

ANNEX IV: TERMS AND CONDITIONS

1. AREA OF APPLICABILITY AND DEFINITIONS

1.1. Unless explicitly agreed otherwise in writing, the present terms and conditions of sale shall apply to all present and future sales and purchase agreements between KEESTRACK NV, Taunusweg 2, 3740 Bilzen (Belgium) (hereafter 'KEESTRACK') and the Buyer (as mentioned on the order form) for goods and / or services as mentioned on any order form.

1.2. No provision whatsoever in the Buyer's documents (including its general terms and conditions) is applicable to the sales by KEESTRACK. Preference for other general terms and conditions can only be given in writing, in which case the present General Terms and Conditions shall apply supplementary.

1.3. By entering into an agreement with KEESTRACK, the Buyer declares to have received a copy of these General Terms and Conditions and accepts these General Terms and Conditions.

1.4. The Buyer declares that they know and understand the meaning of all technical terms used in these General Terms and Conditions, as well as any possible additions to them and those used in the quotation.

2. ORDERS AND TERMS OF DELIVERY

2.1. Orders and/or terms of delivery are only valid if accepted by KEESTRACK in writing. The presumptive delivery date will be agreed upon when the order is placed. KEESTRACK or its representative will use reasonable endeavours, to deliver the ordered goods or services on time. The Buyer acknowledges that, unless explicitly agreed otherwise in writing, the delivery date for goods or services is indicative. Non-compliance with the indicative term shall not in any event give cause for the cancellation of the agreement or entitlement to compensation, unless explicitly agreed otherwise in writing. KEESTRACK may deliver the goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract.

2.2. Accepted orders are binding upon both parties. In case the Buyer cancels an accepted order, the Buyer will be liable to pay liquidated damages to KEESTRACK in accordance with clause 4.12, without prejudicing KEESTRACK's right to prove and claim higher damages or to demand that the agreement has to be respected. The Buyer shall have no right to cancel accepted orders of custom-made goods. In case the Buyer cancels an accepted order of custom-made goods it shall nonetheless be held to pay the purchase price and all additional costs and damages in full.

2.3. If KEESTRACK's order confirmation contains any change or addition or differs in any way from the Buyer's order, it shall be binding upon the Buyer unless it notifies KEESTRACK about its disagreement within 8 days after receiving the order confirmation.

2.4. KEESTRACK retains the right to suspend the execution of an order if the Buyer's account at KEESTRACK shows that the Buyer is in default of any payment obligation to KEESTRACK or its subsidiaries or if the Buyer demonstrates to be insolvent.

2.5. In the event of a refusal to take possession of an order or if there is a delay in the delivery as a result of a suspension of an order for which the Buyer is directly or indirectly responsible, storage costs will be charged to the Buyer, without prejudicing KEESTRACK's right to cancel the agreement.

3. PRICES - TAXES

3.1. Any quotation and price from Keestrack NV, including those mentioned in the catalogues and price brochures, are solely for informative purposes and have no binding nature of any kind.

3.2. The period of validity applicable to quotations, proposals and price indications has only a maximum of thirty (30) days, unless otherwise indicated in writing by Keestrack NV.

3.3. The price is as stated in the quotation and/or order confirmation. Price calculations or offers are indicative and non-binding (without prejudice to clause 3.5) until accepted. In no event shall prices confirmed by KEESTRACK for one order be binding for subsequent orders.

3.4. These prices are always subject to possible increases if this is a result of the evolution of their fixed and/or variable costs (e.g.: wages and other social security contributions, costs of material, processing costs, energy costs, ex-change rates, etc.) . If the price is adjusted as described in point 3.2., this will be in proportion to the stated change in the cost structure.

3.5. The prices include packaging costs but exclude transport costs (if applicable), insurance costs, VAT, levies, import and export duties, etc., unless explicitly stated otherwise in writing

3.6. If the delivery term, the place of delivery, or the circumstances of the delivery change at the request of the Buyer, or if the Buyer has provided incorrect information to this end, KEESTRACK is entitled to payment of the additional costs incurred.

3.7. The Buyer cannot set off any of its claims against any debt towards KEESTRACK (whether or not those debts arise from the purchase of goods or services from KEESTRACK).

4. PAYMENTS - CREDIT LIMITS – INTEREST – LIQUIDATED DAMAGES

4.1. Unless otherwise agreed upon in writing, all invoices are payable within 10 days after invoice date. KEESTRACK's invoices are payable to KEESTRACK's designated bank account at the latest on the due date indicated on the respective order or in the relevant invoices. Time of payment is of the essence.

