



Dana Incorporated
Dana SAC Benelux B.V.
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*General Sales And Delivery Terms And Conditions of the private company with limited liability **DANA SAC Benelux BV.**, with its registered office and principal place of business in Alphen aan den Rijn, the Netherlands, registered with the Chamber of Commerce under registration number 28034356.*

Art. I General

1. In all cases in which these general terms and conditions are part of an offer for, or an effected contract relating to, deliveries and/or services provided by the contracted party, all the provisions included therein are considered applicable to the parties, such insofar as not otherwise explicitly agreed upon by both parties in writing. Any reference by the commissioning party to its own purchase, contracting or other conditions will not be accepted by the contracted party.

2. In these terms of delivery, the following term(s) is (are) considered to be:

- product: goods as well as services such as maintenance, advise and inspections.

In these terms of delivery the following terms are also considered to be:

- the contracted party: any party who in its offers refers to these terms of delivery;

- the commissioning party: the party to which the above-mentioned offer is addressed;

- service: contracting work.

Art. II Offer

1. Any offer submitted by or on behalf of the contracted party is free of obligation.

2. All offers are based on the execution of the contract by the contracted party under normal circumstances and during normal working hours.

Art. III Contract

1. If the contract is entered into in writing, the contract will be effected on the day on which it is signed by the contracted party, respectively the day on which the written order confirmation is dispatched by the contracted party.

2. Additional work is considered to include everything, whether agreed on in writing or not, that in executing the contract is provided and/or introduced by the contracted party in consultation with the commissioning party in addition to what has been explicitly recorded in the contract or the order confirmation or, as the case may be, in addition to its activities explicitly recorded in either the contract or the order confirmation.

3. Any verbal commitments by, or agreements made with, the contracted party's subordinates do not bind the contracted party other than to the extent that these commitments have been approved of in writing by the contracted party.

Art. IV Pricing

1. The price quoted by the contracted party is excluding turnover tax and other governmental levies and is based on ex works delivery in accordance with the incoterms valid on the date of offering, unless otherwise determined in these conditions. The term factory is considered to be the company premises of the contracted party.

2. If, following the effective contract date, one or more of the cost factors are increased, even if due to predictable circumstances, the contracted party is entitled to increase the agreed price accordingly.

3. The contract includes the contracted party's authority to separately charge any additional work he has executed as soon as the amount chargeable for this work is known to him. In estimating additional work the provisions given in paragraphs 1 and 2 of this article are equally applicable.

4. Cost budgets and plans are not charged separately, unless agreed on otherwise. If the contracted party is required to establish new accounts, calculations, descriptions, models or tools for the purpose of repeating orders, the costs of such establishments will be charged.

5. The packaging costs are not included in the price and are charged separately. The packaging will not be taken back.

6. The costs of loading and unloading as well as the transport of raw materials, semi finished products, models, tools and other goods made available by the commissioning party are not included in the price and are charged separately. Any costs paid for in this matter by the contracted party are to be considered as an advance payment chargeable to the commissioning party.

7. If the contracted party has agreed to assemble the product, the price is considered to include this assembly and the operational delivery of the product at the location mentioned in the offer as well as all costs, with the exception of costs which under the previous paragraphs are not included in the price or which are not included in article VII. Any costs incurred for time not worked due to weather conditions will be charged.



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Art. V Drawings, calculations, Descriptions, Models, Tools, Etc.

1. Any information included in catalogues, illustrations, measurements, weight specifications and the like are only binding if and to the extent that they have been specifically included in a contract signed by the parties or in the order confirmation signed by the contracted party.

2. The offer submitted by the contracted party as well as any drawings, calculations, software, descriptions, models, tools, etc. it makes available remain the property of the contracted party, regardless of whether any costs have been charged in the matter. All information contained in the above or serving as a basis for any production and construction methods, products, etc. explicitly remains the property of the contracted party, regardless of whether any costs have been charged in the matter. The commissioning party guarantees that the information in question, save for the purpose of executing the contract, will not be reproduced, made available to third parties, made public or used without written permission from the contracted party.

Art. VI Delivery Period

1. The delivery period is effected at the latest of the following dates:

- a. the day on which the contract is effected;
- b. the day on which the contracted party receives all the documents, information, licenses, etc. that are necessary for the execution of the order;
- c. the day on which the necessary formalities are finalised for the activities to commence;
- d. the day on which the contractually agreed down payment is received by the contracted party for the activities to commence.

