customer, is expressly excluded. Insofar as relevant, the Customer relinquishes this.

8. The Customer indemnifies Supplier against all claims by third parties due to product liability as a result of a defect in a product which has been delivered by the Customer to a third party and that (partly) consisted of goods and/or materials delivered by Supplier.

9. Supplier excludes any liability for damage or loss of materials made available by the Customer. Any loss occurring during the shipment of such material to Supplier, is fully for the account and at the risk of the Customer.

10. Supplier is not liable to pay any compensation other than by reason determined in this article, unless agreed otherwise during the entering into of the Agreement.

### **Article 13 : Guarantees**

1. Without prejudice to the restrictions set out below, Supplier guarantees for a period of twelve months after the invoice date both the soundness of the goods it has delivered (not being a service) and the quality of the materials used and/or delivered for such. Insofar as it concerns defects to the delivered product not visible during an inspection or takeover tests respectively, of which the client proves that they arose within six months after the delivery in accordance with article 6(6) exclusively or primarily as a direct result of an error in the construction applied by Supplier or as a result of a defective finish or use of inferior material.

2. Paragraph 1 applies mutatis mutandis to defects not visible during an inspection or takeover test respectively, which find their cause exclusively or primarily in the faulty assembly/installation by Supplier. If the assembly/installation of the product is carried out by Supplier, the guarantee term of twelve months referred to in paragraph 1 commences on the day the assembly/installation is completed by Supplier on the proviso that in that case the guarantee term ends in any event if eighteen months after delivery in accordance with article 6(6) have passed.

3. The defects falling under the guarantee referred to in paragraph 1 and 2 shall be removed by Supplier by means of repair or replacement of the defective part, whether or not at the company of the Customer, or by the sending of a part in replacement, all this always at the discretion of Supplier and on condition that a complaint has been lodged on time. Return of purchased goods is only permitted with the prior written consent of Supplier. All costs which exceed the mere obligation as set out in the previous sentence such as, but not limited to, shipping costs, travel and accommodation costs as well as costs of disassembly and assembly/installation are for the account of the Customer. For repaired or replaced parts respectively, a new guarantee term of six months applies on the proviso that any guarantee lapses as soon as twelve months after the delivery of the goods according to article 6(6) have passed or, on applicability of paragraph 2, as soon as eighteen months after the latter delivery have passed.

4. For repair, reconditioning and maintenance work and similar services carried out by Supplier outside the guarantee period, a guarantee is, unless agreed otherwise, only given for the soundness of the performance of the instructed work for a period of six months. This guarantee contains the sole obligation of Supplier, in the event of unsoundness, to carry out the relevant work, insofar as unsound, again. The third sentence of paragraph 3 applies mutatis mutandis. In that case, a new guarantee term of six months applies on the proviso that any guarantee lapses as soon as twelve months after the performance of the original work have passed.

5. No guarantee is given in respect of inspections carried out by Supplier, or for advisory and similar services.
6. Not covered by the guarantee are in any event defects which arise, or are wholly or partially the result of:
  - a) the non-observance of operating and maintenance instructions or different than anticipated normal use;
  - b) normal wear and tear;
  - c) assembly/installation or repair by the Customer or third parties;
  - d) the application of any government regulations regarding the nature or quality of the materials used;
  - e) materials or goods used in consultation with the Customer;
  - f) materials or goods which the Customer has made available to Supplier for processing;
  - g) materials, goods, working methods and constructions, insofar as applied on the express instructions of the Customer as well as materials or goods supplied by or on behalf of the Customer;
  - h) parts obtained by Supplier from third parties insofar as the third party has not provided a guarantee to Supplier or the guarantee provided by the third party has expired.
7. If the Customer fails to comply with any obligation arising for it under the Agreement entered into with Supplier or a related Agreement properly, in full and on time, Supplier is not bound to any guarantee, however named, in connection with any of these Agreements. If the Customer, without the prior written consent of Supplier, proceeds to disassemble, repair or carry out other work in respect of the goods or has such done, any claim pursuant to the guarantee lapses.
8. If in the performance of its guarantee obligations, Supplier replaces parts/goods, the replaced parts/goods become the property of Supplier.
9. The alleged non-performance by Supplier of its guarantee obligations does not release the Customer of the obligations which arise for the Customer from any Agreement entered into with Supplier.
10. If the agreed performance consists of the processing of materials supplied by the Customer, Supplier guarantees the soundness of the processing during the period referred to in paragraph 1.
11. The parties agree that the indemnities provided by Customer to Supplier herein shall be supported either by available insurance or that Customer shall voluntarily become self-insured, in whole or part and upon request of Supplier prove that Customer is good for the loss and that Customer is sufficiently self-insured. In addition, Customer shall, at its expense, maintain adequate insurance to fully protect any Equipment or Services or personnel supplied by Supplier and shall supply to Supplier, upon request, satisfactory evidence of sufficient insurance coverage to protect Supplier, Supplier's property, Supplier's personnel and Supplier's liability.

**Article 14: Intellectual property rights**

1. The information contained in catalogues, images, drawings, measurement and weight statements and suchlike are only binding if and insofar as they have been expressly included in a contract signed by the parties or in a order confirmation signed by Supplier.

2. Unless agreed otherwise, Supplier retains the copyrights and all other intellectual property rights to the offers it has made and designs, images, drawing, (proto)types, software etc. it has provided

3. The rights to the information referred to in paragraph 2 remain the property of Supplier irrespective of whether costs have been charged to the Customer for their production. This information may not be copied, used or disclosed to third parties without the express consent of Supplier. On breach of this provision, the Customer shall pay Supplier a fine of €100,000. This fine may be claimed in addition to compensation pursuant to the law.

4. In departure from the provisions in paragraph 3 of this article, the Customer may provide the information referred to in paragraph 2 to the purchasers of the end product of Supplier, such on the condition that the Customer agrees a stipulation with the purchaser on behalf Supplier in which the purchaser undertakes to acknowledge and respect the rights of Supplier.

5. The Customer shall return the information provided to him as referred to in paragraph 2 on demand within a term set by Supplier. On breach of this provision, the Customer shall pay Supplier a fine of €1000 per day. This fine may be claimed in addition to compensation pursuant to the law.

6. In the event of manufacturing on the basis of drawings, models or other instructions of the Customer, the Customer is fully responsible that no trademark, patent or similar rights of third parties are violated as a result of the manufacturing and/or delivery of the relevant goods. The Customer indemnifies Supplier against any claims by third parties it encounters in this respect.

7. Supplier reserves all intellectual property rights in respect of all the goods delivered by Supplier. The Customer may not change the whole delivered goods or part thereof, attach a different brand name to the goods, use the relevant brand in any other manner or register it in its own name.

#### **Article 15: Disputes and applicable law**

1. These general terms and conditions and all offers and quotations by Supplier as well as all Agreements between the Customer and Supplier are exclusively governed by Dutch law.

2. Any dispute which arises from or relates to the Agreement(s) entered into between the parties, and their performance, shall be submitted to the empowered Judge in the Court in Breda.

#### **Article 16: Working language**

These general terms and conditions have been drafted in the English language.