



GENERAL TERMS AND CONDITIONS FOR THE SALE OF GOODS

Definitions

- A. 'Agreement' is defined as a confirmed contract for the sale of goods or the provision of (related) services by DVIZE to the Buyer;
- B. 'DVIZE' is defined as DVIZE B.V., a private company with limited liability incorporated under Dutch law, with its registered office in Wormerveer;
- C. 'Ex Works': is defined as 'Ex Works', as described in the most recent version of the Incoterms (as amended from time to time), unless this definition is amended in the Agreement and/or these General Terms and Conditions;
- D. 'FOB' is defined as 'Free on Board', as described in the latest version of the Incoterms (as amended from time to time), unless this definition is amended in the Agreement and/or these General Terms and Conditions;
- E. 'General Terms and Conditions': is defined as these General Terms and Conditions for the Sale of Goods;
- F. 'Incoterms': is defined as the most recent version of the International Commercial Terms, published and approved by the International Chamber of Commerce (ICC);
- G. 'Products': is defined as the goods to be delivered under these General Terms and Conditions;
- H. 'Buyer': is defined as any natural or legal person, acting in the course of a profession or business, as well as his legal successor or successors, representative or representatives, intermediary or intermediaries, or heir or heirs, who has concluded or wishes to conclude a contract with DVIZE.

Article 1 - Offers and Agreement

- 1.1 These General Terms and Conditions apply to all offers by and Agreements with DVIZE. Deviations from these General Terms and Conditions shall only be valid if expressly agreed upon in writing.
- 1.2 All offers, quotations and/or tenders by DVIZE are free from obligations, unless they have been expressly declared irrevocable.
- 1.3 Offers, quotations and/or tenders of DVIZE shall not automatically apply to future Agreements.
- 1.4 Each Agreement is entered into under the suspensive condition of availability of the Products concerned.
- 1.5 Any applicability of general purchase or other conditions of the Buyer is rejected.

Article 2 - Orders

- 2.1 The Buyer shall place all orders with DVIZE in writing, specifying the characteristics of the desired Products. The order becomes binding for DVIZE after explicit written confirmation by DVIZE.

2.2 DVIZE reserves the right to refuse an order of the Buyer in whole or in part.

2.3 All documents and data, including any drafts, drawings, working and detail drawings, models, computer software, photographs, samples, designs, indicated sizes and quantities, patterns, colours, materials, price lists and/or other data provided in catalogues, folders, web pages and other documents are as accurate as reasonably possible but not binding for DVIZE. They may not be regarded as exact representations of what DVIZE offers.

2.4 DVIZE reserves the right to modify or improve the Products.

Article 3 - Prices

- 3.1. The purchase price of the Products between the Buyer and DVIZE shall correspond to the price quoted by DVIZE on the date of dispatch, less any discounts and increased by taxes (on the value added), costs and premiums to which DVIZE has agreed from time to time in writing.
- 3.2. Unless otherwise indicated, all prices are either (i) FOB at the loading terminal specified by DVIZE, or on a ship or ships to be delivered by the Buyer, or (ii) Ex Works Wormerveer, the Netherlands, as stated in the invoice or order confirmation or otherwise indicated by DVIZE.

Article 4 - Delivery and transfer of risk

- 4.1 Delivery will take place either (i) FOB or (ii) Ex Works, in accordance with Article 3.2., unless DVIZE has agreed otherwise in writing.
- 4.2 The delivery terms and/or delivery dates are approximate only and may never be regarded as final or essential. The failure to dispatch and/or deliver the Products within the specified delivery period or on the specified delivery date shall not entitle the Buyer, regardless of the reason, to any compensation or to suspend or terminate one or more of its obligations under the Agreement or any other agreement between the Buyer and DVIZE.
- 4.3 If a delivery period is agreed upon, it shall start on the date that DVIZE has confirmed the order.
- 4.4 If the agreed delivery period or delivery date is not met, the Buyer may demand delivery within a reasonable period, which shall not be less than 60 days. If the delivery is not made within the said period, the Buyer shall be entitled to rescind the Agreement, without prejudice to Clause 4.2.
- 4.5 All risks related to the Products shall pass to Buyer at the moment of delivery in accordance with Article 4.1.
- 4.6 If the Buyer does not take possession of the Products on time, DVIZE has the right to store the Products at the expense and risk of the Buyer at a location to be determined by DVIZE. If

this is the case, the time of delivery referred to in Article 4.4. shall be regarded as the originally planned delivery date under the Agreement. If the Buyer fails to take delivery of the Products for seven (7) days or more, DVIZE is entitled to terminate the Agreement without further notice and without prejudice to its right to claim damages.