If a delivery date or week has been agreed on, the delivery period is considered to be the period between the effective date of the contract and the date or week of delivery. A delivery period is given by approximation.

2. The delivery period is based on the working conditions at the time of the effective contract date and on the timely delivery of the materials ordered by the contracted party in order for the activities to be carried out. If, through no fault of the contracted party, any delay arises due to a change in the weather circumstances referred to or a delayed delivery of the ordered materials while work is being carried out, the delivery period will be extended for as long as appropriately required.

3. The product in relation to the delivery period is considered delivered if, in case of inspection at the contracted party's company being agreed on, it has been prepared for inspection and in all other cases if it is ready for shipment and after the commissioning party has been notified thereof in writing, such without prejudice to the contracted party's obligations to fulfil its obligations with regard to assembly and installation.

4. Notwithstanding the other provisions contained by these conditions regarding the extension of the delivery period, the delivery period will be extended by the period of delay incurred by the contracted party as a result of the commissioning party failing to comply with any obligations arising from the contract or failing to co-operate in every way in the execution of the contract.

5. With the exception of gross neglect on the part of the contracted party, any exceeding of the delivery period does not grant the commissioning party any rights to the full or partial termination of the contract or to any compensation for damages. Any exceeding of the delivery period, for whatever reason, does not grant the commissioning party any rights to carry out or have carried out the activities required for the execution of the contract without appropriate court authority.

6. Any eventual penalty for exceeding the delivery period must be considered a substitute for any rights the commissioning party may have to compensation for damages. Such a penalty will not be imposed if the delivery period is exceeded as a result of force majeure.

Art. VII Assembly/Installation

1. The commissioning party is responsible towards the contracted party for the correct and timely provision of all arrangements, facilities and/or conditions that are necessary for the assembly of the product and/or the correct operation of the assembled product, with the exception of and to the extent that such provision is carried out by or on behalf of the contracted party in accordance with the information and/or drawings provided by the latter.

2. Notwithstanding the provisions of paragraph 1, the commissioning party for its own account and risk will guarantee that;

- a. the personnel of the contracted party upon arriving at the location of assembly are able to commence and maintain their activities during normal working hours and, moreover, outside normal working hours if the contracted party deems this necessary, such with the proviso that it has informed the commissioning party thereof in time;
- b. appropriate housing and/or all facilities in accordance with governmental provisions, the contract and practical usefulness are made available to the personnel of the contracted party;
- c. the access roads to the assembly location are suitable for the required transport;
- d. the designated place of assembly is suitable for storage and assembly;
- e. the necessary storage facilities for materials, equipment and other goods are present and can be locked;
- f. the necessary and customary auxiliary workers, equipment, materials (fuels, oils and greases, polishing and other small materials, gas, water, electricity, steam, compressed air, heating, lighting, etc. are present;



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- g. all the necessary safety and precautionary measures have been taken and are maintained and that all measures have been taken and will be maintained in order to execute the assembly/installation in accordance with the appropriate governmental provisions;
- h. upon commencement and for the duration of assembly, the dispatched products are present at the appropriate location.
- 3. any damages and costs arising from non-compliance or non-timely compliance with any of the provisions of this article are for the account of the commissioning party.
- 4. regarding the assembly/installation time, article VI is applied equally.

Art. VIII Inspection And Acquisition Trial

- 1. The commissioning party will inspect the product no later than 14 days following the delivery as meant by article VI, paragraph 3, or, if assembly/installation has been agreed on, no later than 14 days following assembly/installation. If this term has come to expire and no written and specified notification of well-founded complaints has been submitted, the product is considered to have been accepted.
- 2. If an acquisition trial has been agreed on, the commissioning party upon taking delivery or, if assembly/installation has been agreed on, upon assembly/installation, will provide the contracted party with the opportunity to carry out the necessary tests and to make improvements and changes deemed necessary by the contracted party. The acquisition trial will be carried out immediately upon the contracted party's request to do so and in the presence of the commissioning party. If the acquisition trial has been finalised without any specified and well founded complaints emerging or if the commissioning party fails to fulfil its previously mentioned obligations, the product is considered to be accepted.
- 3. The commissioning party for the purpose of carrying out the acquisition trial and possibly necessary tests will guarantee the availability of the appropriate facilities, among which those meant by art. VII, paragraph 2 under f, as well as the timely and adequate availability at the proper location of appropriate samples of any processing materials in order to enable the parties to imitate the predictable operating conditions for the product as well as possible. If the commissioning party fails to fulfil these obligations, the last sentence of paragraph 2 is applicable.
- 4. In the event of minor defects that are of little or no consequence to the anticipated use of the product, the product is considered to be accepted despite these defects. The contracted party will undertake to remedy such defects as soon as possible.
- 5. Notwithstanding the contracted party's obligations to fulfil its guarantee commitments, the acceptance according to the foregoing paragraphs excludes any claim on the part of the commissioning party relating to default in the contracted party's performance.

