



CONDITIONS OF SALE

DINTRA TRANSMISSIES V.O.F.

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The following standard conditions apply to every order accepted by Dintra Transmissies VOF ('the Company') for goods (and services).

1. Definitions

- 1.1. "the Conditions" means the Company's standard Conditions of Sale set out in this document together with any other special conditions specified on the Quotation.
- 1.2. "the Contract" means the Quotation, the Order, the Order Acknowledgement, together with the Conditions.
- 1.3. "the Goods" means the goods, materials or services which are the subject of the Contract.
- 1.4. "the Order" means the written Order placed by the Purchaser on the Company for the provision of the goods.
- 1.5. "the Order Acknowledgement" means the document sent out by the Company to the Purchaser acknowledging and accepting the order.
- 1.6. "the Quotation" means the written quotation or tender submitted by the Company.
- 1.7. "the Purchaser" means the person specified on the Quotation whose Order is accepted by the Company.

2. Offer and Acceptance

- 2.1. All Quotations are made and all Orders accepted subject to the Conditions. These Conditions override any other terms, conditions or warranties which the Purchaser may subsequently seek to impose.
- 2.2. No variation waiver or supplement to the Conditions shall be binding on the Company unless expressly accepted by a director of the Company in writing.
- 2.3. The Quotation does not constitute an offer and is an estimate only and all descriptive matter, specifications, performance ratings, capacities, prices, drawings and particulars of weight and dimensions and other data submitted by the Company (whether in the Quotation or in any catalogues, advertisements, or price lists) are deemed to be approximate only (except where expressly stated in writing to be exact) and are intended merely to present a general idea of the goods and/or services available from the Company. No Contract shall come into existence until the Purchaser's Order has been accepted in writing by the Company on the Order Acknowledgement.
- 2.4. Quotations shall be available for acceptance for a maximum period of 90 days from the date thereof and may be withdrawn by the Company within such a time period at any time by written or oral notice.
- 2.5. If any statement or representation has been made to the Purchaser by the Company or its servants or agents upon which the Purchaser relies other than in the documents enclosed with the Quotation or Order Acknowledgement then the Purchaser must set out that statement or representation in a document to be attached to or endorsed on the Order and in any such case the Company may confirm, reject or clarify the point and submit a new Quotation.
- 2.6. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, Order Acknowledgement, invoice or other document issued by the Company shall be subject to correction without any liability on the part of the Company.
- 2.7. The Company shall be at liberty to withdraw from any negotiations or otherwise until such time as the Contract shall have become binding without being under any liability whatsoever to the Purchaser.
- 2.8. Any advice or recommendation given by the Company or its employees or agents to the Purchaser or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Company is followed or acted upon entirely at the Purchaser's own risk and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

3. Orders and Specifications

- 3.1. No order submitted by the Purchaser shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company's authorised representative on the Order Acknowledgement.
- 3.2. The Purchaser shall be responsible for ensuring the accuracy of the terms of the Order and shall give the Company any necessary information to enable the Company to proceed with the Contract. Any failure to do so will allow the Company to charge the Purchaser an additional price for any delay or to terminate the Contract immediately.
- 3.3. No Order which has been accepted by the Company may be cancelled by the Purchaser except with the written agreement of the Company and on the terms that the Purchaser shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

4. Price

- 4.1. The price for each delivery of the Goods shall be the Company's current list price ruling at the time of delivery except where specifically detailed otherwise in the Order Acknowledgement. Until an Order has become binding on the Company all specifications and prices are subject to change without prior notice.
- 4.2. All Quotations are exclusive of value added tax, similar taxes, levies or duties, which the Purchaser shall be additionally liable to pay to the Company.
- 4.3. The Company reserves the right by giving notice to the Purchaser, at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Company in executing the Contract due to any factor beyond the control of the Company (such as, without limitation, any increase in the cost of labour, raw materials, overheads, or currency), any change in delivery dates, quantities, or specifications for the Goods arising as a result of any error or omission or changes deemed necessary by the Purchaser, or any delay or interruption on the Contract not attributable to the Company.
- 4.4. The price shall include packing, insurance, delivery and transport charges. If replacement parts are necessary under clause 10, then the Company supply those parts to their original destination. The cost of fitting the parts and any extra freight charges is the sole responsibility of the Purchaser.

