

GENERAL SALES AND WARRANTY TERMS

BRAM ENGINEERS B.V.

1 Preamble and Definitions

1.1 In these general sales and warranty terms ("Terms") the Seller shall mean Bram Engineers B.V. and the Buyer shall mean a company, corporation or person with whom any Agreement is concluded. The following words shall have the meaning ascribed to them:

"Agreement" means an individual contract for sale or license of Deliverables by Seller to Buyer formed by Seller's written acceptance of Buyer's order or conclusion of a written agreement signed by both parties.

"Deliverables" mean the subject matter of the Agreement i.e. Products, Software, professional or other services as well as associated documentation defined in the Agreement.

"Intellectual Property Rights" mean patents (including design patents), designs (whether or not capable of registration), chip topography rights, copyright, rights to trademark, trade secret and any other intellectual or industrial property rights recognized by the laws of the applicable jurisdiction.

"License Keys" mean a series of letters and digits that must be entered during Software installation to authorize the user to use the Software and which restricts the use of or access to the Software to, among other things, one or all of: (i) certain elements of Software, (ii) a specific hardware identity, and (iii) frequency or duration of use.

"Products" mean the Seller's machine control systems ("Control Systems") as well as thereto related software permanently installed in the Control Systems ("Firmware").

"Software" means Seller's software tools and libraries or other standalone software licensed to Buyer under the Agreement.

1.2 These Terms shall apply to all sales, licensing and deliveries of Deliverables between the Seller and the Buyer, unless otherwise expressly agreed in the Agreement.

2 Information in Brochures and other Advertising Material

Information given in brochures and other advertising material is only given as guidance and shall not be binding upon the Seller.

3 Formation of Agreement

No Agreement shall be binding upon the Seller until the Agreement is signed by a duly authorized representative of the Seller or Seller has sent its written acceptance of the order to the Buyer. Any Agreement is subject to Buyer's acceptance of these Terms and no other terms and conditions referred to or incorporated into Buyer's order or otherwise shall be accepted by Seller.

4 Price

4.1 The prices for the Deliverables will be as specified in the Agreement. If no price has been agreed upon, the price will be the Seller's list price in effect at the time of order acceptance. List prices are subject to change without prior notice. Unless otherwise agreed in the Agreement the services are charged on time and material basis. Out of pocket expenses will be charged separately based on actual costs incurred. Travelling time is charged at a rate that is 50% of the normal hourly price.

4.2 All prices are net prices and set in euros. The prices do not include any taxes, duties, charges or fees, which shall all be borne and paid by the Buyer in addition to the price. The Buyer shall promptly inform the Seller its valid VAT number (if applicable) and any changes to it. The Seller will charge the applicable taxes, duties, charges and fees in addition to the price in accordance with the applicable legislation and any penalties, charges and interest the Seller may have incurred due to incorrect information provided by the Buyer.

4.3 Should, after an Agreement has been concluded and entered into, the purchase, production, transport or any other costs relating to the Deliverables increase or there are changes in the rates of exchange, the Seller shall be entitled to revise the price accordingly.

5 Payment

5.1 Unless otherwise agreed in writing in the Agreement the payment term is advance payment.

5.2 In case it can be reasonably presumed that the Buyer will not fulfil its payment obligation, the Seller shall be entitled to change payment term. Binding payment term is stated in order confirmation.



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5.3 Payment terms are strict deadlines. In case of delayed payment, the Seller is entitled to collect interest from the Buyer for the time of the delay of an annual interest of eleven percent (11%). If the Buyer has not made full payment within two (2) months from the due date of the payment, the Seller shall be entitled, by written notice to the Buyer, to cancel the Agreement and compensation for all costs, expenses and damages incurred by the Seller.

6 Deliveries and Delay in Delivery

6.1 Unless otherwise agreed in writing in the Agreement the delivery term is FCA (Incoterms), the Seller's premises in Barendrecht, the Netherlands. Normal packaging for transport is included in the price.