Art. IX Transmission Of Ownership And Risks, Retention Of Title

- 1. Immediately following the product being considered delivered according to article VI, paragraph 3, the risks for all direct or indirect damages to or arising from this product will be transferred to the commissioning party, with the exception of damages incurred due to gross negligence on the part of the contracted party. If the commissioning party, following notice of default, fails to take delivery of the product, the contracted party is entitled to charge the costs of storage of the product to the commissioning party.
- 2. All delivered goods remain the property of the contracted party until such moment when the commissioning party has fulfilled the following obligations arising from the contract into which he has entered with the contracted party:
 - all considerations relating to the goods delivered or to be delivered themselves;
 - all considerations relating to services rendered or to be rendered by virtue of the purchase contract(s);
 - any payment due to non-compliance by the commissioning party with its obligations arising from the contract, (any) agreement(s) arising from the contract as well as new contract(s).
- 3. The goods delivered by the contracted party which by virtue of paragraph 1 fall under the retention of title, may not be sold on or pledged without written approval from the contracted party, nor may any rights be established from them unless the goods are sold on within the context of the commissioning party's normal company operations, such with due regard for the provisions of article XII.
- 4. If the commissioning party fails to fulfil its obligations or if there exists well-founded fear that he will fail to do so, the contracted party is entitled to remove or have removed the delivered goods in which the retention of title according to paragraph 1 are vested from the commissioning party or any third party keeping goods on behalf of the commissioning party. The commissioning party to this end is obliged to fully co-operate in any way he can, subject to a penalty of 10% of the amounts payable by him per day.
- 5. If a third party wishes to establish or enforce any rights to the goods delivered under retention of title, the commissioning party is obliged to inform the contracted party thereof as soon as reasonably possible,
- 6. The commissioning party will undertake to:
 - take out and maintain insurance for the goods delivered under retention of title against fire, explosion and water damages and theft as well as submit the insurance policy for inspection to the contracted party;
 - pledge all claims by the commissioning party or the underwriters relating to the goods delivered under retention of title to the contracted party in accordance with the manner described in Book 3, Section 239 of the (Dutch) Civil Code;
 - pledge all debts that the commissioning party has or will obtain in selling on the goods under retention of title delivered by the contracted party to the contracted party in accordance with the manner described in Book 3, Section 239 of the (Dutch) Civil Code ;



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- mark the goods delivered under retention of title as being the property of the contracted party;
 - in other ways render assistance in all reasonable measures that are taken by the contracted party for the purpose of protecting its ownership rights and that do not unreasonably obstruct the commissioning party in its normal company operations.
7. If the commissioning party acts contrary to the provisions of paragraph 5, it will incur a penalty for the benefit of the contracted party to the sum of the amount invoiced for the goods, such without prejudice to the contracted party's rights to demand payment for the actual, higher damages from the commissioning party.
8. The commissioning party is obliged to inform third parties of the contracted party's ownership rights. The contracted party may demand of the commissioning party that it, at the contracted party's first request, submits proof of such a written notification as well as of the confirmation of receipt of this notification by the third parties in question .

