

REDORANGE INDUSTRY BV - CONDITIONS OF SALE

In these conditions unless the context requires otherwise:

“Customer”	means the company, firm, body or person purchasing the Goods.
“Company”	means RedOrange Industry, a trading name of RedOrange Industry BV, a company registered in the Netherlands; Company Registration Number: 32142478, VAT Registration Number: NL820104243B01 whose registered office is at Aquamarijnstraat 61, 7554 NN HENGELLO, THE NETHERLANDS and any subsidiary of the Company by which the Goods are sold.
“Goods”	means the subject matter of the Order or Contract including (but not limited to) raw materials, finished or semi-finished materials or articles, machinery, equipment, parts, spares, commodities etc. and whether one or a number of items whether or not identical or similar.
“Services”	means the subject matter of the Order or Contract including (but not limited to) services in respect of labour.
“Order”	means a purchase order in respect of the Goods, issued by the Customer to the Company on the Customers’ official purchase order form, together with all documents referred to in it.

1. QUOTATIONS AND TENDERS

- (a) Any conditions stipulated in the Customer’s Order inconsistent with these conditions shall not apply unless agreed in writing. Placing of an Order by the Customer implies acceptance of these conditions.
- (b) All quotations made and all Customer Orders accepted are subject to the following terms and conditions and no addition thereto or variation therein shall be made or can apply unless agreed in writing by the Company.
- (c) Additional work or supply items requested by the Customer outside of the scope of the original Order or Contract will be the offered via a separate written quotation. Contract/Order variations will not be actioned without a written authorized Order to cover.
- (d) The Company reserves the right to decline any Order placed in response to the Company’s quotation. A Contract will only come into being upon acceptance of the Order by the Company in writing.
- (e) When an Order is placed by the Customer and subsequently cancelled, the Customer shall reimburse any costs incurred by the Company as a result of cancellation.
 - (f) Where Goods are supplied from stock, such supply is subject to availability at the time of delivery.
- (g) Quotations/tenders submitted by the Company shall remain valid and open for acceptance for a period of 30 days from the date of tender, unless in the quotation/tender some other period is specified or accepted.
- (h) The Company reserves the right to pass on any additional costs resulting from increases in costs to the company from its suppliers between the time of issue of the quotation/tender and the time of Customer acceptance and issue of an Order.
 - (i) Any items not specifically detailed within the Quotation are not included within the scope of supply.

2. PRICES

- (a) All quoted prices are nett. and based upon Euro (EUR) unless otherwise stated.
- (b) All quoted prices exclude VAT or any other taxes/duties relating to the manufacture, transportation, export, import, sale or delivery of the Goods.
- (c) All Goods are sold “ex-works” unless otherwise stated. If the Company arranges or undertakes the carriage, freight, insurance and any other transport costs beyond the point of delivery i.e. ex-works, such costs shall be charged to the Customer and shall not affect the provisions of the Contract as to the passing of risk.
- (d) All quoted prices exclude personnel traveling expenses, accommodation and reasonable daily subsistence allowances when on site attendance by the Company’s representative(s) is required by the Customer for duties such as installation, commissioning, faultfinding, warranty, consultancy, supervision and similar.

3. TERMS OF PAYMENT

- (a) Where a credit account is requested by the customer, the Company reserves the right to carry out reasonable credit checks against the Customer and to withhold or extend credit facilities as it sees fit. Where credit is extended to the Customer the Company reserves the right to set the appropriate credit limit at its discretion.
- (b) Where credit is not approved all transactions will be based upon a pro-forma arrangement and goods will be dispatched upon receipt of cleared funds.
- (c) Subject to credit facilities being approved by the Company payment terms are as follows:
 - Goods and services are to be paid for 30 calendar days after invoice date unless otherwise stated in the Quotation or Tender Return.
 - For large projects and orders a staged payment schedule will apply which will be clearly stated in the Quotation or Tender Return. The following payment schedule will apply (unless otherwise agreed): 30% of total order value with order, 50% of total order value upon notification that equipment is available for delivery, 10% of total order value upon delivery and the balance (10%) upon successful installation & commissioning.
- (d) Where parts of a single Order are delivered in separate consignments, each consignment may be invoiced separately and treated as a separate account and be payable accordingly. Failure to adhere to payment terms for individual consignments of an Order (part Order) or on delivery of complete Orders (complete Order) entitles the Company to suspend delivery of that particular and all other Orders without prejudice to any other right the Company may have. The Company reserves the right to charge interest on overdue accounts according to the Late Payment of Commercial Debts (Interest) Act 1998. Where genuine doubt arises as to the financial position of the Customer or in the case of failure to pay for any Goods or Services delivered the Company reserves the right to withhold further Goods and Services without liability until payment is received in full or satisfactory security for payment is received.

