

General Terms and Conditions of Purchase DEMCON (GTCP)

Thus drawn up in Enschede on 13-05-2015,

Article 1 – Definitions

- 1.1 **Affiliated Companies:** any companies and legal entities with respect to which DEMCON Holding B.V. (a) directly or indirectly holds 50 percent or more of the nominal value of the issued share capital, or (b) has 50 percent or more of the voting power at general meetings, or (c) has the power to appoint a majority of the directors or to direct otherwise the activities of such company or legal entity; and any such company or legal entity shall be deemed to be an Affiliated Company only as long as such liaison exists.
- 1.2 **Contract:** written agreement between DEMCON and Supplier regarding the Supply (this includes, but is not limited to, a confirmed Order by Supplier).
- 1.3 **DEMCON:** DEMCON Holding B.V. and all Affiliated Companies.
- 1.4 **Force Majeure:** war, fire, flood, strike, labor trouble, force majeure affecting DEMCON's suppliers, accident, riot, acts of God, and any contingencies of like or different character beyond reasonable control of the party claiming force majeure.
- 1.5 **Order:** Purchase order (PO) send by the procurement department of DEMCON (via the email address inkoop@demcon.nl).
- 1.6 **Parties:** DEMCON and Supplier.
- 1.7 **Supplier:** DEMCON's Contract party.
- 1.8 **Supply:** the goods or services to be supplied or the work to be performed.
- 1.9 **Terms and Conditions of Purchase:** these General Terms and Conditions of Purchase DEMCON (GTCP).

Article 2 – Applicability

- 2.1 The applicability of the supplier's general terms and conditions is explicitly excluded.
- 2.2 The Terms and Conditions of Purchase apply to all requests, offers, Orders and Contracts of DEMCON.
- 2.3 Deviation from the Terms and Conditions of Purchase is possible only if agreed in writing. For the purposes of these Terms and Conditions of Purchase, 'in writing' is also defined as: by facsimile message, e-mail, the internet, or other electronic media.
- 2.4 In the event of discrepancies, Contracts between the Parties prevail over these Terms and Conditions of Purchase.

Article 3 – Contract

- 3.1 All offers of the Supplier are irrevocable and valid for sixty (60) calendar days, unless agreed otherwise.
- 3.2 DEMCON is entitled to terminate any negotiations at any time without giving reasons and without any obligation for compensation of any kind whatsoever.
- 3.3 A Contract or a change therein shall only take effect between DEMCON and the Supplier in the event that the Contract has been signed by a person duly authorized by DEMCON and by a person duly authorized by the Supplier, or when the Supplier has confirmed the Order to DEMCON, or when DEMCON has accepted an offer of the Supplier in writing by a person duly authorized by DEMCON. DEMCON is entitled to revoke any of the Orders it has placed so long as the Supplier has not confirmed the Order to DEMCON.
- 3.4 If Supplier discovers apparent contradictions and/or errors and/or omissions in the Order or Contract, Supplier shall bring them forthwith to the attention of DEMCON and seek clarification before proceeding to perform the Contract. Failure to comply with this provision means that any rights of Supplier's to additional payment lapses.
- 3.5 If DEMCON refers in the Contract or the corresponding appendices to technical regulations, safety regulations, quality requirements or other regulations or requirements which are not appended to the Contract, the Supplier shall be deemed to be acquainted with their contents, unless it notifies DEMCON in writing to the contrary without delay. DEMCON shall in that case provide the Supplier with further details of the said regulations or requirements.
- 3.6 If use is made in the performance of the Contract of drawings, specifications, instructions, inspection specifications and similar documents provided by or approved by DEMCON, these shall form an integral part of the Contract.
- 3.7 Variations to the work (more or less work) will be accepted by DEMCON only when agreed in writing with a person duly authorized by DEMCON and communicated via the procurement department of DEMCON.

