

## GENERAL CONDITIONS of DELIVERY & SALE

### **General Conditions of Delivery and Sale of Brightspec NV/SA,**

Having its registered office in Sciencepark, Galileilaan 15, NIEL 2845, BELGIUM

#### **Article 1. Definitions**

In these General Conditions of Delivery and Sale the following terms shall be defined as follows:

- Brightspec: is Brightspec NV, a company with limited liability registered in Niel; Belgium
- Purchaser: the party entering into an agreement of Brightspec or wishing to do so, or requesting a quotation from Brightspec, or being sent a quotation by Brightspec upon request.
- Delivery: providing the Purchaser with the goods to be delivered or bringing them into his/her actual possession.

#### **Article 2. Applicability**

1. These General Conditions apply to all quotations and offers made by Brightspec and to any agreement into which Brightspec enters with a Purchaser concerning sale and purchase or Delivery of goods.
2. Conditions or terms deviating from these General Conditions are applicable only if and insofar as Brightspec has expressly accepted such deviating conditions or terms in writing; then they shall be applicable only to the agreement for which they have been accepted. Insofar as no other agreement has been made in writing, the present General Conditions shall remain in full force.
3. If one or more provisions contained in these General Conditions are invalid or are declared invalid at any moment, either partly or completely, the other provisions in these General Conditions shall remain in full force.
4. If one or more of the provisions contained in these General Conditions are unclear, they must be interpreted according to the spirit of these provisions.
5. If a situation occurs between the parties which has not been provided for in these General Conditions, that situation must be judged according to the spirit of these General Conditions.

#### **Article 3. Quotations**

1. Any quotation, offer or other statement by or from Brightspec is entirely free of engagement, unless explicitly agreed otherwise in writing.
2. An agreement exists only after Brightspec has confirmed the order .
3. Brightspec cannot be held to its quotations or offers if it is reasonable for the Purchaser to understand that the quotation or offer, or part of it, contains an apparent mistake or writing error.

#### **Article 4. Cancellations**

1. If the Purchaser wishes to cancel an agreement made with Brightspec and the cancellation is made no later than 4 (four) weeks before the agreed time of Delivery, the Purchaser owes Brightspec a cancellation fee of 60% (sixty per cent) of the total amount that would have been invoiced regarding the agreement in question (excluding VAT).
2. If the Purchaser wishes to cancel an agreement made with Brightspec and the cancellation is made within 4 (four) weeks of the agreed time of Delivery, the Purchaser owes Brightspec the entire total amount that would have been invoiced regarding the agreement in question.

#### **Article 5. Prices**

1. The prices mentioned by Brightspec in a quotation are based on cost prices current for Brightspec at the moment the quotation is made.
2. Brightspec has the right to pass on any interim changes in the cost price factors to the Purchaser.
3. If the cost price rises more than 10% (ten per cent), the Purchaser has the right to annul the agreement.

## GENERAL CONDITIONS of DELIVERY & SALE

### Article 6. Delivery

1. Unless agreed otherwise in writing, Delivery of the purchased goods shall be made ex works, in accordance with the valid Incoterm EXW (Ex Works).
2. If the delivered goods that are in Brightspec 's company building or on its company grounds are not removed by the Purchaser after having been made available to him/her, these goods will be stored at the Purchaser's risk and expense. The Purchaser owes Brightspec all extra costs made for these goods, the cost of storage among them.
3. Delivery is deemed to have taken place as soon as the goods have left the Brightspec company grounds or have been made available to Purchaser.
4. Any risk of damage that might occur to the delivered goods, regardless of the cause, is transferred entirely to the Purchaser at the moment of Delivery, even if property of the goods has not yet been transferred to the Purchaser.

### Article 7. Terms of Delivery

1. Terms of Delivery given by Brightspec in the context of an offer or quotation are mere indications and can never be taken as deadlines. At the moment an order is placed or confirmed Brightspec will again indicate the expected term of Delivery, but again this will be a mere indication and cannot be taken as a deadline.
2. If Delivery is not made within the term agreed, the Purchaser must have declared Brightspec to be in default and granted a reasonable second term for Delivery before Brightspec can be in default.
3. Any indicated term of Delivery is subject to the conditions of undisturbed working conditions and supply of materials, undisturbed transport and timely delivery by Brightspec 's suppliers, in such a way that Brightspec is enabled to observe the term of Delivery.

### Article 8. Reservation of property

1. Goods sold and delivered to the Purchaser by Brightspec remain the property of Brightspec until Brightspec has received full payment from the Purchaser of all that is owed concerning the delivered goods and/or goods delivered earlier.
2. The Purchaser may not establish any right of distraint or other limited right on the goods sold and delivered by Brightspec whose property the Purchaser has not yet acquired, nor use or consume them or sell them on to a third party, unless Brightspec has consented to this in writing.
3. The Purchaser is obliged to take all measures necessary to protect the goods which are still Brightspec's property. In case of seizure or bankruptcy, the Purchaser is obliged to inform the seizing bailiff or the trustee in bankruptcy of Brightspec 's property right.

### Article 9. Payment

1. Payment of the goods purchased by Purchaser shall be made within 30 (thirty) days of the invoice date, unless agreed otherwise in writing. After 30 (thirty) days have passed from the invoice date, the Purchaser shall be in default. From that moment the Purchaser shall owe the statutory interest on the amount payable.
2. The Purchaser may never claim deduction or debt settlement vis-à-vis Brightspec , unless agreed otherwise in writing.
3. Before any performance or further performance, Brightspec is always entitled to demand sufficient security or partial or complete advance payment from the Purchaser.
4. Payments made by the Purchaser shall always be made towards the payment of all interest and expenses owed by the Purchaser and subsequently towards the payment of the oldest payable invoices, even if the Purchaser indicates that the payment regards a later invoice, unless agreed otherwise in writing.
5. If the Purchaser fails to fulfill any of his obligations, all reasonable expenses made toward payment of the amounts due, both judicial and extrajudicial, shall be payable by the Purchaser.
6. The Purchaser may object to an invoice only within the term of payment.