Article 5 - Payment

- 5.1 Unless otherwise agreed in writing, all payments relating to the Agreement shall be made in advance and not later than the last day of the agreed term of payment (due date) as indicated in the invoice or order confirmation or otherwise specified by DVIZE. Without prejudice to the previous sentence, if the Buyer fails to pay in accordance with this Article 5, DVIZE may require that the Buyer shall provide adequate security or a guarantee that DVIZE's invoices will be paid promptly on the due date.
- 5.2 The Buyer shall make all payments to DVIZE in the invoiced currency and to the bank account indicated by DVIZE.
- 5.3 All invoices shall be paid directly and exclusively to DVIZE, without the Buyer invoking any discount, deduction, or set-off, and without set-off of one or more of the Buyer's debts against one or more of DVIZE's debts to the Buyer, whether disputed or not.
- 5.4 As soon as the term of payment referred to in Article 5.1 above has been exceeded, the Buyer shall be in default by operation of law, without any further notice of default being required. From that moment, DVIZE shall also be entitled to claim payment of one (1) percent compound interest per month of the total invoice amount, on the understanding that part of a month shall be regarded as a full month, until DVIZE receives full payment of the outstanding amount.
- 5.5 In the event of non-payment in accordance with article 5.1, the Buyer shall also be obliged to pay DVIZE all statutory and related costs, as well as the costs of legal assistance, including costs that have not been ordered by a court of law and that have been or will be incurred by DVIZE in connection with the performance of the Agreement, unless DVIZE is found to be in the wrong by the court of law and is ordered to pay all costs. In addition to the provisions of this article 5, DVIZE shall be fully indemnified if the Buyer does not fully meet its payment obligations.
- 5.6 Each payment made by the Buyer shall be applied in the first instance to any interest or costs due and, after these have been paid in full, to the oldest unpaid invoice.

Article 6 - Retention of title

- 6.1 Without prejudice to the transfer of risk pursuant to Article 4, DVIZE shall retain ownership of all Products delivered to the Buyer until all amounts due in connection with the Agreement have been paid in full, which amounts shall include all interest and costs to which DVIZE is entitled in connection with one or more failures by the Buyer to comply with the Agreement in a timely manner or in full.
- 6.2 During the period of retention of title, the Buyer shall not be entitled to pledge the Products or to encumber them with any right in favour of a third party. The Buyer is entitled to sell the Products within the framework of its normal business operations, but is obliged, when selling the Products, to agree with its customers on a retention of title substantially similar to that provided for in this Article 6, for a period no shorter than the period during which the Buyer has not fully met its payment obligations to DVIZE. This right to sell the Products still subject to the retention of title shall expire by operation of law if the

Purchaser's assets are seized, if he is granted a suspension of payments, if his bankruptcy is filed for or pronounced, or if the Purchaser reaches an arrangement with his creditors.

- 6.3 The Buyer shall take reasonable care of the Products for the duration of the retention of title.
- 6.4 If the Buyer fails to fulfil its payment and/or other obligations towards DVIZE under the Agreement, or if DVIZE has good reason to believe that the Buyer will not fulfil these obligations in connection with the Products already delivered but not paid for, or if third parties claim rights in connection with such unpaid Products, DVIZE shall have the right to repossess the Products and to repossess them, either temporarily or permanently. Without prejudice to the general nature of the foregoing, DVIZE shall have this right if the Purchaser's assets are seized, if he is granted a suspension of payments, if his bankruptcy is filed for or pronounced, or if the Purchaser reaches an arrangement with his creditors.
- 6.5 If a third party claims a right in connection with the Products delivered by DVIZE to the Buyer but not yet paid, the Buyer is obliged to inform DVIZE thereof within twenty-four (24) hours after he becomes aware of it.
- 6.6 The costs of repossession, including transport and storage costs, shall be borne by the Buyer.
- 6.7 After DVIZE has regained possession of the Products, it has the right but not the obligation to sell the Products to a third party, on the understanding that the fair market value or, if lower, the sales proceeds of those Products (minus related sales costs) will be deducted from the amounts owed by the Buyer, without prejudice to DVIZE's right to full compensation for the damage caused by the Buyer's default.
- 6.8 For the exercise of DVIZE's rights under this Article 6, the Buyer grants DVIZE an irrevocable authorisation to enter the premises on which these goods are stored. The Buyer is obliged to provide all cooperation, under penalty of an immediately payable fine of EUR 5,000 per day.
- 6.9 The Buyer is obliged to adequately insure the Products against fire, explosions, water damage and theft for as long as the ownership is reserved by DVIZE, and to make the insurance policies available for inspection at DVIZE's first request.

Article 7 - Suspension

- 7.1 If the Buyer fails to fulfil one or more obligations under the Agreement immediately and fully or if DVIZE reasonably expects that the Buyer will fail to fulfil one or more obligations immediately and fully, DVIZE shall be entitled to suspend the (further) execution of the Agreement (and any other agreements with the Buyer) until the Buyer has fulfilled its obligations, without any liability for damages towards the Buyer or any guarantee, and without prejudice to DVIZE's right to repossess its property or to terminate the Agreement, and without prejudice to its unlimited right to claim full compensation.

Article 8 - Force majeure

- 8.1 In the event of any form of force majeure DVIZE shall have the right, at its discretion, without the intervention of a court of law, to suspend the execution of the Agreement for a period of up to six (6) months or to rescind the Agreement in whole or in part, which suspension or rescission shall not oblige DVIZE to provide the Buyer with any compensation or other remuneration. After the period of six (6) months mentioned in the previ-

ous sentence, DVIZE is obliged to choose either to execute the Agreement or to rescind the whole or part of the Agreement.