5. Terms of Payment

- 5.1. Unless otherwise agreed in writing, the Company shall be entitled to invoice the Purchaser for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Purchaser or the Purchaser wrongfully fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Purchaser for the price at any time after the Purchaser has been notified that the Goods are ready for collection or the Company has tendered delivery of the Goods.
- 5.2. Unless otherwise agreed by the Company in the Quotation the terms of payment shall be 30 days from the date of invoice. Cheques and bills are considered as payment only after they have been cashed or cleared. Bill charges are for the account of the Purchaser.
- 5.3. The time of payment of the price shall be of the essence of the Contract.
- 5.4. Where Goods are delivered by instalments the Company may invoice each instalment separately and the Purchaser shall pay such invoices in accordance with these Conditions.
- 5.5. No right of set-off shall exist in respect of any claims by the Purchaser against the Company unless and until such claims are accepted in full by the Company in writing and the Purchaser shall not withhold all or any part of any sum which has become due for payment under the Contract.
- 5.6. If the Purchaser fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
- 5.7. cancel the Contract so far as any Goods remain to be delivered or services performed under it, or suspend any further delivery of the Goods or performance of any service; and
- 5.8. charge the Purchaser interest on late payments from the date of the Company's invoice at a rate equivalent to the rate prevailing at the date of the Company's invoice as prescribed by the Ministry of Finances of the Netherlands in the year the late payment occurs.
- 5.9. The Purchaser agrees that any letters of credit with a later maturity date shall become immediately due and payable upon demand from the Company.
- 5.10. The Purchaser shall fully and effectively indemnify the Company against the total expense to the Company arising out of the Purchaser's breach or breaches of the Conditions. Such expense shall include (without limitation) (1) all expenses incurred by the Company in sourcing or manufacturing the Goods (2) all court fees (3) all amounts payable to the Company's professional advisers (payable on an indemnity basis) in pursuing claims against the Purchaser for breach or breaches of these conditions of sale and for enforcing any judgements and/or order/s (4) all amounts payable to the Company's insurers and/or debt recovery agents, in each case including anticipated sums payable by the Company only after payment of any sums from the Purchaser.

6. Delivery

- 6.1. Delivery shall mean delivery of the Goods to a carrier nominated by the Purchaser. In the absence of specific instructions, the Company may nominate a carrier.
- 6.2. Non-delivery of the Goods must be notified to the Company within 10 days of the invoice date. Failure to do so shall preclude the Purchaser from any rights or remedies against the Company whatsoever. If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or the Purchaser's fault and the Company is accordingly liable to the Purchaser, the Company's liability shall be limited to the excess (if any) of the cost to the Purchaser (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.3. If the Purchaser shall fail to accept delivery of the Goods as and when preferred by the Company then the Company shall be deemed to have tendered and the Purchaser to have refused delivery at that date.
- 6.4. If the Purchaser fails or refuses to take delivery of the Goods on the due date or fails to give the Company adequate instructions for delivery at the time stated then he shall be liable to the Company for any loss or costs arising from such failure or refusal and for a reasonable charge by the Company for the care custody storage and insurance of the Goods until actual delivery. The Company may also sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Purchaser for the excess over the price under the Contract or charge the Purchaser for any shortfall below the Contract price. This provision shall be in addition to and not in substitution of any other payment or damages for which the Purchaser may become liable in respect of his failure to take delivery at the appropriate time.
- 6.5. Any dates quoted for deliveries of the Goods are approximate only and the Company shall not be liable for any delay in despatch or delivery or any loss or damage thereby arising. Time of delivery shall not be of the essence, and the Purchaser shall not be able to cancel the Contract refuse delivery of the Goods or withhold payment on account of any delay howsoever caused.
- 6.6. The Company reserves the right to deliver the Goods in instalments and each such instalment shall constitute a separate Contract. Failure by the Company to deliver anyone or more of the instalments shall not entitle the Purchaser to treat the Contract as a whole as repudiated.
- 6.7. Short deliveries shall not constitute a breach of Contract by the Company.

7. Risk

- 7.1. The risk of damage to or loss of the Goods shall pass to the Purchaser when the Goods are delivered to the carrier in accordance with the terms of clause 6.1.
- 7.2. The Goods shall be deemed to have been delivered complete and in a satisfactory condition unless the Purchaser shall have notified the Company and the carrier in writing within 10 days of delivery of any alleged damage, defect or shortage in delivery, and time shall be the essence. The Purchaser shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 7.3. Unless the condition in clause 7.2. is strictly observed, the Company shall be under no liability whatsoever in respect of any loss or damage in transit (or non-delivery) of the whole or any part of the Goods.

8. Title

- 8.1. Title in the Goods (including full legal and beneficial ownership) or any part of them or in any Goods of the Company (whether delivered under this Contract or otherwise) shall not pass to the Purchaser until the Purchaser shall have paid in full and the Company received (in cash or cleared funds) all monies owing under this or any other Contract, which shall include the amount of any interest or other sums payable under Contracts between the Company and the Purchaser. The Purchaser shall keep all Goods separate from those of the Purchaser and third parties and properly stored, protected and insured and identified as the Company's property.
- 8.2. If the Purchaser shall be in breach of the terms of this Contract then all monies owed by the Purchaser to the Company, whether under this Contract or otherwise, shall become immediately due and payable (including letters of credit with a later maturity date) and the Purchaser hereby grants to the Company or its agents an irrevocable licence to enter upon the Purchaser's premises to recover and/or resell such Goods as the Company may deem necessary to recover all sums owing to it by the Purchaser together with any reasonable costs of the Company so incurred.

