

## General Terms and Conditions We4Ce

### Article 1 – Definitions

In these General Terms and Conditions of Contract (hereinafter referred to as the 'Terms and Conditions'), the following terms shall have the following meaning:

- a. Agreement: the specific written sales and/or service contract or acknowledgement of order, with appendices, between the Supplier and the Customer, including these Terms and Conditions, which form an integral part thereof;
- b. Contract Price: the price to be paid to the Supplier in connection with the Delivery of Goods and/or provision of Services under the Agreement;
- c. Customer: the party with whom the Supplier entered into an Agreement;
- d. Delivery: the delivery of the Goods, as agreed between the parties in accordance with the Agreement;
- e. Goods: any goods the Supplier has undertaken to supply, including software and/ or hardware, spare parts, certificates and/or documentation required for proper Performance, engineering reports, documentation and drawings;
- f. Intent or Wilful Recklessness: intent or wilful recklessness (opzet of bewuste roekeloosheid) of the Supplier, its organs (organen van de vennootschap), its managers (leidinggevenden), and/or other managerial or executive employees (de leidinggevende ondergeschikten), including the applicability of article 7:762 Dutch Civil Code;
- g. Performance: the provision of Services and/or the supply of Goods by the Supplier;
- h. Personnel: all personnel either directly or indirectly employed or hired by the Supplier, including representatives of the Supplier;
- i. Services: any services like commissioning, technical assistance, inspection, advice, repair and/or maintenance that the Supplier has undertaken to provide, whether or not subsidiary to Delivery of Goods and regardless of their appellation.

### Article 2 – General

- 2.1. Any derogations from these Terms and Conditions are only legally valid if the Supplier and the Customer have expressly agreed on these in writing. The amendment/derogation will only apply to the relevant Agreement.
- 2.2. The Agreement replaces all prior oral and written agreements with respect to the subject matter of the Agreement.
- 2.3. Supplier's offers are without engagement.
- 2.4. The Supplier shall be entitled to subcontract or assign any part of its rights and obligations out of the Agreement.
- 2.5. Terms in these Terms and Conditions refer to Dutch legal concepts only (as in some cases referred to in the Dutch language between brackets in italics) and shall be interpreted accordingly. The use of these or similar terms in any other jurisdiction shall be disregarded.
- 2.6. The general conditions of the Customer do not apply unless this is expressly agreed otherwise in writing.
- 2.7. If any stipulation of this Agreement and/or the Terms and Conditions should be invalid, the rest of the Agreement and/or the Terms and Conditions will remain in force. If the invalid stipulation is a key stipulation, the Customer and the Supplier will agree on a new stipulation that approaches the parties' intention as closely as possible. If the stipulation is not a key stipulation, the Customer will determine a new stipulation, the purport of which will be as close as possible to that of the invalid stipulation.

### Article 3 – Technical and Storage assistance

- 3.1. In case the Performance takes place at the premises of the Customer, the Customer shall take all measures prescribed by law and/or any other reasonable measures necessary for the prevention of accidents at his premises. The Customer shall inform the Supplier at least 7 days before commencement of any work in writing of the valid safety precautions and shall ensure that his personnel responsible for safety matters is present during the times that Performance is to take place. The Supplier is entitled to refuse or suspend Performance if the safety of his Personnel is not sufficiently guaranteed.
- 3.2. In addition to article 3.1., the Customer shall, at no charge, provide the Supplier with all assistance the Supplier reasonably requires.
- 3.3. The Customer shall at all times bear responsibility for the storage of all Goods delivered, including spare parts and other materials. Goods lost or damaged during storage shall be replaced or repaired at the expense of the Customer.

### Article 4 – Documentation

- 4.1. The Customer warrants that all documents and licences required in connection with the services and/or Goods as mentioned in the Agreement shall be available before start of the activities as agreed on in the Agreement.
- 4.2. The Customer shall, at no charge, provide the Supplier timely with any information reasonably required in connection with the Agreement.
- 4.3. The Customer shall keep any information received from the Supplier strictly confidential, and shall use such information solely for the proper performance of the Agreement. All information provided by the Supplier shall be returned by the Customer to the Supplier on Supplier's first request.

### Article 5 – Intellectual property rights

- 5.1. All intellectual property rights, including but not limited to, all drawings, designs, (technical) documentation, and software, (hereafter jointly: "IP-rights"), which come to the knowledge of the Customer during the contract, will at all times remain vested in and the property of the Supplier and will be returned to the Supplier upon first request or immediately upon fulfilment of the contractual obligations of both the Customer and the Supplier.
- 5.2. All IP-rights produced or developed by or on behalf of the Customer for or during the Contract, are hereby transferred and assigned to the Supplier which transfer and assignment the Supplier hereby accepts. The Customer shall at first request of the Supplier perform any act, if any, required by the applicable law to conclude full transfer of the IP-rights to the Supplier, including signing additional documents.

