

General Conditions Scafom-rux

Article 1 Definitions

In these general terms and conditions the stated terms will have the following meaning:

Scafom-rux: shall mean Scafom Holding B.V. and/or any affiliated company;

Contracting party: shall mean any person or legal entity entering into an agreement with Scafom-rux;

Goods: shall mean all products, materials, spare parts, the design, the tools, equipment, software, licenses and all related documentation offered and supplied by Scafom-rux; delivered or to be delivered by Scafom-rux pursuant to the agreement;

Services: shall mean the services and all related or resultant products, services and results to be delivered by Scafom-rux;

Agreement: every agreement concerning the sale, rent, assembly/disassembly and delivery of Goods and/or Services, each addition or change with regard thereto.

Article 2 Applicability

1. These general terms and conditions apply to every offer or commitment made by Scafom-rux to the Contracting party.
2. Unless specifically accepted by Scafom-rux, Scafom-rux rejects herewith the applicability of general terms and conditions of the Contracting party.

Article 3 Formation of the agreement

1. All offers and quotations made by Scafom-rux are non-binding and without engagement and may be withdrawn or revoked by Scafom-rux at any time. The agreement is binding for Scafom-rux as from the date it has been explicitly accepted by Scafom-rux.
2. If an order is given without a request for a quotation being made, Scafom-rux will carry out this order at a gross catalogue price, as stated in the valid price list.

Article 4 Conformity

1. All statements from Scafom-rux concerning quantities, quality, performance and/or other properties with regard to its Goods and Services are issued with the greatest possible care. However, Scafom-rux cannot guarantee that no deviations will occur in that respect. These statements shall therefore be considered approximations and are non-binding. Upon taking receipt of the Goods or upon provision of the Services, the Contracting party is required to check compliance with the quantities, quality, performance and/or other properties specified by or agreed with Scafom-rux.
2. All technical requirements imposed by the Contracting party on the Goods to be delivered and which deviate from normal requirements must be specifically notified by the Contracting party upon entering into the Agreement.
3. The Contracting party must confirm that the Goods and/or Services ordered or to be ordered by the Contracting party satisfy all government regulations imposed thereon in the country of destination, and are generally suitable for the use intended by the Contracting party. The use of the Goods and Services and compliance with government provisions shall be for the risk of the Contracting party.
4. The Contracting party guarantees that the Goods and Services purchased from Scafom-rux shall only be used for the purpose for which Scafom-rux sold or rented the Goods, taking account of and in accordance with the legislation and regulations applicable to the Contracting party and its activities. The Contracting party is required to provide all necessary cooperation, facilities and data for an inspection, examination or test to verify the obligations upon the Contracting party appearing in this article, with regard to the use of the Goods by the Contracting party and compliance with the legislation and regulations applicable upon the Contracting Party and its activities.
5. Scafom-rux complies with all applicable EU, US, UN and national export control regulations prohibiting sale of certain products and services to certain countries, individual companies and/or persons. Complying with these export control regulations can never cause a default from Scafom-rux.
6. In the event the Contracting party supplies Goods and/or Services on to third parties, the Contracting party is obliged to strictly comply with all export control regulations referred to in article 4.5.

Article 5 Intellectual Property

1. All copyrights, model rights, brand rights, patent rights, breeders' rights, database rights, semi-conductor rights, portrait rights, rights to non-original literature, domain name rights, trade secrets and other (semi) intellectual property rights ('Intellectual Property') relating to the delivered Goods and/or Services, the design, the source code, the preparatory material and its names, and relating to anything developed, designed, manufactured or supplied by Scafom-rux shall accrue to and remain exclusively with Scafom-rux or its supplier. More specifically, Scafom-rux is sole owner and right holder to the copyright that may arise due to compliance by Scafom-rux with the work produced in fulfilling the agreement, also if the work in question appears as a separate item in the offer or on the invoice.
2. The Contracting party shall in no way infringe the Intellectual Property.

Article 6 Delivery

1. The delivery period or date stated by or accepted by Scafom-rux is indicative and will not entitle the Contracting party to any claim whatsoever.
2. The delivery time is based on the working conditions applicable at the moment of entering into the Agreement, and on timely delivery of the Goods and/or Services required by Scafom-rux for complying with the Agreement. If as a result of a change to working conditions and/or late delivery of Goods and/or Services required by Scafom-rux a delay occurs, the delivery time shall be extended by as long as necessary.
3. The goods are deemed to have been delivered in good condition and in accordance with Scafom-rux's standard product specifications, unless the Contracting party has notified Scafom-rux in writing of any defect in the delivery without undue delay, but in any case within 5 days. The Incoterms valid at the time are decisive for the meaning of transport and delivery terms used by Scafom-rux. Unless otherwise agreed in writing, delivery is made FCA (Free Carrier).

