

General Terms and Conditions of Sale of TPEE

1. Definitions

Agreement	All Agreements between the Parties concerning the sale/purchase and delivery of Goods by TPEE to the Other Party and/or the provision of Services by TPEE to the Other Party;
Goods	The Goods to be delivered by TPEE based on the Agreement to or for the benefit of the Other Party, being items of property and/ or property rights;
TPEE	Mr. T.S. van der Ploeg acting as participant in TPEE
Offer	Every offer by TPEE to conclude an Agreement;
Other Party	The natural and/or legal person or persons to whom TPEE makes an Offer to deliver Goods and/or provide Services and/or with whom TPEE concludes an Agreement;
Services	All (additional) services and/or work, technical or otherwise including but no limited to engineering advice, performed by TPEE, in the broadest sense;
Terms and Conditions	These General Terms and Conditions of Sale of TPEE;
In Writing/Written	By letter, fax, electronic message, or bailiff's notification.

2. Applicability

- 2.1. These Terms and Conditions are applicable to all Offers and Agreements, as well as to any agreements arising therefrom or based thereon.
- 2.2. If the Terms and Conditions have applied to any Agreement, they will automatically apply to any future agreement concluded between the Parties, without any separate agreement to this effect between the Parties concerned being required, unless the Parties have expressly agreed otherwise in Writing with respect to the relevant agreement.
- 2.3. The applicability to any Agreement of any general or specific terms and conditions applied by the Other Party is expressly rejected by TPEE, unless and after TPEE has expressly declared in Writing that the relevant terms and conditions apply to an Agreement. Under no circumstances does acceptance in this manner of the applicability of the Other Party's general terms and conditions to an Agreement result in the tacit applicability of these terms and conditions to any future Agreements.
- 2.4. In case of invalidity or annulment by the Other Party of one or more provisions of the Terms and Conditions, the remaining provisions of the Terms and Conditions will continue to apply in full to the agreement. The Parties will consult each other on replacing the invalid or voided provision of the Terms and Conditions by a provision which is valid or not voidable and which approaches the content and purport of the invalid or voided provision as much as possible.
- 2.5. In so far as an Agreement deviates from one or more provisions of the Terms and Conditions, the provisions of the Agreement will prevail. The remaining provisions of the Terms and Conditions will in that case continue to apply to the Agreement.

3. Offers

- 3.1. Unless expressly stated otherwise, an Offer is without obligation and is valid during the term stated in the Offer. If the Offer does not state a term for acceptance, the Offer will in any case lapse fourteen (14) days after the date stated in the Offer.
- 3.2. An Offer accepted by the Other Party within the term of validity may be withdrawn by TPEE within five (5) working days of the date of receipt of the acceptance by TPEE, without this resulting in any obligation on the part of TPEE to compensate the Other Party for any loss incurred by the latter as a result.
- 3.3. TPEE will confirm an assignment given by the Other Party by means of an order confirmation. If the Other Party does not object within fourteen (14) days of receipt of the order confirmation, the assignment as described in the order confirmation will be deemed accepted.
- 3.4. If the Other Party provides TPEE with information, drawings, and suchlike for the purpose of making an Offer, TPEE may assume that these are accurate and base its Offer on these documents. The Other Party indemnifies TPEE against any third-party claims relating to the use of drawings and suchlike provided by or on behalf of the Other Party.
- 3.5. A price list or other overview containing prices in a general sense provided by TPEE to the Other Party cannot be regarded as an Offer.