4.2. The invoice has been settled when the complete amount stated on the invoice has been received on KEESTRACK's designated bank account as indicated on the front of the invoice. All invoices from KEESTRACK are to be paid in the indicated currency. When the payment is done in a different currency, the conversion will be calculated with regards to the highest rate, either at the rate of the invoice date or the date of payment. All bank and exchange costs connected to the collection of the amount will be charged to the Buyer. Representatives are not authorized to receive payments.

4.3. Invoices that are not disputed by registered letter within eight days after their issuing will be considered to have been fully accepted.

4.4. If the Buyer fails to pay in full any invoice by the due date, or fails to pay in full any other payment due to KEESTRACK under the agreement and/or these General Terms and Conditions by the due date for payment, then:

(a) The Buyer shall pay interest on the overdue amount at the rate of 10% per annum (except that if the legal rate of interest is higher, it shall be applied). Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount. The Buyer shall pay the interest together with the overdue amount; and

(b) The Buyer shall pay KEESTRACK on demand (and within fourteen days of such demand) 10% of the outstanding balance, with a minimum amount of 250,00 EURO for costs associated with amongst other things the collection of the amounts due and with the adverse consequence on KEESTRACK's cashflow, as liquidated damages. The parties confirm that this sum represents a genuine pre-estimate of KEESTRACK's loss. This paragraph is without prejudice to KEESTRACK's right to prove and claim any higher damages.

4.5. Late, incomplete or non-payment of one expired invoice will cause all other invoices, for which a particular instalment term has been agreed on, to become immediately payable, without previous notice of default. Interest for late payment is due as from the moment that the non-expired invoices become payable. Liquidated damages may in addition be due in accordance with clause 4.4.(b).

4.6. Partial payments will firstly be deducted from interest due under clause 4.4, liquidated damages payments due under clauses 4.4.(b) and 4.12 and possible costs and only then from unpaid invoices.

4.7. Any use of promissory notes, cheques or permission to draw a bill to cover the agreed upon price shall never be regarded as a renewal of the debt of the original invoice, nor will it limit or alter any 'right of retention', agreement or territorial jurisdiction.

4.8. In the event that the Buyer has already transferred the goods he purchased from KEESTRACK to a third party but has neglected to fulfil its obligations towards KEESTRACK, the Buyer shall be obligated to transfer to KEESTRACK the claim for payment he has towards his buyer.

4.9. KEESTRACK can, at its sole discretion, demand guarantees or warranties from the Buyer at any time (e.g. in the event there are indications of a negative financial position of the Buyer). These warranties or guarantees apply as a suspensory condition for the execution or further performance of the agreement.

4.10. KEESTRACK is entitled to suspend or postpone its obligations in connection with other current contracts between the parties to the extent that the Buyer has not complied with a payment condition or other obligation. KEESTRACK reserves the right to suspend delivery of any goods or services until the Buyer's credit is back within the agreed limits or until the Buyer complies with such payment condition or other obligation. Delays in payment by the Buyer of (certain advances on) the price may give rise to a proportionate delay in the delivery term.

4.11. In the event of late payment, KEESTRACK is entitled to cancel the agreement, or according to KEESTRACK's choice to request the enforced implementation of the agreement, all without prejudice to KEESTRACK's other rights and remedies under these General Terms and Conditions, at law, in equity or otherwise. KEESTRACK shall be entitled to pick up or demand that the goods be returned at the Buyer's expense and exercise its right to compensation including under clause 4.12.

4.12. Liquidated Damages. If the agreement / any accepted order is cancelled by the Buyer pursuant to clause 2.2 or by KEESTRACK pursuant to 4.11 (or pursuant to any other breach by the Buyer), the Buyer shall pay KEESTRACK on demand (and within fourteen days of such demand) 20% of the outstanding balance as liquidated damages. The parties confirm that this sum represents a genuine pre-estimate of KEESTRACK's loss. This paragraph is without prejudice to KEESTRACK's right to prove and claim any higher damages.

5. RETENTION OF TITLE

5.1. The delivered goods will remain property of KEESTRACK until full settlement of all claims of KEESTRACK against the Buyer under all business relations between the parties, including interest and liquidated damages, if applicable. If the Buyer has not yet (completely) paid the purchase price, the Buyer will notify third parties (for example a curator, insolvency administrator and creditors) of KEESTRACK's retention of title by registered letter each time this is required by the circumstances, including but not restricted to the situation wherein a third party is threatening to seize or has seized the goods. The Buyer will inform KEESTRACK of this immediately by registered letter.

