

1. DEFINITIONS

In these conditions ("Conditions"):

"the Seller" means Dhatec B.V., with registered address in Valkenswaard, Dragonder 19, the Netherlands;

"the Contract" means the contract entered into between the Seller and the Buyer for the sale of the Products as set forth in clause 2;

"the Buyer" means the person, firm, company, corporation or public authority or body, listed on the Seller's quotation or order confirmation as the case may be;

"the Products" means all or, when the context so admits, any part of the products and materials and services supplied by the Seller.

2. GENERAL

2.1 The Seller shall sell and the Buyer shall purchase the Products specified in Seller's quotation ("Quotation") in accordance with the provisions of these Conditions. These Conditions shall apply to all Quotations, orders and contracts for the manufacture and/or sale of the Products accepted by the Seller. No variation of, or addition to, these Conditions shall be effective unless in writing and signed by authorized representatives of the Seller and the Buyer.

2.2 Unless previously withdrawn, a Quotation is open for acceptance within the period stated therein. Where no period is stated, the Quotation shall be open for acceptance within thirty (30) days from the date it is given unless withdrawn in the meantime. The issue of a Quotation shall constitute an invitation to treat only and an acceptance by the Buyer of a Quotation made to it by the Seller shall be deemed to be an offer to purchase the Products by the Buyer. The Seller shall not be contractually bound until the Seller has accepted in writing an order placed by the Buyer.

3. DESCRIPTION AND SPECIFICATIONS

All descriptions, samples, illustrations, measure or other specifications provided by or on behalf of the Seller are approximate only and shall not form part of the Contract. Unless otherwise agreed in writing, the Seller reserves the right to supply the Products with such alterations or technical modifications as it may consider necessary.

4. PRICES AND TERMS OF PAYMENT

4.1 The price for the Products ("Price") shall be the price specified in the Quotation.

4.2 Unless otherwise specified in the Quotation, the Price is exclusive of VAT, sales tax or any other applicable taxes, fees or charges, which shall be paid by the Buyer.

4.3 Payment must be made within thirty (30) days of date of Seller's invoice (unless specifically agreed otherwise in writing by the Seller), in default of which the Seller shall be entitled to interest on any amount overdue at the rate of one point five (1.5) per cent per month.

5. DELIVERY, RISK AND LOSS OR DAMAGE IN TRANSIT

5.1 Unless agreed otherwise, Products shall be delivered Ex Works (as defined in the then current Incoterms®) the Seller's warehouse as detailed in the Quotation.

5.2 Following delivery in accordance with clause 5.1, the Buyer shall carefully examine the Products and inform the Seller of any defect in or damage to the Products or any other failure of the Seller to comply with its obligations under the Contract or these Conditions. Any claims must be notified in writing to the Seller within ten (10) days of delivery of the Products. **THE SELLER SHALL HAVE NO LIABILITY FOR ANY DEFECTS AND/OR FAILURES OF THE SELLER WHICH HAVE NOT BEEN NOTIFIED TO THE SELLER IN ACCORDANCE WITH THIS CLAUSE.**

5.3 The Buyer shall not use or otherwise deal with any Products that are the subject of a claim and shall retain such Products for inspection by the Seller's representatives.

5.4 Where the Seller accepts any order for Products which are not posted on the Seller's web site product catalogue as at the date of the Quotation, the Seller reserves the right to deliver up to ten (10) per cent above or below the quantities ordered in full satisfaction of the Contract and to invoice the Buyer in accordance with the quantities actually delivered.

5.5 The Seller shall be entitled to make partial deliveries or deliveries by instalments and these Conditions shall apply to each such delivery.

5.6 All dates or periods quoted for dispatch and delivery are approximate and in no circumstances shall such dates or periods form part of the Contract. The Seller will use all reasonable endeavours to effect dispatch and delivery on the specified date or within the specified period or if no date or period be specified within a reasonable time. The Seller will accept no liability for any expenses, loss or damage, whether direct or consequential, occasioned by delay in delivery howsoever caused.

5.7 After delivery has taken place in accordance with clause 5.1, the Buyer may request that the Seller arrange onward carriage (including courier delivery, express delivery by sea, road or air) to the Buyer or to a third person specified by the Buyer. Any such carriage shall be made by the Seller as the agent of the Buyer and the Seller shall invoice the Buyer for the cost for such delivery. The Seller is entitled to arrange for carriage to be made by third parties. The Seller is entitled to arrange for carriage of an order in part and the Buyer shall bear the cost of carriage of each part of the order. If Seller arranges carriage for the Buyer, whether by land, air or sea, Buyer shall be responsible for arranging insurance coverage for the shipment.

5.8 In the event that (i) delivery is suspended by the Buyer or (ii) suspended by the Seller (pending payment by the Buyer), the Products shall be stored by the Seller at Buyer's risk and cost at the rate of one (1) per cent of the Price per month. In both cases, the Buyer shall not be released from the obligation to pay for the Products in accordance with clause 4.

