

General Conditions of Sale.

1. DEFINITIONS

- a. GOODS shall mean the materials and/or equipment and/or services, to be sold as specified in the CONFIRMATION OF ORDER and any part or component thereof.
- b. SELLER shall mean TSS4U B.V.
- c. PURCHASER shall mean the person or company identified on the CONFIRMATION OF ORDER as the purchaser of the GOODS
- d. SUPPLIER shall mean any person or company (other than SELLER) having a contract with SELLER for the supply of the GOODS or a part thereof.
- e. CONFIRMATION OF ORDER shall mean TSS4U B.V.'s written confirmation of the sale of GOODS ordered by PURCHASER, whereby reference is made to the GENERAL CONDITIONS OF SALE.
- f. GENERAL CONDITIONS OF SALE shall mean the terms and conditions as specified herein.
- g. END USER shall mean the person or company buying GOODS for his own use.

2. APPLICABILITY/AGREEMENT

- a. The CONFIRMATION OF ORDER shall be solely governed by the GENERAL CONDITIONS OF SALE and any other conditions mentioned in the CONFIRMATION OF ORDER. The GENERAL CONDITIONS OF SALE shall form an integral part of the CONFIRMATION OF ORDER. If other specific conditions are mentioned in the CONFIRMATION OF ORDER conflicting with the GENERAL CONDITIONS OF SALE then those specific conditions shall prevail. Standard terms and conditions of the PURCHASER shall not apply to the CONFIRMATION OF ORDER unless expressly accepted in writing by SELLER.
- b. An agreement is entered into on the day the signed CONFIRMATION OF ORDER in writing has been mailed by the SELLER.

3. DELIVERY

- a. Delivery terms specified in the CONFIRMATION OF ORDER are as described in the edition of "Incoterms" in force at the date of the Confirmation of Order issued by the International Headquarters of the International Chamber of Commerce in Paris, France. Where these conflict with the other terms and conditions of the CONFIRMATION OF ORDER the latter shall prevail.
- b. If the GOODS are ready for delivery before the moment of delivery specified in the CONFIRMATION OF ORDER, SELLER shall give PURCHASER notice in writing regarding the earliest possible date of delivery on terms as specified in CONFIRMATION OF ORDER.
- c. SELLER shall give PURCHASER notice in writing immediately after any delay is foreseen.
- d. Without prejudice to SELLER's obligations hereunder, SELLER may contract one or more SUPPLIERS for delivery of the GOODS in accordance with the CONFIRMATION OF ORDER.
- e. The delivery time, which is specified as accurately as possible, shall commence as soon as SELLER has confirmed in writing the sale of the GOODS ordered by PURCHASER, has received counter confirmation and is in timely possession of information and goods to be provided by PURCHASER and has where applicable received PURCHASER's prepayment and/or security.
- f. Delay in delivery shall not entitle PURCHASER to terminate the agreement completely or partly, unless such delay exceeds 16 weeks or SELLER indicates that the delay will exceed 16 weeks. In case of such delay or indication PURCHASER shall be entitled to terminate the agreement by notice in writing to SELLER and shall, where appropriate, be entitled to reimbursement of any part of the purchase price already paid and to compensation for the damage he has suffered, which compensation shall however not exceed 10 per cent of the agreed price for the product to be delivered. Unless PURCHASER exercises his right to terminate the agreement, delay in delivery for whatever reason shall not entitle PURCHASER to perform work or to have work performed under the agreement without the Court's leave.

