

GENERAL CONDITIONS OF PURCHASE OF HORTIMAX B.V. AND MONTERA TECHNIEK B.V.

CLAUSE 1. APPLICABILITY

- 1.1 These Conditions of Purchase were filed at the Office of the District Court in The Hague (no. 91/2005) and at the Chamber of Commerce in The Hague (no. 27217164 / 27231161).
- 1.2 In these Conditions of Purchase, the following words shall have the following meanings:
Buyer: HortiMaX B.V. with its registered office in Pijnacker, Chamber of Commerce registration no. KvK 27217164, or Montera Techniek B.V. with its registered office in Pijnacker, Chamber of Commerce registration no. KvK 27231162, or any other party which has declared these Conditions of Purchase to be applicable;
Supplier: The supplier or provider of the Products;
Product: The goods or services that the Supplier offers or sells to the Buyer;
- 1.3 Agreement: Any agreement between the Buyer and the Supplier with respect to the sale and delivery of Products to which these Conditions of Purchase shall apply.
- 1.4 These Conditions of Purchase shall apply to the formation, the contents and the fulfillment of the Agreements with the Supplier, as well as to all other juristic acts and legal relationships between the Buyer and the Supplier and are an intrinsic part of the Agreement.
- 1.5 Any deviating or supplementary clauses shall only be effective if these have been accepted by the Buyer in writing and shall only apply to the Agreement in question.
- 1.6 The Supplier's General Conditions, by whatever name called, shall not apply.

CLAUSE 2. FORMATION OF AN AGREEMENT

- 2.1 Any requests for quotations shall not bind the Buyer and shall not represent an invitation to produce an offer.
- 2.2 A verbal or written quotation made by the Supplier shall be a binding and irrevocable offer.
- 2.3 An offer made by the Buyer shall only bind the Buyer if and in so far as this offer is made in writing.
- 2.4 An Agreement shall be considered concluded if and in so far as (I) the Buyer accepts the Supplier's quotation in writing, either on paper or by E-mail, (II) the Supplier unconditionally accepts the Buyer's offer or modified order in writing, either on paper or by E-mail.
- 2.5 In the event of Framework Agreements, the Agreements shall apply to each and every delivery or partial delivery within the scope of the Framework Agreement.
- 2.6 If any drawings, models, specifications, instructions, inspection requirements and suchlike, which have been approved or provided by the Buyer, are used to fulfil the Agreement, these shall be part of the Agreement.

CLAUSE 3. PRICES

- 3.1 The prices agreed for the Products shall be in Euros and based on DDP (Delivery Duty Paid) to the delivery address agreed, unless agreed otherwise in writing.
- 3.2 Prices may not be increased – for whatever reason – without the Buyer's prior written permission. The price increases referred to above shall also mean cost increases related to the fulfillment of the Agreement, including but not limited to any rise in labour costs, purchase prices, shipping rates, exchange rates (such as fluctuations or adjustments), import and export duties, excise duties, taxes, regardless of whether such increases have been imposed or approved by the government.

CLAUSE 4. DELIVERY

- 4.1 The delivery conditions shall be interpreted according to the "Incoterms", published by the International Chamber of Commerce, in its most recent edition on the date when the Agreement was concluded, unless agreed otherwise.

