

Battolyser General Terms & Conditions of Purchase

Version September 2022

1. Definitions

In these General Terms & Conditions of Purchase:

- a. **"AGREEMENT"** means the agreement between the Buyer and the Supplier including the Purchase Order and these Terms.
- b. **"AMENDMENT"** means a revised Purchase Order, issued by the Buyer, which implements changes to the provisions of the Purchase Order.
- c. **"BUYER"** means Battolyser or any of its affiliates or subsidiaries, whichever is the Buyer of the Goods under the Purchase Order.
- d. **"BUYER INFORMATION"** means data, designs, drawings, specifications, communications and other information (whether detailed or conceptual) and in whatever form, including software, and documents which are provided to Seller by Buyer or supplied, or produced or created by Seller for Buyer hereunder.
- e. **"DELIVERY DATE(S)"** means the date(s) when the Goods must be delivered, all as indicated in the Purchase Order.
- f. **"END-USER"** means the user of the Goods, in case this is not the Buyer himself, generally the client of Buyer.
- g. **"FREE ISSUE MATERIALS"** means materials, which have been issued by the Buyer to be used by the Seller in direct relation to the Work described in the Purchase Order.
- h. **"GOODS"** means the materials, products, equipment, supplies or services to be purchased or supplied as specified in the Purchase Order and any part or component thereof.
- i. **"INTELLECTUAL PROPERTY RIGHTS"** means non-patented inventions, patents, trademarks, service marks, trade names, domain names, copyrights (including rights in software), moral rights, rights in designs, know how, database rights, topography rights, mask work rights, utility models and all other intellectual property rights and forms of protection of a similar nature, licences to such rights, in each case whether registered or pending registration, and rights to apply for any such rights.
- j. **"PARTY"** means Buyer or Seller and **"PARTIES"** means collectively both of them.
- k. **"PURCHASE ORDER"** means the purchase order as referenced in the purchase order form together with any special conditions, and the attachments, exhibits and documents expressly referenced therein.
- l. **"PURCHASE PRICE"** means the price stated in the Purchase Order which shall be issued in accordance to Incoterms 2020 otherwise expressly stated in the Purchase Order.
- m. **"SELLER"** means the person, firm or company with whom the Purchase Order is placed.
- n. **"SELLER INFORMATION"** means data, designs, drawings, specifications, Certificates of Conformity, test reports, communications and other information (whether detailed or conceptual) and in whatever form which are provided to Buyer by Seller.
- o. **"SUPPLY"** means delivery of the Goods specified in the Purchase Order and relevant documents, to be carried out by the Seller in accordance with the Terms & Conditions under the Purchase Order.
- p. **"SITE"** means the location where services are requested by Buyer. Generally, this is the location where the Goods are used or stored. the location can be anywhere in the world, onshore and offshore. The site location will be advised by Buyer to Seller.
- q. **"TERMS"** means these General Terms & Conditions of Purchase.
- r. **"WORK"** means all work and services to be performed by Seller pursuant to the Purchase Order.

2. Entire agreement & Controlling Terms

- a. The Agreement including the Purchase Order and these Terms constitutes the entire agreement between Buyer and Seller with respect to the Goods, superseding all proposals, quotations, negotiations and counter-proposals. The terms and conditions of the Agreement shall override any terms and conditions of sale of Seller including, but not limited to, those included by Seller in its acceptance of the Purchase Order or posted by Seller on its internet site.
- b. In case of any conflict between any provision in these Terms and a Purchase Order, the Purchase Order shall prevail.
- c. A Purchase Order becomes effective when (a) executed by both the Buyer and Seller or (b) when Seller commences performance or tenders the Goods after issuance of the Purchase Order to Seller by the Buyer. Buyer will have no obligation to make any payment to the Seller before and unless the Purchase Order becomes in full force and effect in accordance with this paragraph.

3. Conforming Goods

- a. Seller is fully responsible for the implementation of the Purchase Order and for compliance of the Goods with all applicable laws and specifications, drawings, and other requirements of Buyer.
- b. The Goods shall be supplied strictly in accordance with the specification and other requirements stipulated in the Purchase Order. No deviation or substitution, in whole or in part, there from is permitted without the prior written approval of Buyer.

