

1 DEFINITIONS

1.1 In these Conditions:

Conditions	means this document version 2020 that is also published on the Frencken website with a reference on each Order to the hyperlink;
FRENCKEN	means FRENCKEN Europe B.V., registered in the Chamber of Commerce in Eindhoven, the Netherlands with company number 17090793, and registered offices at Hurksestraat 16, Eindhoven, the Netherlands, and any company that it controls;
the Goods and Services	means respectively the goods and the services or any of them described in the Order;
the Order	means an order, including any written amendment thereto, for the delivery of Goods and/or the provision of Services as set out together with these Conditions;
the Price	means the price of the Goods and/or Services as set out in the Order; and
the Vendor	means the person, firm or company named as such in the Order as responsible for supplying the Goods and/or Services and includes the Vendor's legal representatives;
the FRENCKEN Supplier Manual	means the document which is managed as a living reference document summarizing processes, procedures and parameters for all supplier related topics such as contracting, quality, logistics, invoicing, spare parts.

2 ACCEPTANCE OF ORDER

- 2.1 The following constitutes acceptance of the Order by the Vendor on these Conditions: execution and return by the Vendor of the acknowledgement copy of the Order, or the Vendor's failure to react to the Order within 5 days after receipt thereof, or the execution or commencement of work or the commencement of delivery pursuant to the Order. The acceptance of the Order is limited to and conditional upon acceptance by the Vendor of these Conditions. Any general conditions the Vendor may use that could apply to transactions with FRENCKEN are hereby expressly rejected and shall apply only if and insofar as these have been expressly accepted in writing by FRENCKEN. These Conditions prevail over any terms or conditions contained in or referred to in the Vendor's quotation or acceptance of Order or correspondence inconsistent with these Conditions.
- 2.2 These Conditions shall also apply to any orders made by FRENCKEN online, over the Internet or by any other electronic means.

3 TIME OF THE ESSENCE

3.1 Time is of the essence and all dates referred to in the Order shall be firm. In the event that Vendor anticipates any difficulty in complying with any delivery date or any of its other obligations under the Order, Vendor shall promptly notify FRENCKEN in writing.

4 DELIVERY OF GOODS / PROVISION OF SERVICES, RESCHEDULING, TERMINATION

4.1 The time and place of delivery (Eindhoven or Reuver, the Netherlands) of the Goods are as specified in the Order. If Goods are not delivered in accordance with the Order, FRENCKEN is not liable for any additional expense the Vendor incurs in handling and delivering the Goods at the correct destination. Early execution of the Order or any part thereof as well as partial deliveries shall not be permitted unless approved in writing by FRENCKEN. The delivery condition DDP Eindhoven or Reuver, the Netherlands (Incoterms 2020), shall apply on the delivery of the Goods unless otherwise agreed in writing by FRENCKEN. Vendor's obligation to deliver shall not have been met until the Goods and the documentation as required per the Order, including any certificates, maintenance instructions and manuals, have been delivered.

4.2 Delivery shall not constitute acceptance.

4.3 The time and place of provision of the Services are as specified in the Order. If Services are incorrectly provided, FRENCKEN is not liable for any additional expense the Vendor incurs in handling and providing the Services in a correct manner.

4.4 Unless expressly accepted in the Order by FRENCKEN, the delivery of Goods and/or provision of Services shall be non-recurrent. If the Goods and/or Services are agreed to be delivered/provided in instalments then the Order is deemed not to be severable.

4.5 FRENCKEN reserves the right at any time to suspend any delivery or deliveries or any acceptance of delivery covered by these Conditions without any charge and to the extent and for such period as considered necessary by FRENCKEN.

4.6 FRENCKEN may, by written notice, terminate the Order, in whole or in part. If the Order is terminated, FRENCKEN shall be liable only for payment as set forth below:

- a. After receipt of a Notice of Termination, Vendor shall terminate performance of all activities relating to the terminated Order and the Vendor shall comply with the instructions by FRENCKEN in the Notice of Termination and any subsequent written instructions.
- b. The Vendor shall submit a final termination settlement proposal within sixty (60) days of the Notice of Termination.
- c. The amount of any settlement may include a reasonable allowance for profit on work completed on the terminated portion.
- d. If the Vendor fails to submit a termination settlement proposal within the time provided in paragraph (b) above, the determination of an equitable adjustment by FRENCKEN shall be conclusive.

