

General Conditions of Sale

1. Definitions in Conditions of Sale

- 1.1 "Contract" means a legally binding agreement, according to which Supplier provides Deliverables to Purchaser.
- 1.2 "Quotation" means a document in which Supplier offers to supply Deliverables at a certain Delivery Date against a certain price. Referenced documents, drawings, attachments, exhibits, supplementary agreements and Scopes are part of the Quotation. Services are quoted in hours at certain hourly rates and a Scope.
- 1.3 "*Proforma Invoice*" means the part of the Quotation marked as such, summarising the Deliverables and their pricing, mirroring the expected final invoice.
- 1.4 "*Confirmation*" means the Contract document.
- 1.5 "*Conditions*" means these General Conditions of Sale.
- 1.6 "Deliverables" means the products, services or the output of services specified in the Order. Products may be hardware, raw or processed materials. Services may be all sorts of work. Output of services may be software, reports, Written text, renderings, repaired products, calibrated products, etc.
- 1.7 "*Project*" means a process resulting in Deliverables. Services may be part of a Project.
- 1.8 "Delivery Date" means the date specified in Purchaser's Order by which the Deliverables should be physically present at a specified location (according to applicable Incoterm) or the date by which services are finalised.
- 1.9 "*Purchaser*" means the customer, the Party receiving the Deliverables
- 1.10 "*Supplier*" means the legal entity supplying Deliverables: Hukseflux Thermal Sensors B.V., a Limited Liability Company, registered and holding office in Delftechpark 31, Delft, The Netherlands, registered with the trade register under file number: 27234324,
- 1.11 "*Party*" means Supplier or Purchaser.
- 1.12 "*Third party*" means a legal entity or natural person, however not the Supplier or the Purchaser.
- 1.13 "Supplier Personnel" means Supplier employees, the company owner(s), and Subcontractors.
- 1.14 "*Subcontractor*" means a Third Party supplying Deliverables under a contract with Supplier.
- 1.15 "Scope of Supply" or "Scope" is a document specifying the services that Supplier will perform for Purchaser, including Deliverables and Delivery dates.
- 1.16 "*Confidential Information*" means information that is marked as confidential or may reasonably be understood to be confidential.
- 1.17 "*Document*" means information and its supporting medium (the medium may be paper, but may also be a digital information carrier).
- 1.18 "Written Information" , "In Writing" and "Written", means information transmitted on paper or over a digital information channel, for example using as e-mail, using addresses normally used for communication between Parties. Any later message sent by the receiving Party over the same channel shall be considered proof that the Written information has been received.

2. Applicability & Agreement

- 2.1 These Conditions, and no other, apply to all acts in law and Contracts, including subsequent Contracts, between Purchaser and Supplier in which they act respectively as Purchaser and as Supplier.
- 2.2 Purchaser accepts these Conditions. Parties explicitly reject Purchaser's conditions of Purchase.
- 2.3 Deviations from these Conditions can only be made In Writing.
- 2.4 A Contract is concluded after acceptance of Purchaser's order by Supplier In Writing by means of a Confirmation originating from Supplier or alternatively it is concluded by (partial) supply of the Deliverables to Purchaser.
- 2.5 In case of unintentional discrepancies between statements in the Confirmation and these Conditions, these Conditions prevail.
- 2.6 Legally valid Confirmations or Quotations specify the supply of Deliverables at a certain Delivery Date against a certain price. Referenced documents, drawings, attachments, exhibits, supplementary agreements and Scopes are part of the Quotation and Confirmation.
- 2.7 Purchaser shall acknowledge Confirmations within a week by returning a signed copy of the Confirmation. In case a signed copy is not returned, Supplier is entitled to cancel the Contract.
- 2.8 Purchaser shall not, without Supplier's prior written consent, publicly make any reference to Supplier or Contract, whether in press releases, advertisements, sales literature, expressions on the internet, blogs or otherwise.
- 2.9 Purchaser shall treat as Confidential Information all information provided by - or on behalf of Supplier or generated by Supplier or Purchaser under the Contract or during the process of preparing the Contract. Purchaser shall not use this Confidential Information for Purchaser's own commercial benefit. The information supplied by Supplier remains the property of Supplier. Where Purchaser during the execution of the order works with Confidential Information originating from the Supplier, for instance personal data of Supplier's employees, strategic plans, marketing - and sales information, Purchaser shall comply with applicable privacy laws, take appropriate security measures to protect the data against loss, unauthorized or unlawful processing and promptly inform Supplier of any actual or suspected security incident.
- 2.10 Purchaser may not transfer, either in full or in part, its rights or obligations under Contract.
- 2.11 Supplier considers all information related to the Purchaser and Contract, unless made public by Purchaser, or unless release of information is required by law, to be confidential. In case Supplier wants to make public information relating to the Purchaser or Contract, Supplier will ask for permission of the Purchaser in advance.
- 2.12 Supplier may receive information about Purchaser from Third Parties. Supplier will keep confidential the source of such information, unless agreed upon by the Third Party, or unless release of information about the source is required by law.
- 2.13 With its products or as part of calibration services, Supplier issues calibration certificates with content limited as per ISO/IEC 17025-7.8.1.3. Such a certificate contains the calibration result, an uncertainty, a description of the calibration procedure and the traceability. The certificate does not contain the name and contact information of the customer.
- 2.14 Calibration certificates and test reports are part of the Product. Supplier does not treat these certificates, reports or other information about sensor performance to be Confidential Information. Supplier may share certificates, reports and other information about sensor performance with any Third Party that claims either to own, or on owner's behalf to service, repair or audit a particular instrument.

