

## **I - SUBJECT**

The purpose of these General Conditions of Technical Services is to regulate the market (hereinafter referred to as "the Market") between DUCROCQ ENGINEERING (hereinafter referred to as "DENG") carrying out the design, manufacture and supply or renovation of equipment (hereinafter referred to as "the Equipment") in accordance with the specifications, plans, production information and instructions provided by its client (hereinafter referred to as "the Buyer").»).

## **II - OFFER**

1. Purchase clauses specific to the Buyer, architect or consulting engineer regulations, or any other purchase clause that DENG has not formally accepted in writing, prior to the conclusion of the Market, cannot be invoked by the Buyer.
2. The responsibility of DENG is expressly limited to the application of the laws and regulations, in force at the time of the conclusion of the Contract, for the good delivery of the Equipment. From this moment on, all responsibility for the application of the regulations rests with the final user.
3. In the absence of a fixed price defined by the Contract, when the Equipment is sold by weight or by meter, the prices are calculated according to the actual weight or meter.
4. The offer submitted by DENG is subject to an option period. In the event of absence of precision on the option period, this is two clear weeks from the date of dispatch of the offer. No updates are made during the option period.

After this period, the offer no longer binds DENG unless the latter accepts it, explicitly and in writing, subject to updating, and any technical or economic readjustments that it deems necessary.

## **III - CONTRACT**

1. The Contract defines exactly and only the Equipment specified in the quotation and the acceptance of the offers also implies acceptance of these conditions. The Contract, even in the event of a preliminary assessment or offer, is only right after the express acceptance, by DENG, of the Buyer's order

Contract includes:

- the contract signed by both parties, or the order and its acknowledgment of receipt, knowing that the said acknowledgment of receipt may possibly state reservations;
- these General Terms & Conditions forming an integral part of the contract;
- where applicable, additional specific conditions, and/or Special Conditions.

2. The delivery time by DENG only runs after payment, by the Buyer, of the down-payment provided and defined in the Contract.

3. No resolution or termination by the Buyer may take place without fixing an indemnity, either amicable or legal, to DENG, linked in particular to the costs incurred by the latter.

## **IV - SPECIFIC ITEMS**

1. When raw material or the parts are supplied or sold by the Buyer, DENG, in the event of non-conforming execution not resulting from their inherent defect and relating to a number of

parts exceeding the tolerances, will be held Buyer's choice, either to make a credit note corresponding to the cost of the scrapped parts, or to redo the work using the material or the necessary parts provided by the Buyer.

2. Unless the Contract has expressly provided for it, DENG is not liable for the loss or deterioration of the material or parts to be entrusted to it unless a serious breach of the rules of prudence and diligence is observed. normally required for such work.

## **V - DESIGN, PATENTS & PROPERTY RIGHTS**

1. DENG is the owner of the projects, studies and documents of any kind delivered or sent to the Buyer.

2. DENG fully retains the intellectual property of its projects, design plans and drawings, which cannot be communicated by the Buyer to third parties, nor executed, without the written authorization of DENG.

3. DENG sends the Buyer, in good time, the notices and drawings (other than the manufacturing drawings of the Equipment), executed in sufficient detail to allow the Buyer to install, commission, use and maintenance of the Equipment. These documents should be considered confidential. More generally, any documentation provided by DENG will be confidential, the Buyer agreeing to take all necessary measures for this purpose.

4. For its part, the Buyer guarantees DENG against the claims of third parties concerning the intellectual property rights of which it imposes its use or which relate to documents or models defining the service and submitted by the Buyer to DENG in for the performance of the Contract.

## **VI - SUPPLIERS**

1. Unless otherwise provided, the Buyer assumes responsibility for the suppliers or subcontractors it has prescribed.

2. DENG reserves the right to subcontract all or part of the Equipment covered by the Contract. In this case, it has the only additional obligation, vis-à-vis the Buyer, to guarantee performance in accordance with its own standards.

## **VII - QUALITY CONTROL**

1. Upon prior written notification sent at least 5 days in advance to DENG and when specific conditions provide for it, the Buyer may monitor supplies and the general performance of the Contract.