4. Formation of agreements

- 4.1. With due observance of the other provisions contained in the Terms and Conditions, an Agreement will only be affected:
 - (a) by acceptance of the Offer by the Other Party;
 - (b) by a Written order confirmation of an assignment given by the Other Party, either orally or in Writing, other than on the basis of an Offer;
 - (c) by the actual performance by TPEE of an assignment given by the Other Party.
- 4.2. The Agreement replaces all previous proposals, correspondence, arrangements and other communication between the Parties that took place before concluding the Agreement, however much these may differ from or be in conflict with the Agreement.
- 4.3. Alterations and/or additions to the Agreement will only be valid after they have been accepted by TPEE in Writing. TPEE will not be obliged to accept any alterations and/or additions to an Agreement and is entitled to demand that a separate Agreement be concluded. TPEE is authorized to charge to the Other Party any expenses incurred in connection with the alterations and/or additions to the Agreement.
- 4.4. Undertakings by and agreements with employees or representatives of TPEE are only binding on TPEE vis-à-vis the Other Party in so far as these undertakings and/or agreements have been ratified in Writing by TPEE or have been confirmed to the Other Party.
- 4.5. An Agreement concerning the sale and delivery of Goods by TPEE to the Other Party may never be regarded as a continuing performance contract (such as, but not limited to, a distribution agreement), unless explicitly stipulated in the Agreement. After TPEE has sold and/or delivered Goods and/or Services to the Other Party, it will never be obliged to conclude subsequent Agreements with the Other Party.

5. Prices and rates

- 5.1. Prices for Goods stated in an Offer or Agreement are in euros and, unless explicitly stated otherwise, are exclusive of packaging and transport costs and other costs of shipping, import documents, insurance including transport insurance, travel time, travel and subsistence expenses and are exclusive of turnover tax and/or any other government-imposed levies, of any nature whatsoever.
- 5.2. Prices for Services are in euros, shall be calculated on an hourly basis, and are exclusive of, travel time, travel and subsistence expenses, turnover tax, and/or any other government-imposed levies, of any nature whatsoever.
- 5.3. If the Other Party places an Order with TPEE without explicit agreement on a price for this Order, it will, irrespective of any Offers made or prices charged earlier, be carried out at the price applicable at the time of the performance of the Agreement.
- 5.4. In the event that four (4) months have passed after the date on which the Agreement was concluded and TPEE has not yet completed performance of the Agreement, an increase in one or more price-determining factors may be charged to the Other Party, at the discretion of TPEE. The price increase must be paid at the same time that the principal sum or last payment term is paid.
- 5.5. If, however, the increased price which TPEE wishes to charge as referred to in Article 5.4 has risen by more than ten per cent (10%) compared to the original price, the Other Party will be entitled to cancel the Agreement in so far as it concerns future obligations on the part of TPEE, within fourteen (14) days of the notification of the price change, with the proviso that under no circumstances will TPEE be obliged in that case to compensate the Other Party for any loss incurred as a result.

6. Payment

- 6.1. With respect to Goods delivered or to be delivered by TPEE and/or Services provided or to be provided by TPEE, TPEE will send an invoice to the Other Party.
- 6.2. The Other Party shall pay fifty per cent (50%) of the invoice upfront (i) within seven days from the moment that TPEE and the Other Party concluded the Agreement and (ii) before delivery of the Goods. The remaining fifty per cent (50%) of the payment must be made within thirty (30) days after the invoice date, which invoice may be sent by TPEE at delivery and later, unless agreed otherwise in Writing. Payments must be made into the bank accounts indicated by TPEE. The moment of payment will be deemed to be the moment at which TPEE receives confirmation from its bank that the amount concerned has been credited to the account.

TPEE has the right to invoice the performance of Services each month after the performance of such Services, unless agreed otherwise in Writing. Invoices shall be paid within thirty (30) days after the invoice date

- 6.3. If payment of an invoice has not been made in full within the stipulated period of time the Other Party will immediately be in default by operation of law, without any further notice of default being required, and from the due date of the invoice concerned will be liable to pay interest of one per cent (1%) per month, or the statutory commercial interest if this is higher, part of a month being counted as a full month. In addition, all extrajudicial collection costs will be payable by the Other Party, which costs are hereby set in advance by the Parties at a minimum of fifteen per cent (15%) of the outstanding claim, with a minimum of EUR 150, without prejudice to TPEE's right to claim the actual extrajudicial collection costs if this amount is higher.
- 6.4. If the Other Party is in default of payment of any invoice, all other outstanding invoices will be immediately due and payable without notice of default being required.
- 6.5. Payments made by the Other Party will be used first to settle costs and interest due, and then to settle the outstanding invoices which have remained unpaid the longest, even if the Other Party states that a particular payment is to settle a different invoice.
- 6.6. Without prejudice to mandatory provisions, the Other Party does not have the right to suspend its payment obligations to TPEE or set them off against payment obligations of TPEE to the Other Party.
- 6.7. TPEE is entitled to set off all claims against the Other Party against any amounts owed by TPEE to the Other Party or to natural persons or legal persons affiliated to the Other Party.

