

GENERAL TERMS AND CONDITIONS OF DELIVERY

of ExxFire B.V., a private limited liability under the laws of the Netherlands with its statutory seat in Noordwijk (2201CW) Keyerswey 30, the Netherlands and registered in the trade register under number 53952464, and any of its affiliates hereinafter referred to as "**EXXFIRE**".

DEFINITIONS

1. In these General Terms and Conditions the following expressions shall have the meaning as set out next to them:

Affiliate means each company belonging to the same group of companies as the Buyer respectively as EXXFIRE as set forth in section 2:24b of the Dutch Civil Code;

Agreement means all acceptances, acknowledgements and confirmations by EXXFIRE of any orders by the Buyer and any agreement between EXXFIRE and the Buyer regarding the sale by EXXFIRE and purchase by the Buyer of Products, including the General Terms and Conditions and the schedules and/or annexes to any such agreement;

Buyer means the buyer of Products;

Cool Gas Generator means the cool gas generators included in the Products;

Confirmation Order means the confirmation order of EXXFIRE of an order by the Buyer including the Operating Manual and the Specification Form;

Defect: a material non-conformity of the Products with the specifications as set out in the Specification Form and **Defective** means having a Defect;

End User means the ultimate end users of the Products;

General Terms and Conditions means these general terms and conditions of delivery of EXXFIRE;

Incoterms means the 2010 version or the most recent version of the Incoterms as published by the International Chamber of Commerce;

Specification Form means the specification form as attached to the Confirmation Order;

Parties means EXXFIRE and the Buyer and **Party** means any of them;

Products means the products provided by EXXFIRE to the Buyer including any services provided by EXXFIRE to Buyer;

Operating Manual means the operating manual including user and safety procedures as attached to the Confirmation Order.

APPLICABILITY OF THE GENERAL TERMS AND CONDITIONS

2. These General Terms and Conditions apply to and form an integral part of any Agreement (also for future business transactions), all other (legal) actions by EXXFIRE and also to unlawful acts, unless and to the

extent EXXFIRE explicitly agrees otherwise in writing unless and to the extent EXXFIRE explicitly agrees otherwise in writing.

3. Any general terms and conditions of the Buyer are not applicable and are not binding in any way on EXXFIRE and are hereby explicitly rejected by EXXFIRE.

OFFER, ORDERS AND AGREEMENTS

4. EXXFIRE's offers are open for acceptance within the period stated by EXXFIRE in the offer or, when no period is stated, within thirty (30) days from the date of the offer, provided that any offer may be withdrawn or revoked by EXXFIRE at any time prior to the receipt by EXXFIRE of the Buyer's acceptance thereof.

5. All documents belonging to EXXFIRE's offer, such as plans, descriptions or specifications, are as accurate as possible, but not binding. EXXFIRE exclusively retains ownership to all property rights and copyrights to the offer and all documents.

6. An order placed by the Buyer shall only be regarded as having been accepted by EXXFIRE following a written confirmation by EXXFIRE by means of a Confirmation Order.

7. Products may only be ordered in multiples of two.

8. Confirmation Orders may only be cancelled or modified by the Buyer with the written consent of EXXFIRE. If such consent is given and the order is cancelled or modified, the Buyer shall reimburse EXXFIRE for all expenses incurred by EXXFIRE and the Buyer shall accept the cancellation charges charged by EXXFIRE.

9. The Buyer guarantees the accuracy and completeness of details that it has provided with regard to the Products and the Specification Form to EXXFIRE.

PRICING AND PRICE ADJUSTMENTS

10. Prices in any offer, confirmation or Agreement are in Euros and do not include any taxes, duties or similar levies or inspection, transport and insurance charges, now or hereafter enacted, applicable to the Products.

11. EXXFIRE will add taxes, duties and similar levies to the sales price where EXXFIRE is required by law to pay or collect them and these will be paid by the Buyer together with the price.

12. EXXFIRE shall have the right to increase its prices, even if it has been agreed that the price is fixed, without this leading to a termination right (including a right of dissolution) for the Buyer if (i) a price increase is a consequence of a statutory or other governmental measure or (ii) the cost factors of the Products applying at the time of the conclusion of the Agreement (such as exchange rates, manufacturer's prices, raw material prices, wage and transport costs, insurance premiums, taxes, import duties and other

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government levies) increase with more than 8% (eight percent).

