

General Terms and Conditions

1. Scope of application

These Terms and Conditions shall apply to sales of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions referred to, offered or relied on by the Buyer whether in negotiation or at any stage in the dealings between the parties, including any standard or printed terms tendered by the Buyer, unless the Buyer specifically states in writing, separately from such terms, that it wishes such terms to apply and this has been acknowledged by the Seller in writing.

Any variation to these Terms and Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

2. Price and Payment

The price shall be the Recommended Retail Price unless otherwise agreed in writing between the parties. The price does not include VAT or any other applicable costs, unless you are buying locally.

If payment of the price or any part thereof is not made by the due date, the Seller shall be entitled to:

- Require payment in advance of delivery in relation to any Goods not previously delivered;
- Refuse to make delivery of any undelivered Goods without incurring any liability whatever to the Buyer for non-delivery or any delay in delivery.

3. Delivery

Delivery dates noted on the approval of Order are subject to reasonable adjustment. The acceptance of shipment by a common carrier or by any licensed public trackman shall constitute proper delivery. Risk associated with the Goods shall pass to Buyer on delivery or with the passing of title in the Goods, whichever occurs first; provided however, that where delivery is delayed due to circumstances caused by or within the responsibility of Buyer, risk of loss shall pass to Buyer upon Seller's notification that Goods are ready for dispatch.

Unless otherwise specified in writing in the Purchase Order or Contract, all charges, expenses or taxes associated with the delivery shall be paid by the Buyer.

4. Returns

All goods are sold on a firm sale basis, i.e. the Seller will not take back any goods not required or sold by the Buyer, unless otherwise agreed, in which case the following terms apply.

Any returns must be authorized by a representative of the Seller before any credit will be given.

Where the Seller agrees to accept the return of goods that are not damaged the Buyer will be responsible for the cost of carriage and will ensure that they are carefully packaged to avoid any damage in transit. The Seller will not be obliged to accept any goods that are damaged in any way.

Credit of amounts due or paid in will only be given for goods that are in saleable condition.

5. Warranty

Seller warrants that Goods sold hereunder meet their descriptions or specifications, subject to use, storage and application thereof in accordance with and based on Seller's standard tolerances, instructions of use and recommendations.

Unless otherwise restricted by mandatory applicable law, the warranty set forth herein is expressly in lieu of all other warranties, whether expressed or implied, including, without limitation, any and all warranties of merchantability, quality and fitness for use and for purpose, any advice and recommendation and any obligations or liabilities which may be imputed to seller, any and all of which are hereby expressly disclaimed, denied and excluded. Buyer expressly agrees that no warranty that is not specifically stated in this agreement will be claimed or otherwise adhered to by buyer and/or by anyone acting on buyer's behalf and/or by anyone deriving the legality of its claim from buyer, nor that will any such warranty be valid.

Seller neither assumes nor authorizes any other person to assume for it, any other liability in connection with the sale, use or handling of any and all goods specified or contemplated by this contract. No warranty is made with respect to any of these goods which have been subject to accident, negligence, alteration, improper care, improper storage, improper maintenance, abuse or misuse. To know more about our warranty procedure [click here](#).

6. Claims and Liability

- a) As long as the Seller shall within 15 working days after delivery of the Goods does not receive from the Buyer written notice of any matter or thing by reason whereof it is alleged that Goods are not in accordance with the Contract, Goods delivered shall be deemed to have been supplied, delivered and accepted in all respects in full conformity with the Contract and the Buyer shall be entitled neither to reject the same nor to raise any claim for damages or for other remedy in respect of any alleged negligence and/or breach of warranty and/or any condition.
- b) In any claim, brought subject to the conditions above, Buyer must prove to the satisfaction of Seller that it followed Seller's instructions for use, care, storage, maintenance, handling and application of the Goods.
- c) Unless otherwise specifically restricted by mandatory applicable law, Seller's liability under any claim and in connection with any possible allegation, whether based on negligence, contract, or any other cause of action, shall be limited to either (i) the replacement of the Goods or the supply of equivalent goods; (ii) the repair, or payment of the cost of repair, of the Goods; or (iii) credit in an amount equal to the purchase price specified in Seller's pertinent invoice, or in an amount of equivalent goods, all at Seller's sole option. Buyer acknowledges that the remedy available to him as specified herein, is in lieu of any remedies that may be otherwise available to him, now or in the future, whether in law or in equity, relating to any loss or damage, whether directly or indirectly, arising from the purchase and/or the use of Goods, including without limitation, any actual or contingent damages, loss of production, loss of profit, loss of use, loss of contracts or any other consequential or indirect loss whatsoever, whether pecuniary or non-pecuniary. Should any limitation on Seller's liability hereunder be held ineffective under applicable law, then Seller's liability shall in any event be limited to the minimum amount of damages to which Seller may limit its liability, where such is greater than the purchase price as specified in Seller's pertinent invoice.
- d) Buyer, for himself and for any other party which may claim either under or through Buyer, or independently of Buyer, including Buyer's employees, directors, officers, representatives, affiliates and personnel, shall indemnify and hold Seller harmless, from and against any claim or liability for damages for negligence including but not limited to, any claim in connection with the design, manufacture, use, care, storage, delivery, application or maintenance of any Goods sold hereunder, whether alleged to have been committed by Seller or by any other person whatsoever. Buyer's undertaking as specified in this subsection shall extend and inure to the benefit of Seller and of Seller's successors at any time, as well as to Seller's affiliates, personnel, representatives, managers, directors and officers. Nothing contained herein shall take effect to exclude or limit liability where liability may not be excluded or limited under applicable law, including, without limitation, for death, personal injury and fraudulent misrepresentations.
- e) Any and all warranties, undertakings, guarantees or assurances provided herein by Seller, are specifically limited to Buyer herein, and not imputed by Seller, whether directly or indirectly, expressly or impliedly, to any other person or entity, including any subsequent buyer or user, bailer, licensee, assignee, employee and agent of Buyer.

