

General sales terms and conditions

**SUMMARY OF OUR GENERAL SALES TERMS AND CONDITIONS.
UPON REQUEST WE WILL SEND YOU THE COMPLETE VERSION BY E-MAIL OR AS HARD COPY.**

**GENERAL TERMS AND CONDITIONS FOR THE INSTRUMENTS BRANCH FILED AT THE UTRECHT
DISTRICT COURT, DEC 22ND 1998, no 429/1998.**

1. General.

1.1 Definitions:

- Conditions (written with a capital C): the General Terms and Conditions in question;
- Supplier (written with a capital S): each member of a branch organisation affiliated to the Vereniging who or on who's behalf these Conditions have been declared as applicable and also those who or on who's behalf these conditions have been or are applicable in a clearly recognisable and correct manner and to their representatives, proxy's and legal successors;
- Other Party (written with a capital O and a capital P): each natural person, legal body, partnership, limited partnership or other entity that enters into or has entered into an agreement with a Supplier, or to who an offer or proposal is or has been made or extended by or on behalf of a Supplier, or to who or by order of who a delivery is or has been made by or on behalf of a Supplier, or by order of or for the benefit of who one or more services is or has been performed by or on behalf of a Supplier.

1.2 These Conditions cover offers made, quotations produced, agreements entered into and the execution thereof, and deliveries and services performed by or on behalf of the Supplier. Departures from these Conditions will only be of force if agreed in writing by the Supplier and by the Other Party.

2. Offers.

2.1 Each offer or quotation made by or on behalf of the Supplier is made without obligation and does not bind the Supplier except when and for so far as the Supplier has explicitly stated otherwise in writing or when the parties might have agreed otherwise in writing.

3. Realisation and content of an agreement.

3.1 An agreement between the Supplier and the Other Party is realised at the moment that the Supplier confirms in writing the acceptance of an assignment or order from the Other Party; the scope and content of the agreement follows on from the written confirmation of the Supplier.

3.3 An agreement binds the Supplier only when it has been entered into and when the written confirmation meant in Clause 3.1 has been signed by one or more persons who are authorised to commit the Supplier in such a manner and any agreements or additions and/or changes to them or in them and agreements, promises, etc., drawn-up or made by an employee or employees of the Supplier or by a representative, agent or other intermediary or by one or more other people who are not authorised to commit the Supplier in such a manner, whether or not these are made in writing, are not binding on the Supplier.

4. Prices

4.1 Except when and for so far as binding prices apply all price quotations are without obligation.

4.2 Except when otherwise explicitly notified in writing prices are:

- based on purchase prices, wage rates, wage costs, social security and government costs, transport costs, insurance premiums and other costs prevailing on the date of offer or quotation or (if no offer or quotation is made) the date of the order;
- based on ex-works or ex-warehouse delivery from the Supplier;
- exclusive of VAT, import duties and other taxes, levies and duties;
- exclusive of the costs of packaging, loading and unloading, transport and insurance; and
- exclusive of the costs of assembly, installation and commissioning unless otherwise explicitly stated, in which case the costs named here will be separately specified.

5. Risk.

5.1 The risk with regard to the goods sold and/or delivered by or in the name of the Supplier to the Other Party is transferred to the Other Party: for goods supplied out of stock, this occurs at the moment these goods are segregated for the benefit of the Other Party; and for other goods, this occurs at the moment the goods are loaded for transportation to the Other Party or to a place indicated by the Other Party, except when and for so far as it might be otherwise agreed in writing.



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5.2 Irrespective of what might otherwise be agreed with regard to the risk, any loading and unloading, transport, assembly, installation and commissioning of the goods will at all times be at the risk of the Other Party.

6. Delivery and delivery time.

6.1 Except when and for so far as it has otherwise been agreed in writing and without prejudice to the provisions in Clause 4.2 of these Conditions, deliveries are made on a carriage paid basis to the Other Party or to another place specified timely by the Other Party. For orders or deliveries under a specified amount, the Supplier is entitled to pass on an amount covering the administrative costs to the Other Party.

6.4 The Supplier is entitled to make partial deliveries, which can be invoiced separately, and, when this occurs, the Other Party is obliged to pay these separate invoices in accordance with the provisions specified in Clause 17 of these Conditions.

6.6 The Supplier is obliged to observe the specified delivery time or delivery period as much as possible, yet will never be liable if they are exceeded and when they are exceeded the Supplier is not obliged to provide any compensation for damages. Exceeding a delivery time or delivery term does not give the Other Party the right to terminate or to dissolve the agreement or to refuse to purchase goods. In cases where a delivery time or term is exceeded excessively the parties must consult with each other.

7. Transport and packing.

7.1 Unless indicated in writing by the Other Party to the Supplier, the manner of packing, transport, shipment etc, of goods is a matter completely at the discretion of the Supplier and will be determined with the care which reasonably can be expected from the Supplier, this without prejudice to what is specified about the transport risk in Clause 5.2 of these Conditions.