6.2 The delivery term shall be interpreted in accordance with each time current Incoterms delivery terms, issued by the International Chamber of Commerce.

6.3 In case the delivery of the Products is delayed due to a fault of the Seller, the Seller shall pay liquidated damages in the amount of 0.5 percent of the purchase price of the delayed delivery per each full week of continued delay. In case the delivery is only partially delayed, the liquidated damages is calculated based only on the purchase price of the part of the delivery that cannot be taken into use by the Buyer due to the delay. The liquidated damages shall, however, be no more than 7.5 percent of the purchase price of the delayed delivery. The Seller's total liability based on a delayed delivery shall always be limited to the maximum amount of the liquidated damages.

7 Intellectual Property Rights, Title and License

7.1 Unless otherwise agreed in the Agreement; i) the Seller or its licensors retain all Intellectual Property Rights in and to the Deliverables; ii) the Seller is the owner of any and all rights to any modification, derivative works or customization of the Deliverables and iii) Buyer agrees not to make any modifications to the Deliverables.

7.2 The title to the Products (except for Firmware and Software) shall pass to the Buyer when full payment has been made to the Seller.

7.3 The Software and Firmware are licensed, not sold. Seller or its licensors retain the title and all other rights to the Software and Firmware. The Buyer is granted a non-exclusive, non-transferable and non-sub licensable limited license to use the Firmware as integrated in the Control System once full payment has been made to the Seller. Firmware may not be used as stand-alone Software.

7.4 License Keys may be required to activate certain Software. Where applicable, the license is i) specific to the hardware on which the Software is to be installed; ii) granted per one installation; and iii) subject to payment of the applicable license fees and acceptance of any applicable specific license terms. Certain Software may be available for downloading without charge from Seller's extranet site. Any license granted to Buyer for Software is non-exclusive, non-transferable and non-sub licensable right to use the Software solely in connection with the Products.

7.5 Buyer agrees not to circumvent any technical measure, copy, disclose, reproduce, modify, reverse engineer, disassemble, decompile or otherwise attempt to derive source codes from the object code of Software or Firmware, except and only to the extent applicable law expressly permits, or damage any Software or Firmware or make such Software or Firmware available to any third party. Furthermore, Buyer agrees not to remove any legal notices, proprietary designations or author attributions from the Software or Firmware or any accompanying material.

7.6 This clause 7 prescribes the sole right to the Software and Firmware granted to the Buyer.

8 Warranty

8.1 The Seller does not assume any responsibility for the Deliverables being fit for any particular purpose, unless otherwise expressly stated in writing by the Seller.

8.2 The Seller warrants that the Products conform to the applicable specifications and are free of defects in material, design and workmanship for a warranty period of eighteen (18) months from the date of delivery for display unit products and a warranty period of thirty-six (36) months from the date of delivery for I/O products.

8.3 The Seller is during the warranty period responsible for defects in the Products resulting from defects in material, design or workmanship. The Seller's only obligation under this warranty is to, at its sole discretion, either to replace or to repair the defective Products.

8.4 The warranty does not cover and the Seller is not responsible for any costs related to removing or fastening of devices related to the Products. Neither does the warranty cover and the Seller is not responsible for any expenses of sending Products to or from the Seller for repairs. The warranty does not cover possible expenses relating to traveling, accommodation, daily benefits, etc. of installers.

8.5 The warranty becomes null and void if the Buyer and/or a third party alters the Products or parts thereof in any way or if the Product has not



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been used in accordance with the Seller's operating instructions. Furthermore, the above warranty provisions do not apply to any Product i) in which the defect or damage result from normal wear and tear (including normal weakening of battery capacity when recharging it); ii) in which the defect or damage results from misuse, negligence, improper storage, water or other liquids, battery leakage, use of software, parts or accessories not approved or supplied by the Seller; iii) which has been subjected to unusual physical or electrical stress, abuse, or accident, or forces or exposure beyond normal use within the specified operational and environmental parameters and nor shall the above warranty provisions apply to any expendable or consumable items, such as batteries.

