

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

1. DEFINITIONS

1.1. EI: EI Expert Insight B.V., the user of these terms of delivery, having its registered office in Bergschenhoek, the Netherlands, listed in the commercial register under number 94890315.

1.2. Buyer: the natural person or legal entity, acting in the conduct of a profession or business with whom EI has entered into an agreement or has the intention to do so.

1.3. Agreement: any agreement entered into between the Buyer and EI, under which agreement EI has undertaken to sell and deliver Products (as defined below) and/or to provide Services (as defined below).

1.4. Products: any goods, such as test materials, test equipment and related accessories to be delivered by or on behalf of EI under the Agreement.

1.5. Services: any services, such as the provision of advice, performing of inspection, training, interim management, coaching and the provision of assistance with the use of the Products, whether or not incidental or ancillary to the sale and delivery of the Products, provided by or on behalf of EI under or in relation to the Agreement.

1.6. Terms: these General Terms and Conditions of Sale and Delivery.

2. GENERAL PROVISIONS

2.1. Any offer made by EI and any Agreement entered into between EI and Buyer shall be subject to these Terms, which shall form an integral part thereof.

2.2. EI expressly rejects the applicability of any purchase or other terms and conditions of the Buyer. This applies even if EI does not expressly object to them in a particular case or answers to a letter or other communication which contains or refers to such general terms of the Buyer or a third party.

2.3. Without prejudice to clause 14.4, any variations to the provisions of these Terms shall be valid only if made in writing and executed by both EI and the Buyer.

3. OFFER AND FORMATION OF THE AGREEMENT

3.1 The Agreement shall be concluded by means of offer and acceptance. The Buyer's order shall constitute the offer and the offer shall only be deemed accepted if and when EI has confirmed the order (by e-mail or otherwise). If an order is not confirmed by EI within 14 days following its receipt, it shall be deemed rejected. EI shall not be under an obligation to confirm an order.

3.2 All quotations made by EI (i) are not an offer and cannot be deemed as such, (ii) are non-binding and without commitment, and (iii) are an invitation to Buyer to make an offer.

3.3 If the Buyer enters into the Agreement (also) on behalf of another natural person or legal entity, it guarantees it has the authority to do so by entering into the Agreement. In addition to this natural person or legal entity, the Buyer shall be jointly and severally liable for meeting all obligations under the Agreement.

4. DELIVERY

4.1 The Products and/or Services will be delivered within a reasonable time after EI confirms Buyer's order, subject to availability of the Products and/or the Services. Delivery dates or periods stated by EI are to be considered non-binding unless expressly agreed in writing otherwise.

4.2 If for the performance of the Agreement EI is dependent on information to be provided by the Buyer to EI, the term within which delivery shall take place shall not commence earlier than upon receipt by EI of such information.

4.3 Delivery of the Products shall be made by means of delivery at the delivery address agreed in writing between EI and Buyer. If no delivery address is agreed, Products shall be delivered at the billing address of Buyer.

4.4 If the Products are transported by EI to Buyer the risk of loss of and damage to the Products shall pass to the Buyer at the moment when Buyer has taken possession of the Products. If the Products are transported to Buyer by or on behalf of a third party (e.g. a freight forwarder, carrier or other third party designated to carry out the transport) the risk of loss of and damage to the Products shall pass to the Buyer at the moment when such third party has taken possession of the Products.

4.5 EI shall in no case be liable for any damage resulting from delays, loss or damage during transport which cannot be attributed to EI.

4.6 In case the delivery or handover of Products is delayed due to circumstances attributable to Buyer, the risk of loss and damage to the Products shall pass to Buyer on the day on which EI is ready for dispatch and notifies Buyer hereof. Additionally, EI may claim compensation from Buyer for the damage caused by delay, including but not limited to the costs of storage of the Products.

4.7 EI is allowed to execute orders by way of partial deliveries of Products, if such partial deliveries would fit the presumed use of the Products, the delivery of all Products ordered is ensured and the Buyer is not held to incur significant additional expenses or costs as a result of the partial deliveries.

5. INSPECTION, COMPLAINTS AND WARRANTY

5.1 The Buyer shall inspect the Products and/or the results of the Services immediately upon delivery to ascertain whether their nature and quantity are in conformity with the Agreement and to verify the absence of damage or defects.

5.2 If according to the Buyer the delivery of Products and/or the Services – inspected on face value – are defective whether of their nature, quantity or otherwise, it must notify EI in writing within seven (7) working days following the delivery date.

