

## GENERAL TERMS OF CONTRACT/AGREEMENT DUTCH VALVE VISION B.V.

### **1. Application**

- 1.1 The terms and conditions herein stipulated are applicable to and are therefore an integral part of all quotes, special offers, (technical and general) recommendations, processing (or commissioning) of sales-related affairs (in exchange for an agreed upon commission fee), proceedings, performance (or commissioning) of services, sale and supply of hardware or the commissioning thereof, sale and supply of valves and related items or the commissioning thereof (in exchange for an agreed upon commission fee), sale and supply of machines, parts or, where applicable, spare parts (in exchange for an agreed upon commission fee), agreements and the resulting obligations. In cases where slight differences occur from said conditions, all other conditions remain in full effect, even though this will not be specifically stated.
- 1.2 Applicability of the general terms and conditions the buyer relies on is explicitly rejected. Any conditions that differ from the general terms of DVV B.V. will only be binding DVV B.V. if these have been explicitly agreed to beforehand and in writing.
- 1.3 If reference is made to the buyer in these general terms, this is also defined as (co-) contractor, or where appropriate client, customer, buyer or user, or in any case the person or body corporate with whom the agreement has been entered into or will be entered into, and in his place also his representative(s), proxy or proxies, entitled party or parties and/or beneficiaries.
- 1.4 If any provision of these general terms and conditions, or part of a provision, is void or voidable, the remaining provisions or remainder will remain valid without prejudice. The place of the void or voidable (part of) of the provision will be taken by the agreement DVV B.V. and the buyer would have concluded and which is closest to what is statutorily allowed had they known of the defects.

### **2. Special offers/quotes/recommendations**

- 2.1 All special offers will remain valid for the duration of the term specified by DVV B.V.. In cases where the term or duration has not been specified, the special offers of DVV B.V. are free of obligation.
- 2.2 Quotes are free of obligation and based on information provided by the buyer. Technical and/or general advice given by DVV B.V. for the benefit of the buyer shall be charged to the buyer by DVV B.V., unless DVV B.V. states otherwise or when parties decide otherwise in written agreement.
- 2.3 In cases where it is necessary for DVV B.V. to make expenses prior to making estimates, quotes, offers or recommendations, in any way or form, DVV B.V. is entitled to charge these costs to the buyer, also in cases where no agreement has been entered into as yet.
- 2.4 Forwarding of special offers and/or (other) written information does not oblige DVV B.V. to any form of delivery or supply of services.
- 2.5 DVV B.V. reserves the right to reject commissions or where applicable orders, without explanation of terms.
- 2.6 In cases where extra services are rendered above and beyond the original written commission, DVV B.V. reserves the right to charge extra cost to the buyer, in the cases where it has become obvious during operations that the extra services are necessary for a proper execution of the work at hand or in the best interest of the buyer. DVV B.V. will advise buyer of these extra services as soon as possible and will only implement them after receiving permission from the buyer.

### **3. Agreement**

- 3.1 An agreement with DVV B.V. will only be realized in the case that the terms to be stated hereafter are taken into consideration and no earlier than that DVV B.V. has (either in writing or otherwise) accepted a commission and/or an order expressly or de facto, or having confirmed otherwise. The written confirmation of the order on the part of DVV B.V. is expected to be a true and complete reproduction of the agreement, unless the buyer has expressed an immediate written objection within 5 days upon receipt of the order towards the content hereof. In the event that DVV B.V. acts as an intermediary or commercial agent during the establishment of an agreement between the buyer and/or the supplier, an agreement with the supplier will only be considered to be established once the supplier has expressly accepted, respectively confirmed, an assignment/order from the buyer in writing (with a copy to DVV B.V.). The written confirmation of assignment by the supplier is then deemed to be a true and complete reproduction of the agreement, unless the buyer has expressed a written objection towards the content hereof within 5 days after receipt.
- 3.2 In cases where additional or amended terms become applicable after the agreement has become final, and where further appointments with and/or commitments are made by members of staff of DVV B.V. or on behalf of DVV B.V. by members of staff, vendors, agents, representatives or other intermediaries DVV B.V., these shall only become binding for DVV B.V. after they have been confirmed in writing by DVV B.V.
- 3.3 In case of transactions that do not warrant sending a quote or an order confirmation due to their nature or volume, the invoice (settlement of accounts) is deemed sufficient as a means of representing the agreement truly and fully, with the exception of written claims on behalf of the buyer ultimately within eight workdays.

