

TERMS AND CONDITIONS

1 Scope of application

- 1.1 These terms (the "Terms"), together with the relevant order, constitute the entire agreement between the parties (the "Contract") in respect of the supply of goods and spare parts (the "Goods") and servicing and associated labour (the "Services") and any products of the Services (the "Deliverables") by Chronos BTH to the client. Unless otherwise agreed, the Terms will apply to all future supplies of Goods and/or Services by Chronos BTH to the client. The Terms apply in all cases to the exclusion of any prior agreement or inconsistent document and any other terms that the client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.2 Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by Chronos BTH.

2 Offer and/or contract signing

- 2.1 Any samples, drawings, descriptive matter, or advertising produced by Chronos BTH and any descriptions or illustrations contained in Chronos BTH's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force. A quotation for the Goods and/or Services given by Chronos BTH shall not constitute an offer and is non-binding. When the client submits an order, the order constitutes an offer by the client to purchase the Goods and/or Services specified in the order in accordance with these Terms. The client is responsible for ensuring that the terms of the order are complete and accurate. Each order will remain open to acceptance by Chronos BTH for four weeks after the date it is received by Chronos BTH. An order shall only be deemed to be accepted when Chronos BTH issues a written acceptance of the order, at which point the Contract shall come into existence.
- 2.2 For the avoidance of doubt, no representations, statements, understandings or amendments to the agreement will have any legal or binding effect unless expressly incorporated in these terms or agreed by Chronos BTH in writing or required by applicable law.
- 2.3 All of these Terms shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3 Prices, payment terms, retained title

- 3.1 The price for Goods and Services shall be the price set out in the order. Unless expressly stated otherwise, all prices quoted are exclusive of applicable VAT or similar levy, packaging, shipping, unloading and insurance costs. Chronos BTH shall be entitled to charge the client for any expenses reasonably incurred by the individuals whom Chronos BTH engages in connection with the Services.
- 3.2 Unless otherwise agreed in writing, Chronos BTH's invoices are payable immediately without deduction.
- 3.3 Chronos BTH is entitled, on receiving payment from the client, to apply such payments first to the client's older debts or less secure debts and to credit payment first to Chronos BTH's costs, then to any interest payable, and lastly to the principal debt owed. If the client fails to pay any invoices by the applicable due date, then Chronos BTH is entitled:
 - 3.3.1 to charge interest from the due date until the date of payment, whether before or after judgment, at the rate of 10% above the base rate of the Bank of England; and/or
 - 3.3.2 to declare all outstanding payments, (including scheduled payments and deferred ones) immediately due; and/or
 - 3.3.3 to require prepayment or security to be given before providing any further Goods.
- 3.4 In the event that Chronos BTH issues a reminder to the client of an outstanding debt, Chronos BTH may charge the client a reminder fee of €10.00.
- 3.5 The client shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the client shall not be entitled to assert any credit, set-off or counterclaim against Chronos BTH in order to justify withholding payment of any such amount in whole or in part. Chronos BTH may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the client against any amount payable by Chronos BTH to the client.
- 3.6 No title to any Goods or Deliverables shall pass to the client until Chronos BTH has received payment in full (in cash or cleared funds) for all of the Goods and Services supplied and for all other sums under the Contract and under all other contracts between the parties. Until title to any Goods and Deliverables has passed to the client, the client shall:
 - 3.6.1 hold such Goods and Deliverables on a fiduciary basis as Chronos BTH's bailee;
 - 3.6.2 store such Goods and Deliverables separately from all other goods held by the client and label them such that they remain readily identifiable as Chronos BTH's property;
 - 3.6.3 not remove, deface or obscure any identifying mark or packaging on or relating to such Goods and Deliverables;
 - 3.6.4 maintain such Goods and Deliverables in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 3.6.5 notify Chronos BTH immediately if it becomes subject to any insolvency or any analogous proceedings, or any steps preparatory to such proceedings; and
 - 3.6.6 give Chronos BTH such information relating to such Goods and Deliverables as Chronos BTH may require from time to time,but the client may resell or use such Goods and Deliverables in the ordinary course of its business, provided that:
 - 3.6.7 Chronos BTH is kept informed of any assignment of such Goods and/or Deliverables;
 - 3.6.8 all processing and conversion of such Goods and/or Deliverables is at all times done on Chronos BTH behalf as manufacturer, however without any obligation on Chronos BTH's part; and
 - 3.6.9 where title is diluted due to combination of such Goods and/or Deliverables with other products, then Chronos BTH shall have title to the combined product pro rata according to the invoiced value of the relevant Goods and/or Deliverables;
 - 3.6.10 the client shall not attach such Goods and/or Deliverables or use the Goods and/or Products as security in any form; and
 - 3.6.11 all claims arising from onward sale of such Goods and/or Deliverables or otherwise (including but not limited to claims for insurance, illicit action and unpaid invoices) are hereby assigned to the full extent to Chronos BTH by the client.
- 3.7 If the client is in default for any reason whatsoever including, but not limited to, payment arrears, or if the client becomes subject to any insolvency or any analogous proceedings, or any steps preparatory to such proceedings, Chronos BTH may, at any time:
 - 3.7.1 repossess any Goods and/or Deliverables to which title has not yet passed; and/or
 - 3.7.2 assign the claim to surrender derived from it to third parties; and/or
 - 3.7.3 to demand assignment of the client's claim to surrender against third parties.
- 3.8 Repossession of Goods and/or Deliverables does not constitute withdrawal from the contract.

