

Article 1 Applicability

- 1.1 These General Terms and Conditions apply to contracts and agreements between the Client and HESS AAC Systems B.V., hereinafter referred to as HESS, including agreements in the negotiating stage, as well as to quotations made by HESS to the Client.
- 1.2 HESS explicitly does not accept any general terms and conditions of purchase or tendering, nor any other general terms and conditions of the Client. Departures by the Client from these General Terms and Conditions of Delivery will be binding only if and to the extent HESS has explicitly agreed to them in writing.

Article 2 Offer

- 2.1 HESS offers are free of obligation and indivisible.
- 2.2 The intellectual property rights of the offer shall be vested in HESS. Information from the offer, including the other documents submitted in connection with the offer, may only be copied, shown to third parties, disclosed or used with prior permission from HESS.
- 2.3 Illustrations, catalogues, prospectuses, drawings, indications of size and width, capacities, yields and other information which HESS provides shall only be binding on HESS in so far as their binding nature is explicitly stated in the contract.
- 2.4 The systems to be delivered are designed and manufactured on the basis of Dutch standards, regulations and design codes. Unless stated otherwise in the offer, adjustments to standards, regulations and design codes which apply at the place where the system is to be put into operation shall be made by HESS at the expense and risk of the Client, on condition that HESS is informed of these standards, regulations and design codes in a timely manner.

Article 3 Contract

- 3.1 If the contract is entered into in writing, HESS shall not be bound by it until and in so far as HESS has confirmed the order in writing. The contents of the contract shall be determined exclusively by this order confirmation.
- 3.2 Oral commitments by and agreements with subordinates of HESS shall not be binding on HESS until and in so far as HESS has confirmed them in writing.
- 3.3 Changes to the extent and/or quality of what was agreed before and/or during the performance of the contract, whether or not set out in writing, shall be considered as contract variations.

Article 4 Drawings and descriptions

- 4.1 The drawings and descriptions made available to the Client before or after conclusion of the contract shall remain HESS property. They may be used only for the business operations, and may not be disclosed to third parties without prior written permission from HESS. Unless explicitly agreed otherwise, HESS shall not be required to provide detailed drawings.
- 4.2 Drawings that have to be approved by the Client in writing during the performance of the contract must be approved/rejected by the Client, stating the reasons, within ten working days after HESS sends them.
- 4.3 The drawings and descriptions made available by the Client to HESS before or after conclusion of the contract shall remain the Client's property. They may be used only for the performance of the contract. HESS shall not be responsible for information provided by the Client, such as - but not limited to - construction site and infrastructure information. The Client shall be liable for any loss suffered by HESS as a result of inaccuracies in the information provided by the Client.
- 4.4 The special knowledge (know-how) developed in the performance of the contract, shall become the exclusive property of HESS, as well as the patent right, unless the contract explicitly stipulates otherwise.

Article 5 Price

- 5.1 The agreed price shall be the price or rate mentioned in the contract or the order confirmation by HESS.
- 5.2 Prices are exclusive of V.A.T. and based on delivery "ex works", according to the "Incoterms" prevailing at the time the contract is concluded, unless the contract and/or order confirmation stipulates otherwise.
- 5.3 If no specific price has been agreed for the work to be performed and/or goods to be delivered by HESS, HESS rates shall apply, as prevailing at the time of the performance of the work, or the price charged by HESS at the time the goods are delivered.
- 5.4 For contracts including a price in currency other than Euros, equivalent in Euros according to the exchange rate on the date of the contract was concluded shall count as the agreed price.
- 5.5 Unless otherwise agreed in writing, additional work shall be charged by HESS at the customary rate prevailing at the time HESS performs the additional work, or at the prices customarily charged by HESS.