5.2. The Buyer warrants (if necessary on behalf of a third party (buyer) or holder) that KEESTRACK shall be notified of the location of the goods at its first request and that they shall be made available to KEESTRACK again at the expense and risk of the Buyer if KEESTRACK so requests. To the extent necessary, KEESTRACK shall be granted both an irrevocable mandate for repossession, and a mandate to enter the premises for this purpose.

5.3. The risk attached to the sold goods will pass to the Buyer at the moment of consent to the conditions of the purchase. Included herein is the risk in the event of unusual cause, coincident and Force Majeure, or similar circumstances arising from whichever party.

5.4. The Buyer is not entitled to dispose of the goods in the event the related purchase price has not been paid in full.

5.5. In the event the Buyer sells or otherwise transfers the goods, in breach of clause 5.4, the Buyer's claim for payment towards its customer shall be automatically assigned to KEESTRACK, KEESTRACK hereby accepting such assignment. The Buyer shall inform its customers of the assignment to KEESTRACK and shall provide to KEESTRACK all information and documents on the collection of the claims.

5.6. The Buyer shall take appropriate insurance on the delivered goods with a reputed insurance company for damage, losses, depreciation, devastation and theft, and provide KEESTRACK proof hereof at first request. The Buyer assigns his insurance claims from damage, losses, depreciation, devastation and theft from the goods to KEESTRACK, KEESTRACK hereby accepting such assignment.

5.7. As far as this clause concerning the retention of title is not in accordance with other clauses agreed upon between the parties, then this clause shall prevail.

6. PLACE OF DELIVERY

6.1. Delivery will take place at KEESTRACK's registered office, always ex works (ICC Incoterms® 2010), even if transport is provided by KEESTRACK. In this event, KEESTRACK will only act as the Buyer's agent. All transport costs are payable by the Buyer.

6.2. Dispatch and transport will take place at the Buyer's risk, irrespective of the way in which the transport is organized. The Buyer can have the goods insured at their own expense and is obliged to inspect the equipment upon receipt and to exercise their right of recourse against the conveyor within the required time limit.

7. DOCUMENTATION AND PRODUCT SPECIFICATIONS

At written request, the Buyer will receive two copies of the documentation relating to the ordered goods. All specifications and product concepts are confidential and stay property of KEESTRACK. They may only be used by the Buyer in as far as necessary for the use of the goods. Reproductions or use of this information for other purposes is punished by law and will be prosecuted.

8. COMPLAINTS

8.1. The Buyer must check if the delivered quantities correspond with the ordered quantities immediately upon receipt of the dispatch. Complaints concerning quantities, (non)-conformity or condition of the delivered goods must reach KEESTRACK within 1 day after receipt of the dispatch per registered letter or facsimile on penalty of expiry of the complaint.

8.2. Complaints about defects must be reported to KEESTRACK, maximum 1 day after receipt of the goods at the very latest (in the event of visible defects) and 5 days after discovery at the very latest (in the event of hidden defects) by means of a registered letter or facsimile message stating the reason and mentioning all relevant data, amongst others: order and invoice number. KEESTRACK shall have no obligation to accept late complaints. Use or sale of the goods will nullify any liability for KEESTRACK, except in case of hidden defects. The Buyer must initiate legal proceedings against KEESTRACK based on the warranty for hidden defects within 2 months after discovery of the defects or after the defect should reasonably have been discovered and within one year after the delivery date at the latest (whichever is earlier) in default of which the claim will be inadmissible in pursuance of article 1648 of the Belgian Civil Code. Complaints and/or disputes of whatever nature, never give the Buyer the right to suspend the fulfillment of its obligations towards KEESTRACK or the right to cancel the complete order or delivery. Without prejudice to clause 9.1, KEESTRACK's maximum liability will not ever exceed the price paid for the goods in question.

9. LIABILITY - FORCE MAJEURE - PROVISION OF INFORMATION

9.1. Nothing in these General Terms and Conditions shall limit or exclude KEESTRACK's liability for any liability which may not be limited or excluded by applicable law.