4.7 The Vendor shall immediately notify FRENCKEN of any delay in the execution of the Order, and state the events causing the delay.

5 QUALITY, QUANTITY AND DESCRIPTION

5.1 The Goods shall meet the specifications referred to in the Order and the Frencken Supplier Manual as to quantity, quality and description and other information or instructions specified or made known to the Vendor as well as all applicable safety standards;

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- 5.2 The Vendor undertakes immediately to repair or replace, free of charge to FRENCKEN, any defective Goods notified to the Vendor within twenty four (24) months (or any longer warranty period expressly agreed) from the date of receipt of the Goods by FRENCKEN.
- 5.3 The Vendor shall pass to FRENCKEN the benefit of any additional warranties secured from the Vendor's suppliers pertaining to the Goods or Services.
- 5.4 The Vendor shall provide the Services in accordance with the terms of the Order and execute the Order with professional care, skill and diligence by properly qualified and experienced persons.
- 5.5 The Vendor shall give FRENCKEN a written notification twelve (12) months in advance in case of obsolescence or termination of a particular Good or part thereof. Upon receipt of this notification FRENCKEN may elect to initiate the End of Life (EOL) procedure which includes a last time buy option.

6 WORKING ON SITE – ENVIRONMENT – AUDIT

- 6.1 Vendor will control the quality of the performance and delivery of the Order in accordance with the applicable ISO 9001, 14001 or AS 9100 standard or similar quality system and will report at the request of FRENCKEN on any quality issues. FRENCKEN may perform or ask an independent professional third party to perform an audit of the quality system used by Vendor.
- 6.2 Vendor, its employees, third party contractors and sub-contractors, will respect and comply with any applicable quality, environmental, health and safety laws and regulations in the performance of the Order.
- 6.3 If Vendor performs the Order whole or in part at the site of FRENCKEN, Vendor, its employees, third party contractors and sub-contractors, will conform strictly to FRENCKEN's on site work rules with respect to safety, health and environment and follow FRENCKEN's instructions. A copy of these rules is available at Vendors request and against no charge.
- 6.4 Vendor shall cause all individuals to carry an ID and show the ID at the request of the FRENCKEN official or representative prior to access of any FRENCKEN site.
- 6.5 Vendor will avoid in the performance of the Order any pollution of soil, air or water and will minimize noise. Vendor will inform FRENCKEN immediately on the occurrence of any incident on the FRENCKEN site.

7 ACCEPTANCE OF GOODS AND SERVICES

- 7.1 The Goods are subject to inspection and testing by FRENCKEN. In any case where the Goods (whether or not inspected or tested by FRENCKEN) do not comply with the requirements of the Order, FRENCKEN has the right to reject such Goods. FRENCKEN shall give notice of rejection to the Vendor specifying the reasons for the rejection and Vendor shall collect the rejected Goods from FRENCKEN. Vendor shall, without being granted an extension of the delivery period, replace the rejected Goods with Goods which are in all respects in accordance with the Order.
- 7.2 The Services are subject to evaluation by FRENCKEN and Vendor shall correct or reperform the incorrect or non-complete Services at no cost to FRENCKEN.

8 OWNERSHIP, TITLE AND RISK

- 8.1 The title to and risk pertaining to the Goods passes to FRENCKEN on delivery of the Goods in accordance with the applicable Incoterm, without prejudice to any right of rejection which may accrue to FRENCKEN under these Conditions or otherwise. Any retention of title by Vendor is rejected.

