

## GENERAL TERMS AND CONDITIONS OF SALE

Of ENGINE PARTNERS HOLLAND BV, Spijkenisse, Lorentzweg 33F, The Netherlands (registered at the Chamber of Commerce Rotterdam, The Netherlands No. 242590130).

### 1. DEFINITIONS

- 1.1. In these "General terms and conditions of sale" (hereinafter GTCS) Engine Partners Holland means Engine Partners Holland BV (hereinafter EP Holland), a Dutch limited liability company established in Spijkenisse, The Netherlands.
- 1.2. In these GTCS "Customer" (hereinafter Customer) means the natural person or legal entity for whom goods are supplied, or for whom services are rendered by EP Holland under these GTCS.
- 1.3. In these GTCS "Quotation" or "Offer" (hereinafter Quotation) means formal statement of promise to supply the goods or services required by Customer at specified prices, and within a specified period. Quotation is without any engagement towards EP Holland.
- 1.4. In these GTCS "Order" (hereinafter Order) means orders and agreements for goods to be supplied or services to be rendered by EP Holland to the Customer which have been confirmed in "Order Confirmation" (hereinafter Order Confirmation) in writing by EP Holland.

### 2. APPLICATION

- 2.1. These GTCS shall apply to all quotations and orders which are entered into by the party commissioned and/or EP Holland, as well as to negotiations relating to such delivery and/or work, even if they do not lead to the conclusion of an agreement.
- 2.2. Notwithstanding the provisions of article 6:225 sub 3 of the Dutch Civil Code, if the Customer refers to its General Terms and Conditions, in any case the applicability of the General Terms and Conditions of the Customer is expressly excluded.
- 2.3. If any provision of these GTCS or of the agreement for any reason whatsoever appears to be invalid, ineffective or not applicable or is declared null and void, such shall not affect the validity of the other provisions. The provision in question shall, after mutual consultation between the parties, immediately be replaced by a provision that approaches the meaning of the original provision as much as possible.
- 2.4. Trade terms, used in these GTCS Quotations, Order Confirmations or otherwise, are to be interpreted in accordance with the International Rules for the International Chamber of Commerce, as valid at the time the agreement is entered into (currently: ICC Incoterms 2011), if an in as far these do not contradict with these GTCS.

### 3. QUOTATIONS, ORDERS, ORDER CONFIRMATIONS

- 3.1. Any quotation made by EP Holland shall be without obligation towards EP Holland and shall be deemed to be an invitation to tender, unless provided otherwise in writing.
- 3.2. Only a Quotation in writing from EP Holland is binding on EP Holland. Quotations are open for acceptance in writing to EP Holland by the Customer for 30 working days from the date of the Quotation unless otherwise stated in the Quotation.
- 3.3. Any order(s) placed by the Customer and any acceptance(s) of Quotation(s) by the Customer shall bind EP Holland, provided the order(s) or acceptance(s) of Quotation(s) was/were placed in writing to EP Holland, or in case of acceptance(s) of Quotation(s), in writing by return, and provided the order(s) or acceptance(s) of Quotation(s) was/were confirmed in writing by EP Holland Sales Department within 15 working days from the date of receipt by EP Holland of the order(s) or acceptance(s) of Quotation(s) - Order Confirmation.

