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**GENERAL PURCHASE TERMS AND CONDITIONS OF BRONSWERK HEAT TRANSFER BV AND ALL ITS AFFILIATED COMPANIES (hereinafter: "BHT"), with its registered office at Nijkerk, the Netherlands.**

**These conditions were filed under number 08022150 at the Chamber of Commerce at Almere on 01-05-2013.**

**Definitions.**

Supplier: a natural person or legal entity supplying goods and/or services to BHT or the party with whom BHT is considering entering into an Agreement in that respect.

Terms and Conditions: these General Purchase Terms and Conditions.

In Writing/Written: in the Terms and Conditions correspondence sent by e-mail is equated to written documents.

Quote: the Written quote from the Supplier to provide a certain quantity of goods and/or services at a certain price on a certain date (delivery term).

Order: BHT's instruction to deliver and/or BHT's acceptance of the Supplier's Quote.

Agreement: the agreements laid down In Writing, of which the Terms and Conditions form an integral part, between BHT and the Supplier on the Delivery of goods and/or services.

Delivery: putting one or more goods into the possession of or the control of BHT or completion of the provision of services, under any title whatsoever.

**1. Applicability**

- a. The Terms and Conditions apply to all requests and calls for tender for and all engagements/Orders provided by BHT and to all Quotes made to BHT by the Supplier as well as any Agreement under which the Supplier provides goods and/or services to BHT.
- b. Deviations from/amendments to the Terms and Conditions and/or Agreement are only legally valid if they are explicitly agreed on In Writing by the Supplier and BHT.
- c. The applicability of the 'United Nations Convention on contracts for the International Sale of Goods' ('Vienna Sales Convention') is excluded.
- d. The (sales/delivery or other) terms and conditions of the Supplier do not apply and are explicitly rejected by BHT.

**2. Quotes/Orders/Conclusion of the Agreement**

- a. Quotes made by the Supplier to BHT are deemed to be binding for at least three (3) months after their date unless the parties have agreed otherwise In Writing.
- b. The costs accompanying the Quote and those of any necessary samples are payable by the Supplier unless the parties agree otherwise In Writing. BHT will not return any documentation and samples received with the Quote.
- c. Unless explicitly indicated otherwise in the Quote, the price stated in the Quote is final and is expressed in euros and will be deemed to cover all costs necessary to deliver the goods and/or services to the location indicated by BHT, with the exception of VAT. These costs also include taxes, levies and duties which are related to the production, transport, insurance and import and/or export for example.
- d. An Agreement is concluded by:
  - BHT accepting a Quote In Writing by way of an Order, which Order will be signed for approval by the Supplier and must be returned to BHT within seven (7) calendar days (unless a shorter period is stated in the Order); or
  - in the event that the Supplier has not issued a Quote, by way of returning a copy of the Order signed for approval by the Supplier to BHT within seven (7) calendar days (unless a shorter period is stated in the Order) in which case BHT is entitled to withdraw the Order as long as the Supplier has not confirmed it in accordance with paragraph d. of this Article.
- e. On granting the Order it is assumed that the Supplier is the actual supplier, manufacturer, exporter or importer of the goods/services described in the Order unless explicitly otherwise apparent from the Order. Any outsourcing takes place entirely at the Supplier's account and risk. The Supplier is fully responsible

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and liable vis-à-vis BHT for goods produced/services provided by third parties on the instructions of the Supplier.

f. The Supplier guarantees that all taxes or contributions in this respect for staff and/or third parties engaged by the Supplier have been paid and indemnifies BHT for any claims in that respect.

### 3. Guarantee of quality of the Delivery.

a. The Supplier guarantees that.

- the Delivery is complete and suitable for the purpose for which it is intended and free of defects;
- the Delivery is entirely in accordance with the requirements, specifications, drawings, calculations provided and/or referred to by BHT and/or other data/documents forming part of the Agreement;
- the Delivery complies at a minimum with all statutory requirements/regulations and government regulations applicable in the Netherlands and the EU, unless explicitly determined otherwise in the Agreement;
- insofar as the Delivery is carried out at a location outside the business premises and/or sites of the Supplier, the laws and government regulations applicable for that location as well as the instructions/regulations declared applicable by BHT and/or its client for that location will be complied with;
- besides the agreed specifications, in general, the Delivery must be of good quality and free of design, performance and/or material flaws, and only new materials and skilled personnel may be used for the performance of the Delivery and the services pertaining to the Delivery;
- if the Delivery also consists of making manpower available, this availability will comply with all applicable statutory requirements/regulations and the workers will comply with any specifically agreed and all generally applicable requirements of professional competence and the agreed number of workers will remain available without interruption throughout the agreed period.