- 4.2 Delivery shall be made on a DDP basis to the delivery address agreed, promptly at the time agreed or within the period agreed. The Supplier is obliged to insure the Products in derogation of and supplemental to the DDP condition.
- 4.3 As soon as the Supplier knows or is supposed to know that delivery will not occur in a timely or proper manner, it shall immediately inform the Buyer in writing, stating the reasons and circumstances for late or improper delivery. Without prejudice to the Buyer's right pursuant to the provisions of clause 17, the Parties shall discuss if and, if so, in what manner the situation which has arisen can be resolved to the Buyer's satisfaction.
- 4.4 If the Buyer requests that the Supplier delay delivery, the Supplier shall store, protect and insure the Products.
- 4.5 The Supplier shall ensure that any information required for the safe and correct use (including maintenance) of the Products delivered is in the Dutch language and clearly visible on the Product or, in case this information cannot be affixed to the Product, that the information is provided in the accompanying instructions.
- 4.6 Delivery shall also include:
- a) Delivery of all relevant auxiliary materials, as referred to in Clause 7;
 - b) Provision of a document including a description of the Products delivered, their quantity and/or amount and the order number;
 - c) Provision of all relevant documents, such as drawings, quality certificates, inspection and warranty certificates, maintenance manuals, instruction booklets, manuals and all documents and product information required by law;
 - d) Delivery of all relevant accessories and, if applicable, the return of all information provided by the Buyer to the Supplier within the scope of the Agreement.
- All of the above-mentioned documents shall be formulated in a language which the Buyer can understand.
- 4.7 "Delivery" shall also mean "partial delivery" for the purposes of this clause.
- 4.8 Inspection and/or testing of Products, pursuant to the provisions of clause 11, shall neither imply delivery nor transfer of risk.

CLAUSE 5. PACKAGING AND DISPATCHING

- 5.1 The Products shall be properly packaged and marked in accordance with the instructions agreed with the Buyer, so they will reach the delivery address in good condition under normal shipping conditions. The Supplier shall be liable for damage caused by inadequate packaging and/or incorrect marking of Products or Products not marked. Packaging must comply with all statutory safety and environmental requirements and made of materials which minimize harm to the environment.
- 5.2 All packaging (except for packaging which must be returned) shall become the property of the Buyer upon delivery. Packaging which must be returned shall be clearly marked as such by the Supplier.
- 5.3 The Buyer shall be entitled, in all cases, to return the packaging to the Supplier at the Supplier's expense.
- 5.4 Packaging which must be returned shall be returned to a destination indicated by the Supplier, at the Supplier's risk and expense.

CLAUSE 6. TRANSFER OF OWNERSHIP AND RISK

- 6.1 The ownership of the Products shall pass to the Buyer at the time of delivery.
- 6.2 The Buyer shall be entitled to require the Supplier to transfer ownership of the Products and/or the related materials and parts at an earlier time. The Supplier shall in that case clearly mark the Products as the sole property of the Buyer, protect the Products and take all steps necessary to prevent loss of quality. In addition, the Supplier shall indemnify the Buyer against loss, damage and exercise of rights by third parties.
- 6.3 The risk of loss or damage to objects shall pass to the Buyer upon delivery of the Products, after the Buyer has signed the relevant transport documents for receipt of the Products. If it was agreed that the Products ordered by the Buyer be commissioned upon delivery, the risk shall pass to the Buyer upon commissioning of the Products, or, if it was so agreed, after the acceptance protocol has been signed by both Parties. If the Buyer does not accept the Products, the risk shall pass back to the Supplier as from the date that the Buyer notifies the Supplier of such non-acceptance in writing.

CLAUSE 7. AUXILIARY MATERIALS

- 7.1 The materials, drawings, models, instructions, specifications and other auxiliary materials provided by the Buyer, or purchased or produced by the Supplier at the Buyer's expense, shall remain the property of the Buyer or shall become the property of the Buyer at the time of purchase or production.
- 7.2 The Supplier shall clearly mark the auxiliary materials referred to in the previous paragraph as the property of the Buyer, keep these materials in good condition and insure them against all risks for as long as they are in the Supplier's possession.
- 7.3 The auxiliary materials shall be returned to the Buyer at the Buyer's first request or upon delivery of the last Products related to those auxiliary materials.
- 7.4 Auxiliary materials used by the Supplier to fulfil the Agreement shall be presented to the Buyer for approval at the Buyer's first request.
- 7.5 Changes to or deviations from the auxiliary materials approved by the Buyer are only permitted after the Buyer's prior written approval.
- 7.6 The Supplier shall not use or allow any third party to use the auxiliary materials for or in connection with any other purposes than those related to the delivery of the Products to the Buyer, unless the Buyer has given prior written approval for such use.