4. Inspection & Acceptance

- a. If requested the Seller shall Supply to Buyer certified copies of all test records and inspection reports to confirm that the requirements of the Purchase Order are met.
- b. Buyer will have the right, but not an obligation to inspect and expedite the Goods in process of manufacture, in storage, in transit, and upon delivery to assure compliance herewith. Buyer will be supplied by Seller upon request or as needed with data, drawings, specifications, test results, quality documentation, schedules and other documents and information in accordance with the (documentation) requirements included in the Purchase Order.
- c. Within 3 months after delivery of the Goods or in any other location or time as may be specified in the Purchase Order, Buyer may conduct an inspection of the Goods for conformity to the specifications stipulated in the Purchase Order and may accept or reject the Goods, in whole or in part, provided that Buyer reserves all rights provided for herein to reject any Goods, in whole or in part, at a later time upon discovery of a latent defect not apparent by such normal visual inspection. Buyer undertakes to report any defects discovered within ten business days upon discovery.
- d. Buyer's inspection, waiving of inspection, review, approval, or acceptance of the Goods or provision of any information, drawings or data hereunder will not relieve or discharge Seller either expressly or by implication of Seller's responsibilities and obligations under the Purchase Order.

5. Warranty

- a. Seller warrants to Buyer that the Goods provided under the Purchase Order, whether manufactured, fabricated, or otherwise produced or provided by Seller or others, will:
 1. strictly conform to the descriptions, data, drawings, plans, specifications, performance criteria, and sample if any, and other requirements referred to herein or provided by Buyer to Seller;
 2. be of merchantable quality and fit for the purpose(s) intended;
 3. conform with all applicable laws, ordinances, codes and regulations, and
 4. be free from defects in materials, performance, operation, and workmanship for a period of 12 months after being placed in service by Buyer or a subsequent purchaser or 24 months from date of acceptance by Buyer, whichever period expires earlier.
- b. All Work shall be performed in a skilled manner and shall be of first-class quality and workmanship in every respect. If required by Buyer, Seller will Supply satisfactory evidence of the origin, composition, manufacture, kind and quality of the Goods and of any packaging materials supplied with the Goods.
- c. If, within the specified warranty period, Buyer or End-User discovers any defect, error, non-compliance, nonconformity, omission, operational or performance deficiency or breach of any warranty as to the Goods, Seller will promptly repair, re-perform, or replace without cost the Goods in question (including all related costs including but not limited to shipping and transport).
- d. Such repair, re-performance, or replacement will be warranted for a period of 12 months from its acceptance by Buyer or End-user.
- e. It is agreed that all warranties to Buyer hereunder shall, where applicable, be extended to the End-User of such Goods.
- f. Acceptance of Goods by Buyer shall not constitute a waiver of any of the warranties hereunder. Neither shall payment for such Goods constitute a waiver of any of the conditions contained in the Purchase Order.

6. Delivery

- a. Seller shall use best efforts to meet the delivery dates or progress requirements established in the Purchase Order. Any delays shall be reported promptly by Seller to Buyer. Late delivery, meaning a delivery not in accordance with the delivery date as stipulated in a Purchase Order, shall be considered a material breach unless due a situation of force majeure.
- b. In case of late delivery, after a grace period of 2 (two) weeks starting at the original date scheduled for delivery as stipulated in the Purchase Order, the Buyer is either entitled to terminate the respective Purchase Order(s) (partial or in whole), or, in case the order is not cancelled, and at Buyer's discretion, entitled to charge a penalty of 0.5% of the Purchase Order value per week with a maximum of 10%.

- c. Unless parties explicitly agree otherwise, deliveries subject to the Purchase Order will be made based on the Incoterms 2020, DDP (Delivery Duty Paid), at the location indicated in the Purchase Order or later agreed upon between parties.
- d. Seller will package the Goods in the most economical, safe and careful manner possible and in such a way that this shipment is manageable during loading, transport and unloading. Seller will ensure that the Goods reach the destination in good condition. The packaging, the transport, the storage and the processing of the Goods must be in accordance with the applicable laws.