### **4. Prices**

- 4.1 All prices as declared by DVV B.V. are after tax, thus excluding any turnover tax mandatory by statutory law or other governmental duties and also excluding any additional cost for packing, shipping and insurances.
- 4.2 All estimates are made under the restriction that they may be subject to change(s) in price, unless otherwise stated.
- 4.3 DVV B.V. is entitled to increase the agreed price(s), without granting the right to the buyer to nullify the agreement for this reason, or where applicable to invoke whole or partial dissolution of the agreement, in and so far the case where the factors that determine the prime cost of DVV B.V. and/or third party suppliers, increase in an unforeseen manner after the agreement has been made final. This also applies in cases where these circumstances can be anticipated, but are nonetheless in all reasonability accountable to the buyer. The aforementioned circumstances include amongst others (but are not restricted to) cost increase due to the rate of exchange, increase in salaries, increase of cost price, increase of import duties, turnover tax and or consumer tax and an increase of prices by the suppliers of DVV B.V.

### **5. Security of payment**

- 5.1 DVV B.V. reserves the right to request a security of payment to the amount of a minimum of 30% of the agreed price (sum total) in the form of a cash advance when an agreement is entered into.
- 5.2 Furthermore DVV B.V. reserves the right to request of the buyer that he arranges a guarantee to sufficiently cover the buyers financial obligations towards DVV B.V. in a fashion that provides suitable collateral to DVV B.V., for example in the form of a bank guarantee and/or deposit.

### **6. Payments**

- 6.1 DVV B.V. has the choice to ask either immediate payment by transfer of funds, pre-payment or net payment in cash or by payment within the time frame mentioned in the terms of payment as stated on the invoice of DVV B.V., or by depositing the amount into a (bank) account as designated by DVV B.V..
- 6.2 DVV B.V. reserves the right to suspend execution of obligations from the agreement as well as refuse execution of orders in cases where the buyer has not fulfilled his obligation of payments as agreed. Such refusal or suspension shall never be interpreted as dissolution of the agreement, other than in cases where DVV B.V. chooses to make such an appeal. Such refusal or suspension on the part of DVV B.V. shall never be the grounds for the buyer to suspend his obligations from the agreement, as well as for dissolution of the agreement.
- 6.3 All payments made to DVV B.V. by buyer will firstly be applied towards covering the (non-legal) costs concerning (full) payment of one or more (partially) unpaid invoices, secondly to cover the penalty interest concerning one or more (partially) unpaid invoices, and lastly to cover the oldest unpaid invoices of the buyer and the current interest, regardless of any condition stating otherwise.
- 6.4 An appeal to subtract cost, or where applicable reduction or comparison of debt obligation or where applicable settlement of accounts will never be granted to the buyer and the buyer hereby explicitly renounces this right.
- 6.5 Deviations from these terms of payments only become binding when they have been agreed to in writing.
- 6.6 Claims concerning a single item on an itemized invoice can never exempt buyer from his obligation to pay the other specified items on that invoice within the time frame of the terms of payment.
- 6.7 The buyer is automatically considered to be in default when the term of payment expires, without summons or serving notice upon the debtor.
- 6.8 In cases where the invoice remains partially or fully unpaid within aforementioned terms and after the invoice date, the buyer is due the legal rate of interest augmented by 2% per annum over the sum total.
- 6.9 In cases where (non)legal recovery or efforts thereto are made, the buyer is due, on top of the sum total, interest and seizure cost, collection charges to the amount of 15% of the outstanding sum total, with a minimum of € 200,- (excluding V.A.T.). The obligation to settle these costs is a mandatory completion of the process of summation by a third party debt collector.
7. **Limitation of ownership**
- 7.1 Without prejudice to the other provisions made in these general terms, all articles supplied by DVV B.V. shall remain property of DVV B.V., until which time the account receivable by DVV B.V. has been settled, within the scope of article #92 of the Dutch Civilian Law Code, in any case at all and notwithstanding the right of this claim, including interest and cost and in those cases where delivery was made under the conditions of a running account, the delivery of articles will be considered final only after full settlement of the account receivable owed rightfully to DVV B.V. Before the full settlement of accounts has been achieved or granted, the buyer has no right to pledge or mortgage said articles, nor to transfer the right of ownership of said articles to third parties other than under the conditions of normal operational management. DVV B.V. has the right to reclaim or

