



1. General

1.1 Any development, documentation, quotation, pro-forma invoice, price list or similar howsoever made or issued by RSED Ray Struik Engineering and Development ("the Company") is, unless otherwise expressly agreed in writing by the Company, made or issued subject to these Standard Terms and Conditions. All other terms and conditions shall be excluded which shall include, without limitation, any terms or conditions which a Purchaser purports to apply under any purchase order, confirmation, specification or other document.

1.2 These Standard Terms and Conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by the Company. The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the quotation, pro-forma invoice, price-list or other similar document however.

1.3 No order resulting from any quotation, pro-forma invoice, price-list, proposal or other similar document made or issued by the Company shall be binding unless and until it is accepted in writing by the Company. Each quotation, pro-forma invoice, price-list, proposal or other similar document made or issued by the Company shall be deemed to be an offer by the Purchaser to buy Goods subject to these Standard Terms and Condition.

1.4 The language of the Company's Standard Terms and Condition is the English language. If these Terms and Conditions are translated into other language, the English language text shall in any event prevail.

2. Prices and Payment

2.1 Unless otherwise agreed by the Company in writing, prices are in Euro's EXW (Ex Works as per INCOTERMS in force at the date the Order or Contract is made). All prices are net and no settlement discount is allowed.

2.2 All prices shall be exclusive of any Value Added Tax and costs of charges in relation to packaging, loading, carriage and insurance, all of which amounts the Purchaser shall pay in addition when it is due to pay for the Goods.

2.3 In the case of deliveries to Purchasers, unless otherwise agreed in writing, accounts are payable not later than 30 days from the date of invoice.

2.4 In case of export orders, except as otherwise agreed in writing, payment shall by irrevocable Letter of Credit in Euro's on a Dutch Bank acceptable to the Company and confirmed in favour of the Company and shall be made as follows: a) a specified down payment with the Order; and b) the balance of the price payable on sight against shipping documents.

2.5 Time for payment shall be of the essence.

2.6 The Purchaser shall make all payments in full without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise unless the Purchaser has a valid count order requiring an amount equal to such deduction to be paid by the Company to the Purchaser.

2.7 If the Purchaser fails to pay the Company any sum due pursuant to any Order or Contract, the Purchaser shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above the base lending rate from the time to time Dutch National Bank, accruing on a daily basis until payment is made, whether before or after judgment. The Company reserves the right to claim interest under the "Nederlandse wettelijke rente ex.art. 6:119a BW".

3. Specifications and Performance

3.1 The quantity and descriptions of the Goods shall be as set out in the Company's quotation or Order.

3.2 Any performance figures given by the Company are based upon the Company's experience and are such as it expects to obtain on test in its factory and shall be subject to reasonable tolerance limits. These are issued or published for the sole purposes of giving an approximate idea and any deviations from such figures shall not be the basis of any claim against the Company, except where specifically agreed in writing, to the contrary.

3.3 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purposes of giving an approximate idea of the Goods described in them. They should not form part of the Order or Contract and this is not a sell by sample.

4. Test

Goods supplied by the Company are inspected and submitted to the Company's standard test before dispatch. Additional tests may be carried out as agreed, in writing, at the request of the Purchaser and will be charged as extras.

5. Export

Unless otherwise by the Company in writing, the Purchaser shall be responsible for compliance with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

6. Delivery

6.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's place of business. The Purchaser shall take delivery of the Goods into within 14 days of the Company giving it notice that the Goods are ready for delivery.

6.2 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and the time for delivery shall not be made of the essence by notice. If no date is specified, delivery shall be within a reasonable time.

6.3 Subject to the other provisions of these Standard Terms and Conditions, the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business depletion of goodwill and similar loss) costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence) nor shall any delay entitle the Purchaser to terminate or rescind the Order or Contract unless such delay exceeds 180 days.

6.4 If for any reason the Purchaser fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Purchaser has not provided appropriate instructions, documents, licenses or authorizations a) risk in the Goods shall be past to the Purchaser (including for loss or damage caused by the Company's negligence); b) the Goods shall be deemed to have been delivered; and c) the Company may store the Goods until delivery, whereupon the Purchaser shall be liable for all related costs and expenses (including, without limitation storage and insurance)

6.5 The quantity of any consignment of Goods as recorded by the Company upon dispatch from the Company's place of business shall be conclusive evidence of the quantity received by the Purchaser on delivery unless the Purchaser can provide conclusive evidence proving the contrary.

6.6 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Purchaser gives written notice to the Company of the non-delivery within 7-days of the date when the Goods would in the ordinary course of events have been received.