7. Title & Risk

- a. The Goods must be delivered by Seller according to the conditions mentioned in the Purchase Order. Unless otherwise specified in the Purchase Order, title to the Goods will vest in Buyer immediately upon delivery of the Goods by Seller or upon identification of the Goods to the Purchase Order or upon payment of the first invoice related to the Goods, whichever is earlier. Seller warrants free and clear title to the Goods, free and clear from rights of third parties including, but not limited to, any and all liens, restrictions, reservations, security interests and encumbrances.
- b. Seller is responsible for properly and carefully packing and shipping the Goods to delivery address, at its expense unless otherwise specified in the Purchase Order and will comply with any documentary requirements or instructions of Buyer in the shipment process. Irrespective of vesting of title and any other provision herein to the contrary, Seller will bear the risk of loss and damage, and will insure or self-insure for the benefit of Seller and Buyer the Goods until the same are delivered in good condition in accordance with the provisions of the Purchase Order.
- c. Where Buyer provides Free Issue Materials to Seller for incorporation into or use with the Goods, such Free Issue Materials shall remain the property of Buyer at all times. Risk of loss or damage to such free issue materials shall vest in Seller from the time of delivery of such Free Issue Materials to Seller until re-delivery to Buyer or acceptance of the Goods by Buyer, whichever is later. Seller shall give Buyer an account of the use of all Free Issue Materials and any materials unaccounted for, lost or damaged shall be replaced by Seller.
- d. Free Issue Materials will upon first request be handed back to Buyer regardless of any disputes on whichever topic between parties. These Free Issue Materials will never be made subject to retention and or lien.

8. Buyer Information

- a. The Buyer Information is set out in the Purchase Order. If Seller finds any anomalies in the Buyer Information affecting the operational efficiency of the Goods, or part thereof, Seller shall so notify Buyer forthwith proposing the modifications, alterations or changes to be made. In compliance with clause 11 "Changes in the Goods", Seller may not implement the aforesaid modifications, alterations or changes without Buyer's written approval.

9. Approval of Seller Documents

- a. Seller Information specifically generated for the Purchase Order shall be sent to Buyer for approval, review or information as stated in the Purchase Order. The times for forwarding to and approving by Buyer of Seller Information are set out in the Purchase Order, whereas the procedures for presenting the said Seller Information to Buyer may be set out in the quality requirements of the Purchase Order. All Seller Information shall be signed by the Seller or otherwise marked as approved and released. Examination of Seller Information to check that they conform to the Purchase Order specifications, and the subsequent approval of the said Seller Information, by Buyer shall neither relieve Seller from his responsibility for the proper Supply of the Goods hereunder nor for any defects or failures due to errors in design.
- b. Seller Information shall become effective when approved by Buyer in writing. If in Buyer's opinion Seller's drawings, calculations and reports are insufficient or inadequate, Buyer shall have the right to direct Seller to revise said Seller Information, in whole or in part. Seller shall not be entitled to any additional payment or extension(s) of time, unless any change demanded by Buyer constitutes a revision pursuant to paragraph "changes in the Goods". Seller shall revise the Seller Information and return them duly revised to Buyer within the number of calendar days set out in the Purchase Order documents commencing from the day they were sent to Seller for revision. Any delay in returning such revised Seller Information to Buyer, shall not entail extension of the delivery date(s). If any delay exceeds the period of four calendar weeks, this shall constitute a breach of Purchase Order and the Buyer shall have the right to terminate the Purchase Order. For the purpose of calculating any period(s) of delay, the postmark or the date(s) of any communications exchanged between the parties shall be considered as the delivery date.
- c. Seller shall not be deemed to have fully performed the Supply under the Purchase Order until all approved Seller Information required by the Buyer have passed into the physical possession of Buyer.