repossess (by third party) all the articles which have been delivered, from the place where these are located, without needing any authorization from the buyer or the authorized judiciary agencies. At which time all claims have become immediately and fully due.

7.2 Repossessions as stated in this article do not diminish the right that DVV B.V. has to (full) compensation of damages, in accordance with the rules that apply to a fault in liability while honoring an agreement.

7.3 It is mandatory for the buyer to place under insurance and treat all merchandise/articles, as defined under this limitation of ownership, as meticulously as can be considered appropriate by a good tradesman, and when DVV B.V. so demands proof of insurance is to be offered by the buyer.

7.4 All claims that the buyer holds towards the designated insurance company covering the merchandise/articles under aforementioned insurance shall be pledged/mortgaged to DVV B.V. at the time that DVV B.V. so wishes, as defined in article 3:23 of the Dutch Civilian Law Code, to further ensure coverage of the outstanding sum total to be made payable to DVV B.V. by the buyer.

### **8. Delivery/time frame of delivery**

- 8.1 Unless otherwise specifically agreed, all deliveries shall originate from the company/store/warehouse of DVV B.V. or the supplier hired by DVV B.V.. Once the merchandise/articles leave the company/store/warehouse of DVV B.V. – or, in the event of direct delivery – the goods/items leave the company/store/warehouse of the supplier, all risks transfer immediately to the buyer. Free delivery is only applicable if and when this has been confirmed by DVV B.V. or the supplier and stated on the order confirmation/invoice or in any other fashion.
- 8.2 The buyer is required to thoroughly check the delivered articles/goods as well as the packaging, for shortages, damaging and/or other imperfections, directly upon receipt, or to proceed with this check after DVV B.V. or the supplier has confirmed that the articles/goods are at the disposal of the buyer.
- 8.3 Slight deviations in the delivered articles, for example slight differences in coloration, can not be used as grounds for the buyer to dissolve the agreement nor do they give the right to any compensation of damages.
- 8.4 In cases where the buyer detects shortages, damaging and/or imperfections of the delivered articles/goods, the buyer is required to report this to DVV B.V. in writing immediately, as well as noting these comments on the delivery slip or the invoice or, where applicable, on the shipping documents. In cases where shortcomings have not been correctly recorded in writing as mentioned, claims shall not be taken into further consideration. In such cases the paperwork and information from DVV B.V. will be deemed applicable.
- 8.5 Unless otherwise agreed, invoices considering all delivered articles/goods will be issued to the buyer once monthly or directly following delivery by DVV B.V. – or insofar this has been agreed upon by the parties – by the supplier.
- 8.6 DVV B.V. or – insofar this has been agreed upon by the parties – the supplier reserves the right to divide the deliveries and/or the invoices into installments.
- 8.7 If the buyer does not conform to or does not take timely action concerning any of his standing obligations to DVV B.V. and/or the supplier, or where there is reasonable doubt that the buyer will be able to honor his contractual obligation towards DVV B.V. and/or the supplier, DVV B.V. reserves the right, without serving notice or using the intervention of a judge, to either suspend execution of any agreement with the buyer, demand supplementary security, or to have the agreement fully or partially (non) legally annulled (by a third party), in such a manner that DVV B.V. shall be excluded from any obligation to compensate losses, but all her other rights shall remain in full force.
- 8.8 Times and terms of delivery should always be considered as rough indications and are not considered binding or fatal, unless otherwise confirmed in writing. DVV B.V. accepts the obligation to conform to the agreed time of delivery as much as is reasonably possible and to encourage third parties involved to do so as well. Exceeding the time of delivery will never grant the buyer the right to annul the order (fully or partially), to dissolve the agreement (non legally) or by third parties, to demand compensation of damages, or to not comply with one or more of the stipulations which stem from the agreement.
