

Zeno-Protect B.V.
PO Box 101
1520 AC WORMERVEER
NEDERLAND

T +31 (0)75 640 21 16
F +31 (0)75 621 37 86
E info@zeno-protect.com
I www.zeno-protect.com

Postbank 7528169
VAT NL8063.11.058.B.01
KvK Amsterdam 35028635

Terms and Conditions of Sale of Zeno Protect BV

These Terms and Conditions of Sale are a translation of the original Dutch version which has been placed with the Chamber of Commerce, Amsterdam, The Netherlands on 30th June 1997 under number 938. In case of a dispute the original Dutch version will be binding.

The Terms and Conditions of Sale are valid from 15th May 1997 and will be forwarded upon request, free of charge.

1.0 Interpretation

In these conditions: 'Buyer' means the person who accepts a quotation of the Seller for the sale of Goods or whose order for the Goods is accepted by the Seller.

'Seller' means Zeno Protect BV., PO Box 101, 1520 Wormerveer, The Netherlands

'Contract' means the contract for the purchase and sale of Goods.

Writing' includes telex, fax and comparable means of communications.

2.0 Validity

2.1 These terms and Conditions of Sale are applicable to the supply of all our Goods,

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.3 Any variation in these Terms and Conditions will not affect the validity of the other provisions of these Conditions.

3.0 Price of the goods

3.1 The price of the goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published pricelist current at the date of acceptance of the order.

3.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to alter the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuations, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of manufacturer), any change in delivery date, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

3.3 Except as otherwise stated under the terms of any quotation or in any pricelist of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis.

3.4 The price is exclusive of any applicable tax e.g. value added tax, import duty and so on, which the Buyer shall be additionally liable for.

4.1 Basis of the sale

The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any Written order of the Buyer which is accepted by the Seller, subject in either case to these conditions, which shall govern the Contract to the exclusion of any other terms and conditions to which any such quotation is accepted or purported to be made by the Buyer. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

- 4.1 Any typographical, clerical, or other error or omission in any sales literature, quotation, pricelist, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 4.2 At all times has the Seller the right to check with an appropriate agency the credit status of the Buyer.
- 4.3 The Seller reserves the right to cancel an order from the Buyer after the creditworthiness of the Buyer has been judged insufficient.

5.0 Delivery

- 5.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the goods are ready for collection or, if some other place is agreed by the Seller, by the Seller delivering the Goods to that place.
- 5.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for the delivery shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 5.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 5.4 If the Seller fails to deliver the Goods (or any instalments) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 5.5 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may :
 - 6.6.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 6.6.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account the Buyer for the excess over the price under the contract or charge the Buyer for any shortfall below the price under the Contract.

7.1 Force Majeure

- 7.2 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing , the following shall be regarded as causes beyond the Seller's reasonable control:
 - 7.2.1 Act of God, explosion, flood, tempest, fire or accident
 - 7.2.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition.
 - 7.2.3 Acts, restrictions, bye-laws, prohibitions, or measures of any kind on the part of any governmental, parliamentary or local authority.
 - 7.2.4 Import or export regulations or embargoes
 - 7.2.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party).
 - 7.2.6 Difficulties in obtaining raw materials, labour, fuel, parts or machinery.
 - 7.2.7 Power failure or breakdown in machinery.
- 7.3 The Buyer has the right to cancel the order in Writing 90 days after the Seller's inability to supply the Goods for reasons beyond his reasonable control without be held liable for damages.

8.0 Warranties and liability

- 8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of their initial use or 18 months from delivery whichever is the first to expire.
- 8.2 The above warranty is given by the Seller subject to the following conditions:
- 8.2.1 The Seller shall be under no liability in respect of any defect in the Goods arising from any design or specification supplied by the Buyer
- 8.2.2 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), for fitting and maintenance purposes.
- 8.2.3 The Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.
- 8.2.4 The above warranty does not extend to materials not supplied by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the supplier of such materials to the Seller
- 8.3 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.4 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these conditions, the Seller shall be entitled to replace the Goods (or part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- 8.5 Except in respect of death or personal injury caused by the Seller's negligence. The Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these conditions.

9.0 Risk and property

- 9.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 9.1.1 In the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
- 9.1.2 In the case of the Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

10.0 Terms of payment

- 10.1 Subject to any special terms in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after the delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.

- 10.0 Provided no previous invoice is overdue, the Buyer shall be entitled to a prompt payment discount of x% of the price of the Goods for payment by xxxx of the month following the date of the Seller's invoice.
- 10.1 The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within xx days of the date of the Seller's invoice, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the contract. Receipts for payment will be issued only upon request.
- 10.2 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
 - 10.4.1 Cancel the contract or suspend any further deliveries to the Buyer;
 - 10.4.2 Appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 10.4.3 Charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 1.5% per month from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest)
 - 10.4.4 The Buyer will be charged with expenses incurred for the recovery of the monies outstanding.

11.0 Title of Goods

- 11.1 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 11.2 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

12.1 Insolvency of Buyer

- 12.2 This clause applies if:
 - 12.2.1 The buyer makes any voluntary arrangements with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
 - 12.2.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
 - 12.2.3 The Buyer ceases, or threatens to cease, to carry on business; or
 - 12.2.4 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 12.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13.0 Disagreements

- 13.1 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement.
- 13.2 The Contract shall be governed by the Laws of the Netherlands