10. Compliance with Laws

- a. In its performance under the Agreement, Seller agrees to strictly comply with all applicable laws and specifically with, but not limited to, any import and export, and health, safety and environmental laws, treaties ordinances, codes and regulations of any applicable jurisdiction including the laws of the country of destination of the Goods. Upon Buyer or any owner's written request, Seller will provide any certification of compliance required by any national, federal, regional, state, or local law, ordinance, code, or regulation and bear the cost thereof.
- b. Seller shall release, defend, indemnify and hold harmless Buyer and its affiliates, and their respective directors, officers, and employees, from and against any loss, costs (including legal cost, incurred out or in court, the latter in as far such court cost exceed any amount awarded by the relevant court), civil or other fines and penalties, damage or liability, arising from or alleged to arise from any violation, alleged violation, or failure to comply with, the terms of this paragraph by Seller or any person for whom Seller may be responsible.
- c. Notwithstanding any other provision in the Agreement to the contrary, nothing contained herein will obligate Buyer or Seller to engage in any action or omission to act which would be prohibited by or penalized under the laws or regulations of The Netherlands.
- d. Parties will, at all times, observe the rules with regard to the protection of personal data by virtue of applicable laws and regulations. If and to the extend personal data will be processed as part or in relation to the performance under the Agreement, Parties shall first enter into a data processing agreement as required by law.
- e. Seller agrees that, in its performance of the Work, it is solely responsible for required compliance with the applicable import and export laws and regulations of the European Community, the United States of America and the laws and regulations of The Netherlands, and those of any other jurisdiction or country as may be applicable.
- f. If any import or export control or compliance form is attached to the Purchase Order, including Buyer's request for export control information, Seller will thoroughly and accurately complete such form and return it within 10 days to Buyer. Seller understands and acknowledges that Seller will be fully responsible for the accuracy and completeness of import and export documentation prepared or executed by Seller, including that required for the import of any materials used in the production or manufacture of the Goods and of any documents prepared by Seller's employees, contractors, agents and brokers.

11. Changes in the Goods

- a. Seller will make no unilateral change, substitution, or revision without Buyer's prior written consent. Such consent will not release the Seller from its obligations with respect to the Goods.
- b. Changes will be in writing and signed by a duly authorized representative of Buyer. If Seller is unable to comply, Seller will notify Buyer in writing, within five days of receipt, otherwise such change will be deemed accepted. An equitable adjustment in the price and time of performance will be made by the parties in writing if any change results in a demonstrated decrease or increase in Seller's cost or time of performance, however, no claim by Seller for an adjustment in the price or in the time of performance resulting from any change required by Buyer will be considered unless presented to Buyer in writing within ten 10 days after Seller receives the notice of change from Buyer.

12. Suspension of Supply

- a. Buyer in its absolute and sole discretion may suspend further manufacture and Supply of the Goods by the Seller for any reason, at any time and from time to time, by giving written notice (notice of suspension) thereof to the Seller. The notice of suspension shall specify the date of suspension taking into account a reasonable notice period, as well as the estimated duration of the suspension.
- b. Upon receiving such notice of suspension, Seller shall suspend further manufacture and Supply of the Goods to the extent specified and during the period of such suspension shall properly care for and protect all Goods, work in progress and materials, supplies and equipment the Seller has in its possession for the manufacture and Supply of the Goods.
- c. Should Seller believe that any such suspension or withdrawal of suspension justifies modification of the Purchase Price and/or Delivery Date(s) the Seller shall comply with the provisions of the procedure set forth in paragraph 11a, Changes in the Goods, of these Terms. The Seller's final claim for modification of the Purchase Price shall be substantiated with invoices, payroll documents and other documents deemed relevant. Seller shall take all reasonable measures to reduce or control the costs during the suspension period.
- d. Upon Buyer's verification and approval of such invoices, payroll documents and other documents, the Seller and the Buyer shall agree upon the revision of the Purchase Price upon such verification, including reasonable profit based on the Goods supplied under the Purchase Order, as full settlement to the Seller for the suspension or withdrawal of suspension. In no event shall Seller be entitled to be paid by Buyer for any prospective profits or any damages of such suspension or withdrawal of suspension.

- e. Should the duration of such suspensions exceed more than 90 consecutive calendar days each, or aggregate more than 120 calendar days, the parties shall agree on further actions to be taken in terms of suspension or termination.