3. Quotations & Confirmations

- 3.1 Supplier quotes prices of Deliverables based on the latest Incoterms as issued by the International Chamber of Commerce at the date of Order. Unless otherwise specified the delivery term is EXW (Ex Works).
- 3.2 Prices for Deliverables do not include costs of packing and insurance. When required these costs are added as separate Deliverables on the Quotation and Confirmation.
- 3.3 Prices for Deliverables do not include costs for any out-of-ordinary or customer-specific work. Examples of such work are supply of additional documentation and entry of information into internet portals. When out-of-ordinary or customer-specific work is required, Purchaser should notify Supplier in advance, and Supplier will add this work as Deliverable in the Quotation and in the Confirmation. In case Supplier was not notified in advance of such work, Supplier may unilaterally adapt the Confirmation.
- 3.4 In case Purchaser submits used products to Supplier for repair or calibration, Purchaser is at all times, also when Supplier arranges transport, responsible to arrange insurance of these Products, for example for loss or damage during transport. On transport documents Supplier will normally indicate a "value for customs" of the products, which represents only a fraction of the value of a new product. Purchaser may instruct Supplier to mention another value.
- 3.5 Supplier quotes prices of Deliverables excluding VAT. Quoted prices do not include any other duties and taxes.
- 3.6 Supplier quotes in Euro currency (EUR). If quoted in another currency, Supplier's losses due to changes in exchange rate may be passed on to Purchaser in case these amount to more than 0.5 %.
- 3.7 In case of changing external circumstances having significant impact on the cost price of Deliverables or in the case unforeseen work is required, Supplier is entitled to change the Contract unilaterally.
- 3.8 Supplier is authorised to engage Subcontractors to execute the Contract.

4. Compliance with Law and Regulations

- 4.1 Supplier takes appropriate measures to ensure compliance with EU, US, and other applicable national customs and export control regulations where Deliverables are subject to such regulations.
- 4.2 Purchaser expressly undertakes not to transfer, directly or indirectly, any Deliverables supplied under this Contract to the Russian Federation or Belarus, in accordance with Regulation (EU) No 833/2014. Purchaser shall provide relevant documentation upon request to demonstrate compliance.

5. Delivery

- 5.1 Supplier accepts responsibility to make a best effort to meet his obligations as laid down in the Contract.
- 5.2 Delivery dates specified in the Confirmation are approximate only.
- 5.3 The mere non-conformity to an obligation specified in the Contract does not constitute Supplier's default nor does it constitute attributable breach of Contract.
- 5.4 Deliverables to be supplied may be replaced by equivalent goods, for instance by a later version of the same product.
- 5.5 Supplier has the right to unilaterally postpone a Delivery Date in case Purchaser has not fulfilled financial obligations related to other Contracts between Purchaser and Supplier, for example in case a payment has not been received in time, or in case delivery would be contrary to a separate agreement, for example an agreed credit limit.

