

## FluorTech B.V. Standard Conditions of Sale and Delivery

### 1. General

**1.1** FluorTech B.V. submits offers and enters into agreements for the sale and delivery and/or assembly of goods exclusively on the basis of these Standard Conditions of Sale and Delivery.

**1.2** In these Conditions the client is indicated as the 'Buyer', the agreement to be entered into as the 'Agreement' and the goods which are the subject of the agreement are indicated as the 'Goods'. The term 'Delivery' also means the performance of activities. By placing the order the Buyer accepts our Standard Conditions

**1.3** Deviations or additions require the explicit written consent of FluorTech. Deviations or additions do not affect the applicability of the other provisions of these Standard Conditions.

**1.4** These Conditions have been translated into various languages. In the event of (any) discrepancies between the various versions, the Dutch version being the authentic version will always be decisive. Also the Dutch version of the offers, quotations, agreements, invoices etc. will always be considered as the authentic and decisive version.

### 2. Offers and orders

**2.1** All our offers are without any obligation and are valid for a period of not more than 2 months or for the duration indicated in the respective offer. An Agreement binding on FluorTech will only be formed after a written confirmation by FluorTech of an order from the Buyer. The illustrations, drawings, measures, weight specifications etc. belonging to an offer are considered to be approximates unless FluorTech has stated that these should be considered as exact statements.

**2.2** Offers and undertakings from intermediaries, representatives or other personnel engaged by FluorTech will only be binding on FluorTech if and insofar as they have been confirmed in writing by FluorTech.

### 3. Prices

**3.1** All prices stated by FluorTech are excluding turnover tax due in connection with the Agreement. This will be charged separately. All prices stated by FluorTech include the packaging to be determined by FluorTech unless otherwise agreed. Any packaging used at the Buyer's request which differs from FluorTech's standard packaging will be at the expense of the Buyer.

**3.2** All prices stated by FluorTech are based on the cost price of the Goods applicable at the time the Agreement is concluded. If the costing factors of the Goods, including the costs of wages and materials, are subject to a change

between the moment the Agreement is concluded and the date of Delivery, FluorTech will be entitled to increase the prices accordingly.

**3.3** FluorTech is entitled to charge separately for extra work. Extra work is considered as anything which, at the written or verbal request or with the written or verbal consent of the Buyer, is delivered and/or fitted by FluorTech above the quantities explicitly specified in the Agreement or anything that is performed by FluorTech outside the activities explicitly specified in the Agreement.

**3.4** Costs of loading and unloading and of transport of goods, models and tools provided by the Buyer are not included in the price and are charged separately. In any case, these activities are at the expense and risk of the Buyer.

**3.5** The price of the Goods to be delivered does not include the activities to be carried out for assembly and operational completion unless otherwise agreed in writing.

**3.6** With regard to orders below FluorTech's minimum amount the Buyer will be charged for the despatch costs.

### 4. Delivery

**4.1** Delivery will be ex-works unless explicitly otherwise agreed in writing and according to the provisions of the most recent INCO Terms as stated on the order confirmation.

**4.2** The delivery period is considered to be approximate and is not binding on FluorTech. Exceeding the delivery period does not constitute a default by FluorTech.

**4.3** If on-call delivery has been agreed, the delivery period will be determined in consultation with the Buyer and will be confirmed in writing. In connection with an on call order the Buyer will be obliged to buy in full within a period of six months unless otherwise agreed in writing.

**4.4** If the details and/or permits to be submitted and/or to be taken care of by the Buyer and required for the performance of the order have not come into the possession of FluorTech within due time, this being at FluorTech's discretion, the delivery period will in any event be extended and re-determined and confirmed in writing by FluorTech after consultation with the Buyer after having received these details and/or permits.

**4.5** Moreover, the delivery period will in any event be extended by the period during which the Buyer is in default of any obligation in the Agreement or these Conditions, including the obligation to pay (in advance) and/or to furnish security unless otherwise determined by FluorTech and notwithstanding the right of FluorTech to dissolve the Agreement in that case pursuant to Clause 11.

**4.6** FluorTech is entitled to make part

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deliveries.

