



General conditions for the sale and supply of products and services (part A)

Version September 2022

Article I General

1. The following terms have the following meanings:
 - a. Contractor: NPS Driven B.V., registered with the Chamber of Commerce in the Netherlands under number 09175819, or its successor, also trading under the name Zenoro.
 - b. Client: the party to whom the offer and/or order confirmation of the Contractor is directed.
 - c. Product(s): goods that are sold by the Contractor, such as but not limited to (diesel) engines, generators, battery packs, monitoring systems, (spare) parts, etc., including any software and documentation, as well as (related) services, such as but not limited to consulting, design, engineering, inspection and commissioning.
2. These general conditions are part of all and apply to all offers, orders and agreements for the sale of Products by the Contractor. All the provisions of these conditions shall be in force between the Contractor and the Client, insofar as such have not been explicitly departed from by both in writing. Any reference by the Client to and applicability of its own purchase, contracting, or other (general) conditions is expressly rejected by the Contractor (in advance).
3. If one or more provisions of these general conditions shall be found, by a court with jurisdiction, to be illegal, invalid or unenforceable, it shall not affect the legality, validity or enforceability of any of the remaining provisions. The Client and the Contractor will then attempt to substitute any illegal, invalid or unenforceable provision for a legal, valid or enforceable provision that achieves to the greatest extent possible the objectives of the illegal, invalid or unenforceable provision.
4. In the event of an incompatibility between any of the provisions of these general conditions, the most binding provision for the Client shall prevail.
5. These general conditions are drawn up in the Dutch and English language. In case of any discrepancies between these versions, the version in Dutch shall prevail.

Article II Offer

1. All offers issued by the Contractor are without obligation.
2. All offers are based on implementation of the agreement by the Contractor under normal circumstances and during normal working hours.

Article III Agreement

1. If the agreement is concluded in writing it shall become effective as of the date of signing of the contract or on the date of dispatch of the order confirmation.
2. Contract extras means all that which the Contractor, in consultation with the Client, whether or not agreed in writing, delivers and/or installs during the performance of the agreement that exceeds the quantities explicitly laid down in the contract or in the order confirmation, or if the Contractor performs more activities than explicitly laid down in the contract or order confirmation.
3. Verbal commitments by, and agreements with, employees of the Contractor are not binding on the Contractor until and insofar as such have been

confirmed in writing by an authorized representative of the Contractor.

4. Agreements with Contractor that qualify as contracts within the meaning of Article 7:400 of the Dutch Civil Code are solely accepted and executed by Contractor to the exclusion of Articles 7:404, 7:407(2), 7:408(1) and 7:409 of the Dutch Civil Code.
5. Agreements with Contractor that qualify as contracting of work within the meaning of Article 7:750 of the Dutch Civil Code are solely accepted and executed by Contractor to the exclusion of Articles 7:752(2), 7:752(3), 7:753(3), 7:754, 7:755, 7:756(1), 7:757(2), 7:760(1), 7:761(2), 7:761(4) and 7:764(1) of the Dutch Civil Code.
6. These general conditions are drawn up partly for persons involved in the execution of the agreements with Contractor and/or persons that have any liability in that regard.
7. The Client is deemed to have issued the order to third parties deployed by Contractor on its behalf. In the deployment of third parties on behalf of the Client, Contractor is authorised to accept a limitation of liability.
8. The application of Article 6:76 of the Dutch Civil Code is excluded.

Article IV Price

1. Unless explicitly specified otherwise, prices quoted by the Contractor are based on delivery Ex Works at the premises of the Contractor (Incoterms 2020), and are exclusive of packaging, turnover tax and other government charges due on the sale and delivery.
2. If, after the effective date of the agreement, one or more of the cost price factors are subject to an increase – even if this occurs as a result of foreseeable circumstances – the Contractor is entitled to raise the agreed price accordingly.

Article V Technical information, documentation etc.

1. The information listed in catalogues, illustrations, drawings, statements of dimensions and weight etc. are only binding if and insofar as they have been explicitly included in a contract signed by the parties or an order confirmation signed by the Contractor.
2. The offer issued by the Contractor, as well as the drawings, calculations, software, descriptions, models, tools, etc. made or provided by it, shall remain its property, irrespective of whether costs have been charged for such. The information enclosed in or underlying the manufacturing and construction methods, products, etc. shall remain exclusively reserved for the Contractor even if costs have been charged for such. The Client guarantees that the said information will not be copied, disclosed to third parties, published or used without the written permission of the Contractor, except for the implementation of the agreement.