PAYMENT

13. Payments by the Buyer shall be made in Euros unless another currency is agreed upon between the Parties and confirmed in the Confirmation Order. In the event that a currency other than the Euro shall be agreed upon, the applicable exchange rate will be fixed at the Confirmation Order date and firm for the duration of the applicable Agreement.

14. All invoices of EXXFIRE shall be payable by the Buyer within seven (7) days upon receipt of the invoice unless otherwise agreed upon between the Parties and confirmed in the Confirmation Order. In the event of failure to pay within this term, the Buyer shall be in default without any notice of default or reminder being required and shall be obliged to pay statutory trade interest ex article 6:119a Dutch Civil Code (*wettelijke handelsrente*) over the outstanding amount.

15. Unless otherwise agreed upon in writing between the Parties, payments for the products shall be made in the following instalments: 50% of the total purchase price upon receipt of the Confirmation Order and 50% of the total purchase price upon delivery of the Products Ex Works, Keyzerswey 30, (2201 CW) Noordwijk, the Netherlands (Incoterm 2010).

16. Payments made by the Buyer shall in each case be used for settlement in the first place of all interest and costs payable and in the second place of invoices due and payable that are the longest outstanding, even if the Buyer states that the payment relates to a later invoice.

17. In the event of any default by the Buyer in the payment of any amount due, or any other default by the Buyer, EXXFIRE shall have the right to refuse performance and/or delivery of any Products until payments are brought current and EXXFIRE may suspend, delay or cancel any credit, delivery or any other performance by EXXFIRE without any liability towards the Buyer. Such right shall be in addition to, and not in lieu of, any other rights and remedies available under the Agreement or at law.

18. All expenses either in or out of court made by EXXFIRE for the collection of any amount due under the Agreement or any other agreement between the Parties shall be for account of the Buyer, including but not limited to the recovery of EXXFIRE's reasonable attorney's fees and expenses, the amount of which will be set at a minimum of 15% of the total amount due.

19. The Buyer shall not have the right to withhold or reduce any payments or to set-off existing and future claims against any payments due under the Agreement or under any other agreement that the Buyer may have with EXXFIRE or any of its Affiliates

(may have) and agrees to pay the amounts hereunder regardless of any claimed offset which may be asserted by the Buyer or on its behalf.

DELIVERY

20. Products shall be delivered Ex Works, Keyzerswey 30, (2201 CW) Noordwijk, the Netherlands (Incoterm 2010) or as designated by EXXFIRE, unless otherwise agreed upon in writing between the Parties.

21. The delivery dates shall be based on the expectation that all information and details to be provided by the Buyer required for the performance of the Agreement will be delivered promptly to EXXFIRE. Delivery dates communicated or acknowledged by EXXFIRE are approximate only, and EXXFIRE shall not be liable for, nor shall EXXFIRE be in breach of its obligations to the Buyer, for any delivery made within a reasonable time before or after the communicated delivery date.

22. EXXFIRE shall be permitted to deliver Products in parts. If the Products are delivered in different parts EXXFIRE shall be entitled to invoice each part separately.

23. If the Buyer fails to take delivery of Products ordered, then EXXFIRE may deliver the Products in consignment at the Buyer's cost and risk.

24. Risk of loss in or damage to the Products shall pass to the Buyer upon EXXFIRE's delivery in accordance with the applicable Incoterms.

25. The Buyer acknowledges that the Products and/or the Gas Generator(s) and/or the technologies included may be subject to export control regulations in Europe or the United States of America or countries to which the Products are delivered or in which the Products are used. The Buyer is solely responsible for adherence to these restrictions in case the Buyer exports or re-exports the Products and the Buyer agrees to indemnify and hold EXXFIRE harmless from, or in connection with, any violation of such export restrictions by the Buyer or its employees, its consultants or its agents.

BUYER'S UNDERTAKINGS

26. The Buyer shall ensure that (1) its customers; and (2) its customers at its turn shall procure that the End Users: (i) are provided with the Operating Manual, (ii) are fully aware that the Cool Gas Generators producing nitrogen contain hazardous materials such as sodium azide and/or sodium, (iii) are properly informed on the safety handling and disposal of the Products during the complete product lifecycle of the Products and (iv) shall maintain sufficient insurances, such as, but not limited to, liability and fire & theft insurances, with a reputable insurer. In the event the Buyer does not comply with this provision 26, the Buyer agrees to

indemnify and hold harmless EXXFIRE from any and all damages resulting from such non-compliance.