Article 4 – Delivery time and terms of delivery

- 4.1 Unless agreed otherwise in writing, the Supply shall be Delivered Duty Paid (DDP, INCOTERMS 2010) at the address specified by DEMCON. Deliveries shall be made according to the specifications on the Order or in the Contract. Depending on the specifications, delivery locations may differ.
- 4.2 Agreed delivery times are regarded as firm. By the mere act of exceeding the delivery period, the Supplier shall be in default without further written notice.
- 4.3 DEMCON will monitor Supplier's delivery performance. The delivery performance will be part of the Supplier evaluation on which future business decisions will be based.
- 4.4 DEMCON has the right to postpone delivery with 3 months, as long as this postponement is announced by DEMCON at least one (1) month before the confirmed delivery date by Supplier or requested delivery date if the delivery date has not been confirmed yet.
- 4.5 If timely performance of the Contract by the Supplier is not possible or is in imminent danger of being delayed, the Supplier shall inform DEMCON thereof in writing without delay.
- 4.6 Partial deliveries may be made by the Supplier only with the prior consent of DEMCON (in conformance with Article 3.7) and only when this does not result in increased costs for DEMCON. DEMCON may refuse to accept partial deliveries for which no prior consent has been given and return them for the account and risk of the Supplier. Delivery earlier than agreed shall always be subject to the prior written consent of DEMCON (in conformance with Article 3.7) and shall not result in any change in the originally agreed terms of payment or warranty period.
- 4.7 In the event of DEMCON being unable to accept the Supply at the agreed time due to Force Majeure, default of its customers or a delay in delivery to its customers, or non-fulfillment or cancellation of the orders by customers, then the Supplier shall, at DEMCON's request, postpone the Supply, without additional costs for DEMCON, for a reasonable period of time determined by DEMCON and Supplier.
- 4.8 All delivered goods by Supplier shall conform to the WEEE Directive (Waste Electrical and Electronic Equipment Directive, 2002/96/EC) and the RoHS directive (Restriction of Hazardous Substances Directive, 2002/95/EC). Furthermore, Supplier shall conform to the REACH Regulation (European Community Regulation on chemicals and their safe use, EC 1907/2006).

Article 5 – Packaging and transport

- 5.1 The Supply must be properly packaged and secured in such a manner that, if normally transported they will reach their destination in good state. Supplier shall mention the Order number as provided by DEMCON (or Contract number if the Order number is not

available) and the 'Itemcode (DEMCON no.)' as mentioned on the Order on the packing note. Any special requirements set by DEMCON in respect of packaging, transport and/or security shall, provided that they are notified in a timely manner, be duly observed by the Supplier. DEMCON is entitled to return the Supply to the Supplier, for the account and risk of the Supplier, in the event of failure to comply with the above-mentioned requirements and provisions.

- 5.2 Loan packaging provided by DEMCON shall be looked after with due diligence and insured by the Supplier and, if requested, returned to DEMCON at no charge.

Article 6 – Transfer of title and risk

- 6.1 Transfer of title to the Supply to DEMCON becomes effective as soon as the risk is transferred to DEMCON in accordance with the agreed Incoterm, in the absence of which the title is transferred on delivery to DEMCON at the agreed destination address. In the event of DEMCON making payment(s) prior to delivery, the title to the Supply shall be transferred to DEMCON at the time of payment, in proportion to the amount paid. Transfer of title does not imply acceptance of Supplier's performance under the Contract. In that case Supplier shall store the Supply separate and insure that it is identifiable.
- 6.2 If the Supplier is responsible for installation or assembly of the Supply, the Supplier shall bear all risk until the installed/assembled Supply is accepted by DEMCON in accordance with the provisions of Article 13, or, if no acceptance test has been agreed, until the Supply has been accepted by DEMCON after commissioning.
- 6.3 If DEMCON provides the Supplier with goods for the performance of the Contract, including raw materials, semi-finished products, materials and parts, models, specifications, drawings, software and information carriers, these goods shall remain the property of DEMCON. The Supplier shall keep these goods, in its capacity of lender, clearly marked as being the property of DEMCON, in safe custody and in good condition, such for the account of the Supplier, and shall bear all risk of loss or destruction of these goods. The Supplier is obliged to carry insurance for these goods, for its own account, during the time that it has these goods on loan. The Supplier shall ensure that these goods are used exclusively for the performance of the Contract. The Supplier shall return these goods to DEMCON forthwith, for its own account, after the Contract has been executed or has expired.
- 6.4 If the Supplier uses the goods provided to it in accordance with Article 6.3 to create other goods, these goods shall be regarded as goods created on behalf of DEMCON and the Supplier shall keep these goods for DEMCON being the owner.