b. If technical, safety, quality and/or other regulations are referred to in the Agreement and/or in the pertaining schedules that are not appended/attached to the Agreement, the Supplier is deemed to be aware of these, unless the Supplier notifies BHT of the contrary In Writing. In that case, BHT will further inform the Supplier of the conditions in question.

### 4. Interim inspections, checks, tests.

a. BHT is entitled at all times to have the Delivery, more in particular the pertaining goods and/or services, inspected, checked, and/or tested and/or to carry out progress controls on an interim basis.

To that end within reasonable limits the Supplier will provide the necessary staff and material help, allow the persons or bodies designated by BHT access to the location where the Agreement is performed at all times and will make an area available for the interim inspection, check and/or test.

b. If interim inspections, checks and/or tests are agreed on which have to take place at the Supplier's initiative, the Supplier will always notify BHT of the intended time of inspections, checks and/or tests In Writing in good time so that BHT, if it wishes, can be present or represented.

If and insofar as it is agreed that interim inspections, checks and/or tests have to take place at BHT's initiative, the foregoing applies *mutatis mutandis*.

c. All interim inspections, checks and tests will take place based on the requirements, specifications, instructions and documents referred to in Article 3.

d. All costs related to the interim inspections, checks and/or tests, with the exception of the cost of BHT's staff and/or other persons that BHT has indicated as its representatives, are payable by the Supplier.

If an interim inspection, check and/or test cannot take place at the agreed time, or an interim inspection, check and/or test has to be repeated, then BHT can recover any ensuing extra costs from the Supplier if and insofar as this delay or repetition is attributable to the Supplier. The same right applies for the Supplier if and insofar as the delay or repetition is attributable to BHT or to its client.

e. In the event of rejection, BHT will notify the Supplier directly, stating the reasons. The Supplier is required to improve/repair or replace the rejected items at its own expense within the time periods set by BHT.

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f. If, taking Article 2e into account, the Supplier brings in subcontractors or sub-suppliers for the Delivery, the Supplier on BHT's behalf will fully impose the provisions referred to in this Article on the subcontractors or sub-suppliers.

g. Interim inspections, checks and/or tests or the absence thereof do not imply BHT's acceptance of the Delivery.

#### **5. Final inspection and acceptance.**

a. Written approval by BHT of the Delivery (which does not include signing of a confirmation of receipt, consignment note, transport documents) applies as acceptance thereof, without prejudice to the provisions of paragraph d of this Article.

b. If the Delivery is subjected to a final inspection then the provisions of Article 4 apply *mutatis mutandis* with the exception of the provisions of Article 4g.

c. If and insofar as the Delivery contains features whose existence can only be established after setting up, assembly or installation/incorporation of the Delivery, the final inspection will take place once the Delivery or the object for which the Delivery is intended, is ready for the same.

d. If and insofar as the delivery of certificates, assembly instructions, maintenance and operation instructions, drawings, other documents and/or the giving of training and instruction has been agreed on, this forms part of the Delivery and acceptance is not deemed to have taken place before delivery and/or submission thereof has taken place in full.

e. The Supplier grants BHT the right to also (allow) use the goods forming part of the Delivery prior to the acceptance.

#### **6. Packaging and shipment.**

a. The Supplier will pack and secure the goods forming part of the Delivery such that they reach the place of destination in good condition by normal transport and can be safely unloaded. Any particular requirements of the packaging and security required by BHT, provided these are made known on time by BHT, will be fully and carefully observed by the Supplier. The packaging must comply with all relevant statutory provisions.

b. The Supplier will strictly follow the instructions of BHT in respect of conservation, marking, shipping, insuring the transport risk and the dispatch documents to be sent.

c. Shipments that do not comply with the provisions of paragraph a and/or paragraph b can be refused by BHT.

d. BHT reserves the right to return the packaging at the Supplier's account and risk by crediting of the amount charged to BHT by the Supplier. The Supplier will treat loaned packaging made available by BHT with due care and insure it.