8.2. In the Agreement, the term 'force majeure' shall mean any cause beyond the reasonable control of DVIZE - even if that cause was foreseeable at the time the Agreement was concluded - which permanently or temporarily delays or prevents performance of the Agreement in whole or in part, including but not limited to natural disasters, war, civil commotion, strikes, labour disputes, lock-out of employees, above-average absenteeism due to illness, transport problems, government regulations, acts, restrictions or failure to act of any government authority (domestic or foreign), import or export restrictions, fire, breakdown of or accidents to machinery, shortage of materials on the market, and any other substantial disturbance in the business of DVIZE. Force majeure also includes any impediment to the fulfilment of this Agreement caused by the failure of third parties engaged by DVIZE to meet an obligation.

8.3 This Article 8 may not be interpreted as affecting any right that DVIZE may enjoy under Article 6:75 of the Dutch Civil Code.

Article 9 - Warranty

9.1 DVIZE guarantees the products manufactured and/or delivered by it for a period of six (6) months from the date of delivery to Buyer against defects in the materials of the Products and/or workmanship, provided they occur during normal installation and normal use and maintenance, as described in the DVIZE manual accompanying the Products.

9.2 The Buyer has no claim to warranty or otherwise if:

- a Buyer is in default with regard to an obligation towards DVIZE;
- b the alleged defect is not characterised as a defect in relation to the normal use of the Products;
- c the alleged defect relates to relatively minor deviations which are customary in the trade and/or technically unavoidable;
- d the Products have been handled negligently or not in accordance with the instructions given by DVIZE, or are used in conditions other than those for which they are designed;
- e the Products have been modified or adapted, other than by or on the instructions of DVIZE personnel, or repaired other than in accordance with DVIZE's instructions for carrying out repairs, except in an emergency situation where it is not possible to wait for DVIZE's assistance; or
- f they are consumables and there is bodily injury caused by improper handling, or damage caused by spillage or exposure to a corrosive environment.

9.3 If a defect arises during the guarantee period referred to in Article 9.1, the Buyer shall notify DVIZE of its complaint and the nature of the defect as soon as possible, but no later than 30 working days after the defect could reasonably have been discovered. The Buyer's right to make a claim under the guarantee shall end immediately after this notification period has expired. In such a case, the Buyer shall provide DVIZE with all assistance free of charge in order to help DVIZE to remedy the defect within a reasonable period of time.

9.4 The warranty referred to in Article 9.1 is exclusive and all other warranties, whether express or implied, including but not limited to warranties of merchantability and fitness for purpose, are excluded.

Article 10 - Liability

10.1 DVIZE does not accept any liability for deviations of the Products other than those guaranteed in Article 9, nor does it accept liability for damage and/or loss arising from or caused by a failure to perform its obligations under the Agreement as a result of an unlawful act towards the Buyer, unless this is

caused by an intentional act or omission or gross negligence on the part of DVIZE. Nor does DVIZE accept liability for damage and/or loss that can be attributed to an act or omission of the Buyer, an employee of the Buyer or a third party acting on behalf of the Buyer.

10.2 DVIZE does not accept any liability for consequential damages, including damages or losses arising from late delivery and loss of profits, unless these are caused by an intentional act or omission or gross negligence on the part of DVIZE.

10.3 DVIZE's liability shall at all times be limited to the purchase price of the damaged Products or, if covered by DVIZE's insurance, to the amount paid out for the case in question under DVIZE's relevant insurance policy.

10.4 DVIZE may impose on the Buyer the obligation to withdraw from the market the Products it has put on the market which are defective or in which defective products have been discovered within a reasonable period of time to be determined by DVIZE (recall). All costs and/or all resulting damage shall be borne by the Buyer, unless the defect is attributable to DVIZE in accordance with the Agreement.

Article 11 - Indemnification

11. The Buyer shall indemnify DVIZE against all liabilities, claims, damages and expenses (including reasonable attorneys' fees and expenses) for which DVIZE is held liable, or which it may incur as a result of acts or omissions committed or caused by the Buyer, its employees or its customers in connection with the performance of the Contract by the Buyer.

Article 12 - Expiry of deadline

12. Unless otherwise expressly stated in the Agreement, Buyer's right to assert legal claims against DVIZE under the Agreement shall expire after the expiry of either one (1) year from the date of delivery of the Products or one (1) year from the date on which delivery of the Products should have taken place.

Article 13 - Applicable law and competent court

13.1 The Agreement (and all agreements, disputes, controversies, proceedings or claims of any kind arising from or in any way connected with the Agreement or its conclusion), as well as its interpretation, shall be governed by Dutch law, notwithstanding the fact that after transfer of the Products to another country the provisions relating to the retention of title in Article 6 shall be governed in their entirety and in particular as

regards their scope by the law of the country concerned, but only if this results in a more favourable position for DVICE. All disputes arising from or connected with the Agreement shall be submitted exclusively to the competent court in Amsterdam, the Netherlands.

13.2 The applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.