- 8.9 Only in cases where the agreement clearly stipulates a date of delivery that may not be exceeded, where the date of delivery forms an essential component of the agreement (deadline) and this had been confirmed in writing, the buyer has the right to dissolve the agreement when the delivery date has been exceeded. Annulment or, where applicable, dissolution of the agreement on the grounds of the stipulation in this article shall never be grounds for the buyer to claim compensation of damages, directly or indirectly, regardless how these have been incurred.
- 8.10 In cases where the articles/goods have not been claimed by the buyer before the time of delivery has expired, these articles/goods will remain available to the buyer and will be held in storage. The costs and risks concerned with this storage are accountable to the buyer. After a period of four weeks, DVV B.V. has the right to (privately) sell of the articles/goods and any financial losses or costs incurred stemming from this sale are fully accountable to the buyer.
9. **Transportation and risks**
- 9.1 DVV B.V. has the right to determine the form of transportation, shipment and or packaging without assuming responsibility herein without assuming responsibility herein when it is clear or can be assumed that careful consideration was taken by DVV B.V. while making this choice.
- 9.2 Transportation of articles/goods shall always be executed under responsibility and at the risk of the buyer, also in cases where the carrier enforces that the clause is applicable and printed on the bill of carriage, transport addresses, etc. which states that the risk and responsibility of damages incurred during transportation reside with the sender.
- 9.3 In cases where delivery is free of charge, the transportation fees will not be charged to the buyer.
- 9.4 In cases where transportation insurance is needed, this will be arranged by the buyer, unless explicitly agreed otherwise in writing.
10. **Force majeure**
- 10.1 Force majeure is defined as any circumstance that is completely independent from the will of the involved parties, or, where applicable, unforeseen event, which makes it impossible to reasonably demand any further compliance of the agreement.
- 10.2 In the addition to the abovementioned force majeure is (also) defined as:
- malfunctions in the operations of DVV B.V., obstacles that interfere with the proper execution of the agreement, or make it more expensive and/or troublesome;
  - calling of a strike by employees or illness and/or accidents suffered by employees who are responsible for the execution of the commission;
  - obstruction by any possible means of the supplier(s) of DVV B.V., from whom DVV B.V. obtains the articles/goods;
  - war, perils of war, insurrection, natural disasters, fire, obstructions in transportation, government measures that have influence on the execution of the commission, as well as any other unforeseen event in the operations of DVV B.V. and/or in the companies that supply DVV B.V. with its articles/goods, that are directly connected to this specific commission;
  - delayed or incorrect deliveries of any possible origin of articles/good that have been ordered by DVV B.V. in a timely and correct fashion.
- 10.3 In case of force majeure the buyer will grant DVV B.V. an additional period of one month to honor her obligations after the original deadline for the delivery of the articles/goods. If the cause of force majeure persists, DVV B.V. reserves the right to demand an alteration in the commission so that this will ensure the possibility for proper execution. If DVV B.V. decides that this proper execution has become impossible to realize in all reasonable consideration, both parties have the right to (non legally) dissolve (by third party) the agreement. The declaration of annulment has to be made in writing to the other party. In cases of annulment under the circumstances of force majeure as stipulated by this article, neither of the parties is entitled to any (consequential) claims of damages towards each other. The buyer does have the obligation to reimburse DVV B.V. for all work that has been completed or costs that have been incurred up until the situation caused by the force majeure.
- 10.4 DVV B.V. also reserves the right to declare force majeure applicable in cases where the cause of force majeure reveals itself after fulfillment of contractual obligations on the side of DVV B.V. should have been completed.