#### **7. Transfer of title and risk**

a. Insofar as not otherwise determined in the Terms and Conditions and/or in the Agreement, the title to and the risk of the goods forming part of the Delivery transfers to BHT on the delivery thereof to BHT at the agreed location. In the event of payments that take place before Delivery, the title will transfer to BHT at the time of payment to the amount of the payment made, in which case the Supplier is required to keep these goods and mark them clearly. Any commercial terms used in the Agreement such as FOB and CIF are used in accordance with the definitions given in the version of the Incoterms applicable on the date of conclusion of the Agreement without prejudice to the provisions of paragraphs b and c of this Article.

b. In the event that BHT makes goods available to the Supplier for processing or for adding to or mixing with goods that do not belong to BHT, then BHT remains the owner or BHT will become the owner of the goods that are created. The Supplier is required to keep these goods and mark them clearly and bears the risk for them until the time of delivery of the goods to BHT.

c. In the event that BHT makes goods available to the Supplier to assemble them or to test the already assembled goods or put them into operation under BHT's supervision of the assembly, the Supplier bears the risk for these goods from the availability thereof until acceptance of the delivery by BHT. If the Supplier

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assembles the goods at the construction site and/or is responsible for the supervision thereof, it bears the risk of these goods uninterruptedly until acceptance of them by BHT.

## 8. Delivery date

**a.** Observance of the time periods laid down in the Agreement is an essential obligation for the Supplier. The Supplier is required to deliver the goods and/or services forming part of the Delivery in the agreed form, quantity and quality on the agreed date of Delivery at the agreed location.

**b.** If the Supplier does not fulfil its delivery obligations or does not fulfil them in a timely fashion and/or not in full, BHT, without notice of default and/or legal intervention, is entitled to suspend all its obligations and/or terminate the pending agreement entirely or with regard to the part not completed on time or in full, without the Supplier being able to derive any right to compensation and without prejudice to BHT's right to charge all costs/loss/damage caused by this to the Supplier and to carry out the part of the Delivery not completed on time or in full itself, or have it carried out by a third party, at the Supplier's expense.

**c.** Partial deliveries are not permitted except with BHT's prior Written consent.

**d.** If the delivery term indicated by BHT in the Agreement is exceeded, this will mean that the Supplier is immediately in default without any notice of default being required. In other words, the time of Delivery agreed on In Writing applies as a deadline, without prejudice to force majeure (see Article 19). BHT, taking the provisions of paragraph b of this Article into account, is always entitled to refuse goods/results of services forming part of the Delivery which are not delivered on time or in full on the agreed delivery date without being required to pay any compensation.

**e.** Taking Article 19a into account, as soon as circumstances occur or are foreseeable that mean that the obligation cannot be fulfilled in accordance with paragraph a of this Article, the Supplier will notify BHT thereof immediately In Writing, stating the nature of these circumstances, the measures it has taken or will take and the expected duration of the delay. Failure to do so will mean that it cannot invoke these circumstances at a later date. The Supplier cannot invoke force majeure if it has not complied with this obligation.

**f.** In the event of delivery later than the agreed delivery date, the Supplier owes 1% of the invoice amount to BHT for each week's (seven calendar days) delay taking a maximum of 10% of the invoice amount in question into account, not affecting BHT's rights in accordance with this Article 8 and Articles 10 and 13 a.

## 9. Guarantee to repair defects

**a.** The Supplier guarantees that all defects that might occur in the Delivery will be repaired without cost for one (1) year after acceptance or putting into use of the Delivery or the object for which it is intended, whereby the latter of these events means that the guarantee term will commence, unless another term is included in the Agreement. The provisions of paragraph a of this Article do not apply if and insofar as the Supplier adequately demonstrates that these defects are not the result of design flaws and/or performance of the Delivery with defective materials. The Supplier undertakes to carry out this repair promptly and in any case within the reasonable term of which it is given notice by BHT by way of repair or replacement, at the Supplier's discretion.

**b.** The Supplier is required to bear all costs which are incurred to effectuate repair of the defects for which it is liable pursuant to paragraph a of this Article, including but not limited to installation, removal, transport and suchlike.