Article 7 Prices and payment

1. Prices exclude VAT, levies/surcharges, packaging/wrapping and transport costs.
2. If following the offer and/or the conclusion of an Agreement, factors which determine the cost price including tax, duties, import charges, exchange rates, wages, prices of Goods and/or Services which may or may not be obtained by Scafom-rux from third parties are altered, to duly adjust the prices.
3. Payment must be made within 30 days after the invoice date, unless otherwise agreed.
4. The Contracting party waives any right to suspension and set-off and shall acquire no right of retention to the Goods. Scafom-rux is as all times authorised to set off any amounts it owes to the Contracting party against that which the Contracting party and/or businesses associated with the Contracting party owe to Scafom-rux, whether or not already demandable.

Article 8 Ownership, Risk and Retention of title

1. Without prejudice to, the actual delivery title and ownership of the items does not pass over to the Contracting party, unless and until he has satisfied all rights and claims of Scafom-rux with respect to the Agreement. Until title and ownership has passed over to Contracting party, the Contracting party has to secure and mark the items in such a manner that these are identifiable as Scafom-rux's ownership at all times.
2. Scafom-rux has a right of retention/pledge in respect of the sold and (to be) delivered Goods, despite any transfer of ownership or title to Contracting party, unless and until Scafom-rux has received full payment thereof. Scafom-rux is authorized to register this right of title, retention or pledge.
3. The Contracting party is not entitled or allowed to dispose of, pledge, retain the items in any way whatsoever so long as these are the property of Scafom-rux or as long as a retention right or non-possessory pledge is vested therein.
4. If the Contracting party does not comply with or does not fulfill its obligations under the Agreement or if there is a reasonable doubt otherwise that it will not do so, Scafom-rux will be entitled to remove the items or have them removed from the Contracting party's or third parties premises. The Contracting party is obliged to provide all necessary cooperation in this respect for its account.
5. The risk for the Goods will pass over to Contracting party at Incoterms delivery. The Contracting party undertakes to insure and keep insured the Goods delivered against loss or damage, such as fire, explosion damage, water damage and theft and to allow inspection of the insurance policy on first demand of Scafom-rux.

Article 9 Rental

1. In case of an offer or Agreement for renting out Goods, all terms and conditions as set out in these General Conditions shall apply, except to the extent in this Article 9 a deviation is laid down.
2. The Goods delivered to the Contracting party will remain Scafom-rux's ownership and title and will be clearly marked by the Contracting party as such. The Goods will have to be returned to Scafom-rux in the same condition at the end of the rental period as they were at the start thereof, wear and tear excluded. The Contracting party shall maintain the items in good order. The Contracting party is not entitled to sub rent the items to third parties, provided he has ensured that this is done under the same terms and conditions.
3. Scafom-rux shall have an irrevocable right of access to the Goods and the documentation related thereto wherever they are during the rental period, in case Scafom-rux wishes to reclaim the Goods in case of a default of the Contracting party, leading to a termination of the Agreement.
4. The Contracting party is liable for any loss or damage to and by the items and shall indemnify and hold Scafom-rux harmless from any claim whatsoever.

Article 10 Assembly/disassembly

1. Any agreed assembly work shall be performed by Scafom-rux on the basis of these General Conditions, unless in this article 10 a deviation is laid down, and on the basis of the data, drawings, specifications and information provided by the Contracting party, for the correctness, completeness and sufficiency of which he is responsible.
2. The Contracting party shall provide timely and unhindered access to the construction site, shall have applicable and valid permits and licenses, shall

- have sufficient storage space and crane and forklift facilities and shall ensure that the assembly/disassembly work can be performed unhindered and continuously. Assembly work includes transport to the contracting party's premises and unloading.
- Scafom-rux will be deemed to satisfactorily have completed the work when the scaffolding is erected in compliance with the drawings, data, specifications and information provided. Disassembly work includes the loading and transport of the items from the premises of the contracting party.
 - Scafom-rux shall not in any way be liable for loss or damage to existing property of contracting party. Contracting party shall indemnify and hold Scafom-rux harmless from any claim whatsoever.