- g. Without prejudice to other remedies SELLER may put the GOODS into storage at PURCHASER's cost, if and so long as PURCHASER is not able and/or unwilling to receive the GOODS in accordance with the applicable delivery terms and conditions. Seller will not be responsible for keeping the material (i.e. batteries) in optimum condition unless agreed between parties.
- 4. PRICE AND PAYMENT**
- a. Unless otherwise stated in the CONFIRMATION OF ORDER, the cost of specially required tests, packing, transport and delivery of the GOODS as well as documents, special licenses and permits or duties and other government levies and taxes to be paid in countries of transit or destination thereto, are excluded from the sale price.
- b. Payment will be remitted to an account designated by SELLER, without any deduction or discount and within 30 calendar days after the invoice date.
- c. If one or more elements of cost price are subject to an increase after the date of entering into the agreement even if this occurs due to foreseeable circumstances SELLER is entitled to increase the price agreed upon accordingly.
- d. PURCHASER shall not be entitled to set off any payment due against any alleged or actual claims under the CONFIRMATION OF ORDER, or against claims under any other agreement between SELLER and PURCHASER.
- e. Payment will be exclusively made in the currency and at the place specifically described in the CONFIRMATION OF ORDER.
- f. In the event of failure to pay in due time the outstanding amount is increased by interest as from the first date of such failure up to the date of receipt of PURCHASER's payment by SELLER, without any notice of default being required and without prejudice to SELLER's other rights.
- g. The interest mentioned in Article (f.) amounts to the current rate for the lending facility as fixed by the European Central Bank plus eight percentage points.
- h. SELLER shall be compensated for any costs incurred to cause PURCHASER to comply with his obligations under the CONFIRMATION OF ORDER, SELLER's compensation shall consist of either the actual costs incurred or an amount equivalent to 10% of the due but unpaid outstanding amount, whichever is the higher.
- 5. DEFAULT**
- In the event of PURCHASER's non-compliance with the CONFIRMATION OF ORDER, SELLER may, without judicial intervention, terminate the CONFIRMATION OF ORDER forthwith without being under any obligation to compensate PURCHASER for any damage and costs and without prejudice to SELLER's right to demand compensation.
- 6. LIABILITY**
- a. *If SELLER is liable for direct damage - notwithstanding SELLER's liability under Article 7 hereof - then said liability shall be limited to a maximum of the amount of the statement of expenses, at any rate that part of the assignment to which the liability relates. SELLER's liability shall at all times be limited to a maximum equaling the amount of the payment to be made by SELLER's insurer in the occurring event.*
- b. *Save as otherwise stated in these GENERAL CONDITIONS OF SALE there shall be no liability for either party towards the other party for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect loss whatsoever. PURCHASER is bound to hold SELLER harmless respectively to indemnify SELLER for all claims for damages made by third parties.*

7. WARRANTY

- a. SELLER warrants the good condition of the GOODS for a period of one year after leaving factory on the understanding that - to the exclusion of any other liability for direct or indirect damage to persons or goods, those of third parties included, against whose claims PURCHASER shall indemnify SELLER - SELLER shall repair or cause to be repaired free of charge in SELLER's factory or, at SELLER's option, on site any defects which have been observed in the GOODS and which PURCHASER can prove to be the results of detective materials, poor workmanship or defective construction on SELLER's part, while any related costs of transport of either GOODS, other goods or people shall be for PURCHASER's account
- b. in the case of on-site repair because of a warranty obligation of SELLER, PURCHASER shall place at SELLER's disposal at a mutually acceptable price agreed upon in advance, workmen and ancillary equipment to assist SELLER in the on-site repair.
- c. Parts replaced by SELLER shall become SELLER's property and must be returned to SELLER by PURCHASER if SELLER so requests.
- d. It is a condition to the warranty that within fourteen days after the defect being observed, SELLER must be furnished with all details thereof in writing and that the goods must have been installed, maintained, handled and properly applied or used by PURCHASER and that no changes or repairs have been made to them without SELLER's prior authorization.
- e. GOODS or parts thereof obtained by SELLER from SUPPLIERS shall be covered only by a SUPPLIER's warranty, if any.
- f. SELLER's warranty shall not take effect if at the same time the warranty is invoked while the PURCHASER does not comply with the CONFIRMATION OF ORDER.
- g. If and when specifically agreed upon between SELLER and PURCHASER, SELLER may provide additional warranties in respect of the GOODS. In case of conflict or discrepancies between the warranty as provided in this Article 7 and these additional warranties, the latter shall prevail.