Article VI Delivery and delivery time

1. Unless agreed otherwise in writing, delivery shall take place Ex Works at the premises of the Contractor (Incoterms 2020).
2. The delivery time will commence on the last of the following dates:
 - a. the date on which the agreement is concluded;

- b. the date of receipt by the Contractor of the requisite documents, data, permits, etc. for the implementation of the order;
 - c. the date of completion of the formalities necessary for the commencement of the activities;
 - d. the date of receipt by the Contractor of that which under the agreement has to be paid in advance before the commencement of the activities. If a delivery date or week has been agreed, the delivery time shall be the period between the date of conclusion of the agreement and the delivery date/week.
3. The delivery time is, at all times, an estimated delivery time for the Contractor, and not firm or fixed. The delivery time is based on, inter alia, the working conditions at the time of conclusion of the agreement and on delivery in good time of the Product and/or materials ordered by the Contractor for implementation of the work (e.g. lead times of manufacturers and suppliers). If, due to no fault of the Contractor, a delay arises as a result of a change to the said working conditions or because the Product and/or materials ordered for performing the work have not been delivered in good time, the delivery time will be extended insofar as is necessary. Any penalties and fines at the expense of the Contractor are at all times excluded.
 4. The Product is deemed to be delivered as regards the delivery time when it is ready for inspection, if inspection at the company of the Client has been agreed, and in all other cases when it is ready for dispatch to the Client, and notwithstanding the obligation of the Contractor to comply with any assembly/installation commitments.
 5. Notwithstanding the provisions set forth elsewhere in these conditions with regard to extending the delivery time, the delivery time shall be extended by the duration of the delay arising on the part of the Contractor as a result of the failure of the Client to comply with any of the obligations arising under the agreement or any cooperation to be required of it with regard to the implementation of the agreement.
 6. Except in the event of gross negligence on the part of the Contractor, exceedance of the delivery time shall not give the Client any entitlement to full or partial termination and/or dissolution of the agreement. Exceedance of the delivery time – for whatever reason – shall not give the Client any right to perform, or have performed, activities to implement the agreement without the judicial authorisation.
 7. Products ordered by the Contractor at the request of the Client, and to be delivered by the Contractor to the Client, cannot be cancelled, withdrawn or returned by the Client without permission and cooperation of the Contractor. The Contractor may charge additional costs.
2. Notwithstanding that provided for in paragraph 1, the Client shall in any event at its own expense and risk ensure that:
 - a. the personnel of the Contractor, as soon as they have arrived at the place of installation, can commence their work and continue performing their work during normal working hours, and moreover outside normal working hours if the Contractor deems this necessary, provided the Contractor informs the Client of this in good time;
 - b. suitable accommodation and all amenities for the personnel of the Contractor are in place as required under government regulations, the agreement, or usual practice;
 - c. the access roads to the place of installation are suitable for the requisite transport;
 - d. the designated place of installation is suitable for storage and assembly;
 - e. the necessary secure storage areas for materials, tools, and other goods are available;
 - f. the requisite and usual auxiliary workers, auxiliary equipment, and industrial materials (fuel, oil and lubricants, polishing and other small materials, gas, water, electricity, steam, pressurised air, heating, lighting, etc) as well as the normal measuring and testing equipment for the business of the Client, are available for the Contractor in good time, free of charge and in the right place;
 - g. all necessary safety and precautionary measures have been taken and are maintained, and all measures have been taken and are maintained to ensure the assembly/installation complies with the applicable government regulations;
 - h. at the start of, and during, the assembly all the requisite products are present in the correct place.
 3. Any damages and costs that arise because the conditions set in this article have not been complied with, or not on time, shall be for the account of the Client.
 4. Article VI is equally applicable in relation to the assembly/installation period.