Article 7 – Prices

- 7.1 The prices are firm, exclusive of VAT, and based on delivery in accordance with the agreed Incoterm.
- 7.2 Additional costs which have not been explicitly accepted in writing by DEMCON (in conformance with Article 3.7) prior to delivery are not eligible for payment.

Article 8 – Payment

- 8.1 The Supplier shall send itemized invoices according to the Order line items (or Contract description if the Order line items are not available) to DEMCON. Supplier shall mention the Order number as provided by DEMCON (or Contract number if the Order number is not available) on the invoice. Failing to do so, DEMCON will regard the invoice as not being sent. The invoice date mentioned by Supplier shall be according to the realized delivery date, however not earlier than the agreed delivery date.
- 8.2 Payment shall be made within sixty (60) days after receipt of the correct invoice by DEMCON. DEMCON can at all times settle invoices in Euro against the exchange rate of the date mentioned on the invoice.
- 8.3 Payment by DEMCON does not imply acknowledgement by DEMCON that the Supply complies with the Contract.
- 8.4 If DEMCON does not make the Contractual payments on time, written notice of default must be sent to DEMCON. In the event of DEMCON being liable to pay interest due to untimely performance of its payment obligations, this shall be equal to the refinancing interest rate of the European Central Bank (ECB).
- 8.5 DEMCON is entitled to set-off valid claims in money terms received from the Supplier against its own claims, or the claims of DEMCON's Affiliated Companies, which it has towards the Supplier. Supplier is not entitled to set of claims against claims of DEMCON.

Article 9 – Warranty and indemnity

- 9.1 Supplier is responsible for ascertaining exactly what is required for the Supply. Should Supplier not ascertain what is required, Supplier shall be deemed to be acquainted with (a) the purpose for which the Supply is intended, and (b) the circumstances in which the Supply is to be made.
- 9.2 The Supplier warrants that:
- the Supply complies with the Contract and is complete and suitable for the purpose for which it is intended and shall be safe to use;
 - the Supply is fully in accordance with the written requirements as set forth in the Order, specifications, drawings, calculations and/or other documents provided by DEMCON;
 - the Supply is of a good quality and free from defects in the design, workmanship and/or materials, and that new materials and skilled personnel are used for the performance of activities forming part of the Supply;
 - the Supply at least complies with the relevant regulatory requirements of the European Union, regardless of whether the Supply is to be used inside or outside the European Economic Area (EEA), as well as the locally prevailing legal and regulatory requirements at the place of use, unless otherwise provided in the Contract;
 - it shall deliver the agreed result, regardless of whether the Supply concerns the supply of goods or the provision of services;
 - the Supply comprises all relevant certificates, statements, declarations, installation instructions, operating instructions, specifications, drawings, reports, tax related information and other documents;
 - in so far as the Supply is effected at a place outside the business areas and/or sites of the Supplier, the laws and regulatory requirements prevailing for that place shall be observed, as well as the regulations declared applicable to that place by DEMCON.
- 9.3 The Supplier warrants that the Supply does not infringe any rights of third parties, including intellectual and industrial property rights and know-how, and indemnifies DEMCON from all claims whatsoever which may be made or brought against DEMCON by any person.
- 9.4 The Supplier warrants that spare parts of the Supply and the maintenance required to keep the Supply in good condition may be acquired from the Supplier by DEMCON, or may be obtained by DEMCON, for a period of ten (10) years, at the ruling market prices.
- 9.5 Supplier indemnifies DEMCON for third-party claims for damages, for whatever reason, related to the Supply. DEMCON is not liable towards Supplier, for whatever reason.
- 9.6 These express warranties of this Article do not exempt the Supplier from its liability under the law.