Article 11 Warranty

- Provided the items are used in a professional way by Contracting party, Scafom-rux warrants that the items shall comply with Scafom-rux's standard product specifications. No implied warranties such as fit for purpose, merchantability and latent defects shall apply. If defects occur in the Goods or Services delivered by Scafom-rux, Scafom-rux shall repair these defects (or have them repaired), offer a reasonable price reduction or redeliver the Good or Services in question, all entirely at the discretion of Scafom-rux.
- In as much as any warranty as referred to in article 11.1 is issued, any defects occurring in or (partly) as a consequence of the following shall not be covered by this warranty:
 - normal wear and tear;
 - failure by (the personnel of) the Contracting party to follow orders or instructions, or use for any other than the normal intended purpose;
 - inexpert storage, maintenance or use by the Contracting party;
 - work undertaken by third parties, assembly/installation or repair by third parties or by the Contracting party, without prior written permission from Scafom-rux;
 - vandalism, the influence of weather or other external causes.
- At the risk of forfeiture of any of his rights or remedies, the contracting party shall have to notify Scafom-rux immediately without undue delay in writing of any defect, such being solely the non-compliance by Scafom-rux of the warranty as set out in 1 above, giving Scafom-rux the right to rectify the defect within a reasonable time.
- At the risk of forfeiture of any of his rights or remedies, the Contracting party must follow in full and within the specified time all directions and/or instructions provided by Scafom-rux with respect to the defective items. The Contracting party shall use the Goods in a professional way c.q. shall ensure that the Goods shall be used in a professional way, and shall on a regular basis check and inspect the Goods and may not use the delivered Goods for any other purpose than for which the Goods are destined, failing which the Contracting party shall be deemed to have waived all his rights and remedies against Scafom-rux.
- Goods delivered may only be returned after Scafom-rux's prior written approval. Return consignments will be at the expense and risk of the Contracting party. Minor deviations may not be qualified as defects and must be accepted by the Contracting party.

Article 12 Liability

- Scafom-rux shall not be liable for any loss or damage, personal injury or death caused by a defect of the Goods delivered by Scafom-rux to the Contracting party or third parties, except in case of (gross) negligence or willful misconduct of Scafom-rux. Accordingly, the Contracting party shall indemnify and hold Scafom-rux harmless from any claim whatsoever.
- Scafom-rux's liability under the Agreement, in tort and at law shall be limited to the relative contract amount.
- Scafom-rux shall in any case not be liable for indirect damage or loss, including, but not limited to, indirect or consequential loss, such as loss of profits, loss of production, loss of revenue or damage or loss caused by business interruptions.

Article 13 Default

- In case either party is in default, the other party shall notify the same giving a reasonable time to rectify the default. In case the defaulting party does not comply with this notification, the other party is entitled to suspend or terminate the agreement.
- As soon as the Contracting party is in default with respect to his payment obligations, such outstanding and due payments shall automatically carry an interest of 10% per annum as from the due date on.
- If Scafom-rux is forced to take collection measures, the Contracting party will be obliged to compensate all costs thereof.
- Scafom-rux is entitled to require at any time from the Contracting party a security for the payments to be made.

Article 14 Force Majeure

- In case of Force Majeure, which are all unforeseen or not-foreseeable circumstances beyond the reasonable control of either party, such party is excused from his obligations, without any right to claim costs or damages by the other party for the duration of the Force Majeure. Parties agree that the Contracting party's payment obligation can't be excused by Force Majeure.
- Force majeure shall among others be taken to mean: extreme weather conditions, fire, flooding, accident, staff illness or strike, epidemic or pandemic and/or government measures adopted in the context thereof, business disruption, stagnation in transport, power failure, cyber terrorism or similar cyber-attacks, security incidents, intentional or accidental corruption or loss of data, disrupting legal provisions, export restrictions and/or other restrictions as a result of political instability, problems in production or transport of the Goods unforeseen by Scafom-rux, and late delivery of Goods or Services by third parties hired by Scafom-rux, and other circumstances beyond the control of Scafom-rux.

Article 15 Remedies

- The parties agree that their rights and remedies will be as set out under these General Conditions and that no remedies at law shall apply.

Article 16 Personal Data Protection

- In collecting and (further) processing personal data in the framework of the agreement from or for the Contracting party, Scafom-rux will comply with the obligations and shall take adequate protective measures as arising from the General Data Protection Regulations (GDPR), the GDPR Implementation Act and, from the moment it comes into effect, the e-Privacy Regulation and all related legislation and regulations.

Article 17 Disputes and applicable law

- The laws of the Netherlands shall apply. The applicability of the Vienna Sales Convention is explicitly excluded.
- Any disputes will be settled by the competent commercial court of Oost-Brabant, location Eindhoven, the Netherlands. Contrary to this provision, Scafom-rux shall at all times be entitled to submit a dispute or claim to the competent court in the location where the Contracting party is based, or has its actual seat.

Article 18 Final Provisions

- The nullity or voidability of any provision of these conditions or of any agreements to which these conditions apply will not affect the validity of the other provisions. Scafom-rux and the Contracting party are required to replace any provisions that are null and void with provisions that are valid, and which as far as possible reflect the intention of the null or void provision. The Dutch text will be decisive for purposes of the interpretation of these General Terms and Conditions.

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