

General Terms and Conditions of Purchase of the Netherlands-based companies of Arcus Holding B.V, Arcus Nederland B.V, and Sosta B.V. From now mentioned as "Arcus" (September 2004)

1. Application

These Terms and Conditions of Purchase shall govern all agreements/assignments concerning the purchase of goods and/or services by Arcus (hereinafter to be referred to as the ('Orders')). These Terms and Conditions shall set aside any and all terms and conditions adopted by the supplier or contractor (hereinafter to be referred to as the 'Supplier'), unless the parties agree otherwise in writing.

2. Validity of Orders

Arcus' Orders shall be binding on the Supplier. They shall only bind Arcus, however, if its order confirmation is signed and returned by the Supplier within fourteen days. If delivery in whole takes place within said period of time, such a delivery shall be accepted, provided that:

- a. the delivery conforms to Arcus Order, including the conditions attached to the Order;
- b. the Supplier still signs and returns the order confirmation to Arcus within the above-mentioned period of time.

3. Prices and Payment

3.1 The prices agreed upon shall include any and all costs to be incurred by the Supplier in relation to the Order, on the understanding that they shall be exclusive of VAT and any import duties that may become due.

3.2 The prices to be agreed upon by the Supplier and Arcus shall be final and binding and may not be changed without the prior written consent of Arcus.

3.3 Payment shall be made as agreed in the Order.

3.4 Invoices shall be submitted to Arcus in duplicate.

3.5 If Arcus has any goods available to the Supplier or has made any prepayment for goods in full or in part, Arcus may demand a deposit or bank guarantee to be issued by a bank that is acceptable to Arcus. The costs involved shall be borne by the Supplier.

4. Quality and Conformity

4.1 The Supplier warrants:

- a. that the goods delivered are fit for the purposes for which they are intended, insofar as these purposes were made known to the Supplier or ensue from the nature of the delivery;
- b. that the goods are delivered in conformity with Arcus Order and/or its specifications and/or drawings, and that the delivery also conforms to the statutory requirements at the time of delivery;
- c. that the goods delivered are of good quality and are free of any defects.

4.2 If the Order refers to any technical, safety, quality or other provisions and documents, which have not been attached to the Order, the Supplier shall be deemed to be familiar with such provisions or documents, unless it immediately notifies Arcus in writing contrary. In such an event, Arcus shall inform the Supplier of the provisions in further detail.

5. Warranty to Repair Defects and/or Replace Goods

5.1 If the delivery is not in accordance with the provisions set out in Article 4 of these Terms and Conditions, the Supplier shall, at its own expense and at Arcus option, either repair or replace the goods concerned at Arcus' first request, unless Arcus prefers a cancellation of the Order on the basis of Article 14 of these Terms and Conditions.

5.2 The supplier shall bear all costs which are to be incurred in repairing the defects or replacing the goods in conformity with its responsibility set out in Article 5.1.

5.3 If the Supplier defaults in duly performing this warranty obligation, and/or defaults in performing the obligation within the period of time prescribed, Arcus shall be entitled to take all measures deemed necessary in this respect or to have such measures taken at the Supplier's risk and expense. If Arcus exercises this right, it shall notify the Supplier.

5.4 The warranty provisions of Article 5 shall apply in full to any repaired or substitute components.

5.5 The Supplier shall bear the risk of loss attaching to any goods that have been replaced under this warranty obligation as of the time of replacement. The Supplier shall take possession of the goods replaced as soon as possible.

6. Quality Control

6.1 The goods to be delivered and/or the process and/or the products which are being processed, which are to be processed or which have been processed, may at all times be inspected, examined and/or tested by or on behalf of Arcus. The costs involved shall be borne by the Supplier. Approval shall not imply acceptance by Arcus. Within the framework of this Article, the Supplier shall particularly:

- a. grant access to the workplace and warehouse of the Supplier or its sub-contractor during working hours, provide Arcus with all necessary personal and material assistance and, if requested, place a suitable room at Arcus disposal for inspection, examination or testing purposes;
- b. interrupt or cause the interruption of the process if, at any stage of the process, certain components or parts of the finished product fail to have the quality required.