4 Assignment

- 4.1 Chronos BTH may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

4.2 The client may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Chronos BTH.

5 Delivery of Goods, provision of Services, and performance deadlines

- 5.1 Chronos BTH will not commence provision of Services or supply of Goods under this Contract until all technical specifications have been agreed. Once work has commenced, no alteration may be made to the agreed specifications other than in accordance with clause above.
- 5.2 Chronos BTH may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the client to cancel any other instalment.
- 5.3 Chronos BTH shall deliver the Goods, and provide the Services, in accordance with the Contract. Any dates or periods quoted for delivery or provision are approximate only, and the time of delivery or provision is not of the essence.
- 5.4 The client must:
- 5.4.1 co-operate with Chronos BTH in all matters relating to the Services;
 - 5.4.2 provide Chronos BTH, its employees, agents, consultants and subcontractors, with access to the client's premises, office accommodation and other facilities as reasonably required by Chronos BTH to provide the Services;
 - 5.4.3 provide Chronos BTH with such information and materials as Chronos BTH may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
 - 5.4.4 prepare the client's premises and equipment for the supply of the Services; and
 - 5.4.5 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start.
- 5.5 Chronos BTH shall not be liable for any delay in delivery of the Goods or provision of the Services that is caused by the client's failure to fulfil its obligations or any failure by the client to provide Chronos BTH with adequate delivery or other instructions, relevant machinery, installations, equipment, tools, auxiliary personnel utilities (including but not limited to electricity, high-voltage electricity, water and compressed air), auxiliary facilities (including but not limited to cranes and forklifts) or any other requirements or instructions that are required for the supply of the Goods or the Services. Chronos BTH shall not be liable for any costs or losses sustained or incurred by the client arising directly or indirectly from Chronos BTH's failure or delay to perform any of its obligations as set out in this clause 5.5. The client shall reimburse Chronos BTH on written demand for any costs or losses sustained or incurred by Chronos BTH arising directly or indirectly from any act or omission by the client or failure by the client to perform any relevant obligation.
- 5.6 Delivery is at the risk and expense of the client. Risk in Goods and Deliverables shall transfer to the client on collection of the Goods or Deliverables (by the client or by the delivery contractor) from Chronos BTH's premises.
- 5.7 Chronos BTH is entitled, but is not obliged, to insure deliveries on the client's behalf and for its own benefit.

6 Complaints

- 6.1 Complaints as to the quality of the Goods and/or Services must be submitted in writing within 8 days of delivery of the Goods or, in the case of latent defects, within 8 days after the defects could reasonably have been established by the client, with a specification of the complaints. If the client fails to submit a valid complaint within the time limit specified, the Goods and/or Services supplied shall be deemed to have been accepted the guarantee set out in clause below shall be deemed to be discharged. Minor variations (in colour, structure, etc.) of the Goods delivered shall constitute no right to complain.
- 6.2 Complaints do not entitle the client to suspend payment or to any right of set-off in respect of any disputed amount.
- 6.3 Defects in any part of any Goods or Services supplied shall not entitle the client to refuse or reject any non-defective Goods or Services.
- 6.4 Returns of Goods shall only be accepted if Chronos BTH has approved the return in writing in advance. Returns must be made carriage paid to Chronos BTH's premises. All returned Goods must be undamaged and in their original packing.
- 6.5 Use of the Goods or of any Deliverables, whether the Goods or Deliverables have been the subject of a complaint or not, shall cause such Goods or the relevant Services to be deemed accepted and the guarantee set out in clause below shall be deemed to be discharged (other than in respect of latent defects provided clause above has been complied with, in which case use of the relevant Goods or Deliverables subsequent to the complaint will have the same effect).

7 Guarantee

- 7.1 Chronos BTH only guarantees a) that at delivery any Goods are fit for their normal purpose and b) that the Services will be provided using reasonable care and skill. This shall not affect the provisions of clause 6 (complaints) which state that complaints must be made on time, nor of clause 8 (liability) which shall remain applicable in full.
- 7.2 If Chronos BTH acknowledges material or manufacturing faults or hidden defects, Chronos BTH shall, at its discretion, either:
- repair the defects free of charge;
 - reimburse the client to the price paid for the relevant Goods; or
 - deliver replacement Goods or Services at its own cost.
- 7.3 The guarantee shall not apply to any Goods or Deliverables that have been altered or repaired since delivery, by the client or by third parties, or if such Goods or Deliverables have been used for purposes other than their normal purposes, or have been, in the opinion of Chronos BTH, improperly used or maintained, or if the alleged defect in fact constitutes no more than normal wear and tear.
- 7.4 The guarantee shall be valid only if the client has fulfilled all its obligations under the Contract (both financial and otherwise) towards Chronos BTH.