Article 10 – Warranty period/repair of defects

- 10.1 Supplier is liable for all damages caused to DEMCON by the Supply and/or Supplier including damage ensuing from non-performance or inadequate performance of the Contract. Defects which are discovered during a period of 36 months after delivery or, in the event that DEMCON and the Supplier have agreed on an acceptance test, 36 months after acceptance by DEMCON, shall be finally remedied by the Supplier in accordance with the provisions of this Article 10.
- 10.2 The Supplier is obliged to remedy defects at the earliest opportunity, and at all events within a reasonable term set by DEMCON, by means of repair or replacement, unless DEMCON indicates that it will effect the repair or replacement itself, in which case all the provisions of Article 10.4 and 10.5 shall remain in force.
- 10.3 In the event of repair or replacement during the warranty period, a new warranty period of 36 months shall be established for the repaired or replaced items and for all other items which were unusable as a result of the defect, and this new warranty period shall become effective from the time of commissioning or putting into service after repair or replacement.
- 10.4 The Supplier shall bear all the costs incurred to remedy the defects under warranty or on account of non-conformity, including, but not limited to, costs of materials, transport costs, accommodation and travelling expenses, installation and dismantling costs, and all other labor charges.
- 10.5 If the Supplier fails properly to fulfill this repair obligation and/or fails to complete it within the set term, as well as in urgent cases, DEMCON shall have the right to carry out the necessary repairs, or have them carried out by third parties, for the account and risk of the Supplier, and DEMCON shall notify the Supplier thereof as soon as possible.
- 10.6 The ownership and risk of the replaced items lies with the Supplier from the time of replacement. The Supplier shall collect these items, or have them collected, without delay, unless DEMCON makes a request to keep these items for investigation.
- 10.7 The Supplier is aware that DEMCON consigns the Supply to its clients all over the world. This does not invalidate a claim by DEMCON under warranty or on account of non-conformity, and the Supplier shall in that case remedy the defects in accordance with the provisions of this Article. DEMCON is also entitled to assign the warranty rights to its clients.
- 10.8 The provisions of this Article do not exempt the Supplier from its liability under the law.

Article 11 – Complaints

DEMCON is not bound to examine the supplied/installed Supply at the time of delivery. DEMCON will notify the Supplier of the complaint in writing within two (2) months after the discovery of the defect or non-conformity. The Supplier shall in that case remedy the defects within a reasonable term set by DEMCON, in accordance with the provisions of Article 10.

Article 12 – Testing/inspection

- 12.1 Testing/inspection of the Supply may be carried out by or on behalf of DEMCON, at DEMCON's request, either at the Supplier's premises prior to delivery, or at DEMCON's premises after delivery or at the premises of DEMCON's client after delivery. If the testing/inspection takes place at the Supplier's premises, the Supplier shall have the Supply ready for testing/inspection at such a time that the agreed delivery times can be achieved.
- 12.2 The Supplier shall cooperate in the testing/inspection, without further costs for DEMCON, and at DEMCON's request provide reasonable manpower capacity and material assistance to DEMCON for the testing/inspection process. All the costs of or related to the testing/inspection, with the exception of DEMCON personnel costs or the costs of other persons appointed by DEMCON as representatives, are for the account of the Supplier. If the testing/inspection is delayed outside DEMCON's control, or in the event of DEMCON rejecting the Supply during the testing/inspection process, then all additional costs and all the costs of subsequent tests/inspections (inclusive of the costs of DEMCON personnel and DEMCON representatives) shall be for the account of the Supplier.
- 12.3 In the event of DEMCON rejecting the Supply during the testing/inspection process, the Supplier shall be bound to submit the missing, repaired or replacement Supply without delay for testing/inspection, without prejudice to all other rights and remedies of DEMCON. In that case, all the provisions of this Article 12 shall remain in force. Rejection by DEMCON shall not result in postponement of the agreed delivery period.
- 12.4 The testing/inspection of the Supply by or on behalf of DEMCON does not infer or imply that the Supply complies with the warranties given in Article 10 or that it is in conformity with the Contract.