MANUFACTURE

27. EXXFIRE reserves the right to discontinue the manufacture of, or change or modify the design and/or construction of the Products sold pursuant to these General Terms and Conditions, without incurring any obligation to the Buyer.

ASSIGNMENT

28. EXXFIRE shall be entitled to use third party services for the execution of the Agreement. EXXFIRE is not liable for damages arising out of any acts or non-acts of such third persons.

29. EXXFIRE has the right to wholly or partially assign the rights and obligations under an Agreement to a third party. The approval of the Buyer of such assignment is already granted by the Buyer. The Buyer shall not assign any rights or obligations under the Agreement without the prior written consent of EXXFIRE.

FORCE MAJEURE

30. EXXFIRE shall not be liable for any failure or delay in performance if such failure or delay is caused by Force Majeure as defined below.

"Force Majeure" is in these General Terms and Conditions in addition to its effect in the law and jurisprudence, all external causes, foreseen or unforeseen, that EXXFIRE cannot influence, but which prevent EXXFIRE to fulfil its obligations, including but not limited to regulations by any government authority, fire, flood, power outage, interruption, failure or defects in internet, telephone or other interconnection service or in electronic or mechanical equipment, staff illness of EXXFIRE exceeding ten (10) working days, strikes, late delivery or unsuitability of materials, the failure by third parties engaged by EXXFIRE to fulfil their obligations and/or default by one of the suppliers of EXXFIRE.

31. If EXXFIRE is unable to meet its obligations due to Force Majeure, it will not be liable. Insofar as compliance is not permanently unfeasible, its obligations will be suspended for the period such failure continues, without EXXFIRE being responsible or liable to the Buyer for any damage resulting there from. If the period during which compliance is not feasible due to Force Majeure lasts or looks set to last longer than three (3) months, either Party will be entitled to terminate the Agreement, without any liability to pay damages.

32. If at the time Force Majeure takes effect, EXXFIRE has already partly met its obligations or can only partly meet its obligations, it will be entitled to invoice separately the Products that have already been

delivered or can be delivered, and the Buyer will be obliged to settle this invoice.

INTELLECTUAL PROPERTY RIGHTS

33. All rights of intellectual and industrial property, including, but not limited to, patent rights, copyright, trademark rights, model rights, trade name rights and the rights to knowhow, arising out of or in connection with the Products shall be the exclusive property of EXXFIRE. In the event that the Buyer designs, develops or in any other way manufactures intellectual property rights related to the Products or otherwise ensuing from the activities carried out by it under an Agreement, the Buyer shall transfer all such rights to EXXFIRE for no consideration. Insofar necessary, the Buyer undertakes to give all further cooperation necessary for the effectuation of the transfer of such intellectual property rights to EXXFIRE. The Buyer hereby grants to EXXFIRE an irrevocable power of attorney to perform in the name of the Buyer all acts necessary to conclude the transfer of the aforementioned rights of intellectual property.

34. The Buyer acknowledges that that no right or license is conveyed by EXXFIRE to the Buyer to manufacture, have manufactured, modify, import or copy the Products.

35. All documents and information provided by EXXFIRE, such as reports, advice, design, sketches, drawings, software, etc. shall remain the property of EXXFIRE and shall only be intended for use by the Buyer and may not be reproduced, disclosed, exploited or be brought to the notice of third parties without the prior written consent of EXXFIRE.

36. EXXFIRE is entitled to defend any legal proceeding brought by a third party against the Buyer to the extent that the proceeding includes a claim or alleged claim that any Product as furnished by EXXFIRE under an Agreement directly infringes the claimant's rights of intellectual property.