## GENERAL CONDITIONS of DELIVERY & SALE

7. Brightspec enters into any agreement under the suspensive condition that the Purchaser be found creditworthy based on the information that Brightspec will gather.

### Article 10. Guarantee

1. Brightspec guarantees that the delivered goods at the moment of Delivery have such properties as the Purchaser is entitled to expect for normal use based on the agreement. This also holds in the case of special use insofar as this can be foreseen by the parties upon entering into the agreement. If these expectancies are not met, the Purchaser is entitled to Delivery of what is missing or repair or replacement of the delivered goods.
2. If the goods delivered are found to be defective within one year of Delivery, Brightspec is merely obliged at its discretion to repair or replace the goods within a reasonable term, after the Purchaser has reported the defect to Brightspec. If Brightspec finds that replacement or repair cannot be reasonably demanded or is impossible, Brightspec will refund the purchase price while the Purchaser will return the goods.
3. If the Purchaser damages the delivered goods by incorrect handling in the broadest sense of the word, the Purchaser will forfeit his/her right to guarantee. This also holds if the Purchaser modifies the delivered goods or has them modified.
4. The Purchaser must prove that the goods within the term of guarantee are found defective in a manner which falls under this guarantee and/or that the defect exclusively or mainly is a direct result of faulty production, faulty installation, chosen wrong processing or faulty materials which Brightspec has used.
5. In case of an unjustified claim to guarantee or an unjustified complaint, the Purchaser shall bear the cost of transport.

### Article 11. Complaints

1. Any complaint concerning damaged goods or goods which otherwise fail to meet reasonable requirements must be reported to Brightspec by Purchaser within 8 (eight) days of the date of Delivery. The Purchaser may not derive any right from complaints reported to Brightspec after expiry of this term unless the defect or shortcoming could not reasonably have been discovered earlier.
2. Any invisible defects must be reported to Brightspec by Purchaser within 8 (eight) days of their discovery.
3. If the Purchaser makes a complaint in timely fashion, his/her obligation to payment and to the taking of ordered goods remains undiminished.

### Article 12. Force majeure

1. Apart from the cases which by law or jurisprudence must be interpreted as force majeure, Brightspec can make a claim to force majeure certainly, but not exclusively, in the following cases: seizure of any kind and for any reason, disturbance of Brightspec's work or disturbance of Delivery, or any other unforeseen circumstances and events within Brightspec (including, but not exclusively, illness of staff), or with Brightspec's suppliers, or with transporting companies that Brightspec uses, or stoppage of work and exclusion, import and export prohibitions or limitations, fire or accidents or changes in relevant legislation.
2. In a case of force majeure both Brightspec and the Purchaser have the right to annul or suspend their obligations partly or entirely or to postpone agreed terms, without any obligation to compensation of losses on either side.
3. If a situation of force majeure lasts longer than three months, both Brightspec and the Purchaser have the right to annul an agreement partly or entirely, without any obligation to compensation of losses on either side.

### Article 13. Liability

1. In case of flaws or defects in delivered goods, liability shall be as set out in Article 10 of these General Conditions of Sale.

## GENERAL CONDITIONS of DELIVERY & SALE

2. Brightspec is not liable for advice concerning use unless Purchaser proves intent or gross negligence on the part of Brightspec or its subordinates.
3. Brightspec is not liable for damage resulting from mistakes or unlawful actions of its employees or any other persons it has directly or indirectly engaged in the execution of the agreement with the Purchaser unless the damage is a result of intent or gross negligence on Brightspec 's part.
4. Brightspec is never liable for consequential losses, including loss of profits and/or losses caused by interruption of work.
5. Taking into account the preceding clauses, any liability on Brightspec 's part shall be limited to:
  - a. the amount invoiced for the delivered goods to which the liability relates.
  - b. the amount covered by the insurance, if and insofar as Brightspec is insured against the liability in question and if the amount covered by the insurance exceeds the amount invoiced or the value of the performance as meant under (a)

### **Article 14. Termination of the agreement**

Brightspec has the right to suspend the agreement or the part of it which has not yet been executed or to annul the agreement without the need for judicial intervention or to demand that delivered goods be returned insofar as they have not been paid for, without prejudice to Brightspec 's right to compensation of damages in the following cases:

- a. if the Purchaser fails to fulfill any obligation, he/she has to Brightspec, or acts contrary to it.
- b. if after entering into the agreement Brightspec learns of circumstances which give it good reason to fear that the Purchaser will not fulfill his/her obligations.
- c. if Brightspec upon entering into the agreement has asked the Purchaser to provide security and this security is insufficient or is not provided.
- d. if any goods belonging to the Purchaser are seized, if the Purchaser applies for suspension of payment or is granted suspension of payment, is declared bankrupt or otherwise loses the power of disposal of his capital.

### **Article 15. Applicable law and choice of forum**

1. The present Conditions and any agreement to which they apply are governed solely by the Belgian law.
2. Applicability of the CISG is expressly rejected for any agreement to which the present Conditions apply.
3. Any dispute resulting from or related to the present Conditions or the agreements to which they apply will be brought to the competent judge at the District Court of Antwerp.

### **Article 16. Applicable intellectual property rights and know-how**

1. Any documentation, sales brochures, images, drawings etc. provided to the Purchaser by Brightspec remain property of Brightspec
2. The Purchaser is not entitled to copy and/or disclose to a third party the documents meant in clause 1, unless Brightspec has expressly consented to this in writing.