2. Unless otherwise provided, the cost of the control operations is fully borne by the Buyer.

3. Control operations must not lead to delay in performance of the Contract or additional cost.

## **VIII - INCOTERMS - DELIVERY TIME - LIQUATED DAMAGES**

1. The delivery is deemed to have been made Ex-Works (Incoterms) in the premises or warehouses of DENG, or, possibly, of its suppliers specified by DENG, even if the contract includes services such as installation, assembly, commissioning, etc.

2. In the event of late delivery with respect to the deadline stipulated in the Contract, liquidated damages may only be applied if the Contract so provides. They may not under any circumstances exceed 5% of the contract value excluding taxes, transport, installation, commissioning and other costs.

In all cases, liquidated damages paid to the Buyer are the sole and only remedies that the Buyer can claim to DENG. The Buyer is not being able to claim any other compensation for late delivery.

3. A Liquidated damage can only be applied if the delay is due to DENG and if it has caused a real and contradictorily established damage. It cannot be applied if the Buyer has not, in writing, notified DENG when ordering, and confirmed at the time scheduled for delivery, of his intention to apply this penalty by official letter. If necessary, the payment of the penalty may be subject to a deduction but only on the last term of the Contract.

4. DENG is automatically released from any commitment relating to delivery time :

a) In the event that the terms of payment have not been observed by the Buyer;

b) In the event that the elements necessary for the performance of the Contract and to be provided by the Buyer have not been received in due time by DENG, or have been modified during performance;

c) In the event that the Buyer has not fulfilled, in due time, all of his other obligations specified in the Special Conditions of the Contract;

d) In the event of force majeure or events such as: lockouts, strikes, technical closure, epidemic, interruption or delay in transport, war, requisition, tooling accidents and scrapping of major parts during manufacture, fire, flood, avalanche, landslide or subsidence, bad weather, all causes leading to total or partial unemployment for DENG or its suppliers, etc.

DENG will keep the Buyer informed, as soon as possible, of the occurrence of the cases or events invoked and, together, they will examine the consequences thereof;

e) When the Buyer himself has postponed the date of delivery.

## **IX - SHIPMENT – TRANSPORT**

1. If shipment is delayed for any reason beyond DENG's control, and DENG agrees, the material is stored, and handled if necessary, at Buyer's expense and risk, DENG declines any subsequent liability in this regard.

These provisions do not anyway modify the payment obligations.

2. All transport operations, insurance, customs, granting, handling, including any intermediate storage or not, are the responsibility, at the expense and risk of the Buyer.

## **X – COMMISSIONING IN THE BUYER PREMISES**

If required, Special Conditions for jobsite works will specify the possible job of DENG on the Buyer jobsite.

## **XI – EQUIPMENT ACCEPTANCE**

### **1. FAT**

All the specific terms of acceptance will be specified by the both parties in the Contract. Factory acceptance tests release DENG from its contractual obligations other than those provided for in guarantees clauses. The Buyer must carry out the Factory acceptance tests of the Equipment at the factory before its delivery.

He is deemed to have proceeded with the Factory acceptance tests when he takes or has taken delivery of the Equipment at the factory, or at the end of one clear week from the date of sending, by DENG, of a notice of arrangement.

### **2. Final Acceptance**

Final acceptance releases DENG from all contractual obligations, including those provided for in Guarantees clauses..

## **XII – PRICE OF INVOICING**

Prices are exclusive of tax for Equipment in the DENG factory or store (or its suppliers). They are deemed to take into account the payment conditions provided for in the Contract and are only valid during the period of validity of the option beyond which the prices must be reconfirmed by DENG.

An additional clause can take into account prices volatility within the contract agreed by both parties.

## **XIII – PAYMENT TERMS**

1. Payments are made at DENG bank account, net without discount and in Euro currency, unless otherwise stipulated, and are payable according to the terms set out in the special conditions of the Contract.

2. Payment has to be made by the Buyer not later than 30 days after to have received the DENG invoice following contract payment terms.

3. Late payment can be compensated to DENG following the French law.

## **XIV – PROPERTY RIGHTS AND RISK TRANSFER**

1. DENG stays owner of the Equipment until effective payment of the full price in principal and accessories, even if payment terms are granted. Any contrary clause, in particular inserted in the general conditions of purchase, is deemed unwritten, in accordance with French laws.