6. ORDER CANCELLATION

The Buyer agrees to pay the Seller a cancellation charge for any cancelled orders. The amount will be determined by Seller at the time of cancellation.

7. SUSPENSION

In the event that production is suspended by Buyer for its convenience for more than 30 days, consecutive or accumulative, Seller is entitled to:

- (a) invoice Buyer for 100% of costs incurred up to the point of suspension, including for Products already made and Products still work-in-process
- (b) upon resuming production: claim for any additional costs incurred due to changes in raw material costs, double handling, storage and interim packaging, etc.

8. STORAGE

8.1 Storage is free for one month from date of cargo-readiness. Thereafter, a monthly storage fee of 1% of the Price will apply. If storage fee is incurred, Products will only be released to Buyer upon issuance of an amendment to the Contract to include the storage fees charged by Seller.

8.2 This free storage period nor the imposition of a storage fee do not affect Seller's right to invoice Buyer as per clause 4.

9. PROPERTY IN THE PRODUCTS

9.1 Notwithstanding that the risk in any Products supplied to the Buyer has passed upon delivery, full legal and equitable title and interest in all and any Products supplied to the Buyer shall remain with the Seller and shall not pass to the Buyer until the Seller shall have received payment in full of all amounts owing from the Buyer to the Seller for the time being including any interest accruing and owing on any amounts outstanding and from time to time in respect of all such Products. Until such time as the property in the Products passes to the Buyer, the Buyer shall hold the Products as the Seller's fiduciary agent and bailee and shall keep the Products separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property.

- 9.2 As long as the title remains with the Seller, the Buyer shall have the power to deal with or use the Products in the normal course of business and, subject to clause 9.3, to dispose of the Products by way of a bona fide sale at market value.
- 9.3 If the Buyer shall sell any of the Products to any third party, it shall hold all monies received from that third party as trustee for the Seller and shall hold the same to the order of the Seller until all amounts owing from the Buyer to the Seller are paid. If any of the Products are sold by the Buyer on credit to any third party, the Buyer shall ensure that third party shall not gain title to the Products until full payment is made to the Buyer for the Products and all references to the Buyer in clause 9.1 shall be deemed to refer also to such third party and the Buyer shall procure that such third party shall comply in all respects with clauses 9.1 and 9.4.
- 9.4 Until such time as title in the Products passes from the Seller to the Buyer, the Seller shall be irrevocably authorized by the Buyer to enter the Buyer's premises without prior notification and to do all things necessary to remove and re-possess the Products delivered to the Buyer.

10. WARRANTY

- 10.1 The Seller warrants that the Products will comply with the following Product Warranty: "The Seller warrants to the Buyer that Product is free from defects in material and factory workmanship. If any such product is determined by Seller to be defective or not as ordered, the Seller will repair or replace the said Product or issue credit for the same, at its option. This warranty terminates after eighteen (18) months from the date of delivery. The Seller shall not be liable for expenses incurred in removing any defective Products or installing replacement Products. In no event shall Seller's liability hereunder exceed the Price."

The Product Warranty shall not apply if:

- (i) Product is not installed within 12 months upon delivery, or
 - (ii) Product is not stored in its original packaging, and not according to Seller's recommendations for storage
 - (iii) the defect was not due solely to defective materials or defective workmanship, or
 - (iv) alterations or repairs have been made to the Product without the written consent of the Seller, or
 - (v) the defect was caused by incorrect or negligent handling, disregard of instructions, abnormal use, overloading, unsuitable work, faulty installation, improper storage or any other default by the Buyer, its directors, manager, employees, or agents; or
 - (vi) the defect was caused by designs, materials or workmanship furnished by the Buyer; or
 - (vii) the defect was caused by any other matter beyond the control of the Seller occurring after delivery to the Buyer in accordance with clause 5.1.
- 10.2 The repair or replacement of Products or the issue of a credit note in accordance with the Product Warranty shall constitute the sole remedy of the Buyer in the event of the Seller's breach of the Product Warranty and the Buyer shall not be entitled to claim any further compensation whatsoever from the Seller.
- 10.3 Products which are not in accordance with the Products Warranty are to be returned at the Buyer's expense to the Seller and the cost of supplying any repaired or replacement Products in accordance with the Product Warranty shall be at the cost of the Buyer.
- 10.4 Permission must be obtained from the Seller in writing prior to returning the Products at which time the Seller will provide shipping instruction. The Products returned without permission may not be received or will be held at the Buyer's risk and is liable to non-acceptance. Authorized returned Products are subject to restocking charges which will vary depending upon the Product.
- ## **11. LIABILITY OF THE SELLER**
- 11.1 THE WARRANTY CONTAINED IN CLAUSE 10.1 DOES NOT EXTEND TO ANY PRODUCTS NOT MANUFACTURED BY THE SELLER. Products not manufactured by the Seller carry only the warranty (if any) of their manufacturer and the Buyer is entitled to the benefits thereof only insofar as the Seller has power to transfer or assign such a warranty.