7. Cancellation

Orders manufactured in whole or in part, pursuant to Buyer's specifications, may not be cancelled except with Seller's prior written consent, on terms which will compensate Seller for any resulting losses.

8. Risk of Loss

- a) Risk of loss or damage passes to Buyer upon delivery to the carrier. If Buyer fails to accept delivery of any of the Products on the date set forth in Seller's notice that Seller has delivered the Products to the Delivery Location, or if Seller is unable to deliver the Products to the Delivery Location on the date because Buyer has failed to provide appropriate instructions, documents, licenses, or authorizations, then: (i) risk of loss to the Products will pass to Buyer; (ii) the Products will be deemed to have been delivered to Buyer; and (iii) Seller, at its option, may store the Products until Buyer takes possession of them, at which time Buyer will be liable for all costs and expenses resulting from the failure (including but not limited to the cost of storage and insurance).

- b) Title passes to Buyer upon Buyer's payment in full for the Products.

9. Intellectual property rights

The Seller will grant the Buyer the non-exclusive right to use the work delivered by the Seller to the Buyer for all time for the purpose as described in the relevant offer, bid or contract. In principle all the intellectual property rights in the by the Seller to the Buyer delivered work, such as but not limited to, software, concepts, designs, documentation, offers, the information or data stored therein, the preparatory material shall be exclusively reserved for and remain vested in the Seller, with the exception of prerequisites which are delivered by the Buyer, unless agreed otherwise in writing.

In the absence of the Seller's written consent, the Buyer shall not be entitled to use the work supplied in any other manner and/or to place all or part of the rights and/or powers conferred at the disposal of any third party, to transfer these rights and/or to grant any license to same.

The Seller shall be entitled to display its logo and state its name on the work supplied, the credits and/or the source codes of the software thereof.

The Seller reserves the right to use all or any part of the goods developed for the Buyer for promotional, acquisition and/or demonstration purposes.

10. Confidentiality

Whether during the term of the contract or otherwise, parties shall be required to maintain secrecy regarding the confidential information that comes to their knowledge, and not to disclose it in any manner to any third party and/or to provide it for use; each party shall use the information exclusively for the purpose for which it was placed at its disposal.

Third parties shall also include all persons working in the organization of each party who do not need to be informed of the information.

Within the meaning of these Terms and Conditions, the term "confidential information" shall be defined as:

- a. All information provided directly or indirectly in written, oral or other form which is designated as confidential and/or which the other party knows to be or should reasonably understand to be confidential;
- b. All product, marketing, customer and/or other business information designated as such and/or which the other party knows to be or should reasonably understand to be confidential, regardless of the manner in which it has been provided;
- c. All documentation, data, drawings, benchmark tests and benchmark data, specifications, object codes, source codes, production methods, technologies and/or other information in connection with software or hardware developed by one party that is designated as confidential and/or which the other party knows to be or should reasonably understand to be confidential, regardless of the manner in which it has been provided;
- d. Any copy in any shape or form of the above.

The parties' obligations shall not apply in regard to confidential information as to which the receiving party can prove that (i) it is generally known and/or publicly available or (ii) that it was already known to it and not subject to any confidentiality obligation prior to it being furnished to it by the other party.

Seller ensures that all personal data provided by the Buyer for processing purposes is collated and managed in accordance with the applicable data protection laws.

11. Force majeure

In the case of an event of *force majeure*, that is to say, a breach the cause of which does not lie with one of the parties, for which it is not at fault and for which it is not accountable by statute or pursuant to generally accepted standards, the party concerned shall notify the other party thereof in writing, stating the cause, nature and expected duration of the event and the provisions of the contract which it will not be possible to perform as a result. Performance of the relevant provisions shall be postponed for the duration of the event of *force majeure*.

If the event of *force majeure* lasts until two months after the date of the aforesaid notification, the parties shall endeavor to reach agreement about amending the provisions in the contract that have been postponed as a result of the event. In the absence of such agreement being achieved within one month, either party may terminate the contract, without being obliged to pay the other party any kind of compensation. The Seller shall, however, retain the right to receive payment for the goods already supplied and work or services already provided.

12. Maintenance/service level

Upon request of the Buyer, parties may conclude a maintenance and/or service level agreement. The provisions of these General Terms and Conditions shall be applicable on (the performance of) the maintenance, hosting and/or service level agreement.

The Seller shall repair defects and damages to the best of its ability within the term stated in the relevant contract.

The defects shall be repaired at a location to be determined by the Seller. The Seller shall be entitled at its own discretion to introduce definitive or temporary solutions.

The Seller cannot guarantee that the software will operate without interruption and/or defects and/or that it will be possible to repair all defects.

The Buyer shall be responsible for the correct and judicious use/application of the product, as well as having control and security procedures and effective system management in place.

With respect to work consisting of the restoration of damaged and/or lost data, the Buyer should request for a price quotation of the Supplier as well as for the repair of defects which result from changes which the Buyer has made to or in the software without the Seller's prior written consent. Furthermore, the Seller shall be entitled to charge its customary commercial rates and the repair costs if the defects in the product have been caused by errors in using and/or the injudicious use of the software and/or by other causes for which the Seller is not responsible.