9.2. Subject to clause 9.1, KEESTRACK shall have no liability to the Buyer under or in connection with the order for:

(a) the consequences of use of, and any consequences for the user, a third party or its goods resulting from the delivered and/or transported goods;

(b) any loss of profits, or any indirect or consequential loss or damage howsoever arising (including but not limited to: damage to property, financial loss, loss of profit, personnel costs, damage to third parties, loss of income); or

(c) any damages directly or indirectly caused by the Products, in the event the Buyer repaired, replaced or otherwise modified the Product by or with any component or spare part that is not sold or manufactured by the Company or a supplier approved in writing by the Company, or used the Product in combination with non-original components or spare parts,

and the Buyer hereby waives its rights of recourse with regard to KEESTRACK and/or those appointed by KEESTRACK and releases KEESTRACK and/or those appointed by KEESTRACK from all such liability relating thereto.

9.3. All cases of Force Majeure release KEESTRACK from its liability for anything related to the non-implementation of its obligations within the established period. In the event of Force Majeure, KEESTRACK is entitled to suspend the agreement in as far as it has not yet been carried out either for the duration of the period of Force Majeure or to cancel it without being under an obligation to pay compensation.

9.4. For the application of these General Terms and Conditions, Force Majeure is taken to mean: every occurrence which is reasonably beyond KEESTRACK's control, including but not limited to strikes, lock outs, delays or disruptions in transport, acts of war, riots, fire, orders, by-laws or regulations from the government or administration, inability to obtain natural gas and/or other fuels, supply difficulties, scarcity of materials or lack of products for manufacture, floods, earthquake, nuclear disaster or events, weather conditions that make the execution of the agreement temporarily difficult or impossible, breakdown in machinery, mistakes or delays payable by KEESTRACK's suppliers, acts by third parties, one or more manufacturing mistakes in material from one of KEESTRACK's suppliers, etc., irrespective of whether these problems occur at KEESTRACK or the supplier from whom KEESTRACK obtains goods and without KEESTRACK being obliged to prove the influence thereof.

9.5. KEESTRACK does not guarantee the quality of its goods if they are or have been subject to abnormal use, bad maintenance, or unauthorized repairs by the Buyer or third parties.

9.6. In case of a profound and verifiable concealed default, the liability of KEESTRACK is limited to replacing the faulty part with exclusion of any other kind of compensation.

10. INTELLECTUAL PROPERTY

The Buyer is not authorized to use the trade name or any trademark of KEESTRACK, without written permission thereto.

11. TRANSFER MACHINE DATA THROUGH KEESTRACKER

The Buyer will not transfer personal data to KEESTRACK. As part of the service, KEESTRACK will receive the following data regarding the machine through "Keestracker", the tracking and controlling system of the machine in question:

- Location data of the machine
- Machine usage data (such as: performance of the engine and other functions)

The Buyer acknowledges that this information does not constitute confidential business information of the Buyer. The Buyer provides its explicit consent for this data collection and takes appropriate technical and organizational measures to ensure that natural persons cannot be identified by these mechanical data.

The Buyer explicitly acknowledges that this information is provided free of charge to KEESTRACK for the delivery of services offered by KEESTRACK and to adapt or improve its services and/or products.

12. INDIVISIBILITY

12.1. The invalidity or non-applicability of one or more of these stipulations does in no way affect the validity of the other conditions. The invalidity or non-applicability of one or more of these stipulations does not in any way constitute a reason for terminating the agreement.

13. JURISDICTION AND APPLICABLE LAW

13.1. In the event of a dispute over an agreement between the Buyer and KEESTRACK, irrespective of its nature and the place of delivery, the Courts of Antwerp, judicial department of Hasselt shall have exclusive jurisdiction, even if it concerns accepted bills which are payable and/or domiciled outside this judicial district. Nevertheless, if KEESTRACK is the plaintiff, it shall be entitled – at its free choice – to summon before the court having jurisdiction over the Buyer's place of business.

13.2. All our agreements are governed by and construed in accordance with the laws of Belgium, with exclusion of (1) all conflict of laws rules, (2) the UN Convention on the International Sale of Goods (1980), and (3) the NY Convention on the Limitation Period in the International Sale of Goods (1974).

Without prejudice to any other provision of these General Terms and Conditions, any claims by the Buyer arising out of or in connection with an agreement between parties or any purchase order will in any event become time-barred after expiration of one (1) year as from the date of delivery of the relevant goods.

13.3. In the event legal rules with mandatory application apply, such rules shall prevail over the application of these General Terms and Conditions, to the extent of their field of application.