

**GENERAL TERMS AND CONDITIONS OF SALE OF THE PRIVATE LIMITED LIABILITY COMPANY UUDEN RAIL PRODUCTS B.V.**

***Article 1 - Definitions***

1.1 The following definitions apply in these general terms and conditions:

<i>URP:</i>	Uuden Rail Products B.V., and its legal successors or other companies associated with these companies;
<i>the buyer:</i>	the natural person or legal entity who places the order for delivery of the product or requests a quotation for such;
<i>the agreement:</i>	the agreement concluded between URP and the buyer for the purchase and delivery of products and services;
<i>the product:</i>	all that is produced or supplied by URP;
<i>services:</i>	all advice to be provided and/or work to be performed by or on behalf of URP and/or the supplier and the provision of special tools related to the delivery of products;
<i>tools:</i>	all equipment that URP uses and/or makes available to the buyer when delivering products and/or services and everything that URP refers to as a tool.

***Article 2 - Applicability of the general terms and conditions***

2.1 These general terms and conditions apply to all quotations issued by URP and to all agreements concluded by it.

2.2 Deviations from these general terms and conditions or additions thereto only apply insofar as they have been agreed in writing.

***Article 3 - Quotation***

3.1 Quotations from URP are without obligation, unless stated otherwise in the quotation.

***Article 4 - Conclusion of the agreement***

4.1 The agreement is concluded by a written or verbal order for delivery of the product.

4.2 If URP has sent a quotation prior to the order for delivery, this quotation is deemed to accurately reflect the content of the agreement concluded in accordance with Article 4.1.

- 4.3 If URP has not issued a quotation, the content of the agreement concluded in accordance with Article 4.1 is deemed to be correctly represented by URP's written order confirmation and, in the absence thereof, by URP's invoice.

#### **Article 5 - Prices**

- 5.1 The offered and agreed prices are exclusive of turnover tax and other government levies.
- 5.2 The prices stated in the order confirmation are binding on the parties, subject to the risk regulation included below in Article 5.3.
- 5.3 URP is entitled to change the prices, even if they have already been confirmed or agreed in writing, if there are extra costs as a result of market developments, unforeseen circumstances or force majeure. This includes (but is not limited to): oil crisis, price increases on the world market, increases in the prices of raw materials and fuels, strikes, weather conditions and natural disasters.

#### **Article 6 - Delivery**

- 6.1 Delivery takes place 'Ex Works' (in accordance with the provisions of INCOTERMS 2000) unless otherwise agreed. In that case the costs of transport are for the account of the buyer and will be charged separately to the buyer. Delivery by URP takes place in accordance with the date or the delivery period as agreed between the parties, with due observance of the provisions in the other paragraphs of this article.
- 6.2 Delivery will be made during the regular working hours of URP, from Monday to Friday from 7 a.m. to 5 p.m. For deliveries outside the aforementioned working hours and for deliveries on Saturdays, Sundays and public holidays, the buyer must pay extra; URP will discuss this in advance with the buyer.
- 6.3 The buyer designates the unloading location and guarantees under all circumstances that the means of transport of URP can access the unloading location easily and safely from the public road and can also return to the public road again. The buyer must also ensure that sufficient space is available for delivery. If, while URP's means of transport is travelling from the public road to the unloading location, while unloading or while returning from the unloading location to the public road, damage is incurred by the means of transport or by URP or third parties or goods belonging to them or by people in their service, caused by the means of transport, the buyer is liable for this damage, unless it

can prove that the damage was caused by intent or gross negligence of the driver of the means of transport. If URP is held liable for compensation for damage as referred to above, the buyer is obliged to indemnify URP against this and to reimburse it for any (procedural) costs, at first request. Damage incurred by the buyer or its staff is for the account of the buyer. Unless agreed otherwise, URP determines which means of transport will make the delivery.

