

ENERGETIC NV - GENERAL TERMS AND CONDITIONS FOR PURCHASE

1. ACKNOWLEDGMENT/EFFECT OF ADDITIONAL GENERAL TERMS

- 1.1. Except to the extent specifically set forth in a purchase order (each, a "Purchase Order," and collectively the "Purchase Orders") issued by Energetic nv ("Energetic") to the party identified as Seller, Supplier or Vendor ("Seller") on the face of a Purchase Order, the Purchase Order incorporates, and is made expressly subject to, the terms and conditions contained herein, and any of Seller's terms in addition to or different from those contained herein, whether contained in an acknowledgment, invoice or other business form of Seller, are hereby objected to and shall be of no effect.
- 1.2. These terms and conditions may only be waived, altered or modified by a written agreement signed by a legal representative of Energetic. Shipment of goods in response to a Purchase Order constitutes acceptance of the terms and conditions set forth herein and in the Purchase Order.
- 1.3. In no event shall limitations of liability clauses of whatever nature contained in Seller's forms become effective unless approved in writing by a legal representative of Energetic.

2. WARRANTY

- 2.1 All materials, equipment, and services (collectively "goods") furnished on the Purchase Order shall be of good quality and subject to Energetic's inspection and approval. Title to the goods shall not pass until delivered to and inspected and accepted by Energetic. In addition to any other provision of this order, Seller (a) warrants that all goods sold herewith will conform to any applicable designs, specifications, drawings, samples or other technical descriptions, will be merchantable, fit and sufficient for the purpose intended, will be free from defects in materials and workmanship, that all services shall be performed in accordance with current, sound and generally accepted industry practices and in a skilful and professional manner, and that unless accepted or directed by Energetic, all materials shall be new, and (b) agrees to repair or replace promptly to the satisfaction of and without cost to Energetic any goods which shall become defective within one year after acceptance by Energetic, and failure to inspect or complete work not in accordance with specifications shall not relieve Seller from correcting all such work at its own expense.
- 2.2 The foregoing warranties shall survive delivery and inspection, acceptance or payment by Energetic and shall together with Seller's services guarantees, if any, run in favour of and inure to the benefit of Energetic and its customer and their respective successors and assigns. Seller's agreement to repair or replace defective goods is in addition to all other remedies available to Energetic at law or in equity.
- 2.3 No substitutions of goods may be made without the written consent of Energetic.

3. PRICES

- 3.1. Net prices shall not exceed those appearing on the Purchase Order.
- 3.2. There is no charge for packing, boxing, crating or drayage other than may be specified herein, or otherwise agreed to in writing by an authorized representative of Energetic.
- 3.3. No charges for extras will be allowed unless they been ordered in writing by Energetic and the price agreed upon.
- 3.4. Except as may be otherwise provided in the Purchase Order, the contract price shall include all applicable taxes of any kind in effect on the contract date.
- 3.5. If Seller sells to another comparable customer at lower net prices than offered herein, Seller agrees to make such prices immediately available to Energetic. Prices shall be adjusted to any lower quotation from other suppliers or to any lower price prevailing on the date of shipment.
- 3.6. If not otherwise specified in the Purchase Order, payment terms are net 30 days from date of invoice.

4. SHIPMENT/RISK OF LOSS

- 4.1. No allowance will be made for packing, cartage or crating charges unless stated in the Purchase Order, but damage to any goods not packed to insure proper protection would be adequate grounds for rejection.
- 4.2. All goods must be shipped in sufficient time to ensure complete on-time delivery compliance.
- 4.3. Risk of all loss or damage to the materials specified shall remain upon Seller until delivery and acceptance by Energetic and thereafter in the event Energetic shall be entitled to revoke such acceptance.

5. FORCE MAJEURE

- 5.1. Neither Energetic nor Seller shall be liable in damages for delay in delivery due to any cause beyond its control or without its fault or negligence.
- 5.2. Neither party shall be liable to the other and this Purchase Order shall remain unaffected except that Energetic at its option may elect either to have the quantities so affected eliminated provided such delay in delivery shall exceed a period of fourteen (14) days from the promised date or to extend the period for delivery of the quantities so affected by the period that the effects thereof persists.
- 5.3. Variations in the costs of raw materials or other costs or expenses of Seller's production shall not qualify as force majeure.