4. DOCUMENTATION, APPROVAL, TESTING and ACCEPTANCE

- (a) All technical details and other related information necessary to complete the manufacture and documentation are required in reasonable time before the required dispatch date of the Goods. Failure to receive such details/information may result in late dispatch of the Goods.
- (b) All design drawings require signed approval by the Customers authorized representative before commencing build/installation unless special agreement applies.

- (e) All Orders for equipment and or systems built and approved to Customers individual specification cannot be cancelled or returned.
- (f) Where testing and inspection of Goods prior to dispatch is required by the Customer or its agents this will be carried out at the Company's works and will be final unless special agreement applies. Any reasonable expenses incurred by the Company resulting from additional testing requirements outside of the scope of the original Quotation will be charged to the Customer.
- (g) Where trials and acceptance testing of Goods after installation and commissioning on site are required by the Customer or its agents this will be carried out according to the Quotation and will be final unless special agreement applies.
- (h) Third party survey and inspection fees (including but not limited to Marine Classification Society Survey and Inspection fees) are not included in the Quotation. Unless by prior agreement, the Customer will arrange at its expense all such surveys and inspections at the Company's works.

5. DELIVERY & FORCE MAJEURE

- (a) The Company shall undertake to exercise all reasonable care to deliver the Goods to the schedule detailed in the Quotation.
- (b) Neither party shall lose any rights hereunder or be liable to the other party for delays, damages or losses, except for payment obligations, on account of failure of performance by the defaulting party if the failure is the result of an Act of God (e.g., fire, flood, inclement weather, epidemic, or earthquake); war or act of terrorism, including chemical or biological warfare; labor dispute, lockout, strike, embargo; governmental acts, orders, or restrictions; failure of suppliers or third persons; or any other reason where failure to perform is beyond the reasonable control, and is not caused by the negligence, intentional conduct or misconduct of the defaulting party, and the defaulting party has exercised all reasonable efforts to avoid or remedy such force majeure. The defaulting party must provide written notice of the force majeure event to the remaining parties within a reasonable time of such an event occurring.
- (c) No delay shall entitle the Customer to reject and delivery or any further installment or part of the Order or to repudiate the Contract or the Order.

6. STOCKHOLDING & CUSTOMER ISSUED MATERIALS

- (a) Where equipment or Goods are held and stored for the Customer by the Company due to delayed delivery requirements, the Company will invoice for the Goods at the date that the Goods become available for delivery to the Customer. In such cases the Customer will provide insurance against damage, degradation, loss or theft at its expense.
- (b) Where materials are stored or free issued by the Customer to the Company the Company will exercise all reasonable care to prevent damage, degradation, loss or theft. It is, however it is the responsibility of the Customer to provide insurance against damage, degradation, loss or theft at its expense.

7. LOSS OR DAMAGE

- (a) The risk in the Goods passes to the Customer when the Goods are despatched from the Company's works. The Company accepts no responsibility for any damage, shortage or loss in transit. Claims for any damage, shortage or loss in transit should be made against the carrier and any conditions imposed by the carrier in relation to any claims made for damage, shortage or loss in transit should be complied with.

8. PATENTS

- (a) The Customer shall indemnify the Company against all actions, costs (including the cost of defending any legal proceedings), claims proceedings, accounts and damages in respect of any infringement or alleged infringement of any patent, registered design, copyright, trade mark or other industrial or intellectual property rights resulting from compliance by the Company with the Customer's instructions whether express or implied.

9. LICENCES ETC

- (a) Any licence required enabling the Customer to acquire or operate or the Company to sell or supply Goods to the Customer shall be obtained by the Customer at its expense or obtained by the Company on behalf of the Customer at the Customer's expense.

10. WARRANTY AND EXCLUSION

- (a) Goods supplied by the Company to the Customer are guaranteed for a period of 12 months from dispatch from the Company's works provided that:

- They have not been misused or modified in any way AND
- They have been commissioned and set to work by an authorized representative of the Company or its agents AND
- They are returned to the Company's works carriage paid AND
- The Company's payment terms have been complied with fully by the Customer or its associates AND
- Any claims are made within ten days of discovery of the defect.

During the guarantee period the Company will undertake to repair at its works or replace the Goods at no charge. Where on site guarantee service is required at a customer location, labor and parts will be free of charge. Costs in relation to travel and upkeep according to bills plus ten per cent (10%), will be chargeable to the Customer and invoiced accordingly.

- (b) In the case of third party equipment or bought in components supplied by the Company as part of a Customer Order the Customer shall only be entitled to the benefit of such warranty as may be given by the supplier thereof to the Company and any other rights in law which the Company may have against the supplier or the manufacturer thereof. The Customer's only remedy in such cases will be against the Company's supplier.
- (c) The Customer's remedies in respect of any claim under the foregoing express warranty or any claim under any condition or warranty implied by law or any other claim in respect of the Goods or any workmanship in relation thereto (whether or not involving negligence on the part of the Company) shall in relation to Goods of the Company's manufacture or supply be limited to repair, replacement or refund of the purchase price as aforesaid. Any condition or warranty implied by law shall cease to apply after the warranty period has expired and the company shall not in any circumstances be liable for any damage, compensation, costs, expenses, losses or other liabilities, whether direct or consequential. Any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law.