- 6.4 It must be possible to access the unloading location, unload and drive away as quickly as possible without delay. If this requires more time than agreed, or in the absence of a relevant agreement more time than is reasonable, the resulting costs and damage will be borne by the buyer.
- 6.5 The moment of delivery is the offering by or on behalf of URP of the product at the agreed (unloading) location and time, even if the buyer does not accept the product. At this time the term referred to in Article 7.1 will commence. Delivery of the product by URP is also considered to have been done if the transport company engaged by the buyer has accepted the product as apparent from the transport documents.
- 6.6 If a delivery period has been agreed, this will only start on the date on which all of the following conditions have been met:
- a. when URP has confirmed the order;
  - b. when agreement has been reached about all technical details;
  - c. when all data, drawings, etc. required for the delivery are in URP's possession and, where applicable, URP has received the agreed (partial) payment.
- If the start of the delivery term has been agreed otherwise, the non-fulfillment of one or more of the aforementioned circumstances entitles URP to an extension of the term.
- 6.7 An agreed delivery time or delivery term is not a deadline. If delivery by URP does not take place within the agreed term, URP will only be in default after the buyer has given notice to deliver within a reasonable period and that delivery has not been received.

### **Article 7 - Failures**

- 7.1 The buyer is obliged to check the product delivered for defects, including transport damage, quantity and quality immediately upon arrival at the unloading location and before it is processed. Any defects must be reported to URP in writing within 24 hours after arrival at the unloading location, under penalty of forfeiting the right to file a claim for this damage. The above also applies to services and/or work that have been

performed, on the understanding that the buyer must check for defects after URP has given notice of completion and report any defects to URP within 24 hours.

- 7.2 The buyer is fully responsible for the correctness of all (technical) data provided by it. Any errors in drawings (including production drawings), calculations and so on, which are based on the data provided by or on behalf of the buyer, are entirely for the account of the buyer.
- 7.3 Relatively small deviations and differences in quality or properties of the product that are usual within the sector or are technically unavoidable (such as but not limited to slight deviations in size, colour, surface, structure, any efflorescence and other minor defects) cannot form grounds for invoking failure as referred to in this article.
- 7.5 Recommendations given by URP are only of a general nature and without obligation, so that URP is not liable for these unless the advisory role of URP has been expressly agreed in writing.

#### ***Article 8 - Liability***

- 8.1 With the exception of the failures reported by the buyer with due observance of the provisions set out in Article 7, URP is no longer liable after notice of delivery or completion has been given.
- 8.2 If URP is liable with due observance of the provisions set out in Article 7 and paragraph 1, then URP is only liable to still deliver a sound product.
- 8.3 Liability for damage other than that referred to in the preceding paragraph is excluded, so that URP, among others (but not limited to), is not liable for:
- a. direct and/or indirect consequential damage, including damage as a result of business interruption (the buyer must insure itself against this);
  - b. damage as a result of the quality of the product if the buyer has added substances to this;
  - c. damage resulting from how the product is processed/used by the buyer after delivery;
  - d. damage resulting from recommendations with regard to products still to be delivered or delivered, if those (processing) recommendations have not been given in writing.
- 8.4 If URP, with due observance of the provisions set out in the law, the agreement and these general terms and conditions, is liable towards the

buyer, that liability is limited to the amount of the invoice relating to the delivery of the defective product with a maximum of EURO 100,000.00, on the understanding that the liability will never amount to more than the amount to which the business liability insurance ('AVB') policy concluded by URP gives entitlement in the case in question.

**Article 9 - Clause stipulating loss of rights**

- 9.1 The legal claim based on a defect is inadmissible if it is brought later than one year after the date of delivery.
- 9.2 All claims of the buyer under agreements for delivery of products lapse if the claim has not been brought before the competent court within a year after the facts on which the claim is based were known to the buyer or could reasonably have been known to the buyer.