- 11.2 The terms of clause 10 are exclusive and are in lieu of all conditions, warranties and statements in respect of the Products whether expressed or implied by statute, custom of the trade or otherwise (including but without limitation any such condition, warranty or statement as to the quality of the Products, merchantability or their fitness for a particular purpose) and any such condition, warranty or statement is hereby expressly excluded.
- 11.3 Under no circumstances shall the liability of the Seller under or in connection with this Contract or these Conditions exceed 10% of the Price.
- 11.4 THE SELLER SHALL NOT BE LIABLE TO THE BUYER BY REASON OF ANY REPRESENTATION (UNLESS FRAUDULENT), OR ANY IMPLIED WARRANTY, CONDITION OR OTHER TERM, OR ANY DUTY AT COMMON OR CIVIL LAW, OR UNDER THE EXPRESS TERMS OF THE CONTRACT, FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE (WHETHER FOR LOSS OF PROFIT OR OTHERWISE), COSTS, EXPENSES OR OTHER CLAIMS FOR COMPENSATION WHATSOEVER (WHETHER CAUSED BY THE NEGLIGENCE OF THE SELLER, ITS EMPLOYEES OR AGENTS OR SUB-CONTRACTORS OR OTHERWISE) WHICH ARISE OUT OF OR IN CONNECTION WITH THIS CONTRACT.
- 11.5 Without prejudice to the generality of clause 11.4, the Seller shall not be liable for any expenses incurred by the Buyer in removing any defective Product or installing or using any replacement products or for loss of time or use or transportation costs.
- 11.6 THE BUYER SHALL INDEMNIFY THE SELLER AGAINST ALL CLAIMS, ACTIONS, COSTS, EXPENSES (INCLUDING COURT COSTS AND LEGAL FEES) OR OTHER LIABILITIES WHATSOEVER IN RESPECT OF ANY NEGLIGENT OR WILFUL ACT OR OMISSION OF THE BUYER ITS DIRECTORS, MANAGER, EMPLOYEES, AGENTS OR SUB-CONTRACTORS IN RELATION TO THE USE, SALE OR SUPPLY OF THE PRODUCTS.

12. BREACH

If the Buyer for any reason fails to pay any sum which may be due under these Conditions, the Contract or any contract with the Seller, or if the Buyer becomes insolvent or bankrupt, or compounds with its creditors or has a receiver, administrative receiver or manager appointed in respect of all or any part of its assets or enters into liquidation, the Seller shall have the right forthwith to terminate the Contract or any unfulfilled part thereof without prejudice to its other rights hereunder.

13. FORCE MAJEURE

Except for the obligation to make payments when due, neither the Seller nor the Buyer shall be liable for any default arising due to any event beyond the reasonable control of either party, including but not limited to any act of God, war, terrorist action, strike, lockout, industrial action, fire, flood, drought, tempest and pandemic.

14. MISCELLANEOUS

- 14.1 To the same extent as these apply to the Buyer, the Seller shall comply with all relevant legislation, rules, regulations, codes of practice, guidance and statutory requirements that from time to time come into force that relate to prohibitions on child labor, slavery and human trafficking, conflict minerals, anti-competitive behaviour, money laundering, corruption or bribery and/or export controls and/or (trade) sanctions.
- 14.2 Buyer and Buyer's directors, employees, agents and sub-contractors must abide by applicable site and safety rules when on Seller's property.
- 14.3 Seller's rights or remedies under the Contract will not limit any of Seller's other rights or remedies, whether under the Contract or otherwise.
- 14.4 The Seller shall be entitled to subcontract any of its rights or obligations under the Contract without prior written consent.
- 14.5 Any failure or delay by Seller to enforce or partially enforce any provision of the Contract will not be a waiver of any of our rights.

- 14.6 The illegality or invalidity of any of these Conditions or any part of a condition shall not affect the legality, validity or enforceability of the remainder of these Conditions or the other parts of such condition as the case may be.
- 14.7 Each of the Buyer and the Seller shall maintain such insurance policies as are appropriate and adequate having regard to their respective activities and obligations and liabilities under the Contract and shall provide evidence of such insurance policies on request of the other party.
- 14.8 The English language version of these Conditions shall prevail if there is any discrepancy with any translation hereof.

15. GOVERNING LAW AND JURISDICTION

- 15.1 The Contract shall be governed and construed in accordance with the laws of the Netherlands. The United Nations Convention on the International Sale of Goods (CISG) does not apply. The parties submit to the non-exclusive jurisdiction of the courts of the Hague, the Netherlands, it being understood that the Seller reserves the right to bring an action before the courts of the Buyer's domicile or any other court of competent jurisdiction.
- 15.2 The language to be used in any proceedings shall be English.

Manufacturing & Sales Company

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