NON-CONFORMITY & WARRANTY

37. The Buyer is required to conduct a thorough and expert inspection for completeness and soundness of any full or partial delivery by EXXFIRE. In the event of any shortage, non-conformities, damage or discrepancy in or to a delivery of Products, the Buyer shall promptly report the same to EXXFIRE and furnish such written evidence or other documentation as EXXFIRE may deem appropriate. EXXFIRE shall not be liable for any such shortage, damage or discrepancy unless EXXFIRE has received notice and substantiating evidence thereof from the Buyer within ten (10) calendar days of delivery of the Products Ex Works, Keyzerswey 30, (2201 CW) Noordwijk, the Netherlands (Incoterms 2010). On request, the Buyer shall return the Defective Products to EXXFIRE at the Buyer's cost

without delay. If the substantiating evidence delivered by the Buyer demonstrates to EXXFIRE's satisfaction that EXXFIRE is responsible for such shortage, non-conformities, damage or discrepancy, EXXFIRE shall have the sole obligation to - at EXXFIRE's option - either to reimburse (part of) the purchase price paid for the Products or deliver other Products Ex Works, Keyzerswey 30, (2201 CW) Noordwijk, the Netherlands (Incoterms 2010) or to repair the Products in Keyzerswey 30 (2201 CW) Noordwijk, the Netherlands, unless otherwise agreed upon in writing between the Parties provided that in no event shall EXXFIRE be liable for any additional costs (other than reasonable transport costs of the Products to the Buyer), expenses or damages incurred by the Buyer directly or indirectly as a result of such shortage, damage or discrepancy in or to a shipment.

38. Products are warranted to the End Users against defects in material and workmanship for a specific period of time in accordance with EXXFIRE's standard warranty, the most current version can be found at [www.>].

39. Buyers other than the End User agree to provide EXXFIRE's warranty as mentioned in provision 38 to the End User of the Product. The Buyer is not authorized to, and shall not, change, extend, or modify the warranty that EXXFIRE supplies to the End User in any manner. In the event the Buyer does not comply with this provision 39, the Buyer agrees to indemnify and hold harmless EXXFIRE from any and all damages resulting from such non-compliance.

40. No warranty is given for Defects that are a result of (i) normal wear and tear, (ii) injudicious use and use not in accordance with the Operating Manual and the Specification Form, (iii) non-maintenance or defective maintenance and/or (iv) installation, assembly, modification, inspection, repair or removal parties other than personnel trained and qualified by EXXFIRE.

41. Even if the Buyer complains in good time, its obligation to pay and take delivery of ordered Products shall continue to exist.

LIMITATION OF LIABILITY

42. The provisions 42 up to and including 50 of these General Terms and Conditions set out the entire liability of EXXFIRE vis-à-vis the Buyer and its Affiliates. The limitation of EXXFIRE's liability applies accordingly to its employees, Affiliates, agents and sub-contractors.

43. Buyer understands and agrees that the only warranties EXXFIRE extends for the Products are mentioned in the provisions 37 and 38.

44. EXXFIRE can only be held liable by the Buyer for an attributable failure to fulfil any obligations under an Agreement and/or (a) wrongful act(s) or any other legal ground(s) if the Products were utilized under

normal use in accordance with the Operating Manual and conform to the specifications as set out in the Specification Form.

45. In no event will EXXFIRE be liable for damages that are covered by indemnity insurance policy(ies) entered into by the Buyer.

46. EXXFIRE's total aggregate liability in respect of (an) attributable failure(s) to perform any obligations under an Agreement and/or (a) wrongful act(s) or any other legal ground(s) shall cumulatively be limited to the amount that is paid out in the particular case under the (liability) insurance policy(ies) EXXFIRE has entered into.

47. If no payment is made under the said insurance policy for whatever reason, EXXFIRE's total aggregate liability in respect of (an) attributable failure(s) to fulfil any obligations under an Agreement and/or wrongful act(s) or any other legal ground(s) shall in no event cumulatively exceed the lower of either (i) the amount paid for the Products by the Buyer under the said Agreement (excluding VAT) or (ii) € **[20,000,-] ([twenty thousand] Euros)**.

48. In no event will EXXFIRE be liable for any consequential, indirect, immaterial and punitive damage, loss of business profits or damage relating to business interruption.

49. EXXFIRE shall have no obligation or liability to the Buyer if the claim is made with the competent court after a period of one (1) year and six (6) months from the date of delivery of the Product.

50. The Buyer shall indemnify and hold EXXFIRE harmless from and against any costs and damages resulting from any third party claims in connection with the Products or in any other way to an Agreement.