Art. X Payment

1. If not otherwise agreed on, the payment of the agreed price will be carried out in two instalments:
 - 1/3 (one third) no later than 7 days following the effective contract date;
 - 2/3 (two thirds) no later than 14 days following delivery in accordance with art. VI, paragraph 3.
2. The payment of additional work is to be carried out immediately after it has been charged to the commissioning party.
3. All payments must be made without deductions or settlements at the contracted party's offices or into an account designated by him.
4. If the commissioning party fails to pay within the agreed periods, it is considered to be in default by operation of law, thereby granting the contracted party the right to demand payment of statutory commercial interest from it as of the expiry date, such in accordance with Book 6, Section 119 under a of the (Dutch) Civil Code, as well as all judicial and extra-judicial costs relating to the collection of payment, with a minimum of € 1000,00 excluding (Dutch) VAT.
5. In the event the customer cancels any order for customized products for which the supplier has manufactured work-in-process, the supplier will be entitled to reimbursement of only its direct and indirect costs for such work-in-process, to the extent the supplier has the right to such direct or indirect costs pursuant to the terms of the contract or under applicable law.

Art. XI Guarantee

1. Notwithstanding the following restrictions, the contracted party guarantees both the reliability of the product it has delivered and the quality of the materials used and/or supplied for the product, insofar as relating to any defects that were hidden at the time of inspection or acquisition trial respectively and of which the commissioning party can prove that they have occurred within 6 months of delivery according to article VI, paragraph 3, or which have occurred mainly or directly as a result of an error in the construction applied by the contracted party or, as the case may be, an inadequate degree of finishing or the use of inadequate materials. If the contracted party has obtained the delivered product from a third party supplier, a guarantee is issued for the commissioning party in accordance with the guarantee provisions that are applied between the contracted party and its supplier.
2. Paragraph 1 is equally applied to defects that were hidden at the time of inspection or acquisition trial respectively and of which the cause is entirely or mainly due to inadequate assembly/installation by the contracted party. If the assembly/installation of the product is carried out by the contracted party, the guarantee period of six months as meant by paragraph 1 will commence on the day on which the assembly/installation has been finalised by the contracted party, with the proviso that in such an event the guarantee period will in any case end when 12 months have expired following delivery according to article VI, paragraph 3.
3. The guaranteed defects as meant by paragraphs 1 and 2 will be rectified by means of the repair or the replacement of the defective component, whether or not within the contracted party's company premises, or by dispatching a replacing component, such always at the discretion of the contracted party. All costs exceeding the sole obligation as described in the previous sentence, such as but not restricted to transport costs, travel and accommodation expenses as well as costs of assembly and disassembly, are for the account of the commissioning party.
4. Not falling under the guarantee are in any case those defects which occur entirely or partially as a result of:
 - a. non-observance of the operating and maintenance provisions or, as the case may be, use other than the anticipated normal use;
 - b. normal wear and tear;
 - c. assembly/installation or repair by third parties, which includes the commissioning party;
 - d. the application of any governmental regulations relating to the nature or quality of the materials used;
 - e. the application of materials or goods in consultation with the commissioning party;
 - f. materials or goods that have been made available by the commissioning party to the contracted party for the purpose of processing; materials, goods, work methods and constructions insofar as applied at the commissioning party's specific request, as well as materials and goods provided by or on behalf of the commissioning party;
 - h. components being obtained from third parties by the commissioning party to the extent that no guarantee has been issued by the third party to the contracted party.
5. If the commissioning party fails or partially fails to fulfil any of its obligations arising from the contract it has entered into with the contracted party or any agreements arising from this contract or if it does not do so in time, the contracted party will not be bound to any guarantee - by



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whatever name - relating to these contracts. If the commissioning party without prior written approval by the contracted party decides to disassemble, repair or carry out other activities relating to the product or have any of these activities carried out, any claims made by virtue of the guarantee will become void.

6. Any complaints with regard to defects must be submitted in writing as soon as possible, but no later than 14 days following the guarantee expiry date, the exceeding of which period will cause any claims against the contracted party regarding the defects in question to become void. Any legal actions in such cases must be brought before court within one year of the timely complaint, such on penalty of a limitation of actions.

7. If the contracted party replaces any components/products for the purpose of fulfilling its guarantee obligations, these components/products become the property of the contracted party.

8. With regard to repairs or revisions or other services carried out by the contracted party, a six months' guarantee will be issued for the soundness of the required work carried out only. This guarantee consists of the sole obligation on the part of the contracted party to, in the event of faultiness, again carry out the activities in question insofar as having been faulty. In such an event the second full sentence in paragraph 3 is equally applicable.

9. No guarantee is issued for inspections, advise or comparable activities carried out by the contracted party.

10. Any alleged non-compliance by the contracted party with regard to its guarantee obligations does not release the commissioning party from its obligations arising from a contract entered into with the contracted party.