- 3.4. If GTCS related to delivery time, quantity, price, payment terms, delivery clause, delivery by instalments or other matters stated in EP Holland Order Confirmation vary from the Customer's order(s) or acceptance(s) of Quotation(s) and the Customer wants to reject these variations, the Customer must notify EP Holland in writing to that effect within 5 working days of the date of receipt of the Order Confirmation, but in any case prior to the delivery time as stated in the Order Confirmation, failing which the Customer shall be deemed to have accepted the terms and conditions set out in the Order Confirmation, which shall constitute a binding commitments between the Customer and EP Holland.
- 3.5. The information published in price lists, brochures or other documents does not bind EP Holland. All figures, measurements, pictures, weights and other descriptions of goods have been carefully prepared, but EP Holland cannot guarantee that there will be no deviations and/or irregularities.
- 3.6. Orders to render a number of services and/or sales agreements and the supplements thereto shall be concluded between EP Holland and Customer under the condition that if the goods have not been sold at the moment of delivery and to the extent that EP Holland accepts an order of the Customer in writing within a reasonable frame or carries out work, unless the Customer immediately objects thereto.
- 3.7. The records in EP Holland administration relating to the performance of work carried out on behalf of Customer's business, which does not come under any agreement of confirmation of instruction, shall be taken as evidence that work was carried out at the incidental instructions of the Customer.

#### 4. PRICES

- 4.1. The prices indicated by EP Holland are based on delivery "ex works", that is exclusive of freight, packing, insurance, levies, taxes etc.
- 4.2. Notwithstanding the fact that EP Holland has agreed upon a certain price with the Customer, EP Holland will be entitled to increase the price: EP Holland will be entitled to charge the price in conformity with its pricelist at the time of delivery or rendering of the services. Price changes may for instance occur due to pricing and supply fluctuations, raw materials, auxiliary materials and other materials, commodities, freight costs, changes in currency exchange rates or similar factors, wages of circumstances of any other kind which occurs between the moment the offer is made and the moment of delivery of the goods or the moment services are being rendered.
- 4.3. In case the increase of the price agreed upon amounts to more than 10%, the Customer shall be entitled to terminate the Order, provided that the Customer has the obligation to purchase goods already fabricated or ordered by EP Holland for the price agreed upon, increased with (a maximum of) 10%.
- 4.4. If EP Holland has accepted an Order without (dis)assembly, but still carries out (dis)assembly of whatever nature, the Customer shall bear the costs.

#### 5. PACKING

- 5.1. Packing shall not be included in the price and shall be charged separately at cost, unless otherwise agreed upon in writing between the parties. With observance of the applicable legislation and the purpose the packing material is used for, the goods shall be packed in the manner commonly applied in the branch of industry. EP Holland shall not take back any packing material unless EP Holland is forced to do so by law.

#### 6. DELIVERY, DELIVERY TIME, TRANSFERS OF RISKS

- 6.1. All delivery shall be "ex works". Consequently transport, packing, insurance etc. shall be for the account and at the risk of the Customer, unless expressly agreed otherwise in writing.

- 6.2. Times for delivery are by approximation, unless expressly mentioned otherwise. These delivery times are not deadlines and shall always be without obligation towards EP Holland. Exceeding agreed delivery times, for whatever reason, does not give the Customer – even after notice of default – any right to dissolution, compensation and/or suspension. Expiry of a time for delivery on itself does not constitute an event of default. In any case the time for delivery shall not commence before an Order is reached about all technical details and all data required for the execution of the Order are in the possession of EP Holland, after Order Confirmation.
- 6.3. If the goods are ready for delivery to the Customer before or after expiry of the time for delivery and such has been notified to the Customer, the goods will be at his disposal and stored for his account and at his risk as from a period of 14 days after the date of notification.
- 6.4. If the Customer decides upon last minute changes or instruction, the delivery, insofar this has been agreed upon, will not be valid any more. Delivery and delivery time will be postponed for the period necessary to alter these changed instructions into the agreement.
- 6.5. EP Holland shall as the case may be at any time have the right to make partial deliveries and will be entitled to demand payment for each partial delivery, in which case an invoice will be sent for each partial delivery.