6.7 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time of issuing a credit note at the pro-rata Order or Contract rate against any invoice raised for such Goods.

6.8 The Company may deliver the Goods by separate installments and/or transshipments.

Each separate installment and/or transshipments shall be invoiced and paid for in accordance with the provisions of the Order or Contract.

6.9 The installment and/or transshipment shall be a separate Contract and no cancellation or termination of any one Contract relating to an installment and or transshipment shall entitle the Buyer to repudiate or cancel any other Contract or installment.

7. Variations

In the event that the Purchaser requests, and the Company agrees to, any variation to the Goods to be supplied or to the terms of the Order or Contract which involves the Company incurring extra cost, or should the Company incur extra costs owing to the suspension of work by the Purchaser's instructions or lack of instructions, or for any other cause for which the Company is not responsible, such extra cost may be charged by the Company at its then current rates and if so charged shall be paid for by Purchaser on demand.

8. Warranties and Limitation of Liability

8.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavor to transfer to the Purchaser the benefit of any warranty or guarantee given to the Company.

8.2 The Company warrants that (subject to the other provisions of these Standard Terms and Conditions) upon delivery, and for a period of 6 months from the date of delivery, the Goods shall a) be of satisfactory quality; and b) be reasonably fit for any particular purpose for which the Goods are being if the Purchaser has made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Purchaser to rely on the skill and judgment of the Company.

8.3 The Company shall not be liable for a breach of any of the warranties in 8.2 unless a) the Purchaser gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 14 days of the time when the Purchaser discovers or ought to have discovered the defect, and b) the Company is given reasonable opportunity after receiving the notice of examining such Goods and the Purchaser (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.

8.4 The Company shall not be liable for a breach of any of the warranties in 8.2 if: a) the Purchaser makes any further use of such Goods after giving such notice; or b) the defect arises because of the Purchaser failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or c) the Purchaser alters or repairs such Goods without the written consent of the Company.

8.5 Subject to 8.3 and 8.4, if any of the Goods do not conform with any of the warranties in 8.2 the Company shall at its option repair or replace such Goods (or the defective parts) or refund the price of such Goods at the pro rata Order or Contract rate provided that, if the Company so requests, the Purchaser shall, at the Company's expense return the Goods or the part of such Goods with the defective to the Company.

8.6 If the Company complies with 8.5 it shall have no further liability for a breach of any of the warranties in 8.2 in respect of such Goods.

8.7 Subject to 6.1 (inclusive) and 8.1 to 8.6 (inclusive) set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Purchaser in respect of: a) any breach of the Order of Contract incorporating these Standard Terms and Conditions; b) any use made or resale by the Purchaser of any of the Goods, or of any product incorporating any of the Goods; and c) any representation, statement of tortious act or omissions including negligence arising under or in connection with the Order of Contract.

8.8 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Order of Contract.

8.9 Nothing in these Standard Terms and Conditions excludes or limits the liability of the Company; a) for the death of personal injury caused by the Company's negligence; or b) under section 2 (3) of the Consumer Protection or c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or d) for fraud or fraudulent misrepresentation.

8.10 Subject to 8.8 and 8.9; a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Order or Contract price; and b) the Company shall not be liable to the Purchaser for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct or indirect or consequential, or any claims for consequential compensation whatsoever (however so caused) which arise out of or in connection with the Order or Contract.

8.11 Except in the case of malicious intention or conscious recklessness on the part of Company, for the acts or omissions of its staff member(s), Company will never be liable for any damage, including business and consequential damages.

8.12 A damage compensation obligation, if any, that applies to the Company shall at all times be limited to the maximum of the amount of insurance benefit payment that the (liability) insurer of the Company may pay in cases that may occur. If the insurer does not make any payment, the damage payment obligation of the Company shall be limited to the maximum net invoice value of the Goods, Order or Contract.

9. Intellectual Property and Copyright.

The Company and its licensors retain full ownership of all intellectual property including any inventions, designs and processes already made or evolved in preparing the quotations, or resulting from any work carried out in the execution of any Order or Contract and the Purchaser shall, except as specifically agreed to the contrary in writing, keep secret and procure that its agents, employees and subcontractors shall keep secret any information relating to the Company's products acquired under the Order or Contract.

10. Passing of Property and Title

10.1 The Goods are at the risk of the Purchaser from the time of delivery.

10.2 Ownership of the Goods shall not pass to the Purchaser until the Company has received (in cash or cleared funds) all sums due to it in respect of a) the Goods; and b) all other sums which are become due to the Company from the Purchaser on any account.