5.3 The Buyer shall notify EI in writing of any hidden defects in the Products or Services within seven (7) working days after these defects have been discovered or in all reasonableness should have been discovered.

5.4 Failure to timely notify a defect in the Products or Services or their delivery shall result in Buyer losing its right to claim damages or remedial action from EI.

5.5 All statements of EI concerning quantities, measurements, weights, composition and other characteristics related to Products and/or the results of Services to be delivered are made with the greatest possible care, but do not guarantee the absence of any deviations or non-conformities in Products nor guarantee any results to be achieved by such Services.

5.6 In the event of any non-conformities discovered in the Products and/or the result of the Services, EI shall be allowed (but not obliged) to rectify the defect or make a replacement delivery at its discretion within a reasonable period of time.

5.7 Buyer's warranty rights on Products shall lapse if the Buyer modifies the Products without EI's prior written consent. For the avoidance of doubt, a Product is not defective if defects in the Products are the result of improper use by the Buyer in particular where Products are used contrary to instructions or manual provided by EI.

5.8 The warranty period for Products and/or the result of the Services is one year from delivery or, if acceptance is required, from the respective date of acceptance.

5.9 In case of a breach of the Agreement by EI, the Buyer shall not be entitled to exercise the rights to which it is entitled by law without first having sent EI written notice of default, stating a reasonable period within which EI is given the opportunity to remedy the default and to perform the Agreement.

6. PRICES AND PAYMENTS

6.1 Unless otherwise specified, all prices and costs provided are exclusive of VAT and any other charges imposed by the authorities.

6.2 Unless otherwise specified, transport and delivery costs shall be paid for by the Buyer.

6.3 If following the conclusion of the Agreement, but before the delivery of the Products and/or the Services any applicable value added tax or other charges imposed by the authorities are changed, EI has the right to change the prices accordingly without Buyer's consent.

6.4 EI has the right to pass on to the Buyer any increase in prices of cost-determining factors that occur after the conclusion of the Agreement, but before the delivery of the Products and/or the Services. EI must be able to demonstrate the price increase in writing.

6.5 If in the opinion of EI there are grounds to reasonably suspect that the Buyer will be negligent in fulfilling its obligations under the Agreement, EI has the right to demand that the Buyer provide adequate security for payment or an advance payment. The Buyer cannot exercise any rights under the Agreement against EI until the security has been granted to EI or the advance payment has been received by EI.

6.6 In the event that the Buyer is wound up, bankrupt or in moratorium of payments, any outstanding amounts under the Agreement shall become due and payable by Buyer with immediate effect.

6.7 Payment shall be timely made within the payment term specified in the invoice and in the manner prescribed by EI, unless expressly and in writing agreed otherwise.

6.8 If payment by direct debit collection is agreed, EI shall be entitled to charge reasonable administrative costs if the amount due cannot be collected automatically.

6.9 In the event of failure to timely pay invoices, the Buyer shall be in default by operation of law. From the date of the occurrence of the default, the Buyer shall be liable to pay interest of 1% per month. Part of a month counts as a full month in this context.

6.10 In case Buyer is in default of (complying with) a payment schedule for partial payments, the entire remaining claim shall immediately become due and payable.

6.11 Any payment made by Buyer shall first be applied to reduce all outstanding costs and interests, before being applied to reduce outstanding invoices, the oldest first, even if Buyer specifies that the payment is to be applied to more recent invoices.

6.12 EI is entitled at any time to set off any debt it owes to Buyer against any debt that Buyer owes at any time to EI whether or not such debt is due and payable. Buyer is only entitled to set off with the prior written consent of EI.

7. RETENTION OF TITLE

7.1 EI shall retain the title to all Products supplied by it until the price for all these Products and for all of EI's receivables from Buyer have been paid in full.

7.2 Save where this is to be deemed permissible in the normal course of the Buyer's business, the Buyer shall not be allowed to sell, to pledge or in any other way to encumber the Products affected by the retention of title.

7.3 If third parties attach the Products affected by the retention of title or wish to create or exert rights with respect to such Products, the Buyer shall notify EI in writing accordingly as soon as possible.

7.4 The Buyer shall grant EI or the third parties designated by EI unconditional consent to enter all sites where the Products affected by the retention of title are located. In the event of a breach of the Agreement by Buyer, EI shall be entitled to repossess the Products of which the title is retained. Any reasonable costs incurred in this context shall be reimbursed by the Buyer to EI.