Every Delivery of a part of an agreed performance is considered as a separate transaction the fulfilment or non-fulfilment of which does not have any effect on the other parts of the Agreement. FluorTech is free to over-deliver or under-deliver 10% other than what has been agreed, and this will be incorporated accordingly into the price.

**4.7** The Delivery of the Goods is deemed to have been completed when these Goods or the major parts of them - all this at the reasonable discretion of FluorTech - are ready or when they are ready for testing or despatch; all this after the Buyer has been informed of this in writing. If carrying out the activities forms part of the Agreement, the Goods are deemed to have been delivered at the moment that they or the major parts of them - all this at the reasonable discretion of FluorTech - are assembled on site ready for operation.

### 5. Retention of title and transition of risk

**5.1** The ownership of the Goods will only pass on to the Buyer after he has paid all amounts owing to FluorTech on account of the Delivery of those Goods or other Goods delivered or to be delivered by FluorTech to him or activities performed or to be performed in connection with these Goods, including interests and costs. The risk of the Goods to be delivered will always pass over to the Buyer at the moment that the Goods have left the factory and/or sites of FluorTech.

**5.2** In the event of late payment FluorTech will be entitled to take back the Goods delivered or to have them taken back without any further notice of default and judicial intervention being required, wherever these Goods are situated, notwithstanding FluorTech's right to compensation from the Buyer due to failure in the performance of his obligations.

**5.3** The Buyer is entitled to use the Goods with retention of title in connection with his normal business operations. The Buyer is not entitled to sell and/or deliver the Goods with retention of title to any third parties or to encumber them with any restricted rights.

**5.4** The Buyer is obliged for the benefit of FluorTech to keep and/or to render the Goods with retention of title identifiable and to keep them separate from the other goods located at the Buyer's.

### 6. Payment and security

**6.1** Payment must take place without any deduction within 30 days after the invoice date or your payment less 2% payment discount can at the latest within 8 days after the invoice date be credited into the bank or giro account indicated

by FluorTech, unless otherwise agreed in writing.

**6.2** In order to obtain security for the performance of the obligation to pay the purchase price for the Goods and all associated costs, FluorTech is entitled to demand payment in advance for the Goods to be delivered or to be assembled and/or the activities to be performed

**6.3** In the event of late payment the Buyer will be in default by operation of law without a notice of default being required. In that case all claims by FluorTech will become immediately due and payable and the Buyer will owe administrative costs and Dutch statutory commercial interest on the unpaid part. In addition, FluorTech is entitled to charge the Buyer compensation due to exchange losses with regard to the euro if payment in foreign currency has been agreed and/or is taking place.

**6.4** Extra-judicial costs in connection with the collection of any claim on the Buyer will be at the expense of the Buyer. The extra-judicial costs are considered to be at least 10% of the outstanding amount.

**6.5** Every payment is deemed to be payment of the oldest invoice still outstanding unless otherwise stated on payment.

**6.6** In the event of late payment FluorTech will be entitled to suspend the delivery of the Goods and/or the activities to be carried out without this being able to lead to any obligation on FluorTech to pay compensation.

**6.7** In the event of bankruptcy, a moratorium or seizure on the part of the Buyer, any amount the latter then owes to FluorTech will become immediately fully due and payable and FluorTech can set-off this amount immediately.

### 7. Assembly and performance of activities

**7.1** All devices and/or provisions necessary for the set-up of the Goods to be assembled and/or the correct operation of the Goods in assembled condition, are fully at the expense and risk of the Buyer. The Buyer guarantees at his own expense and risk that:

- A. Personnel of FluorTech, as soon as they have arrived at the set-up location, can begin the activities and moreover that they are at all times enabled to carry out the activities during - according to FluorTech - normal working hours, and also if FluorTech considers it necessary to set the time of the beginning and/or the end of the activities outside normal working hours and FluorTech has informed the Buyer of this within a reasonable period prior to this;
- B. There is suitable accommodation and/or provisions required by law for the personnel of FluorTech;
- C. The access roads to the set-up location are suitable for transport;
- D. The indicated construction site is suitable for

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storage and assembly;

E. The necessary lockable storage spaces for materials and processing have been supplied;

G. Goods, processes, constructions insofar as applied on explicit instructions from the Buyer, as well as materials and goods supplied by or on behalf of the Buyer;

H. On the commencement of and during the assembly the Goods sent are present at the right location.

**7.3** If a take-over test has been agreed, the Buyer will enable FluorTech after the turnkey set-up on site to carry out these preliminary tests in a manner such that the business operations of the Buyer will not be disrupted as a result, unless this would be unavoidable at FluorTech's discretion for the performance of the activities considered necessary by FluorTech. The take-over test will be carried out within a reasonable period after termination of the preliminary tests.

