

# General conditions of sale and delivery of Streamit BV

## DEFINITIONS

In these general conditions of sale and delivery the "Buyer" means the person who accepts a quotation of the Seller for the sale of the Products and Services or whose order for the Products and Services is accepted by the Seller. Products and Services mean the Products and Services which the Seller is to supply in accordance with these conditions. The "Seller" means Streamit BV.

## APPLICABILITY

These general conditions of sale and delivery are part of all quotations and order confirmations of the Seller and agreements which ensue there from. Acceptance of the quotation of the Seller may only be made together with acceptance of these general conditions of sale and delivery.

## QUOTATIONS AND ORDER CONFIRMATIONS

All quotations on Sellers site are without obligation unless they contain a term for acceptance. As all quotations relate to unique Products and Services all quotations are valid under the condition being not sold in between ("subject unsold"). No contract shall exist between Buyer and Seller until Seller has sent Buyer an order confirmation confirming receipt and acceptance of Buyers order. Seller is entitled to withdraw from any contract in the case of obvious errors or inaccuracies regarding the Products and Services or the order appearing on Sellers site or for unavailability.

## PRICES

The prices of the Products and Services are specified on the Sellers Site. Such information is subject to change without notice. Each price, as displayed, is exclusive of any applicable VAT. All prices are without transport, start-up or installations costs and insurance charges and are ex-warehouse Seller's site unless otherwise is confirmed in written by the Seller. The Seller reserves the right (by giving notice to the Buyer) at any time before delivery to increase the price of the Products and Services to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as without limitation any foreign exchange fluctuation, import duties, taxes, production costs).

## DELIVERY

Any dates quoted for delivery of the Products and Services are approximate only and the Seller shall not be liable for any delay in delivery of the Products and Services howsoever caused, unless express agreement in writing to the contrary has been made. In the event of any not- in-time delivery the Seller must therefore be given a written notice of default. The Seller shall be entitled to decide the mode and means of transport to the place of delivery and to appoint the carrier(s). Unless agreement to the contrary has been made the transport of the Products and Services which have been purchased shall be carried out for the risk of the Buyer. The transport shall be carried out in accordance with the conditions of the International Rules for the Interpretation of Trade Terms (Incoterms). The Seller reserves the right to deliver earlier than stated if the Products and Services become available earlier than the delivery date indicated, unless explicitly agreed otherwise.

## CLAIMS

1. The Buyer must inspect the Products and Services (or have this done) upon delivery or as quickly as possible thereafter. In doing so the Buyer must check whether the Products and Services comply with the agreement, i.e.: whether the correct Products and Services have been delivered; whether the Products and Services which have been delivered comply with what was agreed upon as concerns quantity (for example the numbers and the amounts); whether the Products and Services which have been delivered comply with the agreed quality requirements or if there are none with the requirements which may be laid down for a normal use and/or trading purpose.
2. If visible defects or shortages are found then the Buyer must report these upon delivery in writing at the transport documents and separately to the Seller in writing within 7 days after delivery.
3. The buyer must report non- visible defects in writing to the seller within 7 days after they are discovered, but at the latest within 21 days after delivery.
4. Even if the counter party submits a claim in time, its obligation to pay and to take orders which have been made into receipt shall continue to exist. Products and Services may only be returned to the Seller following prior written permission.

## PAYMENT

Invoices for delivery contracts exceeding EUR 50.000 are to be paid 1/3 after receipt of order confirmation and 2/3 after delivery or notification that the goods are ready for dispatch. All payments must take place without any settlement per contra to a bank or giro account to be indicated by the Seller. If the Buyer not pay

within the agreed period(s), he is legally assumed to be in default, and without requiring any notice of default, The Seller is entitled to charge annual interest on the amount due from the date of expiry at a rate 3% above the promissory note discount rate of De Nederlandse Bank. This is without prejudice to other rights, as well as the right to recover all collection costs from the Buyer, including all legal and extra judicial collection costs, the latter to amount to 15% of the amount to be collected.

No payment can be postponed, even if the Buyer considers that he has the right to a claim. If the Seller can prove that it has incurred higher costs, which were reasonably speaking necessary, these shall be eligible for compensation by the Buyer.

#### **RESERVATION OF OWNERSHIP**

1. The property of the Products and Services delivered by the Seller shall not pass to the Buyer until: the Seller has received in cash or cleared funds payment in full of the price of the Products and Services, and all other Products and Services agreed to be sold by the Seller to the Buyer for which payment is then due, and until the Buyer has fulfilled all his other obligations towards the Seller pursuant to the contract and these general conditions of sale and delivery.
2. The Buyer shall be permitted to sell on the Products and Services delivered by the Seller within the framework of its normal business operations.
3. If the Buyer does not comply with its obligations or there is a well- founded fear that it will not do so, the Seller shall be entitled at any time to require the Buyer to deliver up the Products and Services to the Seller and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the Products and Services are stored and repossess the Products and Services.
4. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products and Services which remain the property of the Seller but if the Buyer does so all moneys owing by the Buyer to the Seller shall forthwith become due and payable.