- 5.6 In so far as not explicitly agreed otherwise, HESS rates shall be revised annually. The revised rates shall apply from the date of revision to all contracts between the Client and HESS.
- 5.7 In case HESS has to perform work at a location designated by the Client, the following costs shall be payable by the Client, unless otherwise agreed:
 - Travel and accommodation expenses in the broadest sense of the word, including costs for visas and insurance, as well as an appropriate hotel facility as close as possible to transport to the place of the work.
 - Costs of materials to be used and processed, in so far as they are not parts of machines and/or systems which the Client has already ordered at its expense and risk.
 - Costs of relevant telephone calls made at the place of the work, as well as other telecommunication costs, in so far as these facilities are not provided by the Client free of charge.
- 5.8 If work on the basis of subsequent calculation is performed at a location designated by the Client, the Client must sign the time sheets filled in periodically by the HESS employees. These time sheets are the basis of the invoice, unless otherwise agreed. The time sheets presented by HESS employees for signing shall be deemed as accepted and signed if the Client does not respond to the time sheets presented for signing within ten days, or if the Client fails to sign them without stating the reasons in writing.
- 5.9 In case of a delay in the work due to circumstances not attributable to HESS, the costs resulting from this, such as waiting time and additional travel and accommodation expenses, shall be payable by the Client.

Article 6 Payment

- 6.1 All payments must be made without any deduction or setoff in an account to be indicated by HESS within thirty days of the invoice date, unless a different period has been agreed.
- 6.2 All costs involved in providing security for payment shall be payable by the Client.
- 6.3 If payment must be made, whether or not with documentary credit, against submission of transport documents, such payments may also be made against submission of a proof of storage, if transport cannot take place as a result of force majeure. In that case, costs involved in storage shall be payable by the Client.
- 6.4 If the work performed by HESS at a location designated by the Client extends over a period of more than one month, HESS shall be entitled, at its discretion, to send a weekly or monthly invoice for the work performed in the relevant week or month and other costs to be settled, unless otherwise agreed.
- 6.5 The Client, without notice of default being required, shall owe interest on an instalment in arrears from the due date, at a rate 3% above the prevailing Dutch statutory interest, as well as the judicial and extrajudicial costs involved in collection, which shall at least be set at 15% of the relevant amount.
- 6.6 If the Client is in arrears of any payment, even under another contract, all contract sums and/or purchase prices to be paid by it to HESS shall be immediately due and payable in full, regardless of the status of the work or works. HESS also reserves the right in such a case to suspend its obligations or work and/or to demand security for payment, for example in the form of bank guarantees. All losses due to this suspension shall be at the Client's expense.

Article 7 Facilities to be provided by Client

- 7.1 If the assigned work is performed by HESS at a location designated by the Client, the Client must provide the following facilities in good time, in consultation with HESS and without any costs involved in this for HESS:
 - a. The buildings in a state ready for assembly, the foundations in a state ready for installation, water pipelines, electricity cables and compressed air pipes at the place of the work and the machines and/or installations to be assembled present in good condition.
 - b. All electrician's and plumber's work, hoisting and demolition work, groundwork, brickwork, carpentry, painting and suchlike, in so far as not an integral part of the machines delivered by HESS, and all other work not mentioned explicitly in the order confirmation from HESS.
 - c. The auxiliary means, which HESS considers necessary for the performance of the work, including tests, raw materials and fuels in constant quality and quantity, such as oils and fats, polishing materials, gas and oxygen, water, electricity and compressed air, heating and lighting, insulation and scaffolding ready for use, the roads needed for transport, etc.
 - d. A dry and lockable space for storing machine parts, materials, tools etc. in the immediate vicinity of the place of the work, as well as the timely transport of parts supplied etc. to this place.
 - e. A room suitable for HESS employees, protected against theft (and heated), with lighting and washing facilities, as well as canteen facilities and first aid and all measures necessary to protect persons and objects at the place of the work.
 - f. The legally required safety measures, in so far as significant for the work, and informing the employees of HESS of the relevant regulations.

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The Client must inform HESS immediately of any violation of these regulations.

- g. A work permit and/or other permits, such as any legally required permits for performing overtime work, if outside the normal working hours -applicable at the Client's company - to be worked by HESS employees, as well as for the presence of a representative of the Client to be present at such time.
 - h. Outside the Netherlands, the best nursing staff available in the country in the event of the sickness of or an accident happening to employees of HESS, in so far as these expenses are not covered in another way.
- 7.2 If the Client makes (auxiliary) workers available for work to be performed by HESS, this must be agreed. In cases that arise, HESS shall have the right to test the skills of these (auxiliary) workers and possibly refuse them. In that case, the Client must designate skilled replacements. Staff deployed by the Client for operationalising and/or testing must have the relevant expertise and skills. If and to the extent the training of the Client's staff is included in the agreed work activities of HESS, the Client must deploy only the staff trained by HESS.
- 7.3 Losses and costs in relation to failure of the Client to comply promptly or at all with the terms of clauses 7.1 and 7.2, as well as delay resulting from this, shall be at the Client's expense.