6. Supply of Services

- 6.1 In case of supply of services that involve work outside Supplier's office, part of a Project, the intended date of execution will be announced by Purchaser no less than 7 days in advance. Purchaser shall take care that working conditions are such that the services can be carried out efficiently and in accordance with commonly accepted working standards, regulations and safety precautions.
This for example includes providing electrical power, parking space, access to the site, sanitary facilities, appropriate heating or cooling and a copy of the emergency plan. Purchaser is responsible for carrying out preparatory work as specified by Supplier. In case these conditions are not met, Supplier Personnel may carry out the necessary work to meet the appropriate conditions. Supplier has the right to separately invoice additional work. Upon finalizing the Project, Supplier and Purchaser will carry out a joint commissioning, and Purchaser will make a Written confirmation of acceptance, including possible corrective action by Supplier.
- 6.2 In case of supply of measurement services, Purchaser is responsible for supply of samples / specimens as agreed with Supplier, with accompanying data sheet and with specification of the necessary safety measures to work safely with these specimens.
- 6.3 In case of supply of equipment rental services, Purchaser is responsible for shipment as well as return of the rented equipment in a condition comparable to the condition in which the equipment was received. In case of damage to the rented equipment or use of consumables, the repair- or replacement costs may be added by Supplier to the price of the Deliverables.
- 6.4 Purchaser will ensure that all data requested by Supplier, or data which Purchaser should reasonably understand to be required for the execution of the Contract, will be provided to Supplier in time. If the data required for the execution of the Contract have not been provided to Supplier in time, Supplier will have the right to suspend execution of the Contract and/or charge the additional cost arising from the delay to Purchaser at the usual rates.
- 6.5 Providing calibration services, Supplier issues similar certificates as for new products, see 2.13 and 2.14.
- 6.6 When Products are sent to Supplier for calibration or repair, Supplier's diagnostics may lead to the conclusion that it is necessary to carry out additional, possibly unforeseen, work in order to get a Product back in proper working condition. Unless otherwise agreed Supplier will, before resuming calibration or repair, submit to Purchaser a Quotation for this work. Purchaser's decision may either be repair and/or calibration according to Quotation or return to Purchaser – Supplier charging cost for diagnostics and transport - or disposal by Supplier – Supplier charging cost for diagnostics and disposal. If no answer is received within 90 days after the date of Quotation, Supplier may assume the decision is return to Purchaser. In such case and Supplier is entitled to charge costs for diagnostics and transport.

7. Guarantee

- 7.1 Supplier guarantees hardware advertised and sold as new, to be new, free from defects and free from faults related to their production and manufacturing.
- 7.2 The time interval defining the Product warranty starts at the date of transfer of ownership.
- 7.3 Warranty is applicable only in case faults can be traced to errors made in production, manufacturing or repair. Warranty does not apply to services such as installation - or measurement services and equipment rental services.
- 7.4 Warranty does not apply if the application of the product involves significant "wear and tear", if it involves use outside the specified range of application, or if it involves accidental damage or misuse.

- 7.5 The general product warranty on hardware sold as new is 2 years, however, for pyranometers, pyrgeometers, albedometers, net radiometers and pyrheliometers the product warranty is 5 years.
- 7.6 General warranty on repairs is 1 year.
- 7.7 The warranty expires when any other Party than Supplier makes modifications to or repairs the products, unless this Third Party has been formally authorised by Supplier to carry out such work.
- 7.8 Repair under warranty and investigation if products should be replaced under warranty is carried out at Supplier's office. To claim warranty Products must be sent by Purchaser to Supplier to be examined. Purchaser is responsible for transport as well as insurance of products for which warranty is claimed.
- 7.9 Expenses made in the process to claim warranty and to transport the products to Suppliers office, such as shipping costs and costs for import and export, are not covered under warranty and shall be paid by Purchaser.
- 7.10 If Supplier judges that repair under warranty is not applicable, repair or replacement costs are negotiated on a case-by-case basis.
- 7.11 If the performance of hardware sold as new does not conform to expectations, they may be returned if they are in "as-good-as-new" condition. Returned goods are subject to a re-stocking fee, which is determined on a case-by-case basis.
- 7.12 In case repeated orders with the same Deliverables have been negotiated or can reasonably be expected, Supplier guarantees it shall provide Purchaser written notice of all product discontinuances twelve (12) months prior to the last possible order date. Supplier will offer Purchaser the opportunity to place a last order according to usual conditions.

8. Ownership and Right of Use

- 8.1 Ownership and right of use of the Deliverables shall pass to Purchaser at the time at which full payment has been received by Supplier.

9. Inspection, Testing, Rejection and Acceptance of Deliverables

- 9.1 Purchaser may decide not to accept (reject) the Deliverables. Potentially valid reasons may be non-conformity to the Confirmation or to these Conditions, as well as non-conformity of the Deliverables to agreed requirements. If Purchaser rejects the Deliverables, Purchaser shall notify Supplier of the cause of rejection.

10. Termination

- 10.1 Supplier may terminate the Contract immediately and at any time, in the event that Purchaser breaches or defaults in the performance of any of the requirements of the Contract or the requirements of these Conditions if Purchaser does not cure or remedy the breach or default within 10 days after receipt of written notice.
- 10.2 Supplier may terminate the Contract immediately and at any time, in the event that Purchaser is filed under bankruptcy or insolvency, adopts or arrangements with creditors, is dissolved or enters into liquidation; under such conditions Supplier keeps the right to claim compensation of losses resulting from termination.