### **11. Setting up hardware /software/acceptance**

- 11.1 Setting up the (sold) hardware and/or software is not included in the price and can be billed separately by DVV B.V.. Only in the case where this has been expressly agreed to in writing by both parties, DVV B.V. can be obligated to setting up.
- 11.2 The setting up of hardware and/or software is presumed to be possible under normal working conditions and during the generally acceptable working hours that apply to DVV B.V.. If these activities need to happen partly or fully outside normal working hours, DVV B.V. will bill the additional cost to the buyer.
- 11.3 The buyer will assume responsibility for the construction of the required electrical installations and cables leading to and joining with the hardware, as well as the cables and equipment that connect the terminals with the central unit of the system (terminal cables, modems, line drivers, etc.), unless otherwise explicitly agreed to in writing.
- 11.4 DVV B.V. does not accept any responsibility for personal injury to persons, damages to buildings, installations and/or other goods, as well as for damage that might result from direct or indirect actions or lack of actions on

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- the part of DVV B.V., her employees, or any other persons that have been contracted into employment by or through DVV B.V., other than in cases where negligence or harmful intent are apparent.
- 11.5 The buyer has the responsibility to provide a space that offers a fitting environment to install the hardware according to the specifications stipulated for that installation.
- 11.6 In the case that information needed for the correct execution of the agreement is not offered to DVV B.V. in a timely fashion or in any way contrary to the agreed terms, or if the buyer does not honor his obligations in any other way, DVV B.V. at least has the right to postpone the execution of the agreement and also is justified to bill the resulting cost to the buyer in accordance with normal rates for services rendered by DVV B.V..
- 11.7 In cases where employees of DVV B.V. are required to work on site for the buyer, the buyer will arrange proper facilities for these employees free of charge, such as - where applicable - a working space with telecommunication facilities, etc. The buyer will safeguard DVV B.V. for any claims of third parties, including employees of DVV B.V., who may incur damages as a result of the execution of the agreement that are the result of actions taken by or refrained from by the buyer or from unsafe circumstances within the organization of the buyer.
- 11.8 If the hardware is to be installed in a space that does not meet the required specifications as demanded by DVV B.V., the resulting extra cost of making this space useable and ready for operations will be carried by the buyer. The spaces that are designated for installation of the hardware must be prepared and ready at least seven days before the deadline for delivery.
- 11.9 DVV B.V. reserves the right to deliver the hardware and/or software in installments and to bill the cost for that part of the purchase to the buyer.
- 11.10 After the set up DVV B.V. will run tests with the hardware and/or software. If this test as well as functional inspection have shown that the hardware is running smoothly as expected, the hardware shall be considered delivered.
- 11.11 If the buyer has also bought system software (programming) from DVV B.V., then this software will be delivered and implemented by DVV B.V. after the delivery of the hardware is concluded. This does not alter the content as stipulated of paragraph 1 of this article.
- 11.12 If the buyer does not agree with the delivery of the hardware and/or software, he must inform DVV B.V. within three days of this fact in writing directly upon delivery. If the buyer has not accepted the hardware /software, the buyer has no right to use the hardware/software for any business operations.
- 12. Intellectual ownership rights**
- 12.1 Unless otherwise explicitly agreed to between parties, the ownership and all copyrights as well as any other right of intellectual ownership, industrial ownership or any other such right, including rights to ensure protection of databases, information and/or accomplishments of the computer software developed and/or made available by DVV B.V., will always reside with DVV B.V.. Where this article 12 is applicable DVV B.V. also stands for any third party who has acquired a license to use the software as aforementioned. The buyer acknowledges these rights and will refrain from any (in)direct infringement upon these rights. If it comes to the attention of the buyer that third parties are violating the aforementioned rights, they are obligated to communicate this to DVV B.V. immediately.
- 12.2 The buyer is only licensed to use the software placed at their disposal for the ends that were agreed to in writing by DVV B.V. This buyer right cannot be transferred to a third party.