## 7. PAYMENT, PAYMENT DELAY

- 7.1. The purchase price as specified in EP Holland Order Confirmation is payable according to the payment terms specified in the Order Confirmation. Payment shall be made net, without any deduction or bank charges, to a bank account designated by EP Holland within 30 days after the date of the shipment, unless otherwise agreed in writing.
- 7.2. EP Holland has, however, at all times the right to demand full or partial payment in advance, and/or to demand advance guarantee of payment. The Customer's refusal to issue the required security shall give EP Holland the right to terminate the Order Confirmation(s) by means of a written notice, without prejudice to its right to claim compensation for all damages, costs and interests. This provision shall also apply in case credit was stipulated.
- 7.3. Customer renounces any right to set-off against and /or compensate with amounts due between parties. Guarantee claims do not suspend the payment obligations of the Customer.
- 7.4. If the Customer fails to perform his (payment) obligations, EP Holland shall furthermore be entitled to suspend the further Orders or services, even in case a fixed time for delivery has been agreed on. (Governmental) regulations preventing the use of the goods to be delivered do not change the Customer's financial obligations.
- 7.5. The entire price and/or price increase shall in any case be immediately due and payable if the agreed price and/or increase (or parts thereof) is/are not paid promptly, if the Customer:
  - is declared bankrupt;
  - is winding up his business or is in similar circumstances;
  - applies for suspension of payments;
  - is being placed under legal restraint or guardianship is applied for;
  - if any attachment is made on the goods or claims of the Customer;
  - if the Customer deceases or is dissolved
- 7.6. If the principal fails to make payment within the agreed terms within agreed terms, he shall be deemed to be in default immediately and EP Holland shall be entitled, without any prior notice of default and without prejudice to the other rights of EP Holland, to charge legal interest pursuant to article 119a Book 6 of the Dutch Civil Code as from the due date, increased by 1% per month on the total amount due, a part of a month being considered a whole month.
- 7.7. Pursuant to article 96 sub 2c Book 6 of the Dutch Civil Code, besides the contracting of purchase price and interest "EP Holland" shall be entitled to claim all collection costs caused by non-payment, which shall have a minimum amount of EUR 150.000,00 or 15% of the price.
- 7.8. No protest or guarantee claim shall suspend the Customer's payment obligation(s), if and to the extent the parties did not agree otherwise.

- 7.9. EP Holland does not commit itself to send statements of account, but normally does so regularly. In the event that EP Holland does not within 30 days of the date of a statement of account receive an objection in writing against its balance, the statement of account shall be deemed to be conclusive evidence of the Customers' acceptance of the statement of account.
- 7.10. All payments made by the Customer to "EP Holland" are in the first place considered to be payment of all costs and interest due, and in the second place of the invoices due which have been outstanding longest, even if the Customer states that the payment relates to an invoice of a later date.

## 8. RESERVATION OF TITLE (EIGENDOMSVOORBEHOUD) AND PLEDGE

- 8.1. The ownership of the goods shall exclusively remain with EP Holland, until the Customer has fulfilled all his obligations arising out of the Order(s) on the goods or any other agreement relating thereto. Obligations shall include inter alia payment of the price, price increase, rebates due, interest, costs, penalties (etc.)
- 8.2. The Customer shall, under no circumstances, be entitled to pledge or mortgage any of the goods or alienate them in another manner or transfer them to third parties before the moment referred to in paragraph 1 hereof.
- 8.3. In case the Customer fails to perform (on time) any obligation under the Order relating to the sold and/or delivered goods – for example because the Customer is declared bankrupt or is winding up his business or is in similar circumstances, such as suspension of payment – EP Holland shall be entitled, without any prior notice of default, to recover the goods. EP Holland and its representatives having the right of entry to all business and other premises of the Customer or the third parties that are holding the goods for the Customer, the latter herewith giving them irrevocable power of attorney to do so. The Customer is obligated to render every assistance to this end, on pain of penalty of 15% price per day the Customer did not render the aforementioned assistance. The Customer is not allowed to invoke a right of retention in respect of EP Holland as regards storage costs and/or other claims that the customer has or alleges to have on "EP Holland".
- 8.4. In case EP Holland invokes reservation of title as described above, EP Holland shall be entitled to terminate the Order(s) with the Customer by means of a written notice, without prejudice to its right to claim compensation for all damage, costs and interests.
- 8.5. The Customer herewith binds himself to give EP Holland immediately written notice of the fact that third parties (will) enforce claims on goods subject to reservation of title by virtue of this article. Should the Customer at any time appear to have failed to fulfil the obligations under this article, he shall be due – in addition to his other obligations – a penalty amounting to 15% of the price.