8. FORCE MAJEURE

8.1 EI shall not be required to fulfil any obligation under nor deemed to have defaulted under or breached an Agreement if it is hindered by a circumstance beyond its reasonable control or which cannot be attributed to it pursuant to the law, a legal act or in accordance with generally accepted principles ("force majeure"). Force majeure shall also be understood to mean the circumstance where any acts or omissions of EI's suppliers prevent it from delivering the Products or from delivering them on time.

8.2 Throughout the period of force majeure, the obligations of EI arising from the Agreement shall be suspended.

8.3 If the force majeure has rendered the performance of the Agreement permanently impossible, or if the situation of force majeure persists or is likely to continue for more than three months, the parties shall be entitled to terminate the Agreement with immediate effect.

8.4 If upon the occurrence of the situation of force majeure EI has already met part of its obligations or can fulfil only part of its obligations under the Agreement, it is entitled to charge the Buyer separately for that part of the Agreement that has already been performed or can be performed as if it were a separate Agreement.

8.5 Any loss resulting from force majeure does not at any time qualify for compensation.

9. SUSPENSION AND TERMINATION

9.1 EI shall be entitled to suspend the performance of the Agreement or to terminate the Agreement with immediate effect and without formal prior notice to be given, if the Buyer fails to fulfil the obligations arising from the Agreement on time or in full, or if following the conclusion of the Agreement circumstances have come to EI's attention which give it reasonable grounds to suspect that the Buyer will not meet its obligations.

9.2 If the Buyer is declared bankrupt, any debt rescheduling arrangement has been imposed on or ordered against the Buyer, the Buyer is placed in receivership, any attachment is levied on his goods, or if it is otherwise unable to freely use his assets, or the Buyer suffers, or is subject to, any equivalent event, circumstance or procedure to those set out in this clause, EI shall be entitled to terminate the Agreement with immediate effect.

9.3 In addition, EI shall be entitled to terminate the Agreement if circumstances occur which are such that performance of the Agreement is rendered impossible or if EI cannot reasonably be required to maintain the Agreement in unchanged form.

9.4 The Buyer shall not at any time be entitled to compensation, in whatever form, in relation to a suspension of performance under the Agreement or termination of the Agreement by EI pursuant to this clause.

9.5 The Buyer shall compensate EI for damages that EI suffered as a consequence of the suspension or termination of the Agreement to the extent such damages can be attributed to the Buyer.

9.6 If EI terminates the Agreement pursuant to this clause, all outstanding amounts under the Agreement shall immediately become due and payable by Buyer.

10. LIABILITY

10.1 Subject to clause 10.3, EI shall not be liable for any damage to the Products and/or Services supplied or as a result of the use of these Products and/or Services, save for wilful intent and gross negligence on the part of EI. In the latter case or if despite this clause 10.1, EI would incur liability under an Agreement as a result of a court ruling to this effect, (i) damage compensation shall be the exclusive remedy and Buyer shall therefore not be entitled to claim specific performance, and (ii) such liability shall be limited to the invoice value of the Agreement and shall not exceed the amount that is actually paid under any liability insurance taken out by EI.

10.2 EI shall in no event be liable for any consequential loss and/or damage, including but not limited to the loss of profits, revenue, business, goodwill, opportunity, reputation and financing, and shall neither be liable for loss and/or damages incurred as a result of business interruption.

10.3 Nothing in these Terms or an Agreement shall operate to limit or exclude either the Buyer's or EI's liability for any (i) death or personal injury caused by a party's negligence or the negligence of its personnel, (ii) fraud or fraudulent misrepresentation; and (iii) any other liability that cannot be excluded or limited by law applicable to an Agreement.

10.4 Without prejudice to the other provisions of these conditions of sale and delivery, the limitation period for all claims and remedies against EI shall be one (1) year from the date of delivery of the applicable Product and/or Service.

10.5 Except in the case of willful intent or gross negligence on the part of EI, the Buyer shall indemnify EI against any claims made by third parties for whatever reason for damages, costs, expenses or interest arising out of or resulting from the use of the Products and/or Services supplied by EI.

10.6 Liability claims can only be launched by Buyer within the limits of the Agreement, regardless of their grounds.

10.7 If any personnel or third parties deployed by EI are held liable with respect to the work EI hired them to do in relation to the Agreement, it is stipulated on their behalf that they can use all legal and contractual defenses regarding exclusion or limitation of liability and indemnification, which EI can also call upon in order to avert its own liability towards Buyer.