6. PATENT, TRADEMARK AND COPYRIGHT INDEMNITY

- 6.1. Seller agrees to indemnify and hold harmless Energetic, its successors, assigns, affiliates, directors, officers, employees and/or its customers from and against any and all expenses, costs, liabilities, claims, demands, actions, damages or other losses (including without limitation, attorney's and other professional fees) arising from or by reason of, directly or indirectly, in whole or in part, any actual or claimed infringement of patents, trademarks, or copyrights with respect to the equipment, materials or services furnished hereunder by Seller, and further agrees to defend any action or actions brought against Energetic, its successors, assigns, affiliates, directors, officers and/or employees because of any such infringement.

7. RESPONSIBILITY FOR LOSS OR DAMAGE

- 7.1. Seller shall be responsible for loss of, or damage to any chattels, materials, machinery or equipment upon which services are to be performed by Seller, while in the possession or control of Seller, however such loss or damage shall occur.

8. ASSIGNMENT AND DELEGATION

- 8.1. No right or interest in this Purchase Order may be assigned by Seller without the written permission of Energetic, and no delegation of any obligation or of the performance of any obligation by Seller shall be made with the written permission of Energetic. Any attempted assignment or delegation shall be void for all purposes unless made in conformity with this paragraph.

9. INSPECTION

- 9.1. Energetic shall have the right to inspect the goods covered by this Purchase Order at any reasonable time during its progress, and for a reasonable time after delivery.
- 9.2. Any such inspection shall not relieve Seller of its responsibility under any of its warranties (expressed or implied) hereunder.
- 9.3. In case any goods are determined to be defective in material, workmanship, or design (if item is of Seller's specification), or otherwise fail to meet the requirements of this Purchase Order, Energetic shall have the right to reject and return the items at Seller's expense, unless Seller shall in writing direct Energetic to scrap such items at destination or Energetic's place of business. Energetic, at its option, may cancel this Purchase Order as to all such defective goods, and, in addition may cancel the then remaining balance of this Purchase Order, Energetic reserving in either or both cases of cancellation all other legal rights and remedies available to it because of such failure to perform.

10. PERFORMANCE DOCUMENTS

- 10.1. Seller shall make available to Energetic any plans, execution drawings, technical calculations and other papers and documents relating to the goods to the extent that Energetic requires such papers and documents for the use, maintenance or repair of the goods or to the extent this has been agreed by the parties.
- 10.2. Upon request, Seller shall also deliver replacement part drawings together with sufficient information to enable us to obtain replacement parts. Title to such papers, documents and drawings shall pass to Energetic upon delivery thereof.
- 10.3. Furthermore, Seller shall make available for inspection by Energetic all and any papers and documents relating to the goods (even prior to delivery of the goods) where this is necessary to enable Energetic to monitor and verify the proper condition and quality of the goods in accordance with the contract; Energetic's approval of any such papers and documents shall not be construed so as to release Seller from Seller's responsibility for the proper condition and quality of the goods in accordance with the contract, except where Energetic insists on its desired design despite Seller's concerns having been communicated to Energetic in writing.

11. INDEMNIFICATION

- 11.1. Seller hereby indemnifies and holds harmless Energetic and its affiliates, officers, directors, employees and agents, and their respective successors and assigns, from and against the entire and full responsibility and liability for any penalties and for any and all penalties, claims, damages, injury, loss and expense of any kind or nature whatsoever (including, without limitation attorney's fees and expenses of litigation) to all persons or entities (including, but not limited to, the employees of Energetic, of Seller and/or any sub-contractor), and to all property, arising out of or in any manner resulting from the provision of the goods provided for in this Purchase Order and work incidental thereto, or occurring in connection therewith, whether the same arises from the condition of the premises or the equipment, from the services rendered hereunder or from negligence or whether under statute, regulation or rule or otherwise, and even though such damages, injury, loss or expense are attributable to the joint, concurrent or contributory negligence of any indemnified person.

12. APPLICABLE LAW

- 12.1. This Purchase Order shall be governed by the Belgium law in effect in Ghent on the date hereof.
- 12.2. In the event of a breach of any of the Terms and Conditions of this Purchase Order by Seller, Energetic shall be entitled to all remedies available under the this law, in addition to any other remedies available at law or in equity.
- 12.3. The courts located in Belgium, Ghent shall have non-exclusive jurisdiction and venue over all controversies in connection herewith, and Seller hereby consents to such jurisdiction and venue.