- 12.3 The buyer is not allowed to copy, multiply, publish and/or decompile the software and or manuals which were made available to him. The buyer is not allowed to change or remove any trademarks, branding or statements of rights as aforementioned that are visible on or in the delivered articles or manuals that identify these as originating from DVV B.V. or other third parties.
- 12.4 If a violation of the stipulations in paragraph 1 to 3 of this article takes place, the buyer instantly, without being served notice, incurs a penalty fine to the amount of € 10.000,- for each violation, as well as € 10.000,- for each day or daily period (for example a morning) being counted as one day, for the duration of said violation claimable by DVV B.V.. The stipulation as formulated in the last sentence does not alter the right to full compensation of damages towards DVV B.V., under the rules that apply to a fault in liability while honoring an agreement.
- 12.5 Under the condition that DVV B.V. is immediately informed, though no later than three days after being informed by written statement of each proceeding (or steps leading up to a proceeding) launched against the buyer because of an infringement upon a Dutch patent or copyright or rights relating to the compilation or method of production of print boards or hardware and/or software, caused by use and/or sale of hardware, software or manuals produced and delivered by DVV B.V. under the stipulations of these general terms of agreement, DVV B.V. carry the cost of defence or retaining legal representation concerning this claim and will pay any compensation that legally fall to the buyer, but under the strict stipulation that the forwarding of defence, including all negotiations concerning a probable settlement, will be completely left up to DVV B.V. Through forwarding a defence or accepting a settlement DVV B.V. will:
- a. either, acquire the right for the buyer to continue the use of the hardware, software and manuals;
- b. or, replace or alter the hardware, software or manuals in a fitting manner which no longer constitutes an infringement;
- c. or, in the case that neither of the aforementioned two conditions can be realized, the hardware, software and manuals will be taken back, and an amount that equals the value of the product at hand will be credited into the account of the buyer, taking into consideration a devaluation (depreciation) according to generally acceptable standards..
- 12.6 Under no circumstance is DVV B.V. to be held accountable towards the buyer for the consequences of an infringement upon a patent or copyright, in cases where this infringement originates from or is based upon the use of hardware, software or manuals combined with other products including software that were not delivered by DVV B.V.
- 12.7 Furthermore DVV B.V. in no form or way accepts responsibility for the violations of, embezzlement of and/or infringement upon intellectual rights of ownership. As well as taking no responsibilities whatsoever for additional or consequential loss.
- 13. Software/user license**
- 13.1 The only rights that are granted to the buyer are a license for use of the software, by explicit permission in writing of a non transferable and non-exclusive license granted by DVV B.V.
- 13.2 Only when DVV B.V. has accepted an order for a license from a buyer, will this license be granted to the buyer under conditions as stipulated by DVV B.V., in the cases where these conditions have not already been stipulated under the general terms of agreement.
- 13.3 Without the explicit written consent of DVV B.V. the buyer is not allowed to fully or partially copy the software (or have it copied by third parties), transfer, or to (permit) use by third parties.
- 13.4 If a violation of the stipulations in the above paragraph of this article takes place the buyer instantly, without being served notice, incurs a penalty fine to the amount of € 5.000,- for each violation, as well as € 5.000,- for each day or daily period (for example a morning) being counted as one day, for the duration of said violation claimable by DVV B.V.. The stipulation as formulated in the last sentence does not alter the right to full compensation of damages towards DVV B.V., under the rules that apply to a fault in liability while honoring an agreement.
- 13.5 Only after explicit written consent from DVV B.V. the buyer is allowed to merge the original software with other software, or to alter the original software (or have it altered) or where applicable to adjust (or have adjusted). Any part of the software that is altered or merged will remain subject to the general contract terms under consideration.
- 13.6 Only after explicit written consent from DVV B.V. the buyer is allowed to offer the software to third parties in any form or fashion. The testing of the delivered goods that is offered to the buyer is personal and non exclusive and may not be transferred without explicit written consent by DVV B.V..
- 13.7 DVV B.V. will not grant ownership rights to any software of any parts thereof to buyer or any third parties, unless otherwise explicitly agreed to in writing.