11. DATA

11.1 EI shall process personal data in accordance with all applicable laws and regulations and in accordance with its privacy policy. The Buyer shall ensure that any personal data it provides to EI is accurate and up to date. If the Buyer provides personal data of, or on behalf of, any individuals, it shall direct them to EI's privacy notice.

11.2. Buyer and EI may agree that for the provision of certain Services, Buyer shall need to make available to EI certain data (not being personal data) related to its business. Buyer grants EI permission to use such data for the performance of the Agreement. EI may also use such data for other reasonable commercial purposes, for example analysis and research to improve its Products and Services.

12. SUPPLEMENTAL PROVISION FOR PURCHASE GUARANTEES

12.1 The parties may agree on a purchase guarantee, including but not limited to an obligation for Buyer to buy certain minimum amounts of Products, whether or not in connection with an obligation for EI to provide certain Services. The purchase guarantee binds the Buyer, in accordance with the express made agreement to that end, to purchase Products and / or Services at a set interval, continuously and/or several times in a certain period. If the Buyer fails to fulfil any obligation in connection therewith, or fails to fulfil it in time, all combination discounts, retrospectively and prospectively, relating to the relevant Products and/or Services shall be cancelled.

13. SUPPLEMENTAL PROVISIONS FOR THE RESALE OF PRODUCTS BY BUYER

13.1 If the Buyer uses the Products for resale, this clause shall apply.

13.2 The Buyer shall be required to resell the Products in its own name and for its own account. The Buyer shall not at any time have the right to represent EI as an agent, distributor or otherwise.

13.3 Deviations from the typeface or graphic image of registered trademarks of EI and other forms of product presentation that impair or exploit the distinctive character or appreciation of the trademarks and marks of EI are prohibited when presenting the Products. This applies also to advertising and other communications to Buyer's customers.

13.4 Each presentation of the Products supplied shall be submitted for prior written approval to EI prior to publication, and any instructions rendered by EI in this regard shall be complied with by Buyer, as directed by EI, if and to the extent that any of the graphics or text-related elements in the presentation are not directly provided by EI. EI shall not withhold its approval on unreasonable grounds.

14. FINAL PROVISIONS

14.1 All non-public, confidential or proprietary information of EI, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by EI to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as “confidential” in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by EI in writing.

14.2 In the event that any one or several of the provisions of the Agreement are nullified or (otherwise) become legally invalid, whether entirely or in part, then this shall not affect the legal validity of the remaining provisions of the Agreement. Any such nullified or legally invalid provision or provisions shall be deemed replaced by provisions the parties would have agreed upon had they been aware of the nullity or invalidity of the respective provision, and which shall in a legally permissible way come as close to the objectives which EI and the Buyer did have or would have had in mind, had they been aware of and considered the nullity or invalidity of such provision or provisions. The same shall apply in the event that the Agreement proves to contain a gap or omission, which needs to be filled. In the event of uncertainty as to the interpretation of the invalid provision, the interpretation that reaches EI’s and Buyer’s original intent to the closest possible degree shall prevail.

14.3 Buyer agrees that the execution of an Agreement and delivery thereof by electronic means shall be acceptable and shall be binding upon both parties. Scanned and or other electronic signatures shall be treated in all respects as having the same effect as an original signature.

14.4 EI may revise these Terms at any time without Buyer’s prior consent. By continuing to place orders the Buyer acknowledges and agrees to the applicability of these Terms, as revised from time to time.

14.5 Clauses of these Terms intended by their nature to remain in force after the end of the Agreement shall also remain in effect after the end of the Agreement

14.6 In case of any description between the English version of these General Terms and Conditions of Sale and Delivery and the Dutch version of these General Terms and Conditions of Sale and Delivery, the Dutch version shall prevail.

14.7 Each Agreement, these Terms, and any legal relationships between the Buyer and EI arising therefrom and any dispute or claim arising out of or in connection with an Agreement including these Terms or their subject matter or formation (including non-contractual disputes or claims) shall be exclusively governed by and construed in accordance with Dutch law. The applicability of the Vienna Sales Convention is excluded.

14.8 Any dispute arising out of or in relation to any Agreement (including any non-contractual disputes or claims) shall be settled exclusively by the District Court of Rotterdam.

Version dated November 2024.