**c.** Failure to fulfil the repair obligation referred to in this Article and/or failure to comply with it within the set time period, as well as in urgent cases, gives BHT the right to carry out whatever is necessary or have whatever is necessary carried out by third parties at the Supplier's risk and expense provided the Supplier is notified hereof as soon as possible In Writing.

**d.** The period referred to in the first line of paragraph a of this Article is extended by the term during which the Delivery or the object for which it is intended cannot be used due to a defect attributable to the Supplier. The period as meant in paragraph a of this Article commences again for the repaired or replacement parts of the Delivery from the time of putting into use after repair.

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**e.** The title to and the risk of goods replaced pursuant to the repair obligation referred to above are vested in the Supplier from the time of replacement. The Supplier must collect these goods as soon as possible unless BHT requests that the replaced goods are made available to BHT for examination.

**f.** Unless BHT is guilty of intent or gross negligence, the loss of or damage to auxiliary materials and tools which the Supplier uses in the performance of the Delivery is borne by the Supplier.

**g.** The provisions as according to the previous paragraphs of these Articles or as according to the other Articles of the Terms and Conditions do not relieve the Supplier of its other liabilities/obligations pursuant to the law.

#### **10. Indemnification**

The Supplier indemnifies BHT in full for all loss, damage and costs suffered and to be suffered by BHT and claims by third parties in relation to any shortcomings/defects with regard to the goods/services provided by the Supplier to BHT and auxiliary materials used in the performance of the Agreement, respectively due to actions or omissions of the Supplier, its staff or other persons used by it in the performance of the Agreement.

#### **11. Title to, risk of and care for auxiliary materials, drawings, etc.**

**a.** All auxiliary materials, such as drawings, models, forms, dies, calibres or specific tools needed to perform the Delivery, which are made available to the Supplier by BHT or which are manufactured and/or purchased by the Supplier at BHT's expense are or remain property of BHT.

**b.** The Supplier will keep these auxiliary materials, clearly marked as property of BHT, as a borrower, keep them in a good condition and bear all risks for them, all this until they are returned to BHT.

**c.** The Supplier will only use these auxiliary materials for the performance of the Agreement. The Supplier will not use the said auxiliary materials for other purposes, copy or reproduce them or give them to third parties in any form or any way or make them accessible to third parties, without BHT's written consent.

#### **12. Transfer of rights and obligations**

Taking Article 2e into account the Supplier may not transfer its rights and obligations ensuing from this Agreement wholly or partly to any third party without BHT's prior Written consent. Such consent, if granted, does not alter any of the Supplier's obligations ensuing from the Agreement.

#### **13. Cancellation and termination**

**a.** In the event of a failure by the Supplier in the performance of its obligations pursuant to the Agreement and in the event of the Supplier's bankruptcy or moratorium of payments or liquidation of its business, BHT is entitled to wholly or partly terminate the Agreement (or at its discretion suspend the performance of its obligations) without further notification of default or legal intervention and without being required to pay any compensation and without prejudice to BHT's further rights including the right to seek compensation of damages.

Notwithstanding the provisions of the previous sentence, BHT is entitled to wholly or partly terminate the Agreement at all times. In such a case BHT will only pay the Supplier the costs actually incurred prior to the termination, supplemented by a reasonable amount for overheads.

**b.** All claims which BHT has or will have in these cases against the Supplier will then be due on demand and in full.

#### **14. Price and payment**

Unless otherwise determined in the Agreement the price agreed on in the Agreement will be final and binding. Contract variations will only be acknowledged and paid by BHT if agreed on explicitly In Writing in advance. The manner of and times of payment are laid down in the Agreement.

#### **15. Insurance**

The Supplier will adequately insure its liability pursuant to the law and/or Agreement vis-à-vis BHT. The Supplier will further insure all insurable risks in its business operations under normal conditions. The

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Supplier will also insure all goods/auxiliary materials that it receives from BHT pursuant to an Agreement against damage as the result of incorrect or inadequate processing which can occur to the goods during the time that the Supplier has these goods/auxiliary materials in its possession. The Supplier undertakes to submit evidence of its insurance as well as evidence showing that the insurance premium has been paid on time at BHT's first request.

#### **16. Suspension/Retention right/Set-off**

The Supplier is not entitled to suspend its obligations vis-à-vis BHT or exercise any retention right to goods/auxiliary materials that are property of BHT or to which BHT has a claim in any way. Likewise the Supplier is not entitled to any form of set-off.