13. Termination with Cause

- a. In the event of Seller's (a) actual or anticipated breach of or default under any provision of the Agreement or an individual Purchase Order, or (b) any material change in its ownership or organization or any other operational change adversely affecting, or which may adversely affect in Buyer's opinion, Seller's performance hereunder, or (c) bankruptcy, reorganization, receivership, insolvency, or making an assignment for the benefit of creditors, or (d) evidencing financial or organizational instability, Buyer has the right, in addition to any rights or remedies it may have in law, or under the Agreement, to immediately terminate the Agreement or the Purchase Order, in whole or in part, for cause, by written notice to Seller.
- b. Seller will not be entitled to losses and damages including, but not limited to, lost profit, lost revenue, lost business opportunity, or any incidental, indirect, economic, and consequential or other damages because of termination, nor will Buyer be liable to pay any costs of termination. In such event, Buyer may immediately take possession of all, or any portion of the items identified in the Purchase Order, subject only to an obligation to equitably compensate Seller for same.
- c. Upon termination by Buyer as a result of Seller's default hereunder, Seller will be liable to and will immediately reimburse Buyer for all costs of any nature and damage, which may be incurred by Buyer, and any party with whom Buyer has contracted to sell or Supply the Goods to effect completion of performance of the Purchase Order.

14. Invoicing & Payment

- a. Buyer shall pay Seller for Goods in accordance with the provisions set out in the of Purchase Order. Payment terms are 30 days after invoice date, which must not be earlier than Delivery Date. If Buyer fails to timely fulfil its payment obligation, Buyer must be given notice of default and granted a reasonable term of at least 14 days by the Seller to fulfil its payment obligation before it will actually be in default.
- b. However, notwithstanding, such payment terms, Buyer's obligation to pay the Purchase Price is conditional upon:
 - 1. receipt of completed, non-defective conforming Goods;
 - 2. receipt and acceptance by Buyer of Seller's accurate and properly completed invoice with reference to Purchase order and line item, accompanied by satisfactory supporting documentation; and
 - 3. compliance by Seller with all terms and conditions of the Purchase Order. Buyer will have the right to withhold payment on the disputed portion of any invoice or statement presented by Seller for reasonable verification thereof.
- c. Any sums due to Seller under the Agreement may be set-off by Buyer against any sums owed by Seller to Buyer or against any claims of third parties against Buyer arising from Seller's (non-)performance.

15. Safety, Health & Environment

- a. Seller acknowledges that it has actual knowledge of the Battolyser Code of Conduct, as attached in Exhibit E, and Seller agrees that it will adhere to and notify of violations of the principles contained in the Battolyser Code of Conduct (or where Seller has adopted equivalent principles, to those equivalent principles) in all its dealings with or on behalf of Battolyser in connection with the Agreement and related matters.
- b. Seller hereby acknowledges that it will support the commitment towards net-zero. Seller will work with Buyer to conduct a life cycle assessment of the Goods or Services when requested by Buyer.
- c. Seller shall at all times perform, and ensure that its employees, subcontractors and agents perform the Purchase Order in a safe, secure and environmentally aware manner. Seller shall observe and comply, and ensure its employees, subcontractors and agents observe and comply with all the applicable laws.
- d. Seller shall ensure that its employees, subcontractors and agents are provided with all necessary personal protective equipment in relation to the Work. Seller shall conduct all necessary risk analyses in relation to the performance of Work.
- e. Seller shall ensure its employees, subcontractors and agents report all incident events regardless of severity to the Buyer in relation to the Work. This must not be limited to injuries and must include environmental and near miss information.
- f. To the extent that the Goods contain toxic, corrosive or hazardous materials, the Seller shall ensure that a notice to that effect accompanies each consignment, together with appropriate care and handling instructions. Such notice shall comply with regulations in all applicable locations, including but not limited to REACH (regulation (EC) no 1907/2006).

- g. Seller shall ensure that Goods are properly packed, secured and labelled in accordance with accepted industry practice, regulatory requirements and to meet Buyer's requirements as specified in the Purchase Order.