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- 5.3. In the event parties decide to deviate from the terms and conditions as laid down in the articles 5.1. and 5.2., and agree in writing that the IP-rights or any part thereof will be transferred and assigned to the Customer, the Customer herewith grants or, if such granting cannot be achieved by means of these Terms and Conditions, shall be obliged to grant the Supplier a perpetual, world-wide, exclusive, royalty-free, non-restrictive and non-transferable licence for the use, including but not limited to exploitation, publication and copying, of the IP-rights or any part thereof.

#### Article 6 – Times of Performance

- 6.1. Time(s) or periods of Performance shall be stated in the Agreement. Any time or period of Performance that differs from the Agreement shall only be binding if they have been agreed upon by the Supplier in writing. If Performance is to take place during a specific and fixed period of time by the expiry of which Performance is deemed to be completed, any such period will not commence until all contractual obligations of the Customer have been met, all payments due have been made, security desired by the Supplier has been put up and/or any other preconditions have been fulfilled.
- 6.2. In case the Agreement does not specify the time of Performance, such time shall be determined by the Supplier at its discretion after consulting the Customer. However, as far as the Agreement sees to the provision of Services, the date of Performance mentioned in the Agreement shall be an estimate only. The Supplier shall make every reasonable effort to effect Performance at the said date.

#### Article 7 – Delay in Performance and Force Majeure

- 7.1. If Performance is delayed due to (i) any act or omission of the Customer or (ii) the Customer failing to perform any of the obligations mentioned in article 3 of these Terms and Conditions, the Supplier is entitled to extend the time of Performance with a reasonable period which is at least equal to the additional period of time caused by such delay. Furthermore, it is expressly agreed that the Supplier shall have the right to extend the time of Performance in the event that (i) the Supplier has not received the advance payment (or an other contractual payment) as stipulated in the Agreement, or (ii) the Customer has not provided all required documents and/or licenses as stated in article 4.
- 7.2. Any additional costs arising from delay which is attributable to the Customer, shall be borne by the Customer.
- 7.3. In case the Supplier fails to Perform in time due to reasons solely attributable to the Supplier, a grace period of two weeks shall apply. Thereafter, the Customer shall be entitled to claim liquidated damages of 0.5% for each completed week of delay, calculated on the value of the delayed Goods. Liquidated damages shall in no case exceed 5% of the value of the delayed Goods. Liquidated damages shall only be due if the Customer proves that the delay caused damage and the amount of the loss suffered can be substantiated accordingly. Liquidated damages shall be the Customer's sole and exclusive remedy for damages and/or losses incurred as a result of delay in Performance and except in case of Intent or Wilful Recklessness, the Supplier shall not be liable on whatever legal ground for any direct, indirect or consequential losses, damages or expenses of whatever nature incurred by the Customer by reason of any delay in Performance.
- 7.4. In the event of force majeure within the meaning of Section 6:75 of the Dutch Civil Code on the Suppliers side, the Supplier may suspend compliance with its obligations under the Agreement, provided that the Supplier informs the Customer of this within twenty-four (24) hours of the circumstance resulting in the force majeure, in writing, stating the cause of the force majeure. The Customer will be authorised to terminate the Agreement, in writing, within eight (8) days of receipt of the relevant notice, without this resulting in a right to compensation, or to consult with the Supplier in order to agree on a term for which the parties will suspend compliance with the agreed obligations to await a potential end to the force majeure situation.
- 7.5. If the force majeure situation has lasted two (2) months, or if it is clear at the start of the force majeure situation that it will last longer than two (2) months, the Customer will be authorised to terminate the Agreement in writing, without judicial intervention being required, in full or in part, without this resulting in the Customer being liable to pay any compensation.
- 7.6. Insofar as this can reasonably be expected, the Supplier undertakes to remedy any cause of force majeure, or have such cause remedied, as soon as possible.
- 7.7. Force majeure will in any case not include: a lack of personnel, strikes, illness of personnel, a shortage in raw materials, transport problems, delayed supply, traffic issues, power failures or ICT failures or unsuitability of goods used in the performance of the work, liquidity or solvency problems on the part of the Supplier or default on the part of third parties engaged by it.
- 7.8. Except in case of Intent or Wilful Recklessness, the Supplier shall not be liable on whatever legal ground for any direct, indirect or consequential losses, damages or expenses of whatever nature incurred by the Customer by reason of any Force Majeure.
- 7.9. Should the situation described in Article 7.3. of these Terms and Conditions continue in excess of a period of 12 (twelve) consecutive months, the Customer shall be entitled to terminate the Agreement on expiry of that period.