**Article 10 - Payment**

- 10.1 Unless otherwise agreed and without prejudice to the right to demand advance payment or payment on delivery if URP sees reason to do so, payment will be made within 30 days after the date of the invoice sent to the buyer. The payment will become immediately due and payable in the event of late payment of the agreed price (or parts thereof), if the buyer is in a state of bankruptcy or equivalent circumstances, if the buyer applies for a suspension of payment, if any seizure of the goods or claims of the buyer is made or if the agreement is dissolved.
- 10.2 Complaints with regard to quality, properties or volume of the product delivered do not give the buyer the right to suspend payment.
- 10.3 In the event of late payment, the buyer will be in default, without a notice of default or reminder being required, and immediately due and payable interest of 1.25% per month will be due on the outstanding amount, with part of a month counting as a whole month. If the buyer has not yet paid by the due date of an invoice, URP is authorised (for all agreements concluded with the buyer):
- a. to suspend all outstanding delivery obligations until that payment has been made, increased by the interest due on that amount, and/or
  - b. to demand cash payment or advance payment, or sufficient security, for what is still to be delivered.
- 10.4 All costs, which for URP are related to the collection of what the buyer owes URP (both judicial and extrajudicial), are payable by the buyer. The

extrajudicial costs are set at 15% of the principal sum due, with a minimum of € 500.00.

- 10.5 The buyer will provide URP with (additional) security in lieu of payment at the first request of URP.

**Article 11 - Return shipment**

- 11.1 Products ordered but not accepted by the buyer will be charged to the buyer. All damage to URP resulting from non-acceptance or return shipment(s) must be paid by the buyer, unless it proves that the delivered goods do not comply with the agreement. In the event of a late acceptance by the buyer, URP is entitled to charge the storage costs to the buyer.

**Article 12 - Transfer of risk and ownership**

- 12.1 After delivery the product will be at the buyer's risk.
- 12.2 The product delivered by URP remains the property of URP until the buyer has complied with all claims arising from the agreements for the delivery of products or for the performance of work concluded between URP and the buyer, including claims based on failure to comply with those agreements.
- 12.3 URP reserves an undisclosed right of pledge to the goods delivered by URP, as soon as URP loses its ownership of these goods for whatsoever reason, as security for the payment of all existing and future claims of URP against the buyer, including interest and extrajudicial costs.
- 12.4 The buyer undertakes to insure the products delivered subject to retention of title and to keep them insured against fire, explosion and water damage as well as against theft and to make the policy available for inspection at URP's first request.
- 12.5 For as long as URP is to be regarded as the owner, the buyer undertakes towards URP to treat the delivered product with due care and:
- a. not to pledge the product;
  - b. not to process the product;
  - c. not to transfer or to surrender the product other than in the ordinary course of business.

**Article 13 - End of the agreement**

- 13.1 URP can terminate the agreement with the buyer without notice of default:
- a. in the event that the buyer is declared bankrupt or a suspension of payment is granted to it;
  - b. in the event that an application for credit insurance by the company in question is not or is not sufficiently honoured;
  - c. in the event that the buyer does not comply with a request from URP to provide security in accordance with article 10.
- 13.2 In the event that URP terminates the agreement in accordance with this article, everything that URP has to claim from the buyer on any basis whatsoever will be immediately due and payable. In that case, URP is never liable for damages.

***Article 14 - Intellectual property rights***

- 14.1 The intellectual property rights to the products and/or services developed and delivered by URP in the context of the agreement remain the exclusive property of URP or of the third party from whom URP has obtained the right of use. Insofar as necessary for the use by the buyer of the products and/or service supplied by URP, URP will, only after having obtained the consent of the third party, grant the buyer a limited, non-exclusive, non-transferable and (unless agreed otherwise in writing) a non-sub-licensable right to use the intellectual property rights to those products and/or services.
- 14.2 If URP is willing to commit to the transfer of intellectual property, such a commitment and transfer can only be made in writing and explicitly. If the parties agree in writing that a right of intellectual property with regard to specific products, equipment or other items (developed for the buyer), will be transferred to the buyer, a divided right of intellectual property will arise, which means that the right or the possibility of URP to continue to use and/or to exploit the components, general principles, ideas, designs, algorithm, documentation, documents, works, programming languages, protocols, standards and the like that underlie that development, without any restriction, for other purposes either for themselves or for third parties, will not be affected. Nor will this division of an intellectual property right affect URP's right to produce developments for itself or a third party that are similar or derived from those that have been or are being produced for the buyer.
- 14.3 URP is entitled at any time to mention its name or have its name mentioned on or near the work or to remove its name or have its name removed. If URP has marked the products and/or services it has

supplied to show that it has the intellectual property rights, these markings may not be removed or changed by the buyer.