- 6.8. All of TPEE's claims against the Other Party become due and payable immediately in the following cases:
- (a) if after the conclusion of the Agreement circumstances have come to TPEE's attention that give it good reason to fear that the Other Party will not fulfil its obligations, which is entirely at TPEE's discretion;
 - (b) if on conclusion of the Agreement TPEE asked the Other Party to provide security for the fulfilment as referred to in Article 5.3 and this security is not forthcoming or is insufficient;
 - (c) in the event that the Other Party's insolvency or a moratorium is applied for or if the Other Party is declared bankrupt or put into liquidation, or, in so far as the Other Party is a natural person, if the Debt Rescheduling (Natural Persons) Act (*Wet Schuldsanering Natuurlijke Personen*) is declared applicable to him.
- 6.9. TPEE will be entitled at all times, based on its assessment of the creditworthiness of the Other Party, to demand security or full or partial advance payment to ensure compliance with all payment obligations, whether due and payable or not. If and as long as the Other Party fails to provide the security required or to make a full or partial advance payment, TPEE will be authorized to suspend its obligation to deliver.

7. Delivery time

- 7.1. The delivery time stated by TPEE in the framework of an Agreement is always an indication and may therefore never be considered a strict deadline, unless explicitly agreed otherwise in Writing between the Parties. Under no circumstances does exceeding an agreed delivery time give entitlement to compensation.
- 7.2. The delivery time stated by TPEE commences as soon as agreement has been reached on all details, including technical details, all necessary information and suchlike is in possession of TPEE and all conditions necessary for the performance of the Agreement have been complied with.
- 7.3. When determining the delivery time TPEE assumes that it will be able to perform the assignment in the circumstances existing at the time of concluding the Agreement.
- 7.4. In the event of different circumstances to those known to TPEE at the time of concluding the Agreement, TPEE may extend the delivery time by the amount of time required to perform the Agreement in the changed circumstances. If, as a result of the above, any work cannot be fitted into TPEE's schedule, it will be carried out or completed as soon as TPEE's schedule permits.
- 7.5. In case of a suspension of obligations by TPEE on account of a shortcoming by the Other Party, the delivery time will be extended by the duration of the suspension. If, as a result of the above, any work cannot be fitted into TPEE's schedule, it will be carried out or completed as soon as TPEE's schedule permits.
- 7.6. If an agreed delivery period for the Goods, or a delivery period that has been extended based on Articles 7.4 or 7.5 of these Terms and Conditions, has been exceeded, TPEE will only be in default if it has received a Written notice of default from the Other Party giving it one (1) month to deliver and still fails to comply within this period of time. In the event of termination, the Other Party will not be entitled to compensation unless such exceeding of this period of time is the result of intent or gross negligence on the part of the management of TPEE and/or its managing employees.

8. Mode of delivery

- 8.1. Unless explicitly agreed otherwise in the Agreement, the risk of the Goods to be delivered to the Other Party will pass to it, ex works TPEE's warehouse (Smarachtstraat 21, 9743KS) Leeuwarden, the Netherlands), or the warehouse of any third party engaged by TPEE (i.e. Ex Works, as included in the most recent version of ICC Incoterms). All Goods will at all times be transported at the risk of the Other Party. Unless the Other Party requests of TPEE in good time that the Goods be insured during transport at the expense of the Other Party (and/or stipulated otherwise in the Agreement), the Goods will be transported uninsured by or on behalf of TPEE.

