



Registered with the Court of Justice, Arnhem, nr. 2010/14 / also published on www.fst.nl

1. Scope of application

1.1 These general terms and conditions of purchase shall apply to all legal acts, such as but not limited to orders regarding the purchase of goods and the rendering of services by Flame Spray Technologies BV or one of its group companies (hereinafter "FST").

1.2 Deviations from these Terms and Conditions shall only apply if FST has confirmed the aforementioned deviations in writing. Herewith, the applicability of the general terms and conditions of the contracting party (hereinafter the "Vendor") are explicitly excluded.

1.3 In case of total or partial nullity or otherwise invalidity of one or more stipulations of these conditions, the other stipulations remain in force. Parties will draft a new provision in accordance with the spirit of these conditions.

2. Offer

2.1 Requests for quotations issued by FST are without engagement and may be sent digitally. Offers made by Vendor are binding and irrevocable for a period of at least 6 (six) weeks.

2.2 FST may decide at its discretion to grant an order to any Vendor who has quoted without any obligation for FST to contract with the Vendor who has the best final offer.

2.3 FST may use digital orders, sent by e-mail through the FST digital order platform. Vendor shall accept any such orders by e-mail, also using the FST digital order platform. Any such digital order shall constitute a legally valid and binding agreement between FST and Vendor without the need for an original hard-copy document and/or signature to be sent.

3. Sub-contracting and assignment

3.1 Vendor shall not subcontract any portion of the order to third parties unless FST has given its explicit written permission to do so. Any such permission does not release the Vendor from any obligation and/or liability under the order.

3.2 Vendor shall not assign or transfer its obligations to a third party without prior written consent of FST.

4. Prices, invoicing, terms of payment

4.1 Prices are based on Delivery Duty Paid FST warehouse (Incoterms latest version) including packaging, taxes and surcharges, installation and/or commissioning if applicable.

4.2 Prices are firm and fixed, stated in EURO and shall remain unchanged during the validity of the order. However, if quoted prices at moment of delivery are 5 % (five percent) lower than agreed prices than these quoted prices shall apply.

4.3 Payment will be made after delivery, 100% (hundred percent) nett, within 45(forty-five) days from receipt of a proper invoice, unless stated otherwise in the order.

4.4 All payments shall be effected in EURO unless otherwise agreed upon. FST may set-off all that Vendor owes against its payment obligations.

4.5 If stated in the order, Vendor shall provide FST with a first demand bank guarantees to cover its obligations, issued in FST format by a reputable European bank acceptable to FST.

5. Delivery

5.1 Delivery will be Delivery Duty Paid FST (DDP –Incoterms latest version) unless otherwise stated. Partial delivery and transshipments are not allowed, unless stated otherwise in the order. Delivery shall include all required export documents.

5.2 On delivery FST shall visually inspect the delivered goods and/or provided services. If during the guarantee period damages, defects, shortcomings or shortage become evident that were not detected at delivery, Vendor shall make good any such default promptly after receipt of FST's written notice.

5.3 Delivery dates are of the essence of the contract. Vendor is automatically in default without the need of any notice if the agreed delivery date is not met. If so, Vendor forfeits and shall pay to FST a penalty of 2.5 % (two point five percent) of the order value per day of delay. In addition to these penalties FST is entitled to terminate the order as well as full reimbursement of all suffered damages, including but not limited to costs made for the purchase of comparable goods from a third party.

5.4 Without prejudice to Vendor's obligations and liabilities, Vendor shall immediately notify FST in writing if any delay is foreseen. In such event Vendor shall, at its own expense and whether or not instructed by FST, take all necessary action to mitigate the effects of the delay so as to ensure timely delivery.

5.5 Delivery shall be deemed to have occurred if all goods are delivered in full, including all requested documents, certificates, export permits and approvals in accordance with the order.

5.6 Delivery of any goods to Vendor for inspection, repair or machining will be Carriage Paid To FST warehouse (CPT - Incoterms latest version).

6. Passing of title and risk; packaging

6.1 The risk and title of any goods delivered shall transfer according to the agreed Incoterm. However, if FST makes an advanced payment, title on all ordered goods shall transfer to FST upon receipt of the payment on Vendor's bank account.

6.2 All goods must be properly packed according to the requirements of transport and destination and must be marked in accordance with the instructions of FST.

6.3 Vendor shall be responsible for the due observance of all applicable governmental regulations concerning packaging and transport, by Vendor as well as by all carriers.

6.4 Whenever Vendor holds or has in his possession any equipment, material, components, tools, machinery, supplies, spare parts, or other goods supplied by FST in connection to any order, Vendor shall insure such goods against any loss or damage ("all risk") and be responsible for the care, safety and custody of such property until delivery by Vendor to FST. FST shall in any event retain full and exclusive title to this property.

7. Changes, additional work

7.1 FST is entitled to change the order and/or request additional work in writing provided the change or additional work is technically feasible. The Vendor shall as soon as possible, but within 5 (five) working days at the latest and in all cases prior to carrying out the change or the additional work, notify FST in writing of the consequences of such change for the price and delivery time. In the absence of such timely notice the change order shall be deemed accepted by Vendor without any change of the price and/or other conditions. If requested in writing by FST to do so, Vendor shall comply with and perform such changes even if no agreement has been reached regarding the consequences.