**Article 15 - Privacy, data processing and security**

- 15.1 If URP processes personal data for the buyer, the parties will conclude a processing agreement with each other if required to do so by law.
- 15.2 If URP considers this to be important for the implementation of the agreement, the buyer will, if requested or without delay, inform URP in writing about the manner in which the buyer implements its legal obligation with regard to the protection of personal data.
- 15.3 The buyer indemnifies URP against claims from persons whose personal data have been processed or are being processed in the context of the processing done by URP or for which the buyer is otherwise responsible under the law, unless the buyer proves that the facts that the claim is based on, must be attributed exclusively to URP.
- 15.4 The buyer bears sole responsibility for the data processed using a service provided by URP. The buyer guarantees to URP that the content, use and/or processing of the data are not unlawful and do not infringe any rights of a third party. The buyer indemnifies URP against any legal claims from third parties, on whatever grounds, in connection with these data or the implementation of the agreement.
- 15.5 If URP is obliged to provide information security on the basis of the agreement, that security will meet the specifications regarding security as agreed in writing between the parties. URP never guarantees that the information security will be effective under all circumstances. If the agreement does not explicitly describe any security, the security will meet the level that, given the state of technology, the sensitivity of the data and the costs associated with taking the security measures, is not unreasonable.
- 15.6 If computer, data or telecommunication facilities are used in the performance of the agreement or otherwise, URP is entitled to assign access or identification codes to the buyer. URP is entitled to change assigned access or identification codes. The buyer will treat the access and identification codes confidentially and with due care and only provide these to authorised employees. URP is never liable for damage and/or costs that are the result of use or misuse made of access or identification codes, unless the misuse has been possible as a direct consequence of an attributable failure or omission on the part of URP.

**Article 16 - Force majeure**

- 16.1 If, after the conclusion of an agreement, this agreement cannot be complied with by the buyer as a result of circumstances beyond the control of URP, or at least which were not known to URP at the conclusion of the agreement, URP has the right to require that the content of the agreement be changed so that implementation continues to be or becomes possible.
- 16.2 In addition, URP has the right to suspend fulfillment of its obligations and will not be in default if, as a result of changes in circumstances that could not reasonably have been expected at the time the agreement was concluded and that are outside its sphere of influence, it is temporarily prevented from fulfilling its obligations.
- 16.3 Circumstances that cannot reasonably be expected and are outside its sphere of influence include nuisance caused by the buyer, non-compliance with their obligations by URP's suppliers, fire, strikes or work interruptions, the loss of the materials to be processed or weather conditions.
- 16.4 If URP has partially fulfilled its obligation, it is entitled to a proportional part of the agreed price on the basis of the work already performed and the costs incurred.

**Article 17 - Insurance**

- 17.1 Unless explicitly agreed otherwise, URP (including any subcontractors and auxiliary staff to be engaged by URP for the implementation of the agreement) will be co-insured on a CAR insurance contract concluded by the buyer for the work.
- 17.2 The Buyer will ensure that URP receives written proof of the existence and content of the insurance referred to in paragraph 1 as soon as possible.

**Article 18 - Other provisions**

- 18.1 The buyer can only transfer its rights and/or obligations under the agreement or its legal relationship with URP to a third party with the prior written consent of URP.
- 18.2 URP is at all times entitled to engage third parties in the implementation of the agreement without prior permission from the buyer.

18.3 If a provision in these general terms and conditions proves to be void, voidable or not applicable, this will not affect the validity of the other provisions in these general terms and conditions. The parties will then enter into negotiations with a view to replacing the provision in question with a provision that is legally valid and that as much as possible reflects the nature and scope of the invalid, voidable or inapplicable provision.

**Article 19 - Applicable law and disputes**

19.1 All agreements between URP and the buyer will be governed by the law of the Netherlands. The CISG (Vienna Sales Convention 1980) does not apply to any agreements between URP and the buyer.

19.2 All disputes arising from the agreements concluded between URP and the buyer will be submitted to the civil court in the district of Gelderland, without prejudice to URP's right to go to another court authorised by law.