Article 13 – Acceptance test

- 13.1 If an acceptance test has been agreed on between DEMCON and the Supplier, the Supplier shall in that case submit the supplied or installed Supply for an acceptance test, on a date to be agreed on between the parties in question, for the purpose of determining whether the Supply complies fully with the Contract. Prior to the acceptance test, DEMCON and the Supplier shall lay down, in joint consultation, the procedure to be followed during the acceptance test. The Supplier shall not offer the supplied/installed Supply for an acceptance test if he knows, or may reasonably assume, that the supplied/installed Supply will not successfully pass the acceptance test.
- 13.2 Within a term to be agreed on between DEMCON and the Supplier, DEMCON shall carry out the acceptance test in cooperation with the Supplier.
- 13.3 The acceptance test shall be considered as being successfully completed when the Supplier has received written notification to that effect from DEMCON, where appropriate stating any minor defects, which do not prevent the commissioning of the supplied/installed Supply.
- 13.4 If the acceptance test is not successfully completed, the Supplier shall modify the supplied/installed Supply, within five (5) working days after the acceptance test, at no charge and in such a manner that it will successfully pass a subsequent acceptance test. Following this, the supplied/installed Supply shall again be subjected to an acceptance test pursuant to the provisions of this Article 13. All the costs related to this new acceptance test shall be for the account of the Supplier.
- 13.5 If an acceptance test has failed to be successfully completed on more than three occasions, DEMCON shall be entitled to terminate the Contract with the Supplier, without any obligation to pay costs or compensation of any kind whatsoever.

Article 14 – Insurance

The Supplier shall carry adequate insurance for any liabilities arising both from its legal relationship with DEMCON and under the law. On first request, DEMCON shall be allowed to inspect the insurance policies taken out for this purpose

Article 15 – Industrial/intellectual property rights – confidentiality

- 15.1 All (intellectual/industrial) property rights to the Supply, drawings, specifications, manuals, documentation, samples, software, etc. provided by DEMCON to the Supplier, or produced by the Supplier as a part of the Contract, reside with or accrue fully to DEMCON. DEMCON is not obliged to pay a separate consideration for these rights and may dispose of them at its will. The Supplier shall lend its cooperation in the realization of any and all necessary deeds of transfer (amongst other things, with regard to intellectual/industrial

- property rights) and herewith, additionally, gives DEMCON an irrevocable power of attorney to draw up and sign such deeds on behalf of the Supplier.
- 15.2 If the Delivery consists of the design/modification of software, the Supplier shall, on first request of DEMCON, hand to DEMCON at no charge the object code, the source code and all documentation associated therewith. All this shall be provided in such a fashion that DEMCON can make effective and immediate use thereof without any further work or cost on the part of DEMCON.
- 15.3 The Supplier has an obligation of secrecy vis-à-vis third parties with regard to (a) all data/information/items/rights referred to in Article 15.1 and 15.2, and (b) all other data/information/items/rights concerning DEMCON, its customers, its business associates or the Supply, provided by DEMCON or which become known to the Supplier in any other way, and to use such confided facts only in the performance of the Contract, and the Supplier shall make no copies thereof without the written consent of DEMCON. The Supplier shall also impose this obligation on all its subordinates and non-subordinates that become acquainted with the said confided facts and is responsible for ensuring that these obligations are duly observed. If no Contract is concluded, or in the event that a Contract is terminated or expires, the Supplier shall return to DEMCON forthwith, for its own account, everything it has received from DEMCON.
- 15.4 All Orders and Contracts of DEMCON are confidential and shall not be made public by the Supplier for publicity or sales promotion purposes, unless agreed otherwise in writing.