#### Article 8 – Special provisions for Delivery of Goods

- 8.1. The Customer shall have no right to reject or refuse Delivery or acceptance of Goods due to minor defects which do not prevent the normal operation of the Goods, provided that the Supplier agrees to remedy such defects after the Delivery of the Goods, in compliance with the Agreement.
- 8.2. In the event that dispatch or collection of the Goods at the designated place of delivery is delayed for reasons beyond Supplier's control, the Supplier shall be entitled to store the Goods at the expense of the Customer in a warehouse at Supplier's choice. Upon storage, Delivery shall be deemed completed and the risk for the goods shall transfer to the Customer accordingly.
- 8.3. Unless otherwise agreed upon, the Supplier shall be permitted to deliver the Goods in partial shipments. Each shipment may be invoiced separately, in which case the Customer shall pay the separate invoices as part of the total Contract Price.

#### Article 9 – Special provisions for the Provision of Services

- 9.1. Unless expressly otherwise agreed upon in the Agreement, Services shall be provided during a working week which shall be in accordance with normal industry practice. A working day is deemed to be a man-day with a maximum of 10 hours.
- 9.2. Hours worked outside these normal working hours, on Sundays or on official holidays will be charged separately as special overtime.
- 9.3. During Performance, the Supplier is entitled to replace the Personnel delegated by him by other qualified Personnel.
- 9.4. Any waiting time for which the Supplier is not responsible, will be charged to the Customer as normal working time.

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- 9.5. Objects and materials made available by the Customer, will be taken in charge by the Supplier in accordance with the scope of agreements made for this purpose. The risk of accidental destruction or deterioration of these objects and materials shall remain with the Customer; for damage to these objects and materials for which the Supplier is responsible, article 13 shall apply.

#### Article 10 – Contract Price

The Contract Price is always stated in Euros, excluding VAT and other taxes and/or government levies payable on the sale and provision of Products and/or Services, and excluding the transport costs.

#### Article 11 – Additional work and cost-increasing circumstances

- 11.1. Additional Work occurs (i.a.) when (i) the Supplier is required to perform more work and/or render a higher performance for the provision of the Goods and/ or Services than agreed between him and the Customer on entering into the Agreement, (ii) additional or other materials are required than those agreed on with the Customer on entering into the Agreement, (iii) changes are made to the specifications, whether or not tacitly (changes to the specifications, the work or the conditions for the execution of the work) or (iv) if ensuing from these Terms and Conditions; (“Additional Work”) (Meerwerk).
- 11.2. Additional Work can also occur if so agreed between the Supplier and the Customer in a separate Additional Work Order or if the Supplier performs such Additional Work at the request of, or with the prior consent of, the Customer. Additional Work can furthermore occur if the agreed Performance is expanded or adjusted due to an action or omission on the part of the Customer. The Supplier is never required to comply with a request for Additional Work by the Customer. In the absence of an explicit agreement between the Supplier and the Customer for Additional Work or for Additional Work otherwise authorised by the Supplier, the Supplier retains the right to Performance in accordance with what was initially agreed with the Customer on entering into the Agreement.
- 11.3. Additional Work is paid for by the Customer in accordance with the customary fees applied by the Supplier, the payment of which the Customer is required to make to the Supplier prior to the execution of that work, unless otherwise agreed between the Supplier and the Customer.
- 11.4. Should, for whatever reason, one or more cost-increasing circumstances occur after the formation of the Agreement for which the Supplier is not exclusively and fully accountable (“Cost-increasing Circumstances”) (Kostprijs-verhogende Omstandigheden), the Supplier shall be entitled to increase the Contract price proportionally to the Cost-increasing Circumstance(s) in question, even if such cost increase(s) ensue(s) from (a) foreseeable circumstance(s). Cost-increasing Circumstances are compensated by the Customer in accordance with the customary fees applied by the Supplier.
- 11.5. All consequences of Additional Work and of Cost-increasing Circumstances, whether relating to (i) the time at or the period within which Performance is required, (ii) the Contract price or (iii) otherwise, are always for the risk and account of the Customer.
- 11.6. The fact that (a request for) Additional Work or Cost-increasing Circumstances occurs/occurs during the execution of the Agreement can never constitute a ground for the Customer on which to terminate or otherwise end the Agreement.

#### Article 12 – Warranties

- 12.1. The warranty period ends 12 ( twelve) months after the date on which the Goods have been taken into use.
- 12.2. No warranty shall be available for Goods other than Goods produced, supplied and/or installed by the Supplier.
- 12.3. The Supplier warrants Performance to the best of its abilities. Any additional warranty with respect thereto is explicitly excluded.
- 12.4. Claims by the Customer for damage to the object(s) upon which the Services were performed, are governed by article 13 of these Terms and Conditions.
- 12.5. In case the Goods or Services infringe any third party’s intellectual property rights, Supplier’s sole obligation shall be to, at its discretion, either procure the right for the Customer to continue to use the Goods, or to alter the Goods to make them noninfringing.