6.2 In the event of any rejection, Arcus shall notify the Supplier forthwith, thereby stating the reasons for the rejection. In such an event, the Supplier shall be obliged to repair or replace what has been rejected at its own costs and within the term prescribed by Arcus. If the Supplier engages subcontractors or sub-suppliers in connection with the Order, the Supplier shall incorporate the provisions of Articles 4 and 5 in the contract concluded with the relevant subcontractors or sub-suppliers.

7. Passing of Title

7.1 Title to the goods ordered and accepted by Arcus shall pass to Arcus upon delivery.

7.2 Title to goods made available by Arcus to the Supplier for performing the Order shall remain vested in Arcus. If such goods are commingled or mixed in the process with the goods not owned by Arcus, the latter shall have title to the goods which have consequently come into being.

7.3 When advance payments and/or pre-payments of orders have been made available, title to the goods ordered by the Supplier for performing the Order shall be transferred to Arcus as additional security and the Supplier shall provide Arcus with written specifications, duly signed by the Supplier, of the goods it is holding for Arcus under this provision.

7.4 As concerns the goods referred to in Articles 7.1 and 7.5 Owned by Arcus and kept by the Supplier, the latter shall be obliged:

- a. to clearly identify the goods owned by Arcus;
- b. to make the goods available on Arcus' first demand and to deliver them or cause them to be delivered without charge at the location on Arcus' business premises as indicated by Arcus or at any other place specified by Arcus, without involving any right for the Supplier to retain these goods.

8. Delivery

8.1 Unless the parties agree otherwise in writing, the goods shall be Delivered Duty Unpaid ('DDU') at the location on Arcus business premises or elsewhere as indicated by Arcus. The interpretation of the terms and conditions of delivery shall be governed by the 1990 Incoterms issued by the International Chamber of Commerce.

8.2 The date of delivery or the term prescribed for delivery in accordance with the Order shall be considered of the essence.

8.3 Without prejudice to the provisions of Article 14 and save for the event of a delay in delivery of the goods ordered due to unforeseen causes beyond the Supplier's control (force majeure), Arcus shall be entitled to require from the Supplier the payment of liquidated damages corresponding to no more than 5% of the Order's value.

9. Packaging and Dispatch

9.1 The Supplier shall ensure transport, insurance, packaging, etc. in the manner specified in the Order. This obligation shall remain imposed on the Supplier for the entire period of time in which the Supplier has possession of any goods of and/or designated for Arcus has such goods transported, processed, etc. by any third party.