8. OWNERSHIP AND RISK

- a. Ownership and risk regarding the GOODS shall pass to PURCHASER on delivery of the GOODS in accordance with the CONFIRMATION OF ORDER. If no full payment of any amount due by PURCHASER in respect of the GOODS delivered by SELLER has been made, however, ownership will remain with SELLER until full payment is made. As long as ownership of the GOODS remains with SELLER, PURCHASER shall refrain from any activity that may infringe SELLER's ownership rights and PURCHASER shall not sell, pledge, mortgage, process, assemble, or employ the GOODS in any way, without having obtained SELLER's prior written permission.
- b. Until full payment has been made, SELLER is entitled to claim and remove the GOODS without any previous notice to PURCHASER and without judicial intervention, and without prejudice to any other rights SELLER may have.
- c. SELLER is not responsible for the acquisition of permits, licenses or other documents that are necessary for the transfer of ownership to PURCHASER or the possession, use or assembly of the GOODS by PURCHASER.

9. CONFIDENTIALITY

All designs, drawings and all further technical, financial or other information pertaining to the GOODS and furnished to PURCHASER therewith shall not be sold, copied, shown or otherwise made available by PURCHASER to Third parties.

10. PURCHASER's INFORMATION UNDERLYING THE ORDER

All data, estimates, assumptions and all other factors underlying PURCHASER's decision to buy the GOODS and all changes therein, whether or not made explicit to SELLER are at PURCHASER's risk.

11. SECURITY

If SELLER has reason to believe that PURCHASER is not fulfilling or may not for any reason whatsoever, including insolvency, fulfil in a proper manner his obligations under the CONFIRMATION OF ORDER, SELLER may require adequate security from PURCHASER for the proper fulfilment of such obligations and suspend delivery of the GOODS until adequate security has been received.

12. TERMINATION

If PURCHASER ceases his payments, offers his creditors a compensation, applies for or obtains suspension of payments, is adjudged bankrupt (including the filing of a petition of bankruptcy), is imprisoned for debt or placed under guardianship, or if PURCHASER's goods are distrained or attached in the hands of a garnishee, SELLER will be entitled to give written notice of termination of the PURCHASE ORDER with immediate effect or with effect from a day specified in that notice, without judicial intervention and without any warning or demand being required, all without prejudice to SELLER's other legally available rights.

13. WAIVER

The delay or failure on the part of SELLER to insist, in any one instance or more, upon strict performance of any of the terms or conditions of the contract of sale, or to exercise any right or privilege, shall not be construed as waiver for the future of any such terms, conditions, rights or privileges, but the same shall continue and remain in full force and effect.

14. ASSIGNMENT

Without SELLER's explicit consent PURCHASER is not entitled to assign its rights and obligations under the CONFIRMATION OF ORDER to a third party.

15. CHANGEABILITY

Changes in the CONFIRMATION OF ORDER will be valid only to the extent that they have been expressly accepted in writing by SELLER.

16. PURCHASER's USE OF GOODS

PURCHASER shall not remove SELLER's name, trademark, logo or any other reference to SELLER or SELLER's product on the GOODS.

17. DRAWINGS, CALCULATIONS, DESCRIPTIONS, MODELS, TOOLS, ETC; INTELLECTUAL PROPERTY

- a. Information provided in catalogues, illustrations, drawings, data on size and weight, etc. are only binding if and insofar they are explicitly laid down in an agreement signed by the parties or a CONFIRMATION OF ORDER signed by SELLER.
- b. Tenders issued by SELLER, as well as drawings, calculations, software, descriptions, models, tools, etc. produced or provided by SELLER shall remain his property, even if costs have been charged in such respect. The intellectual property of the information contained within same or based upon methods of production and construction, products etc. shall remain exclusively reserved to SELLER, even if costs have been charged in such respect. PURCHASER shall see to it that, except for performance under the agreement, information given is only copied, shown, made known to or used by third parties with written permission by SELLER.

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GENERAL



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18. APPLICABLE LAW

The CONFIRMATION OF ORDER shall be exclusively governed by the law of The Netherlands. The United Nation Convention on Contracts for the International Sale of Goods 1980 shall not apply to the CONFIRMATION OF ORDER.

19. ARBITRATION

All disputes arising in connection with the CONFIRMATION OF ORDER or further agreements resulting therefrom shall be finally settled in arbitration in The Hague in accordance with the Rules of the Netherlands Arbitration Institute (Nederlands Arbitrage Instituut). The arbitrators shall be appointed in accordance with said rules. The arbitration shall be conducted in the English Language. The arbitrators shall decide in accordance with the rules of law.