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- 8.2 Upon the request of FRENCKEN, Vendor shall transfer to FRENCKEN the ownership of all items such as models, dies, moulds, jigs, gauges, tools, documents, instructions and drawings specifically acquired or manufactured by the Vendor for the execution of an Order and paid for by FRENCKEN. Vendor shall solely use such items for the manufacture of the Goods and protect them as confidential information and trade secret.
- 8.3 Any items, and material or components that have been delivered to the Vendor by FRENCKEN or on behalf of FRENCKEN for the execution of an Order shall remain property of FRENCKEN. Vendor shall keep the materials and components in custody for FRENCKEN and have them properly insured ("*opzicht - dekking*").
- 8.4 The Vendor shall store such materials and components separately and shall clearly mark these items as the property of FRENCKEN. FRENCKEN is at all times entitled to regain possession of such items. The Vendor shall not use such items for manufacture for third parties nor will the Vendor allow third parties to use such items. Upon receipt of any of the items referred to above, the Vendor shall check those for damage, defects and report the findings to FRENCKEN. Any damages and defects not reported to FRENCKEN immediately after receipt of the item shall be for the Vendor's account.

9 INTELLECTUAL PROPERTY

- 9.1 If the Vendor manufactures Goods and/or provides Services pursuant to specific instructions or specifications of FRENCKEN, the Vendor shall transfer to FRENCKEN the ownership of all intellectual property rights related to such Goods, including embedded software, and Services or any other item (inventions, drawings, documentation, etc.) originated as a result of FRENCKEN ordering any Goods and/or Services. The Vendor shall co-operate in the execution of any formalities necessary to effectuate the transfer of the ownership of such intellectual property rights.
- 9.2 The purchase of the Goods and/or Services shall confer on FRENCKEN an irrevocable, world-wide, royalty-free and fully paid up, non-exclusive and perpetual license under all intellectual property rights owned or controlled, directly or indirectly by Vendor to dispose of or reproduce the Goods, including embedded software, and/or Services.
- 9.3 Unless expressly otherwise accepted in the Order by FRENCKEN, the Goods and their packaging shall not have any trademarks or other indications applied to them except those required by law and necessary for transportation of the Goods. The Vendor shall adhere to the instructions of FRENCKEN with respect to the dimensions, positioning and other aspects related to such trademarks.
- 9.4 The Vendor warrants that it has the right to assign to FRENCKEN all rights which are to be assigned under the Order.

10 LIABILITY AND INDEMNITIES

- 10.1 The Vendor is liable to FRENCKEN for any damage to or loss of FRENCKEN's property in the Vendor's possession.
- 10.2 Both FRENCKEN and Vendor accept liability for personal injury and death arising from its own negligence or for any liability that cannot by law be excluded or limited.
- 10.3 The Vendor is liable to FRENCKEN for any damage to or loss incurred by FRENCKEN as a result of the performance of the Order.
- 10.4 The Vendor shall indemnify and hold harmless FRENCKEN, its agents, employees and officers against each loss, liability and cost arising from or consequential upon:

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- a. an alleged or actual infringement of a patent, registered design, copyright, trade mark or other right of property vested in another person, firm or company, resulting from the purchase, provision, use or resale by FRENCKEN, its agents, employees and officers of the whole or any part of the Goods or the Services; or
- b. any other third party claims resulting from the execution of the Order except claims based on 9.2.

10.5 The Vendor has no obligation to indemnify FRENCKEN under Condition 9.4 if and to the extent that the relevant loss, liability or cost incurred was only incurred because the Vendor delivered the Goods or provided the Services strictly in accordance with the designs, plans or specifications supplied by FRENCKEN.

10.6 In no event shall either Vendor or FRENCKEN be liable under any theory of liability (in contract or tort) for indirect, special, incidental, consequential or punitive damages, which includes damages for lost profits or revenues, lost business opportunities, or loss of data.

11 RECALL

11.1 Vendor will cooperate in any recall of a Good or part thereof, FRENCKEN decides at its discretion to initiate. FRENCKEN will inform Vendor in writing of the recall as soon as possible.

11.2 Vendor is liable for the costs of the recall of the Good or part thereof. The costs will be calculated as the sales price times the number of Goods which have to be recalled, in addition to other expenses incurred as a result of the recall, including the inspection of the Goods or part thereof.

11.3 In addition to the compensation of the incurred costs for a recall, Vendor will reimburse FRENCKEN for damage or loss resulting from the recall.

12 INSURANCE

12.1 The Vendor and any subcontractor engaged by the Vendor shall at all times insure and keep himself insured with a reputable insurance company against all insurable liability under the Order and in respect of the Goods and/or the Services including, without limitation, against all the Vendor's liabilities under Condition 10 (Liability and Indemnities). In the event of FRENCKEN sustaining damage as a result of an event insured by the Vendor, exclusively FRENCKEN shall be entitled to receive the insurance money for the total amount of the damage suffered.