Article 8 Delivery period

- 8.1 The delivery period starts on the day on which HESS sent the order confirmation and the following conditions have been met as well:
- all formalities required for performance of the contract have been fulfilled,
 - agreement has been reached on all details of the contract,
 - the Client has provided HESS with all information and necessary documents,
 - HESS has received the down payment and, if agreed, the security for payment of the remaining amounts.
- If a fixed delivery date has been agreed, and the Client does not meet the above-mentioned conditions on time, the delivery date shall shift accordingly. If the down payment is not received within three months of the date of HESS order confirmation, HESS shall have the right to dissolve the contract, without prejudice to HESS right to damages. If the Client fails to meet its payment obligations and/or other obligations in good time, the delivery period shall be suspended accordingly
- 8.2 The delivery period shall be based on the working conditions prevailing at the time the contract was concluded, and on prompt delivery of the materials ordered by HESS for the performance of the contract. If, through no fault of HESS, a delay occurs as a result of changes to the aforementioned working conditions, or because materials ordered for the performance of the contract are not delivered on time, the delivery period shall be extended to the necessary extent.
- 8.3 If a test/inspection has been agreed, the goods and/or work shall be deemed as delivered with respect to the delivery period when HESS notifies the Client in writing that the relevant test/inspection has been completed. If no inspection/test has been agreed, the delivery date of goods shall be the date on which goods are delivered in accordance with clause 9.1, and the delivery date for the performance of work and/or services shall be the date on which HESS notifies the Client that the work and/or services are ready.
- 8.4 Notwithstanding the terms relating to the delivery period elsewhere in these terms and conditions, the delivery period shall be extended by the duration of the delay on the part of HESS resulting from failure by the Client to comply with any obligation under the contract promptly, sufficiently or at all, or failure to cooperate as required in the performance of the contract.
- 8.5 If the Client suffers a loss due to exceedence attributable to HESS of an agreed delivery period, the Client shall have the right, as full and sole compensation of the loss suffered by the Client, commencing one month after the delivery period was exceeded, to payment of 0.5% of the agreed price of the delayed part of the delivery for each full week of delay after the end of the aforementioned month, subject to a maximum of 5% of that price, to the exclusion of any other rights due to exceedence of the delivery period. This right to payment shall Lapse if the Client fails to notify HESS in writing within fifteen weeks of the end of the original delivery period that it wishes to exercise this right.

Article 9 Delivery/Retention of title

- 9.1 Delivery shall be made 'ex works', unless otherwise agreed. The terms of this manner of delivery shall be determined by the INCOTERMS, as applicable at the time of the order confirmation.
- 9.2 If delivery is made before payment of the full amount due under the contract, HESS shall retain title to the goods delivered. If, in departure from the provisions of Article 17, Netherlands law should not apply, or should only apply partially to the contract, and the then applicable law does not permit such retention of title, HESS shall be entitled to all other rights which, as far as possible, grant HESS comparable rights to the goods. The Client must always cooperate fully, including by granting unhindered

access to the systems delivered, in giving HESS the opportunity to establish and exercise these rights. The Client must, at any rate until payment in full of the amounts due has been made to HESS, keep the delivered goods in a good state of repair and also insure them adequately for the benefit of HESS. The Client shall not be entitled to pledge the goods or use them as security for third parties until full payment has been made to HESS.

- 9.3 Should the Client fail to pay the full amount due under the contract after HESS has put it in default to this effect, HESS shall be entitled, without judicial intervention, to repossess the goods and dissolve the contract, without prejudice to HESS right to damages.