Article VIII Inspection and acceptance trials

1. Inspection of Products by the Client will take place at the premises of the Contractor upon delivery Ex Works (Incoterms 2020).
 2. In other cases, the Client shall inspect the Products or have them inspected as soon as reasonable possible but in any case no later than fourteen (14) days after the date of delivery to the Client, or – if assembly/installation has been agreed – within a maximum of fourteen (14) days after the assembly/installation. If this deadline expires without written and specified notification of a valid complaint, the Product shall be deemed to have been accepted.
 3. If acceptance trials have been agreed, the Client shall give the Contractor the opportunity to carry out the necessary tests after the delivery, or if assembly/installation has been agreed, after the assembly/installation, and to make any improvements and changes deemed necessary by the Contractor. The acceptance trials shall be held as soon as possible after a request from the Contractor for such in the presence of the Client. If the acceptance trials are completed without a specified and valid complaint, as well as if the Client does not fulfil the aforementioned obligations, the Product shall be deemed to have been accepted.
- #### **Article VII Assembly/installation**
1. If the parties have agreed that assembly/installation of the Product to be supplied will be carried out by the Contractor, the Client is responsible towards the Contractor for the correct and timely completion of all fixtures, facilities and/or conditions that are necessary for installation of the Product to be assembled and/or the correct operation of the Product in assembled state, except if and insofar as this work is carried out by or on behalf of the Contractor in accordance with specifications and/or drawings made by or on behalf of the Contractor.

4. For the acceptance trials, and for any tests, the Client will make the requisite facilities, including those referred to in article VII, paragraph 2, subsection f., available, as well as sufficient quantities of representative samples of any materials to be processed, on time and free of charge, at the right location for use by the Contractor, in order that the operating conditions of the Product envisaged by the parties can be replicated as closely as possible. If the Client does not fulfil this obligation, paragraph 2, final sentence, shall apply.
5. In the event of insignificant shortcomings, in particular those which do not, or hardly, affect the envisaged usage of the Product, the Product shall be deemed to have been accepted regardless of these shortcomings.
6. Notwithstanding the obligation of the Contractor to fulfil its guarantee obligations, the acceptance in accordance with the above paragraphs shall exclude any claim of the Client in relation to a shortcoming in the performance of the Contractor.

Article IX Transfer of risk and ownership

1. As soon as the Product is deemed to have been delivered, the Client shall bear the risk for all direct and indirect damages, which may arise to or through this Product. If the Client, after being given notice of default, fails to take possession of the Product, the Contractor will be entitled to charge the Client for the costs arising out of such, including the storage costs for the Product.
2. Notwithstanding that provided for in the previous paragraph and in article VI of these general conditions, the legal ownership of the Product shall only be transferred to the Client once all that which is owed by the Client to the Contractor for supplies or associated activities, including interest and costs, has been paid to the Contractor in full.
3. The Contractor, where relevant, shall be entitled to gain unimpeded access to the delivered Product. The Client will give its full cooperation to the Contractor and/or third parties in order to allow the Contractor to exercise the retention of title set out in paragraph 2 by taking back the Product, including any disassembly that may be necessary for such.

Article X Invoicing and payment

1. Unless otherwise agreed in writing, the payment of the agreed price will take place as follows:
 - a. 30% no later than 7 days after the conclusion of the agreement;
 - b. 70% before delivery as referred to in article VI. Payment for contract extras must be made as soon as such has been invoiced to the Client.
2. Unless otherwise agreed in writing, all payments by the Client are to be made without any (form of) deduction or discount, and/or suspension, and/or set-off, and in a timely manner upon receipt of the invoice, at the office of the Contractor, or to an account to be designated by it.
3. If the Client does not pay within the agreed period, it shall be deemed to be legally in default and the Contractor is entitled, without any notice of default, to charge interest as of the due date at a percentage of 3 points above the statutory interest rate applicable in the Netherlands, as referred to in article 6:119a and article 6:120, paragraph 2, Dutch Civil Code, and also for all judicial and extrajudicial costs associated with the collection of its claim.