Article XII Liability

1. Any liability on the part of the contracted party is limited to compliance with the guarantee provisions contained by article XI of these terms and conditions,

2. With the exception of intention or gross negligence on the part of the contracted party and with the exception of the provisions in paragraph 1, any liability of the contracted party, such as loss of profits, other indirect damages and damages incurred due to third party liability, is excluded.

3. The contracted party therefore cannot be held liable for any infringement of patents, licenses or any other third party rights as a result of the use of information provided by or on behalf of the commissioning party; damage or loss, incurred for whatever reason, to and of the raw materials, semi finished products, models, tools and other goods made available by the commissioning party.

4. If the contracted party, without having been contractually ordered to carry out any assembly, provides assistance and support - of whatever nature - in the assembly, these activities will be carried at the commissioning party's risk.

5. The commissioning party is bound to safeguard, respectively indemnify the contracted party against any third party claims for any compensation for damages, for which purpose the contracted party's liability by virtue of these terms and conditions in its relation to the commissioning party is excluded.

Art. XIII Force Majeure

Force Majeure in these terms and conditions is considered to be any circumstance that is beyond the will of the contracted party - even if this circumstance was predictable at the time of the contract being effected - and that permanently or temporarily prevents compliance with the contract as well as, insofar as not already included therein, war, threat of war, civil war, uprising, industrial action, exclusion of workers, transportation problems, fire and other serious disruptions of the contracted party's company operations or those of its suppliers.

Art. XIV Suspension And Termination

1. In the event of any impediment occurring in the execution of the contract due to force majeure, the contracted party is entitled without legal intervention to either suspend execution of the contract by at most six months or fully or partially terminate the contract, such without being liable in any for any damages incurred in whatever way.

During the period of suspension the contracted party is authorised and at the end of this period is obliged to choose between the execution and full or partial termination of the contract.

2. Both in the event of suspension and of termination in accordance with paragraph 1, the contracted party is entitled to demand immediate payment for any reservations he has made with regard to used and processed raw materials, materials, components and other goods, such to the value that might be reasonably placed thereon. In the event of termination by virtue of paragraph 1, the commissioning party, following payment of the payable amount by virtue of the previous full sentence, is bound to assume possession of the goods contained in this amount, failing which the contracted party is entitled to store these possessions at the risk and expense of the commissioning party or sell them at its expense.

3. If the commissioning party does not, does not adequately or does not timely fulfil its obligations arising from the contract he has entered into with the contracted party or from any related agreements arising from this contract, or if there exists well-founded fear that the commissioning party is not or will not be able to fulfil its contractual obligations towards the contracted party, or in the event of bankruptcy, moratorium, cessation, liquidation or partial transfer - whether or not serving as security - of the commissioning party's company, which includes the transfer of a substantial part of its claims, the contracted party is entitled without any legal intervention to either suspend each of these contracts for at most a period of six months or fully or partially terminate them, such without the contracted party being liable in any way for damages or guarantees and without prejudice to the rights to which he is entitled. During the period of suspension the contracted party is authorised and at the end of this period is obliged to choose between the execution or the full or partial termination of the suspended contract(s).

4. In the event of suspension by virtue of paragraph 3, the agreed price will be immediately demandable less the already paid instalments and the



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costs saved by the contracted party due to the suspension, and the contracted party will for the purpose of executing the contract be entitled to have the used and processed raw materials, materials, components and other goods stored for the expense and risk of the commissioning party. In the event of termination by virtue of paragraph 3, the agreed price - if prior suspension has been effected - will be immediately demandable less the already paid instalments and the costs saved by the contracted party due to the suspension, and the commissioning party will be obliged to pay the previously mentioned amount and take possession of all possessions included in that amount, failing which the contracted party is entitled to store these possessions at the risk and expense of the commissioning party or sell them at its expense.

5. The commissioning party is not entitled to demand the termination of the contract with retroactive force.

6 In the event the customer cancels any order for customized products for which the supplier has manufactured work-in-process, the supplier will be entitled to reimbursement of only its direct and indirect costs for such work-in-process, to the extent the supplier has the right to such direct or indirect costs pursuant to the terms of the contract or under applicable law.

Art. XV Disputes

1. With the exception of the applicability of paragraph 2 of this article and notwithstanding the provisions for requesting a preliminary injunction during interlocutory proceedings before the president of the competent Court,