16. Indemnity

- a. Seller shall release, defend, indemnify and hold harmless Buyer and any subsequent purchaser and their affiliates, and their respective directors, officers, and employees from and against any costs (including legal cost, incurred out or in court, the latter in as far such court cost exceed any amount awarded by the relevant court), fines, penalties, damages, and liabilities, arising from for death or injury to employees of Seller, its subcontractors and vendors and their affiliates and their respective directors, officers and employees or loss of or damage to the property of Seller, its subcontractors and vendors and its and their affiliates and their respective directors, officers and employees regardless of cause including the negligence or breach of duty, statutory or otherwise, of Buyer
- b. Subject to subsection c of this article, Seller shall release, defend, indemnify and hold harmless Buyer, its affiliates, and any subsequent vendors and End-Users of the Goods, and their respective directors, officers, and employees from any costs (including legal cost, incurred out or in court, the latter in as far such court cost exceed any amount awarded by the relevant court), fines, penalties, damages, and liabilities, arising from, alleged to arise from, or in any way associated with any defect in the Goods furnished hereunder or the performance of the Purchase Order, regardless of cause including the negligence or breach of duty, statutory or otherwise, of Buyer. Seller's liability under this indemnity is limited per event to EUR 1 million or 200% of the total invoice value of the Goods (excluding VAT), whichever is the higher.
- c. Notwithstanding the foregoing, nothing in this paragraph 16 shall exclude or limit Seller's liability for personal injury or death of Buyer's employees as a result of Seller's negligence or otherwise Gross Negligence or Willful Misconduct on the part of Seller.
- d. "Gross Negligence" shall mean any act or failure to act (whether sole, joint or concurrent) which seriously and substantially deviates from a diligent course of action or which is in reckless disregard of or wanton indifference of a risk known, or so obvious that it should have been known, and so great as to cause harm to people, property or the environment; unless "Gross Negligence" has a different meaning ascribed to it under the applicable law of the Purchase Order provided such meaning is established by statute, regulation, or other written law or by judicial precedent and is in clear, unambiguous terms and closed to conflicting judicial interpretation, and in which case "Gross Negligence" shall have the ascribed meaning.
- e. "Willful Misconduct" shall mean a deliberate act or omission, the consequences of which were foreseen or foreseeable and intended to cause harm to people, property or the environment; unless "Willful Misconduct" has a different meaning ascribed to it under the applicable law of the Purchase Order provided such meaning is established by statute, regulation, or other written law or by judicial precedent and is in clear, unambiguous terms and closed to conflicting judicial interpretation, and in which case "Willful Misconduct" shall have the ascribed meaning.
- f. Also excluded from limitation in liability are the following articles:
- o Compliance with Laws (10)
 - o Safety, Health & Environment (15)
 - o Insurance (18)
 - o Taxes (19)
 - o Intellectual property (20)
 - o Confidentiality (21)
 - o No liens (24)

17. Force Majeure

- a. A Party is not liable for failure to perform if such failure is as a result of "Force Majeure". Force Majeure means any act, event, cause or occurrence which is not within the reasonable control of either Party and which renders such Party unable to perform its obligations. If a Party is unable to perform its obligations as a result of "Force Majeure", performance of such obligations shall be excused during the period of "Force Majeure". Such Party shall immediately notify the other Party of the date of inception of the "Force Majeure" condition and the extent to which it will affect performance.
- b. If a Party asserts Force Majeure as an excuse for failure to perform the Party's obligation, then the nonperforming Party must prove that the Party took reasonable steps to minimize delay or damages caused by foreseeable events, that the Party substantially fulfilled all non-excused obligations, and that the other Party was timely notified of the likelihood or actual occurrence of an event described in this paragraph.

18. Insurance

- a. Seller shall maintain insurance with coverages and amounts required by the applicable laws. In addition, Seller shall carry and maintain in force at all times during the term of this Agreement insurance policies which provide coverage consistent with Seller's obligations under this Agreement.
- b. Where applicable laws or the Agreement requires insurance to be maintained, Seller agrees not to cancel or amend any of the insurance coverages maintained hereunder before the applicable expiration date thereof without 30 days prior written notice to Buyer. At the Buyer's request, Seller will provide a copy of the insurance policies and evidence that the insurance policy/policies premiums have been paid.