## 9. WARRANTY

- 9.1. EP Holland undertakes and warrants that the goods are produced in accordance with makers specification and guaranteed for its performance.
- 9.2. The Customer is obliged to check the deliveries for any irregularities to the Order immediately after the delivery. All claims have to be submitted to EP Holland within 14 (fourteen) days after the delivery on the proof of receipt, all this to confirm that the claim existed at the time of delivery of the goods. After the expiration of this period, the goods are considered irrevocably and unconditionally accepted by the Customer.
- 9.3. Claims with respect to small deviations, common in trade, and differences in quality, colour, weight, etc. which from a technical point of view cannot be avoided cannot be submitted.
- 9.4. Claims in respect of shortages, differences in dimensions of sizes, or damage, shall only be acknowledged if EP Holland is given the opportunity to inspect the delivered goods in their original condition and in their original packing.
- 9.5. If the Customer's claim is not without merit, EP Holland can choose to execute her part of the agreement once more, or – in case that despite a Customer's proper written request, EP Holland fails to perform due to own fault – to fully or partially terminate the agreement. The Customer must return the defected goods to EP Holland.

9.6. No warranty is provided for defects caused by:

- deterioration from normal use;
- improper use;
- absence of, or improper maintenance;
- installation, assembly, change of repairs by the Customer or a third party.

9.7. Goods may only be returned after a written permission granted by EP Holland.

## 10. FORCE MAJEURE (NON-PERFORMANCE NOT IMPUTABLE TO EP HOLLAND)

10.1. If in case of force majeure, the execution of the agreement on the part of EP Holland becomes unreasonably strenuous or impossible and the execution is still desired, EP Holland is authorized to choose to postpone or to discontinue the execution, in which case the Customer will be informed of this decision as soon as possible, considering the circumstances

10.2. By "Force Majeure" is meant and included any failure in performance due to circumstances or occurrences beyond EP Holland reasonable control – whether or not foreseeable at the time of the Quotation or Order Confirmation – as a result of which EP Holland cannot reasonably be required to execute its obligations. Such failure in performance is present if it is neither due to EP Holland fault nor for his account pursuant to law, a juridical act or generally accepted principles.

10.3. In any case, the following circumstances are qualified as force majeure (not limitative)

- unforeseeable technical complications;
- defects in objects or materials of third parties which the Customer has required EP Holland to use;
- impediments caused by third parties;
- strikes;
- non delivery or late delivery by suppliers;
- stagnation of supplies;
- exceptional circumstances, such as import and export bans, restrictive measures taken by any government, war risk, armed conflicts, fire, storm and other natural disasters;
- in general all circumstances, events, causes and consequences beyond the control, influence or authority of EP Holland.

10.4. The price increase or decrease following from the modification of the Order Confirmation shall be settled between EP Holland and the Customer, whereas in addition EP Holland shall be compensated for Orders and services which has/have already been carried out or made but appeared to be useless, if in case of force majeure. In that case settlement shall take place within four weeks after the moment it was established that the Order could no longer be executed.

## 11. LIABILITY

11.1. Any liability of EP Holland for all direct damage inter alia as a consequence of delivery of defective goods and defective materials as well as services not properly carried out, shall be limited to the amount of the invoice of those goods, materials and work save the exceptions provided in the present conditions and cases of deliberate failure or gross negligence.