CLAUSE 8. PERMISSION / APPROVAL

- 8.1 Permission or approval, as referred to in these Conditions, granted by the Buyer to the Supplier in respect of any matter shall in no case release the Supplier of its obligations under the Agreement.

CLAUSE 9. ALTERATIONS

- 9.1 The Buyer shall be entitled to require the Supplier to alter the size and/or characteristics of the Products to be delivered. The Buyer shall also be entitled to modify the drawings, models, instructions, specifications and suchlike relating to the Products to be delivered.
- 9.2 If, in the Supplier's opinion, such alteration will affect the fixed price and/or delivery time agreed, the Supplier shall inform the Buyer of such changes in writing as soon as possible, but no later than 8 days, after being informed of the desired alteration.
- 9.3 If, in the Buyer's opinion, these price and/or delivery time changes are unreasonable in relation to the nature and size of the alteration, the Buyer shall have the right to dissolve the Agreement by giving written notice to the Supplier, unless this is manifestly unreasonable in view of the circumstances.
- 9.4 If the Agreement is dissolved for the reason above when the requirement in paragraph 9.1 has been made and certain Products are already in production, the Buyer shall reimburse the direct material costs, if the Supplier demonstrates that the Products in question cannot be used elsewhere. Dissolution of the Agreement on the basis of this clause shall entitle none of the Parties to further damages of any kind.
- 9.5 The Supplier shall not be permitted to make or carry out any alterations, without the Buyer's written approval or instructions.

CLAUSE 10. PAYMENT

- 10.1 Payment shall be made within 60 days after receipt of the invoice, provided the delivery and receipt of all relevant documentation, drawings and quality and warranty certificates have been received and approved.
- 10.2 The Buyer shall be entitled, before payment is made, to require the Supplier to have an unconditional and irrevocable bank guarantee issued by a bank considered acceptable by the Buyer, in addition to or instead of transfer of ownership, to ensure the Supplier meets its obligations.
- 10.3 Payment by the Buyer shall in no way imply the waiver of any rights.
- 10.4 The Buyer shall be entitled at any time to set off amounts owed by the Buyer and/or any legal entity or company affiliated with the Buyer against any amounts which are due and payable by the Supplier to the Buyer and/or any legal entity or company affiliated with the Buyer. The Parties, therefore, expressly intend to deviate from Art. 6:127, Paragraph 3 of the Netherlands Civil.
- 10.5 The Buyer shall be entitled to suspend payment of the amounts owed by the Buyer and/or any legal entity or company affiliated with the Buyer to the Supplier at any time, if the Supplier fails to perform any of its obligations to the Buyer and/or any legal entity or company affiliated with the Buyer.