- 8.2. Unless the Parties have expressly agreed otherwise in Writing, export and import duties, clearance charges, taxes and any other government levies relating to the transport and delivery of the Goods by TPEE, of whatever nature, will be charged to the Other Party.
- 8.3. The Other Party must notify TPEE in Writing within 5 working days if any Goods are missing on delivery. If a notification is given after the expiry of this term, the missing Goods will not be credited to the Other Party, nor will the Goods be delivered free of charge to the Other Party at a later date.
- 8.4. TPEE has fulfilled its obligation to deliver by making the Goods available to the Other Party on the agreed date at its warehouse or at the warehouse of a third party engaged by TPEE. The delivery document signed by or on behalf of the Other Party and/or the relevant appendices of the carrier will constitute conclusive proof of delivery by TPEE of the Goods stated in the delivery document and/or the relevant appendices.
- 8.5. An offer for delivery by TPEE of the Goods ordered to the Other Party will be considered equivalent to the delivery of these Goods. If the Other Party refuses to accept the Goods offered for delivery, TPEE will store the Goods concerned at a location to be decided by TPEE for twenty (20) working days after the date of offering. After the expiry of this period TPEE will no longer be obliged to keep the Goods available for the Other Party and will be entitled to sell the Goods to a third party or to dispose of them in any other way. The Other Party will, however, remain obliged to comply with the Agreement by taking possession of the Goods concerned should TPEE so request at the agreed price and is also obliged to compensate TPEE for the loss arising from the Other Party's initial refusal to accept the Goods concerned, including storage and transport costs.

9. Retention of title and right of pledge

- 9.1. All Goods delivered will remain the exclusive property of TPEE until such time as the Other Party has complied with all of its obligations arising from or in connection with the Agreement or Agreements, including claims relating to penalties, interest and costs. Until that time the Other Party undertakes to store the Goods delivered by TPEE separate from other goods and clearly marked as TPEE property and to take out and maintain sufficient insurance.
- 9.2. In the event that Goods are delivered to the Other Party in a territory other than the Netherlands, supplementary to the retention of title under Dutch law as referred to in Article 9.1, a retention of title as referred to in Article 9.1 under the law of the country concerned will also apply to the Goods concerned, if and as soon as they are located in the territory of the country concerned, with the proviso that for the remainder the Agreement is exclusively governed by Dutch law as referred to in Article 18.
- 9.3. As long as the Goods delivered are subject to retention of title, the Other Party may not encumber or sell these Goods outside its normal business operations.
- 9.4. After TPEE has invoked its retention of title, it will be entitled to recover the Goods delivered. The Other Party must allow TPEE to access the premises where the Goods are stored.
- 9.5. If TPEE cannot invoke its retention of title because the Goods delivered have been mixed, de- formed or become a constituent element of other goods, the Other Party will be obliged to pledge the resulting new goods to TPEE or mortgage them.

10. Acceptance and guarantee

- 10.1. In any case after TPEE has performed its obligations under the Agreement, the Other Party will, within a reasonable period of time (being no longer than fourteen (14) days after the delivery), subject the Goods delivered and Services provided to an acceptance test. If the Other Party fails to notify TPEE in Writing of any defects within the aforementioned reasonable period of time after the delivery, the Goods delivered and Services provided will be deemed to have been accepted by the Other Party and to comply with the requirements and performance set out in the Agreement
- 10.2. Other defects to the Goods delivered and/or Services provided not visible on delivery must be reported to TPEE in Writing, including substantiation of such defect, within fourteen (14) days of their discovery, or after they reasonably could have been discovered, failing which the Goods delivered and/or Services provided will be deemed to have been accepted by the Other Party and to comply with the requirements and performance set out in the Agreement.