11.2. If EP Holland has accepted an Order without (dis)assembly, but still carries out (dis)assembly of whatever nature in Order to perform her duties, EP Holland shall under no circumstances, be liable therefore.

11.3. Liability of EP Holland for direct damage, amongst which consequential loss, loss of profits, lost savings and loss due to business interruption, is excluded.

11.4. If, notwithstanding the exclusion of liability contained above, EP Holland could be held liable for any direct and/or indirect damage, this combined (direct + indirect) liability shall be limited to the net invoice amount of the defective goods supplied or services rendered at most.

- 11.5. EP Holland is not liable for any kind of damage that is caused by EP Holland relying on incomplete and/or false information provided by the Customer, unless it is considered reasonable to assume that information to be false and/or incomplete.
- 11.6. EP Holland is not liable for damage caused by servants, agents or Sub-Contractors as a result of false or late instruction.
- 11.7. EP Holland liability for injury or damage through death or bodily injury or because of material damage to objects will be limited to the amount or amounts covered by the liability insurance policy taken out by EP Holland. If for whatever reason, no insurance payment can be made pursuant to the liability insurance policy taken out by EP Holland, the liability will be limited at all times up to the amount of the invoice of the goods in questions.
- 11.8. The Customer shall indemnify EP Holland against all third-party claims because of product liability ensuing from a defect in a product which has been delivered by the Customer to the third party and which partly consisted of equipment or other materials delivered by EP Holland.

## 12. TERMINATION

- 12.1. If the Customer fails to perform, or fails to perform on time, any obligation arising for him out of the Order(s) between EP Holland and the Customer, he shall be in default and EP Holland shall be entitled, without notice of default or judicial intervention:
- a) to suspend the execution of the Order and the Order(s) directly related thereto until payment is sufficiently secured, and/or;
  - b) to terminate the Order and the Order(s) directly related thereto wholly or partly
  - c) without prejudice to its other right and without being bound to pay any damages.
- 12.2. In case the Customer is declared bankrupt or winds up his business or is in similar circumstances such as suspension of payments, all agreements between EP Holland and the Customer shall be terminated by operation of law, unless the Customer or his authorised representatives inform EP Holland within a reasonable time frame after the event mentioned above that they wish (part of) the Order(s) in question to be executed, in which case EP Holland shall be entitled without notice of default:
- a) to suspend the execution of the Order in question until payment is sufficiently secured, and/or
  - b) to suspend its payment obligations towards the Customer, without prejudice to its other rights towards the Customer and without being bound to pay any damages.

## 13. CANCELLATION

- 13.1. If the Customer wishes to cancel the Order(s) and EP Holland agrees thereto in writing, the Customer shall be obliged to take delivery of all materials, raw materials, whether processed or not, at cost, including wages, and to indemnify EP Holland on account of inter alia loss of profits by payment of 15% of the price, without prejudice of all other rights of EP Holland or unless otherwise agreed between the parties.
- 13.2. In case of cancellation the Customer shall be obliged to indemnify EP Holland against claims of third parties having arisen as a consequence thereof.

#### 14. CHANGES IN GENERAL TERMS AND CONDITIONS OF SALE

14.1. EP Holland is allowed to make changes in these GTCS. These changes take effect on the announced date of commencement. EP Holland will timely send the changed GTCS to the Customer. If no commencement is stated, the changes take affect towards the Customer as soon as they are conveyed to him.

#### 15. DISPUTES

15.1. All disputes arising out of the Quotations made by EP Holland or the Order Confirmations concluded with EP Holland and the supplements thereto, will be exclusively submitted to the judgement of the competent court in Rotterdam (having absolute jurisdiction), with reservation of the right of appeal to the Court of Appeal or the Supreme Court.

#### 16. APPLICABLE LAW

16.1. All Quotations made by EP Holland and all Order Confirmations concluded with EP Holland, the supplements thereto or extra work and all disputes arising there from shall be governed by Dutch law, the applicability of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980) being excluded.