Article XI Claims and guarantee

1. Contractor's sale of Products of John Deere, DAF, Nanni, Doosan and/or other brands is (also) subject to brand-specific guarantee conditions (warranty), which guarantee conditions shall, in case of conflict, prevail over (any provision of) these general terms and conditions. Brand-specific conditions must, insofar as necessary, be interpreted and explained in such a way that the Contractor uses these brand specific conditions as its own in relation to the Client. Apart from any brand specific guarantee conditions, the Contractor applies the following conditions with regard to claims and guarantee.
 2. Complaints with regard to defects must be submitted immediately after discovery, and in any event within the guarantee period(s) referred to in paragraphs 3, 4, and 10, in a written, specified notification by the Client to the management of the Contractor. Should the said periods be exceeded, all claims against the Contractor with regard to the relevant defect(s) shall expire. Legal claims by the Client against the Contractor must be instituted within one year after the timely submission of a claim, on pain of nullification and forfeiture of rights of the Client.
 3. Notwithstanding the limitations set in this article, the Contractor guarantees the quality of the Product supplied by it and the quality of the materials used and/or supplied for such, insofar as it concerns defects to the supplied Product not visible during an inspection and/or acceptance trials, for the shorter period of (i) 18 months after delivery in accordance with article VI or (ii) 12 months after commissioning with a maximum of 2.000 hours of use. For (spare) parts supplied separately not covered by a guarantee, a period of 6 months after delivery in accordance with article VI shall apply.
 4. Paragraph 3 is equally applicable to defects not visible during an inspection and/or acceptance trials, which are caused solely or largely by improper assembly/installation by the Contractor. If assembly/installation of the Product by the Contractor takes place, the guarantee period of 12 months referred to in paragraph 3 shall commence on the date on which assembly/installation by the Contractor has been completed, with the understanding that in that case the guarantee period shall in any event end when 18 months have elapsed since the delivery in accordance with article VI.
 5. The defects covered by the guarantee referred to in paragraphs 3 and 4 will be remedied by the Contractor by repair or replacement of the defective part, on the Contractor's premises or elsewhere, or by supply of a replacement part, this in all cases at the discretion of the Contractor. All costs exceeding the sole obligation as described in the preceding sentence, including, but not limited to, transport costs, travel and accommodation expenses, costs of investigation by an expert, as well as costs for dismantling and assembly, are to be paid by the Client. The Client will provide the Contractor assistance with any disassembly and assembly at the first request of the Contractor.
 6. Not covered by the guarantee shall in any case be defects that occur due to, or are partially or wholly the result of:
 - a. failure by the Client to observe the operating and maintenance directions, or other than the intended normal usage;
 - b. defects which are not material and/or construction faults, such as defects arising from normal wear

and tear, internal and external contamination, rust and paint damage, transport, freezing, overheating, overloading and/or letting the Product fall.

- c. assembly/installation or repair by third parties, including the Client;
 - d. materials or goods used at the request of the Client;
 - e. materials or goods which have been provided by the Client to the Contractor for machining or processing;
 - f. materials, goods, methods and constructions, which have been applied at the explicit instruction of the Client, as well as materials and goods supplied by or on behalf of the Client;
 - g. designs and parts that have been made available by the Client itself.
7. If the Client fails to comply with any obligation arising under the agreement, or under an associated agreement, concluded by it with the Contractor, or does not do so properly or in good time, the Contractor cannot be held to any guarantee, of any description whatsoever, in relation to such agreements.
 8. If the Client undertakes, or commissions, disassembly, repair or other work in relation to the Product, without the prior written approval of the Contractor, all claims under the guarantee will become null and void.
 9. If the Contractor replaces parts/products to comply with its guarantee obligations, the replaced parts/products shall become its property. In the event of replacement of a part, the original guarantee period shall not be extended.
 10. In relation to the separate repair or modification orders or other services carried out by the Contractor, unless otherwise has been agreed, a guarantee shall only be given for the soundness of the work ordered, such for a period of 3 months. This guarantee only comprises the obligation of the Contractor to carry out the relevant work again, insofar as such is deficient, in the event of any deficiency. The second sentence of paragraph 5 shall be equally applicable in such a case.
 11. No guarantee will be given with regard to inspections, consultancy, and similar services performed by the Contractor.
 12. The alleged non-fulfilment by the Contractor of its guarantee obligations shall not release the Client from the obligations which arise for it under any agreement concluded with the Contractor.

Article XII Liability

1. The liability of the Contractor is limited to the fulfilment of brand specific guarantee obligations and/or other (general) guarantee obligations, as described in article XI of these conditions.
2. Any (form of) liability on the part of the Contractor for any consequential and/or indirect damage howsoever arising, including but not limited to liability for (damage resulting from) delays in delivery and for non-delivery, for damage to or the total or partial destruction or loss of goods other than Products, for (damage resulting from) any claim from third parties, for damage in the form of (additional) costs incurred by the Contractor and/or third parties, for loss of production, for loss of profit, for loss of use of Products and/or any other item, for loss of contracts and/or funds, and for damage resulting from any wrongful act or omission on the part of the Contractor, is excluded.
3. Notwithstanding that provided for in paragraphs 1 and 2, the Contractors cumulative liability on any legal basis whatsoever, expressly including each failure to fulfil any

guarantee obligation, shall be limited to payment of an amount in cash to the Client up to a total of maximum the price paid to the Contractor, excluding VAT, for (the relevant part of) the Product, and in the absence of any payment to the Contractor a maximum of the agreed price excluding VAT.