#### **17. Intellectual property right**

**a.** The Supplier recognises that all intellectual property rights concerning materials, auxiliary materials, drawings, calculations, instructions and other information from BHT are and remain the property of BHT or a third party designated by BHT. It is not permitted to use these materials, auxiliary materials, drawings, calculations, instructions and other information from BHT for any other purpose than as agreed on beforehand In Writing with BHT, or to provide them to third parties in any way. The Supplier only acquires the restricted right to use them during the term of the Agreement and solely and alone for performance of the Delivery.

**b.** The intellectual property rights to the documentation, data, models/prototypes, instructions, reports, results and all other information contained therein (hereinafter the "Results") created by the Supplier as part of the Agreement are vested in BHT or a third party designated by it. The Supplier transfers all worldwide intellectual property rights and claims to them with regard to the Results, including the full and worldwide copyright, more in particular the disclosure and reproduction right, to BHT, which transfer is accepted by BHT. The full payment for this transfer is included in the payment for the Delivery.

**c.** The Supplier declares that the Delivery and/or the Results do not infringe on intellectual property rights of third parties and fully indemnifies BHT for all loss, damage, costs and claims in this respect, if and insofar as the infringement is not the result of a design prescribed explicitly In Writing by BHT. For good order's sake, besides the transfer mentioned under b, the Supplier grants BHT a licence for no consideration with regard to all intellectual property rights vested in the goods and/or services forming part of the Delivery, to use such rights directly and indirectly for the purpose for which these goods and/or services were acquired.

**d.** BHT is entitled to translate, process/amend and otherwise commercially use the Results unrestrictedly with regard to quantity, time, manner and territory, without requiring separate consent from or owing a payment to the Supplier.

If a deed or any other formality is required for this transfer, the Supplier will afford its unconditional cooperation.

**e.** The Supplier recognises that BHT is and remains the owner of the brand name "Bronswerk"; the Supplier is not entitled to use this name in any way without BHT's explicit prior Written consent.

#### **18. Confidentiality.**

During and after performance of the Agreement, the Parties have an obligation towards one another to keep all mutual confidential business matters of which they became aware during performance of the Agreement confidential. More in particular, the Supplier is required to observe absolute confidentiality towards third parties with regard to all data of BHT that it comes to learn pursuant to the Agreement, including provisions, models, drawings, diagrams, designs and suchlike. The Supplier is not entitled to disclose the existence of an Agreement to third parties in brochures, advertisements or otherwise in the media or letters and suchlike without BHT's prior Written consent.

#### **19. Force majeure.**

**a.** If the Supplier is unable to deliver on time due to force majeure, the Supplier must notify BHT hereof In Writing immediately (within 48 hours of force majeure arising) stating the nature of the force majeure, the

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measures taken or to be taken by the Supplier, the expected duration of the force majeure as well as the consequences thereof for the performance of the Agreement. In that case BHT will give the Supplier a reasonable time period but no more than ten (10) calendar days to fulfil the obligations of the Agreement. If the Supplier has not made a notification as described here above in paragraph a of this Article or if the force majeure situation lasts longer than ten (10) calendar days, BHT is entitled to wholly or partly terminate the Agreement by way of a written statement.

**b.** Force majeure is understood to mean: circumstances which hinder performance of the Agreement and which cannot be attributed to the Supplier and are not for its risk. Force majeure will not include failure by third parties in the fulfilment of their obligations vis-à-vis the Supplier.

## **20. Concluding provisions.**

**a.** Solely Dutch law applies to the Orders, Agreements and the Deliveries. Any dispute that cannot be resolved in mutual consultation will be presented to the competent court of Eastern Netherlands, location Zwolle.

**b.** If Parties tacitly permit derogations from the Terms and Conditions/Agreement on any matter and/or component for a shorter or longer period, this does not affect BHT's right to demand immediate and strict compliance with the Terms and Conditions/Agreement. The Supplier can never enforce any right due to the fact that BHT applied one or more parts and/or components of the Terms and Conditions/Agreement liberally.

**c.** If one or more clauses of the Terms and Conditions and/or of an Agreement are in breach of any applicable mandatory legal provision, the clause in question will lapse and will be replaced by a new, legally permissible, comparable clause to be established by the parties.