- (d) A claim in respect of any defect or failure to comply with the specification or in respect of any delivery or installment of any Order or any part of it shall not entitle the Customer to cancel or refuse delivery of or payment for any other Order, delivery or installment or any part of the same Order, delivery or installment.

11. TITLE OF GOODS

- (a) Notwithstanding that risk in the Goods shall pass to the Customer when the Goods are dispatched from the Company's works, title to the Goods (whether separate and identifiable or incorporated in or mixed with other Goods) shall remain with the Company until payment in full is received by the Company:
- for those Goods AND
 - for any other Goods supplied by the Company AND
 - for any other monies due from the Customer to the Company on any account.
- (b) Until title to the goods passes to the Customer under clause 11(a), the Customer shall:
- keep the Goods separately and readily identifiable as the property of the Company.
 - not attach the Goods to real property without the Company's consent.
- (c) Any resale by the Customer of Goods in which property has not passed to the Customer shall (as between the Company and the Customer only) be made by the Customer as agent for the Company.
- (d) Goods shall be deemed sold or used in the order delivered to the Customer.
- (e) At any time before title to the Goods passes to the Customer (whether or not any payment to the Company is then overdue or the Customer is otherwise in breach of any obligation to the Company), the Company may (without prejudice to any other of its rights):
- retake possession of all or any part of the Goods and enter any premises for that purpose (or authorize others to do so) which the Customer hereby authorizes AND
 - require delivery up to it of all or part of the Goods.
- (f) The Company may, at any time, appropriate sums received from the Customer as it thinks fit notwithstanding any purported appropriation by the Customer.
- (g) Each sub-clause of this clause 11 is separate, severable and distinct and, accordingly, in the event of any of them being for any reason whatever unenforceable according to its terms, the others shall remain in full force and effect.

12. TERMINATION

- (a) If the Customer enters into a deed of arrangement; or commits an act of bankruptcy; or compounds with his creditor; or if a receiving order is made against him; or (being a company) it shall pass a resolution; or the court shall make an order that the Customer shall be wound up (otherwise than for the purposes of amalgamation or reconstruction); or if a receiver (including an administrative receiver) shall be appointed of any of the assets of the Company; or undertaking of the Customer; or if the Customer suffers the appointment; or the presentation of a petition for the appointment of an administrator; or if circumstances shall arise which entitle the court or a creditor to appoint a receiver (including an administrative receiver); or a manager; or which entitle the court to make a winding up order; or if the Customer takes or suffers any similar action in consequence of debt; or if the financial responsibility of the Customer shall, in the opinion of the Company become impaired; or if the Customer shall commit any breach of any part of the Contract, the Company may, without prejudice to its rights and remedies under these conditions, stop all Goods in transit and suspend further deliveries and by notice to the Customer may terminate the Contract immediately.

13. ASSIGNMENT AND SUBCONTRACTING

- (a) None of the rights or obligations of the Customer under the Contract may be assigned or transferred in whole or in part without the prior written consent of the Company.
- (b) The Company shall be entitled to subcontract any work relating to the Contract without obtaining the consent of, or giving notice to the Customer.

14. HEALTH AND SAFETY

The Customer agrees to pay due regard to any information or any revised information whenever supplied by the Company (and is deemed to have been given adequate information and to have read and understood it) relating to the use for which the Goods have been designed or have been tested or concerning conditions necessary to ensure that they will be safe and without risk to health and safety at all times when they are being set, used, cleaned or maintained by any person at work or when they are being dismantled or disposed of. The Customer undertakes to take such steps as may be specified by the above information to ensure that, as far as reasonably practicable, the Goods will be safe and without risk to health at all times as mentioned above. For these purposes, the customer is deemed to have been given a reasonable opportunity to test and examine the Goods before delivery.

15. NOTICES

- (a) Any notice or other communication to be given under these conditions must be in writing and may be delivered or sent by prepaid first class letter post or facsimile transmission.
- (b) Any notice or document shall be deemed served: if delivered, at the time of delivery; if posted, 48 hours after posting; and if sent by facsimile transmission, at the time of transmission.

16. INVALIDITY

The invalidity, illegality or unenforceability of any provision of these conditions should not affect the other conditions.

17. THIRD PARTY RIGHTS

A person who is not party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This clause does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that act.

18. APPLICABLE LAW

The Contract shall in all respects be governed by and construed in accordance with Dutch law and the Customer hereby submits to the non-exclusive jurisdiction of the Dutch Courts