- 10.3. When the Other Party notifies a claim within the time frame as mentioned in Article 10.1 or 10.2, TPEE is entitled, at its sole discretion, to choose whether it shall replace (*vervangen*), recover or restore (*herstellen*) the delivered Goods or compensate such damages (*schadevergoeding betalen*). At first request of TPEE, the Other Party is obliged to return the defect Goods to TPEE. Such return shall be at the risk and expense of the Other Party. Any obligation to replace, restore or recover Goods is at any time limited to replacement, restoration or recovery, to be determined at the sole discretion of TPEE, at the workshop of TPEE or the address at which it delivered the Goods to the Other Party. For the avoidance of doubt, when TPEE chooses to pay compensation, the clauses related liability limitation in the Terms and Conditions shall apply, including but not limited to Article 13.
- 10.4. If the Parties fail to reach agreement on the question whether or not there is a defect, an independent expert will be engaged. The expert will be appointed by TPEE in consultation with the Other Party. Unless agreed otherwise, the relevant costs will be borne by the Party that, for the most part, fails in its claim.
- 10.5. Complaints of any nature whatsoever relating to the performance of the Agreement by TPEE do not suspend the Other Party's payment obligation and may only be communicated to TPEE in Writing.
- 10.6. No obligation whatsoever rests on TPEE concerning a claim submitted if the Other Party has not fulfilled all its obligations towards TPEE (both financial and otherwise) in time and in full.
- 10.7. A claim concerning a Product delivered and/or Service provided by TPEE cannot affect Goods delivered and/or Services provided earlier or yet to be delivered and/or provided, even if these have been or will be delivered and/or provided in the performance of the same Agreement.
- 10.8. Unless agreed otherwise in Writing, a warranty will not be provided to the Other Party for Goods delivered by TPEE.

11. Expiry periods

- 11.1. Legal actions and other powers of the Other Party, for whatever reason, with respect to TPEE in connection with the Goods delivered and/or Services provided will lapse after twelve (12) months following the date on which the Other Party became aware or could reasonably be aware of the existence of these rights and powers, but has not lodged a Written claim with TPEE on this basis before the expiry of this period.
- 11.2. If within the period stated in Article 11.1 a Written claim has been notified by the Other Party to TPEE in connection with Goods delivered and/or Services provided by TPEE, any legal action of the Other Party in this respect will also lapse if no lawsuit has been brought against TPEE before the competent court pursuant to Article 18 of the Terms and Conditions within a term of four (4) months after receiving the relevant Written claim.

12. Termination

- 12.1. If the Other Party fails to fulfil all or part of one or more of its obligations under the Agreement, the Other Party will be deemed to be in default by operation of law and TPEE will have the right to terminate all or part of the Agreement unilaterally by means of a Written notification to the Other Party, without any notice of default or judicial intervention, and/or to suspend its obligations under the Agreement, without TPEE being obliged to pay any compensation and without prejudice to any rights accruing to TPEE, including the right to full compensation. All claims which TPEE may have or may acquire against the Other Party in these cases will be due and payable immediately and in full.
- 12.2. In the event of insolvency, suspension of payments, cessation of work, liquidation or takeover or any comparable situation of the Other Party, or if the Other Party ceases its business operations or if an attachment has been levied on a substantial part of the Other Party's assets or if the Other Party is otherwise no longer deemed capable of fulfilling the obligations arising from the Agreement, the Other Party will be in default by operation of law and TPEE will have the right to terminate all or part of the Agreement unilaterally by means of a Written notification, without any notice of default or judicial intervention being required and without TPEE being obliged to pay any compensation and without prejudice to its other rights, including TPEE's right to full compensation.

13. Liability and insurance

- 13.1. TPEE is liable for loss suffered by the Other Party due to any failure attributable to TPEE in the performance of the Agreement. Only the loss against which TPEE is insured or should reasonably have been insured in view of the nature of TPEE's business and the market in which it operates will qualify for compensation and only up to the amount paid out by the insurer in the matter concerned.
- 13.2. The following do not qualify for compensation:
- (a) financial loss, such as, but not limited to, trading loss, consequential loss, loss due to delay and loss of profits;
 - (b) damage to property in the care, custody or control of, but not owned by the insured (*opzichtschaade*), including damage caused by or during the performance of work to items of property on which work is performed or which are located near the place where work is performed (the Other Party must take out proper insurance in this respect, if required);
 - (c) loss arising through the actions or omissions of the Other Party or third parties in breach of the instructions given by TPEE or in contravention of the Agreement and the Terms and Conditions;
 - (d) loss caused directly by incorrect, incomplete and/or faulty information provided to TPEE by or on behalf of the Other Party.
- 13.3. If:
- (a) at the time the agreement is entered into TPEE is unable to take out insurance or to take out insurance on reasonable terms as referred to in article 13.1 or to extend the insurance afterwards on reasonable terms;
 - (b) the insurer does not pay out for the relevant loss;
 - (c) the relevant loss is not covered by the insurance,
- the compensation for loss will be limited to the amount (excluding VAT) agreed by TPEE with the Other Party for the agreement concerned.
- 13.4. TPEE is not liable for any damage caused by faulty processing to materials delivered by or on behalf of the Other Party. At the request of the Other Party TPEE will perform the processing once again, with new material delivered by and at the expense of the Other Party.
- 13.5. The Other Party indemnifies TPEE against all third-party claims due to loss caused by or in connection with Services provided by and/ or Goods delivered by TPEE, in so far as TPEE is not liable towards the Other Party for such loss.