By express agreement, DENG may exercise the rights it holds under this retention of title clause, for any of its claims, on all of its Equipment in the possession of the Buyer, the latter being conventionally presumed to be those unpaid, and DENG may take them back or claim them as compensation for all its unpaid invoices, without prejudice to its right to rescind current Contracts.

The Buyer cannot resell the unpaid goods only within the framework of the normal operation of its business, and by informing the sub-Buyer of the existence of this clause. If not mentioned in the Contract, the contact details will be given to DENG on first request. Under no circumstances may the Buyer pledge or grant any security over the unpaid Equipment.

2. The Buyer nevertheless assumes, and this in all cases, from the time of delivery within the meaning of prior clause, the risks of loss or deterioration of the equipment, as well as the responsibility for the damage that these could cause.

## **XV – GUARANTEES**

The Equipment will be executed according to the "rules of the art", taking into account the service conditions imposed and described by the Buyer in its price request, and confirmed in the Contract.

### **1. Warranty**

a) Scope of the warranty: DENG undertakes to remedy any defect under its responsibility arising from construction, materials or execution (including assembly if this operation is entrusted to it) within the limits of the provisions below.

b) Defects not eligible for warranty: The warranty does not apply:

- When it comes to replacements or repairs resulting from normal wear and tear of the Equipment, including the case of parts exposed to fire.

- In the event of damage or accidents resulting from negligence, lack of supervision or maintenance, or faulty use of the Equipment.

- In the event of a defect arising either from materials supplied by the Buyer, or from a design imposed by the Buyer, or from a modification made by the Buyer to the Equipment without the consent of DENG.

- When the Buyer has replaced parts of the DENG Equipment with parts of another origin. - For incidents due to fortuitous events or force majeure, or attributable to natural causes.

c) Exclusions related to the Buyer: It is agreed that DENG shall not be bound by any contractual guarantee, any legal guarantee or contractual liability, since the Buyer has not strictly complied with the rules of the art, the prescriptions of DENG and, in particular, with those stipulated in the instruction manual or if he has not carried out the periodic regulatory checks or provided for in the manual or has made modifications on his own initiative.

d) Starting point and duration: Unless otherwise agreed expressly defined in the special conditions, the warranty period runs from the delivery in DENG premises and cannot exceed 12 months from the said delivery. Modified or replacement parts do not benefit from any specific warranty beyond the warranty period of the Equipment.

e) Obligations of the Buyer:

To be able to invoke the benefit of the provisions concerning the guarantee, the Buyer must have satisfied the payment conditions provided for in the Contract, notify DENG, without delay and in writing, of the defects which he attributes to the Equipment, and provide all justifications as to the reality of these. He must give to DENG every facility to proceed with the observation of these defects and to remedy them; he must also refrain, except with the express agreement of DENG, from carrying out the repair himself, or having it carried out by a third party. Modifications, repairs, or any other work carried out without the express agreement of DENG, void the warranty. If it happens that, on its own initiative, DENG decides to intervene during the warranty period and at its expense on the Equipment delivered, the Buyer may not oppose it or claim compensation. DENG will inform the Buyer of this intervention with reasonable notice.

2. Guarantee of industrial results warranties as to industrial results may only be invoked by the Buyer if they have been the

subject of a prior written agreement between the parties as expressly indicated in the Contract.

## **XVI - LIABILITY**

DENG's liability is strictly limited to the obligations defined above and in the event of damage, its liability to the repair of material damage caused to the Equipment. In any event, the contractors expressly agree that DENG's liability shall be limited to 50% of the contract price excepted transport, installation, commissioning and so on. In addition, it is expressly agreed that DENG (and/or its insurers) shall not be liable for any compensation vis-à-vis the Buyer (and/or its insurers) for any immaterial, indirect and/or consequential damages such as, and without this list being exhaustive, loss of profit, operating or income loss...

## **XVII – DISPUTES**

If any dispute, the court of the Commerce Trade Tribunal in Boulogne sur Mer shall be designed by both parties.