**7.4** Costs arising because the conditions stipulated in this Clause have not been complied with or not complied with within due time, will be at the expense of the Buyer.

### 8. Warranty and complaints

**8.1** Notwithstanding the restrictions set out below FluorTech warrants the soundness of the item it has delivered and/or the work it has carried out on the understanding that for the assessment of the type, quality, size, manner of execution etc. only the specifications in FluorTech's order confirmation are decisive.

**8.2** The technical details specified by FluorTech including weights, colour fastness etc. are only approximates so that the characteristics of the Goods delivered to which these details relate, can show the usual (reasonable) deviations without in that case there being any default on the part of FluorTech in performing any obligation.

**8.3** If an item delivered or work performed by FluorTech shows any defect, FluorTech will be free in its choice of remedying the Goods or the work performed on site or elsewhere and this can be by repair, replacement or re-performance. FluorTech will repair, replace or re-perform provided the fault is the result of a cause attributable to FluorTech, the faulty Goods are returned to FluorTech, the fault has come to light within 3 months after the respective item has been delivered or the assembly or the work has been carried out and the fault has been notified in writing to FluorTech within 14 days after it could have reasonably been discovered. All costs exceeding the sole obligation described in the previous sentence such as but not limited to transport costs, travel and accommodation costs as well as disassembly and assembly costs are at the expense of the Buyer. FluorTech is also entitled to dissolve the purchase agreement

against repayment of the purchase sum paid provided the Buyer returns the delivered Goods to FluorTech. All defences which FluorTech can derive from the Agreement entered into with the Buyer, including these Conditions, to fend off its liability, can - if necessary - be invoked by its employees against the Buyer as if they themselves were a party to the Agreement.

**8.4** The warranty does not cover in any event faults which are wholly or partly the consequence of:

A. non-compliance with the operating and maintenance instructions or use other than the intended normal use;

B. normal wear and tear;

C. assembly/installation or repair by third parties including the Buyer.

D. the application of any government regulation with regard to the nature or quality of the materials applied;

E. used goods applied in consultation with the Buyer.

F. goods provided by the Buyer to FluorTech, with regard to the manufacture and delivery of a product that has been manufactured by FluorTech at his request and/or instruction.

G. parts derived by the Buyer from third parties insofar as the third party has not provided the Buyer with a warranty;

**8.5** If the Buyer does not, not properly or not within due time fulfil any obligation arising for him from an Agreement entered into with FluorTech, FluorTech will not be obliged to offer any warranty. If, without the prior written consent of FluorTech the Buyer disassembles, repairs or carries out other activities with regard to the item or has this carried out, any claim on account of warranty will lapse.

**8.6** Returns of Goods that are the subject of a complaint, will only be accepted by FluorTech after its prior written consent. Complaints will never give the Buyer the right to suspend any payment or to invoke set-off with regard to any claim.

**8.7** With regard to repair works carried out by FluorTech or other activities, a warranty is only given for the soundness of the performance of the activities instructed, unless otherwise agreed. In the event of unsoundness of the respective activities this warranty involves the sole obligation of FluorTech to carry out these activities again insofar as they are unsound.

### 9. Liability

**9.1** The liability is limited to fulfilling the warranty obligations described in Clause 8 of these Conditions. Any compensation payable by FluorTech will never exceed the invoice value of the Goods delivered.

**9.2** FluorTech will never be liable for loss of

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income or profits, loss due to stagnation or delay in business activities, loss due to production loss, loss of man-hours and/or labour costs incurred in vain, extra costs for procurement elsewhere, missed savings or agreements, discounts or penalties, indirect loss, consequential loss and trading loss, all this except where there is gross negligence or intention by FluorTech and/or its employees.

**9.3** FluorTech is not liable for infringement of patents, licences or other rights of third parties as a result of details provided by or on behalf of the Buyer.