8. Warranty

8.1 Vendor guarantees that all goods shall be new and, for a period of 36 (thirty-six) months after delivery, free from defects in material, design and workmanship, are according the agreed specification and are fit for purpose and do not infringe on any contractual or legal obligation, whether or not specific or implied.

8.2 Vendor guarantees that all goods are delivered with the relevant export permits and/or approvals (whether national, European or otherwise) required to deliver the goods to the stated end-user.



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8.3 Any defects that are notified in writing to Vendor shall be made good by Vendor by either repairing or replacing the defective goods or parts thereof. If the goods have already been delivered by FST to its client, such repair or replacement shall take place at FST client's site. Any such corrective action shall be done immediately after receipt of FST's notice thereto. If not, FST may perform the repair and/or replacement by itself or have such performed by a third party at Vendor's risk and cost.

8.4 The foregoing guarantee is in addition to FST's other contractual and legal rights.

9. Suspension and termination

9.1 FST may suspend at any time and for any reason its obligations under these terms by giving Vendor written notice.

9.2 FST may, at any time, authorize resumption of the suspended part by notifying Vendor to resume at the by FST specified date.

9.3 In the event FST has reasonable doubt regarding the ability of Vendor to fulfill its obligations, FST is entitled to suspend the order until Vendor has provided sufficient security.

9.4 In the event Vendor cannot meet its obligations, FST is entitled to terminate the order with immediate effect and without any obligation to compensate for damages. Additionally, Vendor shall reimburse FST for all suffered damages.

9.5 FST may terminate the order for convenience at any time. If so, FST shall reimburse Vendor for all its reasonable direct costs already made prior to termination and not yet invoiced, as well as reasonable cancellation costs provided such amounts claimed are substantiated by documentation satisfactory to FST. The above items of reimbursement and payment for work performed shall constitute the sole and exclusive liability of FST under the order, and Vendor shall not be entitled to recover any other expenses, damages, profits or disbursements in connection with said termination.

9.6 Either Party may terminate the order without any obligation to compensate for damages in the event of withdrawal of operation, judicial settlement, liquidation and/or bankruptcy of the other Party.

10. Liability

10.1 Vendor shall be liable for all damages, payments, losses, costs (including legal fees), expenses and/or liabilities incurred by FST and/or its clients or subsequent owners, directly or indirectly caused by the goods.

10.2 Vendor shall be liable for and indemnify and hold harmless FST from any and all liabilities as a result of damages to Vendor's and FST's goods, tools and or equipment as well as death or injuries to Vendor's and FST's personnel, how so ever caused.

10.3 Vendor shall indemnify and hold harmless FST and/or its clients and/or subsequent owners of the goods against any and all damages, payments, losses, costs, expenses (including legal fees) and/or liabilities caused by (alleged) infringements on third parties intellectual property rights.

11. Insurance

11.1 Vendor shall insure its liability with a reputable insurance company according to good local standards, both in regard to FST and third parties for a sufficient amount, at the discretion of FST however at all times for a minimum amount of € 7.500.000,- (seven million and five hundred thousand Euro) per event. Any

right of recourse against FST or its clients shall be excluded. Vendor shall upon request of FST promptly submit certificates of insurance stating the above mentioned requirements.

12. Intellectual Property rights / Confidentiality

12.1 All intellectual property rights (including, without limitation, all database rights, copyrights, rights in designs, rights in know-how, patents and rights in inventions (in all cases whether registered or unregistered and including all rights to apply for registration) and all other intellectual or industrial property rights in any jurisdiction) in any information, content, materials, data or processes belong to or shall become the property of FST.

12.2 All information, including all commercial, business, financial, technical, operational, administrative, marketing or other information or data in whatever form supplied (whether in oral, written, magnetic, electronic, digital or other form) which is directly or indirectly disclosed or made available to Vendor shall at all times keep secret and confidential.

12.3 Vendor may only use the confidential information for the performance of its contractual obligations.

12.4 Without prior written approval of FST, Vendor shall not publish the names of FST and/or its clients and/or subsequent owners nor shall it make public the fact that any order has been granted.

12.5 The Vendor is obliged to return any and all bearers of confidential information at FST's first request.

13. Quality, health, safety, security and environment

Vendor shall operate a documented quality and HSSE management system, such as or equal to OHSAS 18001 and ISO 9001, to be accepted by FST at its discretion.

14. Inspection and testing

14.1 FST and its clients or third parties acting on FST's instructions shall at all times be entitled to inspect or test the goods ordered, wherever they may be.

14.2 The Vendor shall inform FST about the date on which any of the goods are ready for inspection or testing in time to enable FST, its clients or third parties to be present thereat and shall provide all the information and facilities required for inspections or tests.

14.3 In the event of non-approval FST shall have the right, in addition to all its other rights, to demand the delivery within a time limit to be stated by FST of new goods which do comply with the specified requirements. The Vendor shall be obliged to forthwith start and proceed with the remedying of defects found upon inspection to the satisfaction of FST.

15. Force majeure

In case of force majeure, either party is allowed to suspend the performance of its obligations. If the force majeure situation lasts for more than 30 (thirty) days FST may terminate the order.

16. Applicable law / jurisdiction

16.1 These terms and conditions will be governed exclusively by and construed in accordance with the laws of the Netherlands with exclusion of the UN Convention on Contracts for the International Sale of Goods and without reference to its principles of conflicts of law.

16.2 Parties hereby irrevocably submit that all disputes concerning the contractual relationship will be subject to the exclusive jurisdiction of the Dutch court, Arnhem, The Netherlands.