- 9.2 The Supplier shall package and/or secure the Order in such a fashion that, when transported in a manner suitable for the type of delivery concerned, the goods reach the place of destination in a good state of repair and can be safely unloaded at that place. Any requirements prescribed by Arcus in the Order for packaging and/or securing the goods shall be satisfied by the Supplier with all due care.
- 9.3 If the parties agree that any certificates, drawings or other documents are to be included in the delivery of the goods, such documents shall form part of the delivery and the Supplier shall ensure that they are in Arcus possession no later than at the time agreed upon. If such certificates, drawings or other documents are not included in the delivery, Arcus shall have the right to postpone its payment obligation.
10. Force Majeure
- 10.1 The Supplier shall not be liable for a delay in meeting any delivery date contained in the Order, if the delay is due to unforeseen causes beyond the Supplier's control, provided that the Supplier, at no cost to Arcus:
- immediately notifies Arcus in writing of the reasons for the delay;
 - shall use its best efforts to avoid or remove the cause of the delay and to satisfy its obligation to deliver in a timely fashion by using all its required sources;
 - when the cause of the delay has been removed exerts its best efforts and all required Supplier sources to regain the delivery schedule by the earliest possible date.
- Force majeure shall in no event be a delay in delivery by the Supplier's subcontractors or sub-suppliers; strikes, shut downs or walkouts at the Supplier's premises or export restrictions of any nature.
- 10.2 The Supplier shall at all times prove to Arcus' satisfaction that the late delivery was caused by an unforeseen cause beyond its control.
- 10.3 If the delivery of the Order is delayed in whole or in part as the result of any event covered by this Article and if, in Arcus opinion, such a delay may exceed one calendar month after the date of delivery specified in the Order, Arcus shall be entitled to terminate the Order unilaterally, either in whole or in part and without any judicial intervention being required, and shall not be obliged to pay any financial compensation
11. Assignments and Subcontracting
- Without Arcus' prior written consent, neither the Order nor its performance shall be transferred, assigned or subcontracted in whole or in part to any third party. Arcus shall have the right to attach conditions to its permission. Such permission shall leave unimpaired any obligations ensuing for the Supplier from the Order.
12. Changes
- 12.1 Arcus shall at all times be entitled to change the Order(s) agreed upon between Arcus and the Supplier.
- 12.2 In the event of any change decided by Arcus the Supplier shall be obliged to inform Arcus within 14 days after it was notified of the intended change or after it could have taken note of such a change, whether it accepts the change, specifying the conditions, if any on which it is prepared to accept. If the Supplier fails to do so, the changes concerned shall be deemed to have been accepted.
- 12.3 If Arcus considers the Supplier's conditions to be unreasonable in view of the nature and the extent of the change, it shall be entitled to cancel the order by written notice. A cancellation pursuant to this paragraph shall not entitle either of the parties to claim any damages.
13. Termination
- 13.1 If the Supplier fails to perform any of its obligations arising from the Order or fails to perform such obligations in a timely or proper fashion, or if the Supplier is declared bankrupt or is granted a suspension of payment, or in the event of a shut down, liquidation or takeover of its business, the Supplier shall be deemed to be in default by operation of law. In such an event, Arcus shall be entitled to wholly or partially terminate the Order unilaterally, without any notice of default or any judicial intervention being required, by sending a written notice of termination to the Supplier. Arcus shall not be liable for any damage without prejudice to any other rights or remedies available to Arcus.
- 13.2 In the event of any termination as referred to in paragraph 13.1 Arcus shall be entitled to complete the Order either itself or through a third party, if necessary, by using materials and tool provided by the Supplier against fair and reasonable prices to be mutually agreed upon.
- 13.3 Any claims which Arcus may have against the Supplier by virtue of the occurrence of any such an event shall become payable immediately.
14. Rights of Third Parties
- The Supplier warrants that the Order does not infringe any industrial property rights of third parties. The Supplier indemnifies Arcus against any claims in this respect. Unless the Supplier shall prove that Arcus was liable for the infringement.
15. Risk of Damage / Liability of the Supplier
- 15.1 The Supplier shall be liable for any damage caused to Arcus or any third party by goods delivered by the Supplier or by acts and/or omissions on the part of the Supplier in the performance of the Order.
The Supplier shall indemnify and hold Arcus harmless from and against any and all claims in this respect.
- 15.2 The Supplier shall adequately insure its liability under this Article. The Supplier shall furnish the relevant policy for inspection by Arcus at the latter's request.
16. Confidentially
- The Supplier shall keep confidential all Arcus business affairs, in the broadest sense of the word, of which it has gained knowledge within the framework of the order. Said business affairs shall include all information concerning regulations and specifications of materials.
17. Applicable Law
- The Order and any agreements ensuing there from shall be governed exclusively by the laws of the Netherlands.
18. Disputes
- 18.1 Save for proceedings on appeal and on cassation, all disputes arising between Arcus and a Supplier based in the Netherlands in connection with the Order or any agreements ensuing there from shall be submitted in the first instance to the competent court in the jurisdiction in which Arcus has its principal office.
Pursuant to Article 98a of the Netherlands Code of Civil Procedure, cases to be brought before Cantonal Court shall be excluded from this provision.
- 18.2 All disputes arising in connection with the Order or any agreements ensuing there from between Arcus and Suppliers, which have their principal place of residence or their corporate office outside the Netherlands, shall be finally settled in accordance with the Rules of the Netherlands Arbitration Institution established in Rotterdam.