11. Payment

- 11.1 Payment of the Supplier's invoice shall be made by Purchaser to Supplier according to the payment conditions specified in the Confirmation.
- 11.2 Unless otherwise agreed payment is due within 30 days after Supplier's invoice date.
- 11.3 Upon expiry of the payment terms, if no payment has been received by Supplier, the Purchaser will be in default, also without receiving notification In Writing.
- 11.4 If Purchaser disputes the invoice amount, Purchaser must submit its objections to Supplier In Writing within fourteen days of invoice. If this is not done, this right to dispute will lapse.
- 11.5 From the due date of the invoice until the date of payment in full, Purchaser will owe Supplier 1.5 % per month interest on the outstanding amount. Supplier may refer the debt for collection in which case Purchaser accepts liability for direct- as well as indirect and consequential damages.

12. Payment by Letter of Credit

- 12.1 In case of payment by Letter of Credit (LC), Purchaser has to state the following in his order: description of the Deliverables; starting point of shipment: Delft The Netherlands; destination of shipment: (City, Country); freight type to be used; latest allowed shipment date from Delft The Netherlands; applicable Incoterms; "partial-shipment-allowed" or "partial-shipment-not allowed"; "transshipment-allowed" or "transshipment-not-allowed". In case the Incoterms are not mentioned, it will be "EXW". In case there is no clarification of partial shipment and transshipment, both are allowed. Unspecified freight will allow all kinds of freight.
- 12.2 The LC has to be confirmed and irrevocable.
- 12.3 The LC has to be issued through a "first rate bank".
- 12.4 The LC has to be in favour of: Hukseflux Thermal Sensors B.V., Delftechpark 31, 2628 XJ, Delft, The Netherlands.
- 12.5 The LC has to be in EUR currency, for the exact amount as specified in the Supplier Quotation.
- 12.6 The LC has to be made available at the counters of: either ABN AMRO Bank N.V., Rotterdam, The Netherlands, or alternatively ANY BANK.
- 12.7 The LC has to be "by 10 days sight".
- 12.8 The credit has to be subject to the uniform customs and practice for documentary credit (2006 revision, publication UPC 600 of the International Chamber of Commerce).
- 12.9 The LC has to be issued against presentation of the following documents: Signed commercial invoice. The Invoice includes: description of the Deliverables; starting point of shipment: Delft The Netherlands; destination of shipment: (City, Country); freight type to be used; latest allowed shipment date from Delft The Netherlands; applicable Incoterms; "partial-shipment-allowed" or "partial-shipment-not allowed"; "transshipment-allowed" or "transshipment-not-allowed".
- 12.10 The LC should allow the following timeframe for presentation of documents: all relevant documents for processing of the LC are to be presented by the Supplier within 30 days after date of pickup for transport.
- 12.12 The issuing bank has to request either ABN AMRO Bank N.V., Rotterdam, The Netherlands, (or alternatively ANY BANK) to advise and release the credit not later than 10 days after presentation of the proper documents.
- 12.12 All banking commissions and charges of the of the documentary credit are for the account of the applicant (Purchaser), unless these costs are included as a Deliverable in the Confirmation.

13. Force Majeure

- 13.1 If due to non-attributable circumstances (force majeure), including fire, natural disaster, civil and military action, Supplier cannot comply with Contractual obligations, such obligations may either be suspended for the duration of the circumstances or Supplier may unilaterally cancel the Contract. In case of force majeure Supplier is not liable for consequential damage.

14. Liability & indemnification

- 14.1 Purchaser agrees to hold Supplier and Supplier Personnel harmless and safeguard them from any liabilities, to Purchaser or anyone claiming through Purchaser, associated to Contract and Deliverables. If so directed by Supplier, Purchaser shall organise defence against claims at Purchaser's own expense.
- 14.2 Supplier will not be liable for any loss or damage caused by Subcontractors.
- 14.3 Supplier's liability arises only if Purchaser gives Supplier due written notice of default within 15 days of becoming aware of the alleged loss and, granting a reasonable term to remedy its breach, Supplier still does not comply with obligations.
- 14.4 Supplier's liability is limited to costs directly related to the Contract and Deliverables, and does not include indirect damages and consequential losses such as costs related to transport, installation, loss of data, reputational damage etc.
- 14.5 Supplier's liability shall never exceed the net value of the individual Deliverables subject to claim or liability. Supplier's liability shall never exceed the amount which will be paid out in the matter concerned under Supplier's liability insurance.

15. Applicable Law and Choice of Forum

- 15.1 The legal relations between Supplier and Purchaser will be governed by The Netherlands law only.
- 15.2 Any disputes between Supplier and Purchaser will be settled exclusively by the competent court of The Hague, The Netherlands.