- 8.3. Until all monies owing to the Company (whether under this Contract or otherwise) have been paid in full the Purchaser shall only be entitled to possession of the Goods on these Conditions. and shall hold the Goods in a fiduciary capacity as bailee; and items affixed to the land and buildings may be detached and removed by the Company and shall not and are not intended to become part of any such property.
- 8.4. The Purchaser shall keep the Goods in good condition and shall maintain full insurance in respect thereof on the Company's behalf in an amount which is no less than the price payable to the Company for the Goods, and all the proceeds of such insurance shall be held on trust for the Company.
- 8.5. If clause 8.1. is held to be invalid to reserve the Company's title to Goods delivered under this Contract by reason of the reservation of title until all Goods delivered to the Purchaser by the Company have been paid for then nevertheless ownership of the Goods delivered under this Contract shall remain with the Company or its Principal (if the Company is acting in the capacity of selling agent) until those Goods themselves have been paid for.
- 8.6. The Purchaser acknowledges that it is in the nature of the Company's business to act as selling agent on behalf of a principal, whereby the principal retains legal title to the Goods. However, the Company has full power and authority of such principal to enforce its rights as regards (inter alia) retention of title to the Goods and under no circumstances shall title pass in the Goods whether from the Company or its principal, until all monies owing to the Company by the Purchaser have been paid in full.
- 8.7. The Purchaser shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Purchaser does so, all monies owing by the Purchaser to the Company shall (without prejudice to any other right or remedy of the Company) become immediately due and payable. In case of seizure, distraint or other disposition by third parties, the Purchaser must immediately inform the Company.
- 8.8. Copyright in any records, drawings, plans or designs supplied by the Company with the Goods but which have actually been produced by the Company's Parent Company shall at all times remain with and vested in the Parent Company, and must not be disclosed to or used by third parties without the consent of the Company or the Parent Company and must be returned immediately to the Company if so requested.

9. Guarantees

Any components or parts not of the Company's own manufacture incorporated in the Goods or sold by the Company are not guaranteed by the Company, but carry the maker's guarantee only, and the Company's liability shall be limited to the assignment of the Purchaser of the Company's claims against such makers.

10. Liability

- 10.1. Subject to the remaining sub-clauses of this clause 10, the Company warrants that the Goods will be of merchantable quality and reasonably fit for their purpose for the period of 12 months from entering service or 18 months following delivery whichever occurs soonest ('the Warranty Period').
- 10.2. Any spare, or replacement Goods will have a warranty period of 3 months from the date of supply only.
- 10.3. In the event that the Goods proved to be defective, or in need of repair during the Warranty Period, then the Company undertakes at its sole discretion for the duration of the Warranty Period to replace, give credit for, repair or rectify the Goods free of charge and subject to any intervening wear and tear to the condition originally specified by the Purchaser provided that:
 - 10.3.1. the Purchaser notifies the Company in writing of its claim within 14 days of discovering the alleged defect giving full details of the alleged defect;
 - 10.3.2. the Company shall be entitled and shall be offered the facilities to inspect and test the Goods;
 - 10.3.3. upon examination the Goods prove to be defective;
 - 10.3.4. a person other than the Company has not dismantled repaired or so attempted or otherwise tampered with the Goods or any part of the Goods;
 - 10.3.5. the Goods shall have been used, maintained, stored and serviced (where appropriate) in accordance with their operating instructions and in a proper manner; and
 - 10.3.6. the Goods shall not have been used whilst allegedly defective, in need of repair or otherwise not in accordance with the Contract or the operating instructions of the Company.
- 10.4. If such notice is received and such proof is not forthcoming within the Warranty Period (or for spare or replacement parts within 3 months as per clause 10.2) then the Goods shall be deemed to be free from any defect.
- 10.5. The Goods are sold explicitly on the condition that they will be used only in the prescribed manner and for the purpose for which they were designed. The Purchaser must satisfy himself that the intended use of the Goods is use in the prescribed manner and for the purpose for which the Goods were designed, and the Company shall be under no liability for any damage, loss or injury resulting from any misuse of the Goods which is not in accordance with their prescribed manner or design.
- 10.6. Nothing in these Conditions shall have the effect of excluding or limiting liability to a person for death, personal injury or damage to property all according to Dutch law.
- 10.7. In the case of Goods supplied (but not manufactured) by the Company the liability of the Company shall be limited to amounts recovered by the Company under warranties given by the supplier to the Company provided that the Company shall not be called upon to bear any liability or expense greater than the amount recovered from the supplier.
- 10.8. If the Company supplies spare Goods to a Purchaser on account of a unit containing a defective component not made by the Company, then the Company specifically cannot give any warranty as to the fitness for purpose of those spare Goods in relation to the unit as a whole, and this shall be a matter for the Purchaser. The cost of those spare Goods shall be charged to the Purchaser at the Company's then current price list.
- 10.9. Nothing in these Conditions shall impose any liability upon the Company in respect of any loss damage consequential or otherwise in relation to or arising out of Goods found to be defective or attributable directly to the acts, omissions, negligence or default of the Purchaser or Purchaser's servants or agents involving (in particular but without prejudice to the generality of the foregoing) any failure by the Purchaser to comply with any recommendations of the Company as to storage handling and use of the Goods.
- 10.10. If the Company shall become legally liable to the Purchaser in any way whatsoever then the liability of the Company in respect of any or all courses of action shall in no circumstances exceed the invoiced cost of the Goods under the Contract.
- 10.11. The Company's liability does not cover defects arising from the Purchasers negligence, wilful damage, faulty assembly or maintenance or from alterations carried out without the Company's written consent or from repairs carried out improperly by the Purchaser nor does it cover normal deterioration.
- 10.12. Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Purchaser by reason of any representation, or any implied warranty (including warranties or other terms implied by statute), condition or other term, or any duty of common law, or under this Contract, for any consequential loss or damage (whether loss of profit or otherwise), costs, or other expenses whatsoever which arise out of or in connection with the supply of the Goods or their use by the Purchaser, except as expressly provided in these Conditions.