13. INTEGRATION

- 13.1. This Purchase Order, and any documents referred to herein, supersedes all prior understandings, transactions and communications, whether oral or written, with respect to the materials referred to herein and from the complete contract between the Energetic and Seller.
- 13.2. No modification, alteration or amendment of this order shall be binding upon Energetic unless in writing and signed by Energetic's legal representative.

14. SET-OFF

- 14.1. Energetic shall be entitled to set-off any amount owed at any time from Seller or any affiliate of Seller against any account payable at any time by Energetic in connection with this Purchase Order.
- 14.2. Seller shall have the right to set-off with any counterclaim only if such counterclaim is either undisputed or is the subject of a final, non-appealable order of a court of competent jurisdiction.

15. INSOLVENCY

- 15.1. In the event of any proceeding by or against Seller in bankruptcy, reorganization or insolvency or for the appointment of receiver or any assignment for the benefits of creditors, Energetic may terminate this Purchase Order without further liability except for confirming and paying for deliveries previously made and accepted.

16. LIMITATION ON ENERGETICS' LIABILITY – STATUTE OF LIMITATIONS

- 16.1. In no event shall Energetic be liable for anticipated profits or for incidental or consequential damages, which are hereby waived. Energetics' liability on any claims of any kind for any loss or damage arising out of or in connection with or resulting from this Purchase Order or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services which gives rise to the claim.
- 16.2. Energetic shall not be liable for penalties of any description.
- 16.3. Any action resulting from any breach on the part of Energetic as to the goods or services delivered hereunder must be commenced within one year after the cause of action has accrued.

17. CONFIDENTIALITY

- 17.1. Seller may not disclose to any third party, or use to the detriment of Energetic, the existence or details of any Purchase Order, these terms and conditions or any agreement or arrangement with Energetic, or any information Seller receives or learns about Energetic in connection with or as a result of a Purchase Order, except as is necessary to perform a Purchase Order.
- 17.2. Energetic electronically stores and processes the data of Seller and any involved third party to the extent necessary or helpful for due and proper performance of the contract.

18. SUSPENSION/TERMINATION

- 18.1. Suspension
The Purchaser may, at any time by written notice, suspend all or part of the Purchase Order for any reason whatsoever. Upon receipt of a notice of suspension, the Supplier will cease work in accordance with the directions of the notice. The Supplier must preserve and maintain the Goods so as to be in a position to continue the supply at the conclusion of the suspension period. The Supplier must recommence the work under the Purchase Order within forty eight (48) hours of being directed to do so by Energetic.
- 18.2. Termination by Default
In the event of a substantial breach by the Supplier of any of the terms, conditions and warranties of the Purchase Order, which in the opinion of the Purchaser may significantly delay the completion of the Purchase Order and which is not remedied within seven (7) days of the Purchaser notifying the Supplier in writing of any such breach, the Purchaser may terminate the Purchase Order in whole or part.
- 18.3. Termination for Insolvency
If, in the opinion of Energetic, the Supplier is unable to effectively perform its obligations under the Purchase Order due to insolvency, bankruptcy or related reasons, Energetic will be entitled to terminate the Purchase Order.
- 18.4. Termination at Purchaser's Option
Notwithstanding any other provisions of the Purchase Order, Energetic reserves the right to terminate the Purchase Order by giving fourteen (14) days written notice to the Supplier, without prejudice to any other rights or remedies it may have at law, inequity or under statute.

19. SUPPLIER'S RIGHTS AND OBLIGATIONS ON SUSPENSION/TERMINATION

- 19.1. In the event of suspension of the Purchase Order, the Supplier will not be entitled to payment by Energetic for any costs it may incur as a result of any such suspension.
- 19.2. In the event of insolvency of the Supplier or its default, Energetic shall immediately suspend any further payment to the Supplier. Any additional monies required by Energetic to complete the Purchase Order in excess of what Energetic would have paid under the Purchase Order shall be a debt due and payable by the Supplier to Energetic.
- 19.3. In the event of termination by Energetic, and provided the Supplier is not in default, Energetic shall pay the Supplier for work carried out prior to termination and all reasonable costs associated with the cancellation of any orders placed by Energetic prior to termination. Energetic shall not otherwise be liable for any other costs of the Supplier in respect of the termination.

20. HOLD BACK GOODS

- 20.1. The supplier cooperates to return all goods, parts, repaired parts, new manufactured parts upon the first request of Energetic. In case supplier refuses to cooperate, all costs related will be charged to and paid by the supplier.