**9.4** If FluorTech does provide assistance and help of any nature whatsoever with the assembly without being instructed to carry out this assembly, this will take place at the risk of the Buyer.

**9.5** The Buyer indemnifies FluorTech against claims by third parties which are in any way associated with the goods provided and/or activities carried out by FluorTech. The Buyer will not hold FluorTech liable and guarantees that FluorTech will not be held liable by third parties with regard to the acts or omissions of FluorTech's employees.

### 10. Intellectual Property Rights

**10.1** FluorTech reserves all rights including intellectual property rights with regard to information which it makes available to the Buyer in connection with the formation and performance of the Agreement, for instance drawings, schedules, designs, calculations, descriptions, software or associated documentation. Subject to the explicit written consent of FluorTech this information must not be copied or shown or disclosed to any third parties.

**10.2** The Buyer indemnifies FluorTech against any claims by third parties. The buyer provides FluorTech to necessary and usual assistants, auxiliary tools, auxiliary and company materials (including fuels, oils and greases, cleaning and other small items, gas, water, electricity, power, compressed air, heating, lighting etc.) are to be available at the correct location within due time and free of charge.

All necessary safety measures and other precautions for the assembly must have been taken and be maintained;

**10.3** Drawings, printing blocks, moulds, tools etc. remain the exclusive property of FluorTech, even if the Buyer has been charged for them and must be handed over to FluorTech at the first request.

### 11. Dissolution and force majeure

**11.1** There is force majeure if the performance of the Agreement is wholly or partly prevented whether or not temporarily by circumstances

beyond the power of the parties.

Such circumstances are in any event considered to include but are not limited to: war, mobilisation, riots, sabotage, terrorism, fire, lighting strike, implosion or explosion or outflow of hazardous gases or substances, lack of raw materials, consumables and fuels, natural disasters, extreme weather conditions, strike, lock-out, sit-in, disruption of business operations, traffic disruptions, boycott or blockade and measures of the domestic or any foreign government such as an import, export, delivery or production prohibition.

**11.2** In the event of force majeure as well as in the event of changes in circumstances such that further performance of the obligations under the Agreement and/or these Conditions become so troublesome for FluorTech that its continuation cannot reasonably be required, FluorTech will be entitled to dissolve unilaterally the Agreement for the part not yet performed or to suspend the performance of the Agreement without the parties being obliged to pay any compensation to each other.

**11.3** The provisions in Clause 11.2 also apply if after the formation of an Agreement it appears, at FluorTech's discretion, that there are or will be objections in connection with the applicability of legislation, regulations or decrees of international or regional (government) institutions, bodies or organisations relating to deliveries to the Buyer or to those for whom the Goods to be supplied by FluorTech are intended.

**11.4** If and as soon as the Buyer does not, not within due time or not properly fulfil his obligations, is declared bankrupt, applies for a moratorium, decides to wind-up his business, his business operations otherwise discontinue, a part of his assets are seized, he offers a scheme of composition or otherwise appears to be insolvent and also in the event of changes in circumstances such that fulfilment of our obligations under the Agreement and/or these Conditions become so troublesome for FluorTech, that this cannot reasonably be required from FluorTech, FluorTech will be entitled to dissolve the Agreement without any judicial intervention and without claiming compensation for costs, losses and interest being the consequence of the event giving rise to that dissolution.

**11.5** Moreover, FluorTech is entitled to dissolve the Agreement with the Buyer in whole or in part if the agreement with the supplier or client of FluorTech is for any reason whatsoever dissolved or not executed by FluorTech or its supplier or client for any other reasons. In that case FluorTech will only be obliged to reimburse or credit the sales price charged by FluorTech and the Buyer must return what has already been delivered.

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### **12. Applicable law and disputes**

**12.1** All agreements between FluorTech and the Buyer are exclusively governed by Dutch law. The applicability of the United Nations

Convention on Contracts for the International Sale of Goods ('CISG') is explicitly excluded.

**12.2** All disputes between FluorTech and the Buyer will exclusively be settled by the Court in Alkmaar.

# FluorTech BV

*These Conditions of Sale for FluorTech BV in Heerhugowaard have been filed with the Chamber of Commerce and Industry for Hollands Noorderkwartier in Alkmaar on 14 Augustus 2012 ('kvk' 37060605).*