19. Taxes

- a. Unless otherwise provided for in the Purchase Order, Seller is responsible for payment of all sales, revenue, capital and other taxes, duties, fees or other assessments of whatever nature imposed on Seller by governing authorities or any jurisdiction applicable in connection with performance of the Purchase Order. Seller accepts sole responsibility and liability for the payment of any and all contributions or taxes for unemployment insurance, social security payments, or other assessments for those persons performing work for Seller hereunder. If it is ever determined that any tax included in the price paid by Buyer was not required to be paid, Seller agrees to refund promptly such amount to Buyer.
- b. Seller will release, defend, indemnify, and hold Buyer harmless from and against any fines, penalties, costs (including legal cost, incurred out or in court, the latter in as far such cost exceed any amount awarded by the relevant court), losses, damages or liabilities, arising from, alleged to arise from, or in any way associated with Seller's failure to comply with the requirements of this paragraph.
- c. At its sole discretion, Buyer may withhold from payments to be made to Seller amounts legally required to be withheld from such payments and remitted to the taxing authority of any jurisdiction relevant to the transaction.

20. Intellectual Property

- a. All Buyer Information provided by Buyer to Seller and the intellectual property rights therein shall remain the property of Buyer and shall not be used, reproduced or adapted or divulged to any person except to employees of Seller or Seller's authorized subcontractors for the purpose of carrying out the Purchase Order. All Buyer Information created by or under the Purchase Order is the sole property of Buyer with title to such vesting upon identification to the Purchase Order. Seller will turn over all Buyer information to Buyer, including copies thereof, at the expiration date of the warranty period, or earlier as may be requested in writing by Buyer. Seller agrees to execute any documents requested by Buyer to confirm Buyer's legal title to all such rights. Goods manufactured in accordance with the drawings furnished by Buyer shall be considered Buyer's design and as such, Seller shall not furnish to anyone else identical or similar Goods or parts thereof without Buyer's written permission.
- b. Seller warrants that the design, fabrication, manufacture, production, sale, distribution and intended use of the Goods do not infringe directly or indirectly, in whole or in part, any patent, copyright, trade secret, trademark, trade name, or other intellectual property right, and Seller agrees to release, defend, indemnify and hold Buyer and any subsequent purchaser, their affiliates, and their respective directors, officers, employees, contractors, agents, suppliers, users, successors, and assigns, harmless from and against any and all costs (including legal cost, incurred out or in court, the latter in as far such court cost exceed any amount awarded by the relevant court), expenses, fines, penalties, losses, damages, and liabilities arising out of any alleged or actual patent, copyright, trade secret, trademark, trade name, or other intellectual property right infringement or other claim, demand or action arising from or related to the design, fabrication, manufacture, production, sale, distribution or use of the Goods.
- c. The Intellectual Property Rights related to any part of the Work, including any background Intellectual Property Rights, foreground Intellectual Property Rights and entitlement to all development data, reports and other technical information relating to any part of the Work, shall be owned and licensed as follows:
 - (i) Each Party shall retain the ownership of its background Intellectual Property Rights;
 - (ii) All foreground Intellectual Property Rights shall be owned exclusively by Buyer;
- d. Seller shall:
 - (i) deliver all models, instructions, algorithms, technology, development data, reports and all other technical information, documentation and other knowhow related to all parts of the Work associated with the foreground Intellectual Property Rights to Buyer;
 - (ii) assign (and shall cause to be assigned) all foreground Intellectual Property Rights to Buyer to the extent required under applicable laws;
 - (iii) assist Buyer, at Buyer's expense, in obtaining, registering, perfecting and enforcing all patents, trademarks and copyrights necessary to protect Buyer's interest in the Intellectual Property Rights established pursuant to this section; and

- (iv) grant to Buyer a worldwide, non-exclusive, royalty-free license, in perpetuity, with the right to sublicense, under Buyer's background Intellectual Property Rights, to make, have made, use, import, analyse, test, prepare derivative works of, reproduce, have reproduced, offer to sell, sell or otherwise dispose of such Seller's background Intellectual Property Rights, to the extent Seller incorporates such background Intellectual Property Rights into any part of the Work;
- e. If any patentable inventions are created by Seller within or as part of the scope of the Purchase Order, Seller shall inform Buyer promptly giving appropriate details of the invention and assist Buyer in the application for patents or other protection, with all expenses related to such registration or to obtaining such protection borne by Buyer. Seller hereby irrevocably authorises Buyer to appoint a person to act as Seller's attorney to do all such things and execute all such documents as may be necessary for or incidental to granting Buyer the full benefit of this article. Buyer shall not be obliged to seek patent or other protection for any invention or to exploit any invention. Seller shall not at any time allege the invalidity or otherwise take or permit to be taken any action affecting the validity or enforceability of any Intellectual Property obtained, applied for or to be applied for by Buyer. Accordingly, Seller shall not disclose or publish the subject matter of any inventions which may be patentable before Buyer has actually applied for any patent registration.