Article 10 Inspection and testing

- 10.1 If an inspection has been agreed explicitly and in writing, the Client shall be entitled to inspect the goods and/or services, or have them inspected, by members of staff or third parties who are specially authorised and qualified to do so. The inspection shall be carried out at the Client's expense, during normal working hours and at times agreed with HESS in advance in writing.
- 10.2 If a test has been agreed explicitly and in writing, the Client shall be entitled to be present during the testing at its own expense and risk. HESS must inform the Client in good time as to when the test will be carried out, in order to give the Client the opportunity to be present during the testing, or to be represented by members of staff or third parties who are specially authorised and qualified for such purpose. The agreed properties and parameters of the goods delivered shall be tested in accordance with the instructions from HESS. If the Client or its authorised representative is not present during the testing, HESS shall inform it of the test report. In that case, the Client will not be able to challenge its correctness. For the purposes of the test at the location designated by the Client, the Client must provide all necessary auxiliary and raw materials, fuels and materials of constant quality and quantity, at no cost to HESS.
- 10.3 If the test report shows that the agreed properties and parameters have not been met, HESS shall have the opportunity within a reasonable period to repair/modify the goods and have a following test carried out in the manner and under the conditions set out in clause 10.2.
- 10.4 If the test report designated by HESS as definitive shows that the agreed properties and parameters have not been met, HESS shall be liable to the Client for fixed damages as full and sole compensation of the loss suffered/yet to be suffered by the Client, as stipulated in the contract and up to a maximum of 5% of the agreed price, to the exclusion of any other right based on failure to meet the agreed properties and parameters.

Article 11 Takeover

- 11.1 As soon as the goods have been delivered in the agreed manner and, in as far as agreed, assembled and/or put into operation by HESS, or the work and/or services have been reported as ready by HESS in accordance with clause 8.3, the Client shall be deemed to have taken over the goods, work and/or services. From the takeover date, HESS liability on any basis shall cease to exist, except for the warranty obligations contained in Article 12.
- The goods, work and/or services shall also be deemed as taken over if the Client fails to comply with its obligations within 3 months of a request from HESS to do so, through which delivery or assembly and/or operationalisation and/or the work and/or services cannot be performed by HESS in accordance with the contract, and in case the goods and/or the machine, system or components on which work has been performed have been put to use by the Client for commercial production.
- In case of shortcomings, which have hardly any or no effect on their envisaged use, the goods and work shall be deemed as accepted regardless of these shortcomings.
- HESS shall remedy these shortcomings under warranty pursuant to Article 12 as soon as possible. Despite the fact that the goods have been taken over, HESS reserves the rights stipulated in clause 9.2 of these terms and conditions.
- 11.2 The Client must enable HESS to make the improvements and changes which HESS considers necessary within three months of the takeover.

Article 12 Warranty

- 12.1 Warranty on goods delivered:
- a. With due observance of the stipulations below, HESS warrants vis-à-vis the Client the soundness of the goods delivered by HESS. This entails that all defects in these goods which the Client reports to HESS in writing within 12 months of delivery or, if HESS has to carry out assembly or operationalisation work, within 12 months of takeover as referred to in clause 11.1, and regarding which the Client proves that these occurred in the same period as a result of:
 - faultiness of the structure designed by HESS and/or
 - faultiness of construction of that structure by HESS and/or
 - faulty materials delivered by HESS
 shall be remedied by HESS free of charge, at HESS discretion, by repair or by replacing the faulty parts. With respect to goods or parts