#### Article 13 – Liability and indemnity

- 13.1. The contractual liability and each guarantee obligation and obligation to rectify a shortcoming under Article 12 of these Terms and Conditions of the Supplier, is limited to compliance with the guarantee obligations stated in Article 12 of these Terms and Conditions and does not extend to rectification of, or compensation for, any other or further material damage or property damage or immaterial and/ or consequential damages or losses ensuing from such a shortcoming. All such damages are subject to the provisions of Article 13.3 of these Terms and Conditions.
- 13.2. Any other Supplier’s liability shall be strictly limited to (1) the amount of the Contract Price, calculated at an average use of manpower and facilities, or (2) the amount which is paid out under Supplier’s liability insurance policy, which ever is the lesser.
- 13.3. Save as otherwise provided in these Terms and Conditions and except in case of Intent or Wilful Recklessness, the Supplier shall not be responsible nor liable to the Customer in contract, tort or on any other ground or legal theory, howsoever and whatever the cause thereof, for any direct, indirect, consequential or any other losses, damages, costs or expenses.
- 13.4. Every claim against the Supplier, except those which the Supplier has expressly acknowledged in writing, expires by the mere lapse of 12 months after its arising.
- 13.5. The Customer hereby fully indemnifies (vrijwaren) the Supplier and holds the Supplier harmless from and against any third party claim, such as, but not limited to, tax claims, civil claims, social security laws related claims and/or claims for damages -penalties, whether or not imposed by a government body or any party affiliated with the government, included- and/or from and against any other third party claim, insofar as these claims relate to the Agreement, future agreements and/or other contractual documents or shall be based upon the law and/or any other (legal) ground or theory.

#### Article 14 – Payment Terms

- 14.1. Unless explicitly otherwise agreed upon, payments need to be paid net tot he bank account of supplier within 30 days of the date of invoice and without any deductions, compensation for debts or withholding of any nature.

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- 14.2. Upon reasonable request of the Supplier, the Customer shall provide sufficient security for the total Contract Price. If the Customer does not meet any such request of the Supplier, the Supplier shall have the right to wholly or partially terminate or suspend the Agreement by a written notification to the Customer.
- 14.3. Any objections of whatever kind to invoiced amount shall be submitted to the Supplier in writing within 14 days of the date of the invoice, failing which the invoiced amount shall be deemed to have been accepted by the Customer.
- 14.4. If the Customer fails to perform any of the above payment obligations, the Customer shall pay to the Supplier interest on the amount overdue at 0,75 per cent per month or part of a month. In addition the Supplier may, after having notified the Customer in writing, suspend Performance until payment in full is received with respect to the Agreement and/or the above payment terms. All the extra-judicial and judicial costs of debt collection incurred by the Supplier shall be for the Customer's account, whereby a minimum of 8 per cent of the outstanding amount shall be payable by the Customer.

**Article 15 – Suspension and Termination of Agreement**

- 15.1. If the Customer does not, not in time or not adequately fulfil one or more of its obligations or if there are good reasons to fear that the Customer is or shall not be able to fulfil its contractual obligations towards the Supplier, or if the Customer is declared bankrupt, requests (temporary) moratorium (surcéance van betaling aanvraagt) or proceeds to liquidate its business, as well as when its assets are attached in whole or in part, the Supplier to its sole discretion either has the right to suspend its performance under the Agreement or to rescind (ontbinden) the Agreement in whole or in part by means of a written declaration and without prior notice of default, and always without prejudice to any rights to which the Supplier is entitled with respect to compensation for costs, damage and interest.
- 15.2. The Customer is authorized to rescind only in the case referred to in article 7.9. of these Terms and Conditions, and in such case only after payment to the Supplier of all amounts owed to the Supplier at that time, whether or not payable and including payments for all obligations entered into by the Supplier with third parties regarding the Performance at the moment of such rescission. The Customer waives any and all other rights it has or might have to rescind (ontbinden), terminate (opzeggen), or annul (vernietigen) the Agreement, be it in whole or partially and whether in court or extra-judicial, or to have the competent court change any of the effects of the agreement as stated in article 6:230 paragraph 2 DCC.

**Article 16 – Transfer**

The Supplier cannot transfer or pledge the rights and obligations arising from this Agreement in any way or any form.

**Article 17 – Applicable Law and Jurisdiction**

- 17.1. This Agreement shall be governed by the laws of the Netherlands.
- 17.2. Any disputes arising from the Agreement will be exclusively decided by the competent court of Almelo, on the understanding that the Customer may submit a dispute to the competent court in the place of business of the Supplier.

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