9. Force majeure (non-liable failing).

9.1 If the Supplier, as a result of force majeure, is prevented from fulfilling any of his obligations to the Other Party and in the judgement of the Supplier the force majeure is of a permanent or long-lasting nature, then the parties can come to a settlement regarding the dissolution of the agreement in accordance with the rule of law and any consequences thereof.

9.2 If the Supplier, as a result of force majeure, is prevented from fulfilling any of his obligations to the Other Party and in the judgement of the Supplier the force majeure will be of a temporary or transitory nature, then the Supplier is entitled to postpone the execution of the agreement until the circumstance, cause or event causing the force majeure situation no longer arises.

9.3 Considered as "force majeure" are each circumstance, cause or event, wherever it is occurring, appearing or arising which temporarily or permanently prevents the correct, complete and timely fulfilment of any obligation of the Supplier or makes it impossible or unreasonably problematic, and each circumstance, cause or event which the Supplier, in all fairness, cannot be expected to prevent or which wholly or partially falls outside the sphere of influence of the Supplier or on which the Supplier can exercise no influence.

The following, amongst other factors, are considered as circumstances, causes or events resulting in force majeure: fire, explosion, lightning strike, ice break-up, low water, high water, tidal wave, spring tide, flood, earthquake, natural disasters; storm, tornado, cyclone, snow, frost and other weather conditions; strikes, work stoppages, excessive (sickness) absenteeism of personnel, labour unrest, lock-outs, boycotts; war (declared or not), mobilisation, siege, besieging, blockade, molestation; riots, revolution, social unrest; governmental actions and/or regulations which prevent, delay or otherwise hinder the fulfilment of obligations; lack of transport resources; unnavigability or unusability of any eligible transportation routes or means of transport; disturbances or interruptions in the provision, delivery or availability of energy; disturbances or interruptions in or of the functioning of any public utility; disturbances or interruptions or ending of the supply of raw materials, semi-finished and/or finished; disturbances or delay in or of, or interruptions or ending of the supply of parts, spare-parts and other articles; each circumstance, cause or event that is the result of or is associated with the so-called millennium problem; non-fulfilment of obligations by a debtor or contract partner of the Supplier (including the non-fulfilment of obligations by one or more third parties); technical disturbances and/or faults, delays, disturbances or interruptions to or with the repair of machines, material, equipment, tools and/or instruments; serious illness and illnesses of an epidemic character.



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10. Guarantee/Service.

10.1 With due observance to the provisions specified elsewhere in these Conditions the Supplier guarantees the quality of the materials used and their promised characteristics as well as the correct working of the goods provided by the Supplier. For new products this guarantee is valid for a period of twelve (12) months after delivery (including any "viewing period"), unless otherwise agreed in writing. A guarantee for goods purchased elsewhere by the Supplier is only given for and so far as it is provided by the original manufacturer(s). For products that are not new a guarantee is only valid for and so far as this has been explicitly agreed; with such a guarantee the provisions of these General Conditions apply except when and for so far as departures to them have been agreed in writing.

10.2 Faults in any goods supplied which fall under the guarantee will, exclusively at the discretion of the Supplier, be rectified or the goods will be replaced if the faults, in the opinion of the Supplier and/or manufacturer, are attributable to construction faults or faults in or any shortcomings of the materials used as a result of which the goods are unusable by the Other Party for the purpose for which they are can reasonably be thought of as intended.

11. Right of retention.

11.1 If and for so long as the Other Party has not satisfied his obligations towards the Supplier then the Supplier has the right to retain all goods in his possession which have come from the Other Party or have come on behalf of the Other Party, no matter the origin or reason.

12. Liability.

12.1 Except when and in as far as something else might otherwise ensue from the provisions of imperative law concerning (product) liability, the Supplier is not obliged to compensate for damage, of whatever nature, to any movable or immovable good or to any person, including any loss of profits, at the Other party or any third party, this damage being caused directly or indirectly by or connected with any object or good supplied by or on behalf of the Supplier or being caused directly or indirectly by or being connected with any use or any application or operation of such an object or good or with the storage or keeping thereof, or with the assembly, installation or commissioning of such an object or good, and the Other Party explicitly indemnifies the Supplier against claims and demands which are based on such damage or are connected with it. Bearing in mind what is specified elsewhere in this Clause, the Supplier, in every case, is not liable for damage or loss directly or indirectly caused by:

- injudicious use of the product supplied or its use for a purpose other than what it reasonably could be considered suitable for or its use for a purpose other than what, to objective standards, it is suitable for or its use for any other purpose than what the Supplier reasonably could have imagined that it should be used for;
- careless conduct by the Other Party, of the personnel of the Other Party or anybody brought in the Other Party, or any other person on the part of the Other Party;
- infringement of any patent, usage model, brand, origin indication, model right, copyright or neighbouring right, right on a semiconductor product or the topography thereof, right on a database or other collection of data, or any other industrial or intellectual ownership rights or any other exclusive right, or infringement or violation of a licence under any such a right, which is the direct or indirect result of the use and/or application and/or publication or replication of data provided by or on behalf of the Other Party such as descriptions, drawings, models, designs, etc.