CLAUSE 11. QUALITY, WARRANTY, INSPECTION

- 11.1 The Supplier warrants that the Products delivered conform to the Agreement and that the characteristics of the Products correspond to those agreed, are free of defects, are suitable for the purposes intended and comply with European and Dutch legislation and any other government regulations, as well as the safety and quality standards used within the industry, all of which as they apply at the time that the Agreement was concluded.
- 11.2 Further to the previous paragraph, the requirements set out in the ISO 9000 series of standards shall apply, as they apply at the time the Agreement was concluded. If and in so far as the above-mentioned requirements apply, the Supplier shall, within the scope of quality assurance and quality management, fulfil the Agreement in accordance with these requirements, unless the Supplier is incapable of doing so or is prevented of doing so because of statutory regulations.
- 11.3 The Buyer or persons or bodies appointed by the Buyer may inspect and/or test the Products prior to, during or after delivery.
- 11.4 The Supplier shall grant access to the locations where the Products are manufactured or stored, render co-operation during the inspections and/or tests and provide any documentation and information required at its own expense.
- 11.5 If necessary, the Supplier shall inform the Buyer well in advance when inspection and/or testing may be performed.
- 11.6 The Supplier shall be entitled to be present during the inspection and/or testing.
- 11.7 The costs of inspection and/or testing shall be borne by the Supplier. The same applies to reinspection and/or retesting.
- 11.8 If the Products are fully or partially rejected based on inspection and/or testing prior to, during, or after delivery, the Buyer shall immediately inform the Supplier, either directly or indirectly, in writing. The Supplier shall in that case be given a reasonable opportunity to examine and repair the defects.
- 11.9 In the event that the Products are rejected during or after delivery, the ownership and risk of the Projects shall pass back to the Supplier as from the date of the written notice referred to in the previous paragraph.
- 11.10 If the Products, regardless of the results of any inspection and/or testing, do not meet the provisions set out in paragraph 1 and/or 2 of this clause, none of the Buyer's rights shall be affected.
- 11.11 In urgent cases or in cases where, after consulting with the Supplier, it must be reasonably assumed that the Supplier cannot or will not repair or replace the Products rejected in a proper or timely manner or at all, the Buyer shall have the right to repair or replace the Products itself, or arrange for this to be done by a third party at the Supplier's expense.
- 11.12 If inspection and/or testing are performed by an independent body, the results of the inspection and/or testing shall be binding to both Parties. The same applies to reinspection and/or retesting.
- 11.13 The Supplier shall act strictly in accordance with the provisions of Guideline 2001/95/EG of 3 December, 2001, regarding general product safety. If the Supplier has placed unsafe Products on the European market, the Supplier shall, at the Buyer's first request, provide the Buyer with any help, assistance or support it requires.

CLAUSE 12. CONFIDENTIALITY

- 12.1 The Parties shall ensure that any confidential information which they have acquired or has been made known to them is not disclosed to third parties. This does not apply to information and data
- Already in the public domain, or
 - Which has been provided to one or both of the Parties by an independent third party acting in good faith, or
 - Which was already known to the Parties through its own sources, provided the Party in question can prove so, or
 - Which may only be disclosed to certain persons because of statutory regulations.
- 12.2 The Parties shall not be permitted to make public any part of the fulfilment of the Agreement, without the prior written permission of the other Party.

- 12.3 The Parties shall not be permitted to reproduce or disclose to third parties any documents relating to the Agreement, such as drawings, plans or other information, other than is necessary to fulfil the Agreement and only after written approval by the other Party.
- 12.4 Products and/or services which have been developed as a result of collaboration between the Buyer and the Supplier shall not be used for the purposes of third parties.

CLAUSE 13. INDUSTRIAL AND INTELLECTUAL PROPERTY

- 13.1 The Supplier warrants that the use, including the resale, of the Products it has delivered or any auxiliary materials it has used or bought for the benefit of the Buyer, shall not infringe any patent rights, trademark rights, design rights, copyrights or other third-party rights.
- 13.2 The Supplier shall indemnify the Buyer against any third-party claim in respect of Products delivered or to be delivered and shall pay all damages resulting from any such claim.

CLAUSE 14. TRANSFER

- 14.1 The Supplier shall neither wholly nor in part transfer the rights and obligations arising from the Agreement to third parties, without the prior written approval of the Buyer.
- 14.2 The Supplier shall neither wholly nor in part subcontract a third party to fulfil any of its obligations under the Agreement, without the prior written approval of the Buyer.
- 14.3 The Buyer shall have the right to attach conditions to this approval.
- 14.4 In urgent cases and in cases where it must be reasonably assumed, after consulting with the Supplier, that it will not or cannot fulfil its obligations under the Agreement in a timely or proper manner or at all, the Buyer shall be entitled, provided it states its reasons for doing so, to require that the Supplier subcontract a third party to fulfil all or part of the Agreement at its own risk and expense. The foregoing in no way releases the Supplier from its obligations under the Agreement.