13 PACKAGING

13.1 The Vendor shall package and label the Goods in a manner suitable for transit and storage at the Vendor's expense in accordance with the Order. All packaging other than returnable packing shall become FRENCKEN's property and FRENCKEN shall be entitled to dispose of the packaging, any costs FRENCKEN incurs as a result of the disposal will be charged to Vendors account.

13.2 Consignments which do not meet the requirements of the Order may be refused by FRENCKEN.

14 PRICE

14.1 The price shall include all royalties, license fees, taxes, excise, duties and costs, both direct and indirect, of supplying the Goods and/or Services except that where the Goods and/or Services are subject to Value Added Tax the amount legally due shall be specified as a separate item of account.

15 TERMINATION

- 15.1 Without prejudice to FRENCKEN's rights at law or in equity, FRENCKEN may cancel the whole or part of the Order at no cost to FRENCKEN at any time by written notice to the Vendor:
- a. if the Vendor fails to comply with any of the terms and conditions of the Order; or
 - b. if the Vendor passes a resolution for its winding up or files a voluntary petition in bankruptcy (*faillissement*) or a receiver is appointed over (*surséance van betaling*) or makes an application to a court of competent jurisdiction for protection from its creditors generally; or
 - c. if the Vendor ceases to trade; or
 - d. if the Vendor is acquired by or merged with any third party.
- 15.2 If any of the events described in 15.1 occurs or is about to occur, the Vendor shall notify FRENCKEN immediately.

16 WARRANTY

- 16.1 The Vendor warrants that the design, construction and quality of the Goods: (i) complies with the specifications and any applicable statutory rule or regulation which may be in force at the time of delivery (iii) is free from defects; and (iv) is of good material and workmanship.
- 16.2 The Vendor warrants that the provision of the Services will comply with any statutory rule or regulation which may be in force at the time the Services are provided.
- 16.3 The warranties and remedies provided for in this Condition and Condition 5 (Quality, Quantity and Description) are in addition to those implied by or available at law or in equity and will continue in force notwithstanding the acceptance by FRENCKEN of all or part of the Goods and/or the Services to which those warranties and remedies apply.

17 ASSIGNMENT AND SUB-CONTRACTING

- 17.1 The Vendor may not assign or transfer or purport to assign or transfer a right or obligation under the Order without the prior written consent of FRENCKEN.
- 17.2 The Vendor may not subcontract the performance of the whole or any part of the Order without the prior written consent of FRENCKEN. Such consent shall not release the Vendor from any obligation or liability arising from an Order.
- 17.3 The Vendor shall impose these Conditions and the relevant part of the Order upon each third party engaged in the performance of the Order.

18 PAYMENT

- 18.1 FRENCKEN shall pay only for the Goods and/or Services specified in the Order.
- 18.2 FRENCKEN may deduct from any monies due or becoming due to the Vendor any monies due from the Vendor to FRENCKEN.
- 18.3 If the Goods and/or Services have been accepted by FRENCKEN in accordance with the Order, FRENCKEN shall, unless otherwise shown in the Order, pay the invoiced amount within 60 days end-of- month from receipt by FRENCKEN of a correct and complete invoice relating to the Order. The Vendor shall ensure that the invoice relating to the Order is received by FRENCKEN within 7 working days from the date of delivery of the Goods and/or provision of the Services and shall state the Order number, and the address to which Goods

were delivered and/or Services provided. Any invoice which bears a date which precedes the delivery date or is otherwise incorrect or incomplete shall not be paid.

19 USE OF DATA AND INFORMATION - CONFIDENTIALITY AND ADVERTISEMENT

- 19.1 All data and information supplied by FRENCKEN shall be treated as confidential and shall not be disclosed to third parties or used other than to satisfy the requirements of the Order unless the information is or comes into the public domain otherwise than by breach of this 19.1. Similarly, any items such as written materials or drawings supplied by FRENCKEN to the Vendor shall remain subject to FRENCKEN's intellectual property rights and shall not be copied or used for any purpose other than satisfying the requirements of the Order. The Vendor shall promptly return, when requested by FRENCKEN, all items supplied by FRENCKEN.
- 19.2 The Vendor shall not, without the prior written consent of FRENCKEN, advertise or publish in any way whatsoever the fact that the Vendor has contracted to supply the Goods and/or the Services to FRENCKEN.