13. Claims.

13.1 Without prejudice to the provisions in Clause 6.3 of these Conditions, any claims can only be handled if they are received in writing by the Supplier within eight (8) days of the delivery. For hidden faults, claims are only possible within the guarantee period.

15. Intellectual ownership rights.

15.1 The Other Party will employ the software (in its widest sense), peripheral equipment, technical data, wiring and/or work plans, user and/or operating instructions, drawings and all other essential documentation and other data and information supplied by or on behalf of the Supplier only for its own (internal) use and will not in any way pass it on or sell or make it available to third parties nor allow any third party to use it.



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16. Ownership reservation.

16.1 Without prejudice to the provisions in Clause 5. of these Conditions regarding the risk and the transfer thereof, all the goods supplied by or on behalf of the Supplier remain the property of the Supplier until the moment that the debt owed by the Other Party to the Supplier has been settled in full, this debt being the amount that the Other Party has owed the Supplier since the realisation of the agreement inclusive of all interest and costs. (In the case of an account relationship the ownership of the goods supplied remains with the Supplier until the moment that the Other Party settles his account).

17. Payment.

17.1 Unless agreed otherwise payment, net cash, must be made on delivery or within thirty (30) days of the invoice date via a deposit or funds transfer into the bank or giro account indicated by the Supplier. In the case of assembly or installation work, payment must be made within thirty (30) days of the date on which the assembly or installation work started or, if the (commencement of the) assembly or installation work is delayed through no fault of the Supplier, within thirty (30) days of the date on which the assembly or installation work, without the delay, should have begun, with the proviso that if the Supplier has demanded payment in instalments, in accordance with the provisions of Clause 31. of these Conditions, then payment will be made in the appropriate manner. The Supplier is entitled to grant a cash discount or payment reduction, which will be notified in advance. The date on the Supplier's bank or giro statement when the payment is recorded as received applies as the date on which the payment has occurred.

18. Delay; interest and costs.

18.1 The Other Party will be liable for ensuring that a payment or the settlement of any other obligation occurs on time without the need for a reminder, summons or in default declaration.

18.2 If the Supplier does not receive a payment due from the Other Party on time then, beginning from the day on which the payment should have been made, the Supplier will automatically charge the Other Party interest at a rate of one and a half (1½ %) per month, without prejudice to any further rights the Supplier has; when calculating the interest owed, months started but not completed will count as whole months. This so-called delay interest rate of 1½ % per month is a minimum rate and if this rate, when calculated on a yearly basis, is at any time less than 5% more than the officially applicable interest rate in The Netherlands then it will be automatically increased, so that, on a yearly basis, it is 5% higher than the official interest rate.

19. Ending an agreement.

19.1 In the case of non-observance by the Other Party the Supplier will be entitled to terminate and/or dissolve the agreement without judicial intervention and without prejudice to the right of the Supplier to claim damages, to make use of the rights resulting from ownership retention and to take other (legal) steps, and without prejudice to the right of the Supplier to demand fulfilment (with compensation) of the agreement instead of its termination.

19.2 The Supplier will terminate the agreement with the Other Party with immediate effect if:

- a. the Other Party is declared bankrupt, goes into administration, presents a request for suspension of payment, or if the Other Party (temporarily or definitely) is granted a suspension of payment or if there is a seizure of the total assets of the other Party or a part thereof;
- b. the Other Party, when this is a natural person, dies or is made a ward or if the merchandise of the Other Party is put under administration;
- c. if the Other Party, when this is a legal person, goes into liquidation or if a claim for the dissolution of the Other Party is made or a dissolution decision with respect to the Other Party has been or is taken.

20. Cancellation by Other Party.

20.1 The Other Party has the right to annul the order or agreement in the following cases:

- if the Supplier after exceeding the delivery time again exceeds a new delivery time agreed by both parties without any justifiable grounds, provided that the Other Party has declared in writing before agreeing to the new term of delivery that he will refuse acceptance if the new delivery term is exceeded; and
- if the Supplier within a reasonable period of time cannot fulfil his delivery obligations and has made this known to the Other Party.

Cancellation as meant in this Clause will never result in the Other Party being compensated for any damages.



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21. Changes in an agreement.

21.1 Changes to an agreement are only valid if they are made in writing and where both parties have consented to the change(s).

23. Appropriate law; disputes.

23.1 The Dutch Law is applicable to all offers, agreements, deliveries and services produced or brought out, entered into, performed or executed by or on behalf of the Supplier, with the exception of the applicability of the treaty of the United Nations concerning international trade agreements relating to movable goods (Vienna Trade Treaty).