14. Force majeure

- 14.1. Force majeure means a shortcoming in the performance of an Agreement which cannot be attributed to TPEE.
- 14.2. Force majeure as referred to in Article 14.1 includes in any case – therefore not exclusively – shortcomings as a result of: (a) failures of and/or serious disruptions to the production process at suppliers, including utility companies, (b) failure by third parties to deliver the necessary materials, (c) wilful misconduct or gross negligence of auxiliary persons, (d) strikes, (e) excessive sickness absence of personnel, (f) fire, (g) special weather conditions (such as floods), (h) government measures (both national and at international level), including import and export prohibitions and impediments, (i) war, mobilization, disturbances, riots, state of siege, (j) sabotage, (k) traffic congestion, (l) machinery breakdown and/or (m) delay in transport.

- 14.3. In the case of force majeure, TPEE has the choice of either suspending the performance of the Agreement until the situation of force majeure has ceased to exist or, whether or not having originally chosen to suspend performance, to terminate all or part of the Agreement. In either case the Other Party will not be entitled to any compensation. If the period in which TPEE is unable to comply with its obligations for reasons of force majeure is longer than thirty (30) days, the Other Party will also be entitled to terminate part of the Agreement (with respect to the future), with the proviso that TPEE, in accordance with Article 14.4, will be entitled to send an invoice for the work already performed. In case of partial termination there will be no obligation to compensate for loss, if any.
- 14.4. If TPEE has met its obligations in part at the time the force majeure occurs or can only partially comply with its obligations, it will be entitled to invoice that part separately. The Other Party will be required to pay this invoice as if it were a separate Agreement.

15. Production tools

All items used by or on behalf of TPEE for the production, such as but not limited to dies, moulds, stamps, prototypes, special tools and drawings (the 'production tools') manufactured or purchased by TPEE for the Other Party, will remain the property of TPEE, unless stipulated otherwise in the Agreement.

16. Confidentiality

- 16.1. Both Parties are bound not to disclose any confidential information they have acquired from each other or from some other source within the context of their Agreement. Information is to be regarded as confidential if a party has stated that it is confidential or if it is obvious from the nature of the information that it is confidential.
- 16.2. If TPEE is obliged, by virtue of a statutory provision or a judicial ruling, to disclose confidential information to third parties designated by the law or a competent court and TPEE is unable to claim a right of non-disclosure recognized or granted by the competent court in such a case, then TPEE will not be obliged to pay any damages or compensation and the Other Party will not be entitled to terminate the Agreement.

17. Intellectual property rights

All intellectual and industrial property rights, including but not limited to copyrights and database rights, to any Goods and/or results of Services including but not limited to copy, models, drawings, designs, documentation, photographic recordings, films, information carriers, equipment and software (in object code and source code), information and databases, moulds and dies, which are the subject of and/or arise from and/or are used in the performance of the obligations under the Agreement between TPEE and the Other Party are vested in TPEE. If the aforementioned rights are not vested in TPEE, the Other Party will be obliged to grant its cooperation to the transfer of the relevant right to TPEE on demand.

18. Applicable law and competent court

- 18.1. All Agreements concluded, being written or oral or any other obligation (*verbinten*is), by TPEE with the Other Party will be exclusively governed by Dutch law.
- 18.2. Any disputes between the Parties will be exclusively submitted to the Rechtbank Friesland, locatie Leeuwarden, The Netherlands.