- 13.8 The buyer will not decompile or disassemble the software. Furthermore the buyer will not analyze or research the software in any manner to expose the structures that form its' foundation. This last stipulation also applies to software in any form, including software that is tied into hardware or firmware.
- 13.9 If a violation of the stipulations in paragraphs 5, 6 and/or 8 of this article takes place the buyer instantly, without being served notice, incurs a penalty fine to the amount of € 5.000,- for each violation, as well as € 5.000,- for each day or daily period (for example a morning) being counted as one day, for the duration of said violation claimable by DVV B.V.. The stipulation as formulated in the last sentence does not alter the right to full compensation of damages towards DVV B.V., under the rules that apply to a fault in liability while honoring an agreement.
- 13.10 The acceptance of an order by DVV B.V. by means of a written confirmation only warrants the license for a single version of the software. Licenses for use of later versions will be granted by DVV B.V. after receipt of orders specifically concerning later versions and written acceptance thereof by DVV B.V.
- 13.11 To the extent that a license can be established upon source code software, such a license can only be established by separate written agreement between parties.
- 13.12 DVV B.V. reserves the right to end all licenses to software use without judicial intervention, or to not accept or process software orders in cases where the buyer does not partially or fully honor his obligations as stipulated in these general terms of agreement, and where a situation as stated above perpetuates beyond a period of four days following a written report sent by DVV B.V. to buyer. Termination of the license, on the part of DVV B.V. or the buyer, will apply to all versions of the software that the license applied to.
- 13.13 Before the date that the license becomes invalid, and in the case where the license is terminated by DVV B.V., the buyer will return all supplied declarations of licensing to DVV B.V., as well as destroying all copies of all versions of the software that he is holding, and shall remove and destroy all parts of any versions of the software from alterations that the buyer has made himself, as well as provide a written declaration that all software including any copies in existence and/or parts thereof have been returned to DVV B.V. or where applicable have been destroyed.
- 14. Maintenance materials**
- 14.1 All of the material - also including diagnostic software, manuals, (testing) equipment, schematics, application tools - that are utilized by DVV B.V. for the set up or work under guarantee, may possibly be made available together with other articles/goods or be kept on site by buyer, these materials will always remain the property of DVV B.V. and DVV B.V. will not transfer ownership or user rights for these materials. Buyer declares that he will store these materials properly and free of charge and also agree to not use them or offer them in any way to third parties, without explicit prior written permission from DVV B.V.
- 15. Export**
- 15.1 Regardless of any stipulation stating otherwise within these terms of agreement, the products, software or technical information in any form can only be delivered to the buyer after the proper export licenses have been issued.
- 16. Claims/warranty**
- 16.1 Claims concerning any invoices, should be submitted in writing to DVV B.V. within 14 days after the date of invoice, and contain a sufficient explanation, failure to comply will result in loss of the buyers right to any claim.
- 16.2 Regarding the terms stipulated hereafter DVV B.V. guarantees that the articles/goods and/or services as delivered by DVV B.V. are sound and of a quality that in all fairness can be considered to be satisfactory for articles/goods of the nature of the delivered articles/goods in all cases for a maximum period of one month after delivery date, as well as that the delivered articles/goods shall not infringe upon intellectual or industrial ownership rights of third parties existing in The Netherlands.
- 16.3 Warranty concerning articles/goods and services that DVV B.V. has obtained from third parties, needed for the realization of the agreement with the buyer, will not exceed the terms of guarantee as extended by said third party.
- 16.4 Defects that originate from any actions taken or from failure to comply with or comply in an untimely fashion with obligations by the buyer or third parties, or any external factors that DVV B.V. in all fairness can not be held accountable for, will not be covered by the warranty as given by DVV B.V.
- 16.5 If the buyer appeals to a warranty claim, can reserves the right to inspect the delivered or installed articles, to judge if the appeal is justified or not. If DVV B.V. decides that the warranty claim is justified, then DVV B.V. will reimburse buyer for an amount that will never exceed the amount that was billed or paid for the articles/goods, or shall repair or have the articles that were delivered or installed repaired, or will take back and replace them by sound specimens or where applicable equivalent articles/goods that do not infringe upon intellectual or industrial ownership rights of third parties, choice of the solution at the discretion of DVV B.V.