#### **GUARANTEES AND LIABILITIES**

1. Except as expressly provided in these terms and conditions the Seller gives no guarantees with respect to the Products and Services whatsoever.
2. Subject to the conditions set out below, the Seller guarantees that the Products and Services will correspond with the standard specifications as maintained by the Seller at the time of delivery of the Products and Services as well as the contents of any other written guarantee given by the Seller for the benefit of the Buyer with respect to the Products and Services.
3. The above guarantee is given by the Seller subject to the following conditions: 1. the Seller shall be under no liability in respect of any defect in the Products and Services arising from any drawing design or specification supplied by the Buyer, 2. the Seller shall be under no liability in respect of any defect arising from wear and tear damage, negligence, abnormal working conditions failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Products and Services, without the Seller's approval.
3. the above warranty does not extend to components or equipment not manufactured by the Seller in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller;
4. where the Products and Services are processed by the Buyer or any third party or used by the Buyer or any third party to produce other Products and Services, the above guarantee shall only apply to the Products and Services in their sole state and the Seller shall not be liable in any way whatever in respect of the Products and Services as processed or used whether in combination with other Products and Services or products or alone or of any subsequent product arising out of such processing and the Buyer shall hold the Seller harmless from and fully and effectively indemnify the Seller and keep the Seller indemnified against any claims by the Buyer or any third party of whatever nature arising out of or in connection with the Products and Services as processed by the Buyer or any subsequent product arising out of such processing of the Products and Services by the Buyer.
4. The Seller shall not be liable in any way whatsoever with respect to the use of the Products and Services by the Buyer whether the Products and Services are used in combination with any other Products and Services or product or alone.
5. Any claim by the Buyer which is based on any effect in the quality or condition of the Products and Services or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 21 days from the date of delivery. If the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Products and Services and the Seller shall have no liability for such defect or failure and the Buyer shall be bound to pay the price for the Products and Services as if the Products and Services had been delivered in accordance with the Contract.
6. Where any valid claim in respect of any of the Products and Services which is based on any defect in the quality or working of the Products and Services or their failure to meet specification is notified to

the Seller in accordance with these conditions the Seller shall be entitled to replace the Products and Services (or the part in question) free of charge or at the Seller's sole discretion refund to the Buyer the price of the Products and Services (or a proportionate part of the price) but the Seller shall have no further liability to the Buyer. The Buyer shall not be entitled to return the Products and Services or any of them to the Seller except with the prior written consent of the Seller.

7. Except in respect of death or personal injury caused by the Seller's negligence the Seller shall not be liable to the Buyer by reason of any representation, statement or any implied warranty condition statements or other term or any duty at common law, under statute or under the express terms of the contract for any consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller its employees or agents or otherwise) which arise out of or in connection with the supply of the Products and Services or their use or resale by the Buyer except as expressly provided in these conditions.
8. The Buyer shall indemnify and keep the Seller fully and effectively indemnified from and against any liability of any kind whatsoever to any third party howsoever arising (whether in contract, tort or otherwise) following delivery of the Products and Services to the Buyer arising out of, in respect of or in connection with any defect in the Products and Services and/or any loss, injury or damage of any kind (whether direct, indirect or otherwise and including but not limited to any loss of profit and/or consequential or special loss or damage of any description arising out of, in respect of or in connection with the supply of the Products and Services or their use or resale).
9. If it appears that, in the equipment offered for repair, no defects are present which fall under the terms of the guarantee, all expenses incurred will be charged. All guarantee claims are nullified if the equipment is not used according to the Seller's instructions or if any repairs to the equipment have been carried out by anybody other than persons appointed by or authorised by the Seller.

#### **FORCE-MAJEURE**

The seller shall not be liable to the Buyer or be deemed to be in breach of contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Products and Services if the delay or failure was due to any cause beyond the Seller's reasonable control (i.e. force-majeure). Force-majeure shall include, but is not limited to, the following events:

Resolutions and measures of any government (institution), labour conflicts, work shortages, shortages of raw materials or parts, defects or delays in transport, non-performance, bad performance or not-in-time performance of supplier and other contracting parties of the Seller. If a situation of force-majeure lasts for more than six months, the Seller shall be entitled to terminate the agreement to the extent that it relates to Products and Services which have not yet been delivered.

#### **INTELLECTUAL PROPERTY RIGHTS**

The Seller reserves copyright on all Products and Services but also drawings, diagrams, designs and other documents originating from The Seller directly or indirectly. Neither these documents nor their contents, in whole or in part, may be made available to third parties by any means whatsoever. Copyright also explicitly applies to software or firmware delivered as a component of equipment or separately delivered. Unless agreed otherwise, the Buyer solely acquires the right to use the software or firmware for its own use in the appropriate applicable situation. In the event of infringement of this stipulation, The Seller reserve the right to recover any financial losses suffered by us. All rights of Intellectual property, patents, copyrights and other author rights and claims regarding to the Products and Service always remains to the Seller even if the Seller is paid by the Buyer to make specific changes, amendments or modifications to Products and Service exclusively for the Buyer.

#### **INSOLVENCY**

If the buyer is declared bankrupt or has applied for its own bankruptcy or moratorium of payments, if the Tax Receiving Office has laid an attachment on any object of the Buyer, if the Buyer decides to dissolve, liquidate or close down its business, if the Buyer offers a settlement to its creditors or if the Buyer apparently ceases being able to comply with its financial obligations the Seller shall have the right to declare that all agreements with the Buyer have been dissolved without court intervention.

#### **APPLICABLE LAW, DISPUTES**

1. All agreements concluded with the Seller shall be governed by Dutch law, and these general conditions shall apply as an addition thereto, and to the extent that this is not prevented by obligatory statutory provisions, as a deviation there from.
2. Any disputes between the Buyer and the Seller shall be judged by the competent court of the place of establishment of the Seller, including any provisions which may be award in interlocutory injunction proceedings, except for exceptions by virtue of obligatory statutory provisions.

**CHANGES TO THE CONDITIONS**

The Seller may amend these conditions. These changes shall enter into force at the announced time of entry into force. The Buyer shall be notified of any amendments by a notice on the Sellers Site. The Seller shall send the amended conditions in good time to the Buyer. If for any reason part of these terms and conditions is unenforceable, the validity of the remaining terms and conditions shall not be affected.

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