20 DATA PROTECTION

- 20.1 Unless agreed otherwise in writing, both FRENCKEN and the Vendor may Process Personal Data received from the other party in connection with the performance of the Services provided under the Order, thereby independently determining the purposes and means of the Processing and acting as Data Controller (which means the entity which alone or jointly with others determines the purposes and means of the Processing).
- 20.2 Both FRENCKEN and the Vendor shall act in compliance with applicable data protection laws when Processing Personal Data and when carrying out their obligations under the Order.
- 20.3 FRENCKEN reserves the right to enter into a data processing agreement if deemed necessary for the purposes of compliance with the applicable data protection law.
- 20.4 In this Condition 20:
- a. Personal Data means any information relating to an identified or identifiable individual;
 - b. Processing means any operation that is performed on Personal Data, whether or not by automated means, such as collection, recording, storage, organisation, alteration, use, disclosure, transmission or deletion of Personal Data. Process and Processed are to be construed accordingly.

21 STATUTORY AND OTHER REGULATIONS

- 21.1 The UN Convention on International Sale of Goods shall not apply to Goods and/or Services to be supplied by the Vendor to FRENCKEN.
- 21.2 The Vendor shall at all times comply with all legislation, orders, standards, regulations and by-laws relevant to the Goods and/or Services to be supplied by the Vendor to FRENCKEN. The Vendor shall indemnify FRENCKEN against any loss, liability and cost FRENCKEN may sustain if the Vendor fails to do so.
- 21.3 The Vendor shall obtain any permit or licence from any government or other authority required for the performance of the Order pursuant to these Conditions.

22 EXPORT CONTROL AND CUSTOMS

- 22.1 Vendor agrees and warrants that it will comply with all applicable international and national export control laws and regulations and it will not export or re-export, directly or indirectly, any information, goods, software and/or technology to any country for which the European

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Union or the United States of America or any other country, at the time of export or re-export, requires an export license or other governmental approval, without first obtaining such license or approval.

- 22.2 Vendor agrees to inform FRENCKEN in writing whether or not the supplied information, Goods, software and/or technology is US controlled and/or controlled under the export control laws of its own country, and if so, Vendor will inform FRENCKEN about the extent of the restrictions (including but not limited to export control legal jurisdiction, export control classification numbers, export control licenses and/or CCATS as applicable).
- 22.3 Vendor shall obtain all international and national export licenses or similar permits required under all applicable export control laws and regulations and shall provide FRENCKEN with all information required to enable FRENCKEN and its customers to comply with such laws and regulations.
- 22.4 On an annual basis, or upon earlier request of FRENCKEN, Vendor shall provide FRENCKEN with a supplier declaration of origin in relation to the Goods sufficient to satisfy the requirements of (i) the customs authorities of the country of receipt, and (ii) any applicable export licensing regulations, including those of the United States. In particular, the declaration should explicitly mention whether the Goods, or part thereof, have been produced in the United States or originate in the United States. Dual-use Goods, or otherwise classified Goods supplied by Vendor should be clearly identified by their classification code.

23 GENERAL

- 23.1 These Conditions do not derogate from FRENCKEN's rights at law or in equity and are in addition to those rights, and not in substitution for them.
- 23.2 A reference to a statutory provision includes a reference to the statutory provision as modified or re-enacted or both from time to time and any subordinate legislation made under the statutory provision.
- 23.3 A failure by FRENCKEN to exercise or a delay in exercising a right or remedy provided by these Conditions or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by these Conditions or by law by FRENCKEN prevents further exercise of the right or remedy or the exercise of another right or remedy.

24 NOTICES

- 24.1 All notices shall be given by e-mail to the party due to receive such notice shown on the Order, except for the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

25 GOVERNING LAW AND JURISDICTION

- 25.1 These Conditions are governed by Dutch law.
- 25.2 The competent courts of The Netherlands have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Order or its subject matter or formation (including non-contractual disputes or claims).