- 16.6 Warranty will not apply to faults to delivered and/or installed goods, where this originates from wear and tear, negligence, any cause of damage that arises after DVV B.V. has concluded its' part of the operation or changes made or work done by anyone other than DVV B.V.
- 16.7 Any appeal to a warranty claim should be made to DVV B.V. as soon as possible, but in any case no later than one month after delivery and/or set up, in writing and containing a sufficient explanation. Failure to comply to the above will result in loss of the buyers right to any claim.
- 17. Liabilities**
- 17.1 DVV B.V. accepts no liability resulting from inaccurate information and/or advice given by employees of DVV B.V., as well as errors and/or flaws that appear in hardware, software originating from third parties, flyers, brochures and/or advertising material.
- 17.2 Other than the stipulations of imperative law concerning (product) liability DVV B.V. is not obligated to cover any damages, of any nature, directly or indirectly, including loss of profits pertaining to moveable or real estate properties, whether to individuals, as well as to the buyer or to third parties. DVV B.V. is not liable for (consequential) damages in any case when these originate from or are caused by application of the delivered articles be this in competent or incompetent hands, or by using it in a manner that does not comply with the purpose which it was purchased for.
- 17.3 In the case where DVV B.V. is legally found to be responsible, for any possible reason, the liability for DVV B.V. is always limited to an amount that equals the sum total of the invoice of the delivered articles/goods or where applicable services rendered that the liability is based upon.
- 17.4 Contrary to the stipulation in paragraph 3 of this article, in cases where agreements are concerned that have an execution time that passes six months, the liability will be limited to the maximum amount of the invoices due concerning the services rendered in the most recent six months leading up to the liability issue.
- 17.5 The buyer is obligated to protect DVV B.V. from all claims of third parties, by any name and based on any grounds.
- 17.6 Any claim to damages or restitution will become void if these claims are not made before or at the latest on the day of delivery, or otherwise on the expiration date of the period that warrants claims.
- 18. Miscellaneous**
- 18.1 The products delivered by DVV B.V. are for the sole purpose of standard commercial use. DVV B.V. reserves the right to demand supplementary contractual securities, in cases where the buyer wishes to apply the delivered goods to an alternative sphere of use or where applicable wishes to give it another function.
- 18.2 The rights and obligations of the buyer stipulated in the terms of contracts and agreements that fall under these general terms of agreement, are not transferable by the buyer, other than when explicit written permission from DVV B.V. has been obtained beforehand.
- 18.3 The buyer shall refrain from recruiting or trying to recruit employees or associates of DVV B.V. that are connected to the execution of the performance that is required by this agreement, without written permission from DVV B.V., or otherwise incurs a penalty fine directly claimable by DVV B.V. of € 50.000,- per employee or where applicable associate, without altering the right to demand full compensation of damages towards DVV B.V.
- 18.4 The model and/or sample that is presented and/or supplied to the buyer can only be considered to be an indication of the final product, unless it has been explicitly agreed to in writing that the final product will be in exact conformity thereto.
- 18.5 The buyer guarantees that any data carries, electronic files, software, etc. that are provided to DVV B.V. are free of viruses and defects.
- 18.6 In cases where the agreement is entered into with the work to be performed by a specific person, DVV B.V. reserves the right to replace this person by one or more persons with the same qualifications.
- 19. Applicable law**
- 19.1 All offers, recommendations, work done or where applicable services rendered, agreements and the execution thereof by DVV B.V. are all exclusively subject to the laws under the legal system of the Netherlands.
- 20. Disputes**
- 20.1 Any disputes - including disputes to the interpretation of these general contract terms - shall be exclusively judged by the authorized Judge in 's-Gravenhage (The Hague), unless DVV B.V. chooses to accept the Judge that is appointed by law. The stipulations in this article are not applicable in the case where the regional magistrate is the authorized judge (above all others).
- 21. Translation**
- 21.1 If there is an English version as well as a Dutch one of these general terms and conditions, the Dutch version will be binding if a dispute arises regarding the content or intention.
- Den Haag, maart 2016**