8 Liability

- 8.1 Chronos BTH agrees to indemnify and hold harmless the client, its affiliated companies, employees, agents, customers, representatives, directors and officers from and against any damage, expenses, including without limitation reasonable attorney's fees, claim, action or loss suffered by the client, if such damages were caused by the wilful misconduct or gross negligence of Chronos BTH and/or its employees.
- 8.2 The client agrees to indemnify and hold harmless Chronos BTH, its affiliated companies, employees, agents, customers, representatives, directors and officers from and against any damage, expenses, including without limitation reasonable attorney's fees, claim, action or loss suffered by Chronos BTH, if such damages were caused by the conduct, negligence or fault of the client and/or its employees.
- 8.3 Nothing in these Terms shall limit or exclude Chronos BTH's liability for:
- 8.3.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 8.3.2 fraud or fraudulent misrepresentation;
 - 8.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - 8.3.4 defective products under the Consumer Protection Act 1987; or
 - 8.3.5 any matter in respect of which it would be unlawful for Chronos BTH to exclude or restrict liability.

8.4 Subject to clause :

8.4.1 Chronos BTH shall not be liable to the client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential losses (including but not limited to loss of profits or savings) or costs arising under or in connection with the Contract (including any such losses that may result from Chronos BTH's deliberate personal repudiatory breach of the Contract); and

8.4.2 Chronos BTH's total liability to the client under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by Chronos BTH's deliberate personal repudiatory breach shall be limited to direct losses and costs and shall not exceed the price paid for the relevant Goods.

8.5 Where Chronos BTH sells Goods to the client (after assembly, processing or treatment or otherwise), which have been manufactured and/or supplied wholly or in part by a third party supplier, Chronos BTH will only pass on to the client the benefit of such guarantees and rights as it obtains from the third-party supplier and are permitted by the third-party supplier to be passed on in this manner. Chronos BTH shall not be liable for any losses or costs in so far as they arise from the Goods manufactured or supplied by such a third-party supplier.

9 Force majeure

9.1 Chronos BTH shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by any event beyond its reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including (but not limited to) strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

9.2 In the event of such an event preventing it from performing its obligations under the agreement, Chronos BTH shall be entitled (i) to terminate the Contract wholly or in part and/or (ii) to suspend performance of its contractual obligations without being liable to pay compensation.

10 Patents and copyright

10.1 The client must inform Chronos BTH immediately if it becomes aware of any infringement of any intellectual property rights in the Goods, the Services, the Deliverables or any other materials supplied by Chronos BTH. If the client modifies any Goods or Deliverables and/or integrates it or them into another product or system without Chronos BTH's authorisation or if Chronos BTH manufactures Goods or Deliverables or any other materials on a client's instructions and, as a result, any intellectual property right is infringed, then the client shall indemnify and hold Chronos BTH harmless from all claims and all direct, indirect or consequential liabilities, costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, Chronos BTH as a result of such infringement.

10.2 All intellectual property rights in or arising out of or in connection with the Goods, Deliverables or the Services shall be owned by Chronos BTH and/or its licensors.

10.3 Chronos BTH's documentation related to the Goods are only for the client's own use and the client shall not reproduce such documentation, except for archive purposes, nor make it available to third parties without Chronos BTH's prior written consent.

10.4 The client acknowledges that, in respect of any third party intellectual property rights in the Goods, the Deliverables or the Services, the client's use of any such intellectual property rights is conditional on Chronos BTH obtaining a written licence from the relevant licensor on such terms as will entitle Chronos BTH to license such rights to the client.

10.5 The client acknowledges that Chronos BTH has invested extensive time and money in the development of the Goods, Services and Deliverables provided under the Terms. The client undertakes that it shall not make any drawing of the Goods or any part thereof or reproduce, reverse engineer or otherwise duplicate the Goods, Services or Deliverables nor will it allow, assist or procure any third party to make any such drawing or undertake any such reproduction, reverse engineering or duplication. Accordingly, the client acknowledges that in the event of a breach of said obligations, Chronos BTH will seek appropriate remedies, including (but not limited to) injunctive relief and damages.

11 Severability

11.1 If any provision of the Contract (or part of any provision) is found to be invalid, illegal or unenforceable, the validity and enforceability of the other provisions of the Contract shall not be affected, and they shall be interpreted in such a manner to achieve the intended commercial purpose.

12 Waiver

12.1 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

13 No partnership or agency

13.1 Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

14 Third party rights

14.1 A person who is not a party to the Contract shall not have any rights under or in connection with it.

15 Applicable law and jurisdiction

15.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Client's signature: _____ Date: _____