RETENTION OF TITLE

51. EXXFIRE shall retain title to all Products supplied or to be supplied by it to the Buyer under any Agreement until the Buyer has paid the consideration(s) in relation to all these Products in full. The retained title shall also apply to claims that EXXFIRE acquires on the Buyer on account of non-fulfilment of such Agreement(s) by the Buyer.

52. Products supplied by EXXFIRE which are covered by the retention of title may only be sold on in the context of normal business activities. Also, the Buyer shall not be entitled to pledge the Products which are covered by the retention of title or to establish any other right on them. This clause has effect under property-law ("*goederenrechtelijke werking*") and is binding on third parties.

53. The Buyer shall undertake to mark the Products supplied subject to retention of title as the property of EXXFIRE and to insure them and keep them insured against damage and against theft and to make the

policy and the proof of premium payment of this insurance available to EXXFIRE for inspection in first demand.

TERMINATION

54. Without prejudice to any rights or remedies EXXFIRE may have under the Agreement or at law, EXXFIRE may, by written notice to the Buyer, cancel or terminate with immediate effect the Agreement or any part thereof without any liability whatsoever, if:

(a) the Buyer violates or breaches any of the provisions of the Agreement and has not cured such breach within fourteen (14) days following receipt of a written notice of the breach;

(b) any proceedings in insolvency, bankruptcy (including reorganization) liquidation or winding up are instituted against the Buyer, whether filed or instituted by the Buyer, voluntary or involuntary, a trustee or receiver is appointed over the Buyer, or any assignment is made for the benefit of creditors of the Buyer.

55. Upon occurrence of any of the events referred to above in provision 54, all payments to be made by the Buyer under the Agreement shall become immediately due and payable.

56. The Buyer waives its rights to dissolve or nullify the Agreement or to have this Agreement dissolved or nullified in accordance with the Dutch Civil Code.

57. Termination of the Agreement does not release the Parties from their obligations under the following provisions of these General Terms and Conditions: 33-36 (Intellectual Property), 42-50 (Limitation of Liability), 54-57 (Termination), 58-**Error! Reference source not found.** (Confidentiality), 60-62 (Applicable law and jurisdiction), 63-65 (Miscellaneous) or any other provision of the General Terms and Conditions and the Agreement which, by their nature, are intended to survive the termination of the Agreement.

CONFIDENTIALITY

58. Each Party shall maintain as confidential any information furnished or disclosed to one Party by the other Party, whether disclosed in writing or disclosed orally, relating to the business of the disclosing Party, its customers, and the quotation and its terms, including the pricing terms under which the Buyer has agreed to purchase the Products.

59. Each Party shall disclose such confidential information only to its employees having a need to know such information to perform the transactions contemplated by the quotation. The obligation to maintain the confidentiality of such information shall not extend to information in the public domain at the time of disclosure, and/or information that is required to be disclosed by law or by court order.

APPLICABLE LAW AND JURISDICTION

60. These General Terms and Conditions and the Agreement and all agreements relating thereto or resulting there from shall be governed by and construed in accordance with the laws of the Netherlands.

61. The United Nations Convention on Contracts for the International Sale of Products shall not apply to any offer, confirmation or Agreement.

62. All disputes, controversies or claims arising out of or in connection with these General Terms and Conditions or the Agreement or any further agreements relating thereto or resulting there from shall exclusively be submitted in the first instance to the Court of Noord-Holland, place of seating the Hague the Netherlands.

MISCELLANEOUS

63. In the event that any provision(s) of these General Terms and Conditions shall be held invalid or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions thereof.

64. In the event that any provision of these General Terms and Conditions shall finally be determined to be unlawful or unenforceable, such provision shall be deemed severed from these General Terms and Conditions, but every other provision shall remain in full force and effect, and in substitution for any such provision held unlawful or unenforceable, there shall be substituted a provision of similar import reflecting the original intent of the provision to the extent permissible under applicable law.

65. The failure on the part of either Party to exercise, or any delay in exercising, any right or remedy arising from the Agreement shall not operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy arising there from preclude any other or future exercise thereof or the exercise of any other right or remedy arising from the Agreement or from any related document or by law.

CHANGE OF GENERAL TERMS AND CONDITIONS

66. EXXFIRE reserves the right to change these General Terms and Conditions.

67. These General Terms and Conditions are drawn up in the English language on the express condition that all words, terms and expressions used herein shall be construed and interpreted in accordance with Dutch law.