Article 16 – Suspension and termination

- 16.1 DEMCON is entitled to terminate (“ontbinden”) the Contract, either wholly or in part, without prejudice to all other rights and remedies of DEMCON and/or its right to suspend its obligations under the Contract and without any obligation to pay compensation of any kind whatsoever in the event that/of:
- Supplier fails to fulfill its obligations on the Contract, either wholly or in part and Supplier is in default;
 - bankruptcy or temporary suspension of payments, or liquidation of the Supplier’s business;
 - Force Majeure.
- 16.2 Without prejudice to the provisions of the previous paragraph, DEMCON is entitled to terminate (“opzeggen”) the Contract, either in whole or in part, at any time. In such case, DEMCON shall reimburse the Supplier only for the costs incurred prior to the termination of the Contract, supplemented with an amount determined by DEMCON with regard to overhead and profit.
- 16.3 If DEMCON is of the opinion that there is sufficient and strong justification for believing that the Supplier will not fulfill its obligations towards DEMCON properly and in a timely manner, the Supplier shall in that case be obliged, on the first request of DEMCON, forthwith to give sufficient guarantee, in the form required by DEMCON, for the performance and fulfillment of all its obligations.
- 16.4 All rights and claims that DEMCON might have or acquire against the Supplier in such cases shall immediately become due and payable in full.
- 16.5 Any and all extra judicial costs, explicitly including the serving of summonses, the making of proposals (for settlement), and other preparatory acts, and the legal costs incurred by DEMCON as a result of the Supplier’s non-performance, shall be charged to the Supplier.
- 16.6 The provisions of this Article do not limit the possibilities of terminating the Contract in the cases where this is made possible by law.

Article 17 – Force majeure

In the event of a temporary Force Majeure situation, the Parties shall be entitled to suspend performance of the Contract for a reasonable term not exceeding four (4) weeks, subject to the condition that the Parties immediately notify the respective other Party thereof after the circumstances resulting in Force Majeure have occurred and stating the cause of the Force Majeure. If one of the Parties is unable to honor its obligations under the Contract after the end of the said four (4) weeks, DEMCON shall be entitled to cancel the Contract, without any obligation for compensation of any kind whatsoever or payment of costs. In the event of a continuing Force majeure event, the Supplier is obliged immediately to notify DEMCON thereof and DEMCON is entitled immediately to cancel the Contract, without any obligation for compensation of any kind whatsoever or payment of costs.

Article 18 – Assignment and pledging

The Supplier is not entitled to assign the performance of the Contract or any part thereof to third parties, or to cede or pledge to third parties any rights or claims that the Supplier may have against DEMCON under the Contract, without the prior written consent of DEMCON.

Article 19 – Other provisions

- 19.1 Should individual provisions of these Terms and Conditions of Purchase be invalid, void, or unenforceable in whole or in part, this shall not affect the remaining provisions that shall remain in force. In such cases, the Parties undertake to agree to replace the said provisions with provisions that achieve as far as possible the aim and meaning intended by the invalid, void, or unenforceable provisions.
- 19.2 If parties do not enter into a Contract after termination, dissolution or nullification of the Contract for whatever reason, these Terms and Conditions of Purchase continue to apply insofar as they have independent significance and/or insofar as required for the regulation of the consequences of the termination, dissolution or nullification, including but not limited to the articles 15 and 20.
- 19.3 These General Terms and Conditions can only be changed in writing. This also applies to this clause 19.3.

Article 20 – Applicable law and jurisdiction

- 20.1 All legal relationships between DEMCON and the Supplier are governed and will be interpreted solely in accordance with Netherlands law, with the exclusion of The United Nations Convention on the International Sale of Goods (CISG).
- 20.2 Any dispute, controversy or claim arising out of or in connection with the present Terms and Conditions of Purchase, the Order, any other Contract or any legal relationship arising there from, shall be finally settled before the district court of Overijssel.

Supplier declares to have taken note of the contents and to accept these General Terms and Conditions of Purchase DEMCON.

Supplier

Name:
Function:
Date: