1. Definitions & General Information

1) In these general terms and conditions, the following terms have the following meaning:
   - EAO: the private company with limited liability EAO Benelux B.V., established in Dordrecht, the Netherlands and its principal place of business in (3316 GL) Dordrecht at Kamerlingh Onnesweg 46, registered at the Chamber of Commerce under number 23043887.
   - Other party: every natural person or legal entity who/that has concluded, or, respectively, wishes to conclude an agreement with EAO and besides this, also their representative(s), authorised agent(s), successor(s) and/or heirs;
   - Assignment: the assignment given by the other party;
   - Agreement: the agreement between EAO and the other party;
   - Product: the item to be delivered by EAO, designated for use by the other party.

2) All offers, agreements and the performance thereof are solely subject to these terms and conditions. Any deviations must be explicitly agreed upon with EAO in writing.

3) In placing an order, the other party accepts these general terms and conditions without prejudice. Unless otherwise agreed in writing, any terms and conditions from another party will only apply if and in so far as these are not in conflict with the general terms and conditions in question. The general terms and conditions in question prevail in any and all cases of doubt or conflict.

2. Offers

1) All offers in the form of quotations and/or (other) documentation put forward by EAO are free from obligation and do not result in establishing an agreement, until EAO explicitly confirms acceptance of an offer. Every offer is revocable. The contrary will only apply when EAO issues an explicit statement in writing that an offer is irrevocable and the other party communicates its acceptance of this offer.

2) All price lists, brochures and other information issued with an offer are submitted as accurately as possible. The aforementioned documentation only forms part of an agreement between EAO and the other party in so far as this has been explicitly confirmed by EAO in writing. In all other respects, no rights may be derived from this documentation.

3) All data/information provided with an offer will remain (intellectual) property of EAO and must be returned at first request from EAO.

4) All offers are subject to mistakes and errors in printing, writing and/or calculation. If such mistake or error occurs, no claim can be made against EAO for compensation or performance according to the mistake or error in the offer. Performance will then be provided based on a corrected offer.
3. Agreement

1) Subject to the provisions set out hereinafter, in principle an agreement does not come into effect until after EAO has explicitly accepted or confirmed an assignment (in writing or otherwise).

2) Any additional arrangements or changes and/or commitments from staff, agents, representatives or other intermediaries will only be binding for EAO in the event that 1) the person in question is authorised to represent and 2) this has been confirmed by EAO in writing.

3) Where works are concerned for which no offer or order confirmation is sent due to their nature and extent, the invoice will also be considered as the order confirmation, which will also be deemed to properly and completely reflect the agreement. Barring written proof to the contrary, the administrative records of EAO will be decisive regarding the provisions in this article.

4) Every agreement is concluded on the suspensive condition that the other party - exclusively based on an assessment to be performed by EAO - proves to be sufficiently creditworthy for the monetary compliance with the agreement.

5) On or after entering into the agreement, EAO has the right, prior to its (further) performance, to demand guarantee from the other party that both the payment and other obligations will be complied with. The manner in which the guarantee is to be provided will be stipulated by EAO.

4. Prices

1) Unless stated otherwise, all price quotations will be subject to price changes.

2) Unless stated otherwise, prices will be:
   • based on the purchase prices, wages, wage costs, social security costs, government levies, freight costs, insurance premiums and other costs that apply during the time of the offer or, as the case may be, on the date of the offer;
   • based on delivery from one of the business locations, warehouses or storage spaces of the EAO company, warehouse or other storage facilities;
   • excluding VAT, import duties, other taxes, levies and rights;
   • excluding the costs for packaging, loading and unloading, transport and insurance;
   • stated in Dutch currency, any exchange rate movements will be charged on.

3) In case of an increase of one or more cost factors, EAO will have the right to increase the price of the order accordingly, within 3 months after concluding the agreement. In that case, the other party will be entitled to terminate the agreement.

4) EAO explicitly reserves the right to charge any additional work it performs separately.

5) In the event that in case of any back-orders, EAO is required to make new drawings, calculations, descriptions, models, tools and suchlike, charges will be made for this.

6) Costs for loading and unloading and transport of raw materials, semifinished products, models, tools and other items made available within the scope of the assignment are not included in the price and will be charged separately. Costs paid by EAO in this regard, will be considered as advances payable by the other party.
5. Drawings, calculations, descriptions, models, tools and suchlike

1) EAO only guarantees or is only responsible for the correctness of catalogues, images, drawings, indications of measurement and weight and such, if and in so far as these are explicitly included in an agreement signed by parties.

2) The drawings, calculations, software, descriptions, models, tools and suchlike manufactured or provided by EAO will remain the property of EAO, regardless as to whether costs have been charged for this.

6. Delivery and time of delivery

1) Unless otherwise agreed, delivery will be ex works or ex warehouse EAO. From the moment the goods leave the business location/warehouse, the risk for the goods transfers to the other party. There will only be delivery carriage paid if and in so far as this has been explicitly stipulated by EAO on the invoice or otherwise.

2) The other party will be obliged to immediately check the delivered items and/or the packaging upon delivery, for any shortages or visible damage, or else perform this check after notification on our part that the goods are at the disposal of the other party.

3) The other party must specify the damage to the items delivered and/or the packaging upon delivery, or have this specified on its behalf, on the delivery note, the invoice and/or the transport documents. In any case this must be made known within 8 (eight) days after delivery, in default of which any claims to that effect will no longer be handled.

4) In the event that the nature of the delivered items so requires, EAO will be entitled to make the delivery in parts (partial deliveries), which EAO may invoice separately: the other party will then be obliged to effect payment in accordance with the provisions here below pertaining to “Payment”.

5) The delivery time commences on whichever of the following moments in time comes later:
   • The day the agreement is concluded;
   • The day the documentation, information and suchlike for the performance of the assignment is received;
   • The day EAO receives the required advance payment as per the agreement, prior to commencement of the works.

6) The delivery times as stated are an indication and are never a final deadline within the meaning of Section 6:83 opening lines under a of the Dutch Civil Code.

7) Transgression of the delivery time does not obligate EAO to pay any compensation. After repeated transgression of the delivery time, the other party may declare EAO to be in default in writing, stating a final (reasonable) deadline of delivery. After this, the other party will have the right to terminate the agreement (in writing), unless the cause of the transgression of the delivery time cannot be attributed to EAO.

8) If the other party refuses to take delivery of the goods it ordered and/or the goods ordered and/or produced in accordance with its specific wishes, the other party will be held to pay compensation for damages to EAO amounting to 25% of the net invoice value of these goods.
7. Cancellation

1) It is not possible to cancel an order, unless EAO provides explicit written consent for this.

2) In case of a cancellation, EAO explicitly reserves the right to charge cancellation costs consisting of a reasonable fee for lost profits and incurred losses.

8. Transport/Risk

1) If the other party issues no further instructions to EAO about the manner of transport, dispatch, packaging and suchlike, EAO will determine this, without bearing any liability for it. Any specific wishes from the other party pertaining to the transport/dispatch will only be carried out if the other party has stated in writing that it will bear the surplus of costs for this.

2) In principle, the goods / products are always transported at the expense and risk of the other party, even when the carrier claims that consignment notes, road waybills and suchlike contain the clause that all damages in transport will be at the expense and risk of the sender.

3) The costs of transport will not be charged on separately in case of delivery carriage paid.

9. Force Majeure

In these articles, force majeure means the following:

1) Every circumstance that is beyond the control of EAO or that is unforeseeable for EAO, as a result of which compliance with the agreement by EAO cannot reasonably be required any longer by the other party.

2) “Force majeure” will in any case be understood to mean: job strike, excessive sickness absence of an EAO employee, transport problems, fire, government measures, in any case including import and export prohibitions, quota restrictions and operational breakdowns at EAO or the suppliers, also breach of contract by one of the suppliers as a result of which EAO is not able (anymore) to comply with its obligations towards the other party.

3) If a situation of force majeure presents itself, EAO will be entitled to suspend performance of the agreement or else definitively terminate the agreement. EAO will engage in consultations to that effect with the other party.

4) EAO is entitled to demand payment for the performances that were carried out under the agreement, prior to the circumstance causing the force majeure becoming evident.

5) EAO is entitled to invoke force majeure if the circumstance that results in force majeure occurs after the performance should have been carried out.
10. Liability

1) With the exception of mandatory statutory provisions pertaining to (product) liability, also with due observance of public order and public morals, EAO will not be bound to pay any compensation for damages of whatever nature, be it directly or indirectly, or else to persons, both at the other party and third parties.

2) With due observance of the provisions stated elsewhere in this article, EAO will in any case not be liable for damage caused by use of the delivered product in a manner that is contrary to its normal use.

3) EAO is not liable for any indirect damage, including loss of profits, reduced revenue, trading loss and/or consequential loss and/or business interruption loss incurred by the other party as a result of EAO failing to perform the agreement, failing to perform the agreement in time or failing to perform the agreement adequately.

4) If the other party provides information such as drawings, models or images, which the offer from EAO is based on, EAO will assume the provided information to be accurate. EAO will not be liable for damage as a result of inaccuracy of the information provided.

5) EAO is also not liable for damage caused by a defect to the product if:
   a. EAO did not bring the product onto the market;
   b. considering the circumstances, it is plausible that the defect that caused the damage did not exist at the time when the product was brought onto the market by EAO, or else that the defect arose at a later time;
   c. the product was not manufactured for EAO to be sold or to be distributed in any other form with an economic purpose, nor manufactured or distributed within the scope of the business operations of EAO;
   d. the defect is a result of the fact that the product is in accordance with mandatory statutory provisions;
   e. based on the state of the scientific and technical knowledge at the time when the product was brought onto the market by EAO, it was impossible to detect the existence if the defect;
   f. the defect arose due to a part that was delivered by a third party, while this part is a component of the product to be delivered by EAO.

6) In all cases, EAO will only accept liability in so far as the consequences of this are covered by its liability insurance. Any liability is limited to the amount paid out within the scope of this insurance, plus the amount of the excess.

7) If and in so far as for whatever reason, no payment is made pursuant to the liability insurance, and EAO is as yet held to pay for any damages, every liability will be limited to no more than 30% of the amount (excluding VAT) charged to the other party by EAO for the services provided and/or deliveries made under the agreement in question, or if no price was determined upon concluding the agreement, such as in framework agreements, to the amount of the probable price.”

8) The other party indemnifies EAO against all third-party claims to compensate for damages that the other party is called to account for, while the damage occurred due to, or at any rate is connected with, an item or a service delivered by EAO.
11. Complaints

1) Without prejudice to the provisions elsewhere in these terms and conditions, all complaints must be submitted to EAO in writing within 8 days after delivery, providing a specification about the nature and grounds for the complaints.

2) Complaints about the invoice or inaccuracies contained there within must be reported within 8 days after the date of the invoice.

3) For claims pertaining to hidden defects (defects that are not visible upon delivery), an ultimate term of 6 months after delivery applies, while these defects must be reported within 8 days after having been detected.

4) After the lapse of the term(s) referred to in this article, the other party will be deemed to have approved the delivery and the invoice, respectively. In that case, complaints will no longer be handled by EAO.

5) If the complaint is considered well-founded by EAO, it will only be obliged to replace the defective goods, while besides this, the other party will not be entitled to any compensation whatsoever.

6) Filing a complaint will never release the other party from its payment obligations.

7) The delivery may only be returned after advance written consent and subject to terms and conditions to be stipulated by EAO.

12. Retention of title and right of pledge

1) All goods delivered by EAO that are still held at/by the other party will remain the property of EAO until the moment when all amounts payable to EAO by the other party have been paid in full, also pertaining to claims for failure to comply with the agreement(s), including interest and costs.

2) Contrary to the provisions of Section 6:43 of the Dutch Civil Code, payments are at all times first applied to discharge the claim for which no retention of title is or can be stipulated, in the unlikely event that such would be the case.

3) EAO retains an undisclosed right of pledge on all claims it has against its other party, for all the goods it delivers.

4) Processing the delivered item resulting in accession, specification or any other form of original acquisition, will oblige the other party towards EAO to establish an undisclosed right of pledge on the newly formed (main) item, for the claim that arises as a result of the item originally delivered by EAO ceasing to exist.

5) The other party may sell on or use the goods delivered under retention of title as part of its normal business activities, however, the other party is not authorised to establish (limited) rights on the delivered goods, or else provide the goods as a guarantee in any other way.

6) Based on the provisions of this article, EAO will at all times be entitled to claim back the delivered goods from the other party or its holders, or else take the goods in possessory pledge, if the other party fails to comply with its obligations. The other party will be obliged to cooperate with this.
7) In case of a resale by the other party of goods it has not (yet) paid for in full or in part, the other party will transfer the claims against its purchaser (the second purchaser) arising from this resale to EAO, which transfer will then be considered as (partial) payment. The other party will be obliged to submit the relevant information to EAO at first request, to enable EAO to collect the amount due directly from the second purchaser. The payment made to EAO by the second purchaser will be deducted from the total amount due to EAO from the other party. In the event of a resale, the other party will also be obliged to invoke a similar retention of title as stated in this provision.

13. Payment

1) EAO requires net cash payments upon delivery, or payments by way of a deposit on or transfer to a bank or giro account as indicated by EAO, within 30 days after the invoice date. The value day indicated on the bank or giro statement will be the determining factor and as such will be regarded as the date of payment.

2) Each payment from the other party will first be regarded as having been made in the settlement of the interest it owes, also of the collection costs and/or administrative costs incurred and after this will serve to reduce the claim for which no retention of title can be invoked and subsequently to reduce the longest outstanding claim.

3) If the other party:
   a. is put into liquidation, assigns its assets, submits a request for suspension of payments, or else if the whole or part of its assets are seized;
   b. dies or is placed under guardianship;
   c. fails to comply with any of its obligations pursuant to the Law or these terms and conditions;
   d. fails to fulfil payment of an invoice amount or part thereof within the term set for this;
by the mere occurrence of one of the aforementioned circumstances, EAO will have the right to either terminate the agreement by written notice, or else to forthwith claim payment in full of any amount due from the other party for works performed and/or deliveries made by EAO (without notice of default) and to reclaim the delivered, but not (yet) paid goods as its property, all this without prejudice to EAO’s right to compensation for costs, damages and interests.

4) From the moment that the payment term has expired without payment of the amount due, EAO will have the right to terminate the agreement in whole or in part, unless the default, in view of its special nature or minor significance, does not justify this termination and its effects.

14. Interest and Costs

1) In the event that payment is not effected within the term as referred to in the previous article, the other party will be in default by operation of the law and will owe an interest of 1.5% per (part of a) month on the amount due, as per the due date.

2) All judicial and extrajudicial costs to be incurred will be borne by the other party. The extrajudicial costs for collection will be calculated according to the graduated scale for extrajudicial costs.
15. Applicable law

1) All our offers, agreements and the performance thereof are solely governed by the Laws of the Netherlands with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention).

2) The Dutch text of these terms and conditions is binding. In case one or more clauses of these terms and conditions are in conflict with the law, the other clauses of these terms and conditions will continue to apply in full.

3) Where explanation of the international commercial terms is concerned, the “Incoterms”, as compiled by the International Chamber of Commerce in Paris (I.C.C.) will apply.

16. Disputes

1) All disputes, in so far as these cannot be settled out of court, will be brought before the competent Civil Court of the court of Rotterdam, location Dordrecht in the Netherlands, in so far as statutory provisions so allow.