- of goods purchased by HESS, HESS warranty period shall never be longer than the warranty period applicable between HESS and the supplier of the goods or parts of goods.
- b. If HESS is of the opinion that repairs on location is the most appropriate method of repair, the Client must give HESS the opportunity to do so, and see to it that all necessary and customary auxiliary personnel, auxiliary machines, auxiliary and operating materials, as referred to in Article 7, are made available to HESS in good time and in the right place, free of charge. The costs resulting from failure to fulfil the foregoing in good time, adequately or at all shall be for the Client's account.
 - c. If HESS chooses to repair the faulty parts at its workplace or at the workplace of third parties, the disassembly, transport to and from the relevant workplace, and the reassembly shall be at the Client's expense and risk.
 - d. If HESS chooses to replace the faulty parts, the disassembly, transport of the replacement parts and reassembly shall be at the Client's expense and risk.
 - e. The costs of disassembly and reassembly of barriers required for the repair or replacement of the faulty parts shall always be at the Client's expense and risk.
- 12.2 Warranty on work on machines, systems or components:
The terms of clauses 12.1.a to 12.1.e shall apply *mutatis mutandis*, on the understanding that HESS only warrants the soundness of the work, and the warranty period shall be six months, with a maximum of 1040 user hours after the work for the Client has been completed.
HESS obligations under the warranty shall be limited to remedying defects in the work performed up to a maximum of the contract value of that work. A maximum of € 50,000 shall, however apply to orders which exceed a sum of € 50,000.
- 12.3 Warranty on designs, advice, instructions, inspections and other professional services provided:
The terms of clauses 12.1.a to 12.1.e shall apply *mutatis mutandis*, on the understanding that HESS obligation under the warranty shall be limited to remedying defects in the service by providing the service again.
- 12.4 Warranty on pilot systems, prototypes, studies and research activities:
HESS only warrants that it will make efforts to perform the contract to the best of its ability. The terms of clauses 12.1.a to 12.1.e shall apply to the delivery of pilot systems and prototypes, and the terms of clause 12.3 to conducting studies and research, only if the Client has demonstrated that HESS did not make efforts to the best of its ability.
- 12.5 Delays in the performance of the contract, for which HESS is not to blame, shall not suspend the aforementioned warranty periods.
- 12.6 The warranty terms shall apply only if:
- a. the payment obligations have been fulfilled;
 - b. the operating and maintenance instructions have been followed;
 - c. the Client or a third party has not assembled and/or repaired and/or put into operation the goods delivered without written permission from HESS;
 - d. warranty claims have been reported to HESS in writing immediately after the occurrence of a defect and not later than two weeks after expiry of the warranty period.
- 12.7 Excluded from warranty are defects:
- a. resulting from normal wear and tear;
 - b. due to injudicious use, an intentional act or omission, fault or negligence on the part of the Client and/or third parties.
 - c. in or as a result of materials, working methods, construction and suchlike, the use of which was prescribed by or agreed with the Client.
 - d. in materials or items given by the Client to HESS for processing;
 - e. due to the application of any government regulation.
- 12.8 HESS shall not give any more warranty on parts obtained from third parties than that given by the suppliers in question to HESS.

Article 13 Liability

- 13.1 HESS total liability, both contractual and based on the law, shall be limited to 50% of the contract sum of the relevant contract. This limitation of liability shall not apply in the event of losses caused intentionally by or through gross negligence on the part of HESS.
- 13.2 HESS shall not be liable for damage to existing property of the Client, unless this damage is caused by gross negligence and/or an intentional act or omission on the part of HESS.
- 13.3 Notwithstanding the provisions relating to liability elsewhere in these terms and conditions, HESS shall not accept any liability for indirect and/or consequential loss, such as, but not limited to, trading loss, loss of goodwill, loss of profit, reduction in the value of or damage to assets, and loss with respect to third parties as a result of failure to deliver correctly, promptly or at all and/or failure of the work/services to function properly, promptly or at all.

- 13.4 HESS shall not accept liability for losses due to errors or defects in any sense, if HESS has not stipulated consideration for its work, or any damage or personal injury is caused by acts or omissions by the Client, its personnel or third parties engaged by the Client in conflict with HESS operating, maintenance and other regulations and/or in the event that goods have been altered in any way without explicit permission from HESS.
- 13.5 If the contract is dissolved, partially or not, as a result of an attributable failure on the part of HESS, and the Client has suffered demonstrable losses from this, HESS liability shall be limited to the costs incurred by the Client for the replacement performance, after verification of these costs and only if and to the extent these costs exceed the agreed price for the non-performed or dissolved part of the contract.
- 13.6 The Client indemnifies HESS for claims, including those of third parties, which exceed the liability limit contained in this article.