11. Cancellation

No order which has been accepted by the Company may be cancelled by the Purchaser except with the agreement in writing of the Company and on terms that the Purchaser shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

12. Default or Insolvency of Purchaser

- 12.1. This clause applies if:
 - 12.1.1. the Purchaser defaults in any of his commitments with the company; or
 - 12.1.2. the Purchaser makes any voluntary arrangement with his creditors or becomes subject to an administration order or becomes bankrupt, or (being a Company) goes into liquidation (other than for the purposes of amalgamation or reconstruction); or
 - 12.1.3. an encumbrancer takes possession or receiver is appointed, of any of the property and assets of the Purchaser; or
 - 12.1.4. the Purchaser ceases, or threatens to cease, to carry on business; or
 - 12.1.5. the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Purchaser and notifies the Purchaser accordingly.
- 12.2. If this clause 12 applies then, without prejudice to any right or remedy available to the Company, the Company shall be entitled to cancel any uncompleted order or to withhold or suspend delivery and to terminate or suspend any further deliveries under the Contract or any other Contract with the Purchaser without any liability to the Purchaser, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 12.3. In the event of an occurrence as outlined in clause 12.1 then the Purchaser shall indemnify the Company against all loss including loss of profit, costs (including the costs of labour and materials used and overheads incurred) and all other expenses and damages connected with the Order and its cancellation (the Company giving credit to the value of any materials sold or utilised for other purposes).
- 12.4. If the Purchaser shall become aware that any of the circumstances mentioned in clause 12.1 has or is likely to occur, then the Purchaser must inform the Company of the occurrence or likely occurrence of such event immediately.

13. Force Majeure

- 13.1. The Company shall not be liable to the Purchaser or be deemed to be in breach of the Contract by reason of any delay in performing, or failure to perform, any of the Company's obligations in relation to the Contract if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:
- 13.2. act of god, explosion, flood, tempest, fire or accident;
- 13.3. war or threat of war, sabotage, civil disturbance or requisition;
- 13.4. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 13.5. import or export regulations or embargoes;
- 13.6. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party);
- 13.7. difficulties in obtaining raw materials, labour, fuel, parts of machinery;
- 13.8. power failure or breakdown in machinery.

14. General

- 14.1. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 14.2. No waiver by the Company of any breach of the Contract by the Purchaser shall be considered a waiver of any subsequent breach of the same or any other provision.
- 14.3. If any of the provisions of this Contract is held by any competent authority to be invalid or unenforceable, in whole or in part, the validity of the other provisions in question shall not be affected thereby.
- 14.4. The Contract shall be governed by the laws of the Netherlands and for the purposes of settlement of any disputes, arising out of or in conjunction with these Conditions or the Contract the parties hereby irrevocably submit themselves to the jurisdiction of the Dutch Courts.
- 14.5. These Conditions and the Company's acceptance of order constitute the entire agreement between the Company and the Purchaser concerning the supply of the Goods and replace and supersede any prior arrangement, understanding, warranty or representation (other than any fraudulent misrepresentation).
- 14.6. The Company reserves the right to subcontract the fulfilment of the Order or any part of it.
- 14.7. This Contract is between the Company and the Purchaser and is not assignable without the consent of the Company.

Putten, 28th of October 2010

Dintra Transmissies VOF
A.E. van Dompseleer