21. Confidentiality

- a. All Buyer Information is proprietary and confidential to Buyer and will be used solely by Seller for purposes of the Purchase Order. All such Buyer Information will be treated and protected by Seller as strictly confidential, and will not be disclosed to any third party without the prior written consent of Buyer, and may be disclosed within Seller's organization only on a need-to know basis. Buyer may require Seller's employees, contractors, suppliers and other Seller personnel involved in the performance of the Purchase Order to execute an individual confidentiality agreement prior to any disclosure. Seller will not publicize or disclose the existence, content, or scope of the Purchase Order or make any reference to Buyer to any third party by any means without obtaining the prior written consent of Buyer and any owner.
- b. If the provisions of this paragraph are breached, Seller will forfeit a penalty payable of 50.000 Euro for each breach and 10.000 Euro per day that the breach continues, without prejudice to Buyers rights to claim damages for any loss in excess of the abovementioned penalty.

22. Assignment & Subcontracting

- a. Seller shall not sell, assign or transfer the Agreement or any Purchase Order, in part or in whole, without the prior written consent of Buyer.
- b. Notwithstanding the aforementioned, Seller is entitled to subcontract parts of a Purchase Order, subject to prior written consent of Buyer which will not unreasonably be withheld.
- c. Seller will give Buyer prompt written notice of any material change in its ownership or organization or any other operational change, which entitles Buyer to cancel a Purchase Order and terminate the Agreement.
- d. Buyer reserves the right to assign all rights and obligations under the Purchase Order, in whole or in part, to any party without written consent of Seller.

23. Quality assurance and Right to audit

- a. Seller shall maintain adequate quality assurance plans in place to ensure that the quality of the Goods meets the Buyer's needs and any industry standards.
- b. During the term of the Agreement and for three (3) years thereafter, Seller shall keep complete and accurate written, up to date records of its compliance with its obligations under the Agreement and the Purchase Order for the purpose of auditing the production and the (quality) management system.
- c. Seller shall allow Buyer and any of its auditors, advisors or representatives access to any of the Seller's relevant premises, personnel, records and systems to audit such records. Such audit may be conducted no more than once per year, at Buyer's expense, on reasonable prior written notice and at reasonable times and in such a manner as not to substantially interfere with Buyer's normal conduct of business.

24. No liens

- a. Seller agrees to keep its premises and other property of Buyer and any subsequent purchaser free and clear from any and all claims, liens and encumbrances. To the maximum extent allowed by law, Seller agrees to release, defend, indemnify, and hold harmless Buyer and subsequent purchaser and their affiliates from and against any and all such liens, right to retain possession or other similar rights arising from, alleged to arise from, or in any way associated with Seller's performance or non-performance under the Agreement. Seller waives all such rights against the premises, facilities, equipment and other property of Buyer and any subsequent purchaser.

25. Waiver & Enforcement

- a. None of the terms and conditions of the Agreement shall be considered to be waived by Buyer unless a waiver is given in writing by Buyer to Seller. No failure on the part of Buyer to enforce any of the terms and conditions of the Agreement shall constitute a waiver of such terms and conditions.
- b. If any provision of the Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, it shall be treated as severable from the other provisions. The invalidity or unenforceability of such provision shall not affect the other provisions of the Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute, for any invalid or unenforceable provision, a valid or enforceable provision, which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision.

26. Law & Jurisdiction

- a. The Agreement including these Terms are governed by the laws of the Netherlands, excluding the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).
- b. Any third party to whom a right is granted pursuant to the Agreement shall not become a party to the Agreement. The rights and remedies of Buyer set forth herein are in addition to any other rights or remedies of Buyer under contract or at law.
- c. In case of a dispute relating to the Goods, the Agreement or any individual Purchase Order, the parties shall meet as soon as possible in good faith to try to resolve the matter in an amicable way.
- d. All disputes arising in connection with this Agreement including these Terms, shall be settled exclusively by the competent court in Rotterdam, the Netherlands.