10.3 Until ownership of the Goods has passed to the Purchaser, the Purchaser shall; a) hold the Goods on a fiduciary basis as the Company's bailee; b) store the Goods (at no cost to the Company) separately from all other goods of Purchaser or any third party in such a way that they remain readily identifiable as the Company's property; c) not destroy, deface or obscure and identifying mark or packaging on or relating to the Goods; and d) maintain the Goods in a satisfactory condition and keep them insured on the Company's behalf for their full price against all risk to the reasonable satisfaction of the Company. On request the Purchaser shall produce the policy of insurance to the Company.

10.4 The Purchaser may resell the Goods before ownership has passed to it solely on the following conditions; a) any sale shall be effected in the ordinary course of the Purchaser's business at full market value; and b) any such sale shall be a sale of the Company's property on the Purchaser's own behalf and the Purchaser shall deal as principal when making such a sale.

10.5 The Purchaser's right to possession of the Goods shall terminate immediately if; a) the Purchaser has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntarily or documents are filed with the court for appointment of an administrator of the Purchaser or notice of intention to appoint an administrator is given by the Purchaser or for the granting of an administration order in respect of the Purchaser, or any proceedings are commenced relating to the insolvency or possible insolvency of the Purchaser or notice of intention to appoint an administrator is given by the Purchaser or its directors or by a qualifying floating charge holder, or a resolution is passed or a petition presented to any court for the winding up of the Purchaser or for the granting of an administration order in respect of the Purchaser, or any proceedings are commenced relating to the insolvency or possible insolvency of the Purchaser; or b) the Purchaser suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Order or Contract or any other contract between the Company and the Purchaser, or is unable to pay its or the Purchaser ceases to trade, or c) the Purchaser encumbers or in any way charges any of the Goods; or d) if the equivalent of any of the events described above under the law of any jurisdiction occurs.

10.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods had not passed from the Company.

10.7 The Purchaser grants the Company, his agents and employees an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Purchaser's right to possession has terminated, to recover them.

10.8 Where the Company is unable to determine whether any Goods are the Goods in respect of which the Purchaser's right to possession has terminated, the Purchaser shall be deemed to have sold all goods of the kind sold by the Company to the Purchaser in the Order or Contract in which they were invoiced to the Purchaser.

10.9 On termination of the Order or Contract, howsoever caused, the Company's but not the Purchaser's contained in 10.1 to 10.8 (inclusive) shall remain in effect.

11. Force Majeure

The Company reserves the right to defer the date of delivery or to cancel the Order or Contract or reduce the volume of Goods ordered by the Purchaser (without liability to the Purchaser) if it is prevented from or delayed in carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protest, riots, civil commotion, fire, explosion, flood, epidemic, lock outs, strikes or other labor disputes (whether or not relating to either parties workforce) or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials provided that, if the event in question continues for a continuous period in excess of 90 days, the Purchaser shall be entitled to give notice in writing to the Company to terminate the Order or Contract.

12. General

12.1 Each right of remedy of the Company under the Order or Contract is without prejudice to any other right or remedy of the Company whether under the Order or Contract or not.

12.2 If any provision of the Order or Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, void ability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Order or Contract and the remainder of such provision shall continue in full force and effect.

12.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Order or Contract shall not be construed as a waiver of any of its rights under the Order or Contract.

12.4 Any waiver by the Company of any breach of, or default under, any provision of the Order or Contract by the Purchaser shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Order or Contract.

12.5 The parties to the Order or Contract do not intend that any term of the Order or Contract shall be enforceable by virtue of the Contracts (Right of Third Parties) by any person that is not a party to it.

12.6 The formation, existence, construction, performance, validity and all aspects of the Order or Contract shall be governed by Dutch law.

12.7 The parties submit to the exclusive jurisdiction of the Dutch Courts.

13. Notices

13.1 All communications between the parties about the Order or Contract shall be in writing and delivered by hand or sent by electronic mail; a) (in case of communication to the Company) to its registered office or such changed address as shall be notified to the Purchaser by the Company; or b) (in case of communication to the Purchaser) to the registered office of the addressee (if it's a company) or (in any other case) to any address of the Purchaser set out in any document which forms part of the Order or Contract or such other address as shall be notified to the Company by the Purchaser.

13.2 Communication shall be deemed to have been received; a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or b) if delivered by hand, on the day of delivery; or c) if sent by electronic mail on working day prior to 4:00 pm, at the time of transmission and otherwise on the next working day.