4. The limitations and exclusions of liability set out in this Article XII do not apply in the event of intent or gross negligence of the Contractor or its executive subordinate(s).
5. If the Contractor, without being contracted to perform the assembly, nonetheless provides assistance and help - of any kind whatsoever - during the assembly, this will take place at the risk of the Client.
6. The Client is obliged to indemnify and hold harmless the Contractor in relation to all claims of third parties for compensation of damages, the liability of the Contractor for which is excluded in these conditions with respect to the Client.

Article XIII Force majeure

1. For the application of these general conditions, force majeure means any circumstance beyond the control of the Contractor - even if it was already foreseeable at the time the agreement was concluded - which impedes the performance of the agreement by the Contractor permanently or temporarily, as well as, insofar as not already covered by such, war, threat of war, civil war, epidemic or pandemic outbreaks, civil unrest, strikes, lockouts, transport difficulties, fire, delayed and/or cancelled deliveries from manufacturers, (computer) hacks (e.g. ransomware) and other serious disruptions of the business of the Contractor and/or its suppliers.

Article XIV Suspension and dissolution

1. In the event of an impediment to the implementation of the agreement arising as a result of force majeure, the Contractor shall be entitled, without judicial intervention, to either suspend the implementation of the agreement for a maximum of 6 months, or to dissolve the agreement in full or in part, without being obligated to pay any (form of) compensation. During the suspension the Contractor is entitled, and at the end of such it is obliged, to either opt for implementation or full or partial dissolution of the agreement. Both in the case of suspension and of dissolution, the Contractor is entitled to demand immediate payment for all that which it has already carried out in connection with the implementation of the agreement.
2. If the Client fails to comply with any obligation arising for it under the agreement concluded with the Contractor, or an agreement associated with such, or fails to do so properly or in good time, or if there are valid grounds for fearing that the Client is unable or will be unable to comply with its contractual commitments towards the Contractor, as well as in the case of bankruptcy, suspension of payments, closure, liquidation or partial transfer - for collateral or otherwise - of the Client's business, including the transfer of a major portion of its receivables, the Contractor is entitled, without notice of default and without judicial intervention, to suspend the implementation of each of these agreements for a maximum of 6 months, or to dissolve them in full or in part, without it being held to any (form of) compensation or guarantee, and without prejudice to the further rights accorded to it. During the suspension the Contractor is entitled, and at the end of such it is obliged, to either opt

- for implementation or full or partial dissolution of the suspended agreement(s).
3. In the event of suspension and/or dissolution pursuant to paragraph 2, the agreed price shall become immediately payable, after deduction of the instalments already paid and the costs saved by the Contractor as a result of the suspension or dissolution.
 4. Only in the event of a fundamental and attributable failure by the Contractor in the performance of its obligations, the Client is entitled to claim (full or partial) dissolution of the agreement(s). This is without prejudice to Article XII. The Client is not entitled to claim (full or partial) dissolution of the agreement(s) with retroactive force.
 5. Notwithstanding that provided for above, in the event of not (timely) accepting and effecting delivery of the goods by the Client, the Client shall immediately owe 10% of the agreed price to the Contractor, without prejudice to the right of the Contractor to claim - in addition to this payment - full compensation for the damages suffered by the Contractor due to the cancellation and/or its other legal and/or contractual rights.

Article XV Data

1. The Client authorizes the Contractor to (automatically) process personal data to be collected by the Contractor.
2. Both parties shall at all times comply with any obligations under Dutch law regarding data protection and any other relevant (national, European and international) data protection regulations that are applicable to the execution of the Agreement. Both Parties shall (i) take appropriate security measures to protect the confidentiality of the (personal) data provided by the other Party, (ii) inform the other Party, on such Party's request, about the security measures taken in respect to the foregoing, and (iii) notify the other Party of any breach of personal data in accordance with and within the timeframe stipulated in the Privacy Laws. If applicable, both parties shall enter into a data processing agreement.

Article XVI Applicable law and disputes

1. Dutch law only will be applicable to all agreements with the Contractor, unless explicitly agreed otherwise in a written agreement signed by both parties. The applicability of United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
2. All disputes arising as a result of an offer, an agreement, or further agreements arising from such an agreement will exclusively be submitted to the district court of Oost-Brabant, the Netherlands.