CLAUSE 15. LIABILITY

- 15.1 The Supplier shall be liable for any damage suffered by the Buyer or a third party as a result of fulfilling the Agreement, especially if this is due to a defect in the Products delivered or to be delivered, so these Products no longer meet the safety requirements one is entitled to expect.
- 15.2 The Supplier shall be liable for any damage suffered by the Buyer or a third party as a result of actions or negligence on the part of the Supplier, its employees or any party which the Supplier involves in fulfilling the Agreement.
- 15.3 The Supplier shall indemnify the Buyer, all companies affiliated with the Buyer, and all officials, managers and employees involved against loss, damage, costs, liability and expenses (including legal costs and costs related to the recall of Products based on full indemnity), as well as all claims made by third parties based on or as a result of any kind of attributable shortcoming (including, but not limited to, the supply of unsafe products) or wrongful act (including, but not limited to, a wrongful act as a result of negligence) of the Supplier, its employees or third parties engaged by the Buyer in respect of the Agreement.
- 15.4 For the purposes of this clause, employees, managers and auxiliary persons of the Buyer shall be considered third parties.
- 15.5 The provisions in this clause can also be regarded as stipulations within the meaning of Article 6:253 of the Netherlands Civil Code. These stipulations cannot be revoked by the Supplier and shall be made for no consideration with respect to any third party.
- 15.6 The Supplier shall take out adequate insurance to cover the liability as set out in this clause and shall allow the Buyer to inspect the policy document.

CLAUSE 16. RESALE

- 16.1 The Buyer is expressly permitted to sell Products on to its customers, or, if it relates to computer software, transfer rights of use to its customers. The Supplier shall be entitled to supply the Products and shall guarantee that no third party can claim any retention of title.

CLAUSE 17. TERMINATION

- 17.1 The Buyer shall be entitled to dissolve the Agreement prematurely at any time by giving written notice to the Supplier, provided this states the reasons for dissolving the Agreement. Immediately after receipt of this written notice, the Supplier shall discontinue the fulfillment of the Agreement.
- 17.2 The Buyer and the Supplier shall discuss the consequences of the said dissolution. If the Agreement is dissolved as stated in paragraph 1 of this clause while certain Products are already in production, the Buyer shall reimburse the direct material and labour costs at a reasonable cost price, increased by a reasonable supplement for general costs of the Products currently in production, if the Supplier demonstrates that the Products in question cannot be used elsewhere.
- 17.3 If the Supplier fails to perform one or any of its obligations under the Agreement or any subsequent contracts arising from the Agreement in a proper or timely manner, as well as in the event of involuntary liquidation or suspension of payments and in the event of closure, winding-up or a take-over or any comparable situation of the Supplier's company, the Supplier shall be in default ipso jure and the Buyer shall have the right to unilaterally terminate all or part of the Agreement without judicial intervention, by giving written notice to the Supplier and/or suspend all or part of its payment obligations or subcontract third parties to fulfil all or part of the Agreement, without the Buyer being obliged to pay any damages and without prejudice to any other rights that the Buyer is entitled to, including the Buyer's right to full damages.
- 17.4 Any claims on the Supplier which the Buyer may have or receive as a result of the situations set out above shall be immediately due and payable in full.
- 17.5 If the Supplier relies upon a non-attributable shortcoming, the Buyer shall have the right to terminate the Agreement, in accordance with the provisions of this clause.

CLAUSE 18. APPLICABLE LAW AND DISPUTES

- 18.1 The Agreement or any subsequent contracts arising from the Agreement shall be exclusively governed by Dutch law. The Vienna Convention on the International Sale of Goods of 1980 (CISG) shall not apply to these Conditions of Purchase, the Agreement or any subsequent contracts arising from the Agreement.
- 18.2 Any disputes, including any disagreement which only one Party considers to be a dispute, which may arise as a result of the Agreement or any subsequent contracts arising from the Agreement shall, unless they are in conflict with the express requirements of mandatory law, be resolved only by the competent court within the jurisdiction of 's-Gravenhage or in accordance with the Arbitration Rules of the Netherlands Arbitration Institute. The arbitral tribunal shall consist of three arbitrators and the place of arbitration shall be Rotterdam. The arbitral tribunal shall make its award in accordance with the rules of law. The Netherlands Arbitration Institute shall not be allowed to publish the arbitral award.