Article 14 Suspension and dissolution or nullity of the contract

- 14.1 In case the performance of the contract is prevented by force majeure, which includes: fire, explosions, strikes, government measures, negative travel advice, sit-down strikes and excessive absenteeism, or in case HESS cannot reasonably be required to perform the contract as a result of circumstances not attributable to HESS, HESS shall be entitled, without judicial intervention, either to suspend performance of the contract for six months at most, or to dissolve the contract wholly or in part, without being liable for any damages. During the suspension, HESS shall be entitled and at the end of it HESS shall be required to choose between performance or whole or partial dissolution of the contract(s).
- 14.2 In case of suspension as well as dissolution pursuant to clause 14.1, HESS shall be entitled to require payment of the items ordered by it for the performance of the contract, the raw materials being processed and the manufactured raw materials, materials, parts and other items, and the direct and indirect hours worked by HESS to perform the contract, at the worth that must reasonably be attributed to this.
In case of dissolution pursuant to clause 14.1, after payment of the amount due by virtue of the preceding sentence, the Client must take delivery of the goods included therein, failing which HESS shall be authorised to have these goods stored at the Client's expense and risk, or sell them at the Client's expense.
- 14.3 If the Client fails to comply properly, promptly or at all with any obligation under the contract concluded by it with HESS or a related contract, or if there are good grounds to fear that the Client is or will be unable to fulfil its contractual obligations vis-à-vis HESS, as well as in case of insolvency, suspension of payment, closure, liquidation or partial transfer - whether or not as security - of the Client's company, which includes the transfer of a substantial part of its claims, HESS shall be entitled, without notice of default and without judicial intervention, either to suspend the performance of each of these contracts for six months at most, or to dissolve them wholly or in part, without HESS being liable for any damages or warranty, and without prejudice to other rights to which it is entitled.
During the suspension, HESS shall be entitled, and at the end thereof it will be required to choose between performance or whole or partial dissolution of the suspended contract(s).
- 14.4 In case of suspension by virtue of clause 14.3, the agreed price shall be immediately due and payable, with deduction of the instalments already paid and the costs saved by HESS as a result of the suspension. HESS shall be entitled to have the items ordered for the performance of the contract, the raw materials being processed and the manufactured raw materials, materials, parts and other items stored at the expense and risk of the Client. In case of dissolution by virtue of clause 14.3, the agreed price - if no prior suspension has taken place - shall be immediately due and payable, with deduction of the instalments already paid and the cost savings for HESS as a result of the dissolution, and the Client shall be required to pay the above-mentioned amount and take delivery of the goods included therein, failing which HESS shall be entitled to have these goods stored at the Client's expense and risk, or sell them at the Client's expense.
- 14.5 The Client shall not be entitled to claim dissolution of the contract with retroactive effect.
- 14.6 After any dissolution, or in the event of nullity of the contract for any cause, these General Terms and Conditions shall remain in effect, in so far as they have independent significance and/or in so far as they were stipulated to regulate the consequences of the dissolution or nullity, such as, for example, particularly (but not limited to) the terms relating to delivery, the penalty clauses, liability, jurisdiction and applicable law.

Article 15 Parts

- 15.1 These terms and conditions also apply to the delivery of parts, in so far as not explicitly departed from below.
- 15.2 HESS shall be entitled, instead of delivering the parts ordered by the Client, to supply replacement parts, on condition, first and foremost, that these parts are at least technically equivalent to the originally ordered parts.
- 15.3 Assembly of the parts is not included in the price.

15.4 The warranty on parts is valid for three months from the shipment date ex works.

Article 16 Software

16.1 The Client must not make modifications to the software delivered by HESS or any part thereof, nor reproduce it or multiply it, without prior written permission from HESS, except that the Client may make a copy for back-up purposes only.

16.2 The delivery of software electronically shall always be followed by the delivery of a hard copy. HESS only gives a warranty on the software provided in hard copy form, and shall not be liable for modifications made by the Client, its staff or third parties to the software delivered electronically.

Article 17 Applicable law and disputes

17.1. All disputes shall be settled exclusively by the Dutch Arbitration Institute (Nederlands Arbitrage Instituut) in Amsterdam.

17.2. These terms and conditions shall be governed by Netherlands Law, to the exclusion of the provisions of the Vienna Convention of 11 April 1980, Netherlands Bulletin of Treaties 1981,84 and 1986,61.