8.6 Unless otherwise agreed in the Agreement the Seller makes no warranty of any kind regarding the Software. Software is licensed on an "as is" basis. Except as expressly provided in the Agreement, Seller is not obliged to provide any updates or upgrades or other maintenance for the Software.

8.7 All claims with respect to defects in the Deliverables shall be made to the Seller within the warranty period and without delay and no later than on the seventh (7th) day after the defect has been or should have been discovered by the Buyer. The Seller strives to reply to the claim in writing within two (2) weeks from the receipt of the claim. The Buyer shall attach to the claim a possible error report or equivalent explanation of the grounds for the claim.

8.8 The Seller gives no other warranties whatsoever for the Deliverables than the warranty set out in this Section 8 above and applicability of Articles 7:17 and 7:21 of the Dutch Civil Code is excluded and thus the warranty given in this Section 8 sets forth the sole and exclusive warranty and remedy of the Buyer for the Deliverables.

9 Product Liability and Limitation of Liability

9.1 Subject to Sections 9.2, 9.3, 9.4 and 9.5 of these Terms, the Seller shall defend and settle claims or demands finally awarded against the Buyer and instituted by third parties under the applicable mandatory product liability legislation to the extent such awarded damages concern liability for defective Products or negligence of the Seller in respect of death or personal injury and which awarded damages have arisen from a defect subsisting in the Product at the time of its delivery to the Buyer.

9.2 The provisions of Section 9.1 will apply provided that the Buyer: i) notifies the Seller promptly about the claim or demand and gives

sole and complete control of any defense or settlement to the Seller; (ii) at the reasonable expense of the Seller, co-operates and assists the Seller in its defense or settlement of the claim; (iii) commits no act or omission that would be prejudicial to the Seller's defense; and (iv) complies with any direction from the Seller to cease any further use of the Product.

9.3 The Seller's indemnity and other obligations under these Terms and the Agreement will not apply to the extent that a claim or demand arises out of or results from:

- i) specifications by the Buyer,
- ii) unauthorised modification (including without limitation unauthorised repairing) of the Deliverables;
- iii) combining Deliverables with any other hardware, software, application or part not supplied by the Seller;
- iv) using Deliverables for any use other than for which they were designed or against Seller's instructions (including but not limited to instructions given in user guides), unless otherwise authorised by Seller in writing;
- v) Seller complying with an interim, final or other industrial standard; or
- vi) any acts or omissions of the Buyer or third party.

9.4 Nothing in these Terms and the Agreement excludes either Party's liability resulting from fraud, gross negligence or wilful misconduct, to pay sums properly due and owing to the other Party in the course of normal performance of the Agreement, breach of confidentiality, breach of non-competition, infringement of Intellectual Property Rights of the other Party, or for any liability which cannot be excluded or limited under applicable law.

9.5 Except as set out in Section 9.4, neither Party shall be liable under or in relation to these Terms and the Agreement or its subject matter (whether such liability arises due to negligence, breach of contract, misrepresentation or for any other reason) for any: (i) loss of profits; (ii) loss of revenue; (iii) loss of or damage to business or reputation; (iv) loss of contracts or customers; (v) loss of any software or data; (vi) wasted management or other staff time; (vii) losses or liabilities under or in relation to a contract concluded with a third party; or (viii) indirect, punitive, special or consequential losses or damages.

9.6 EXCEPT AS SET OUT IN SECTIONS 6.3 AND 9.4, THE SELLER'S TOTAL AGGREGATE LIABILITY (INCLUDING BUT NOT LIMITED TO LIQUIDATED DAMAGES) ARISING FROM OR RELATING TO THESE TERMS AND THE AGREEMENT WILL BE LIMITED TO AN AMOUNT EQUAL TO THE PRICE PAID OR



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PAYABLE UNDER THE AGREEMENT FOR WHICH THE BUYER'S CLAIM AGAINST THE SELLER RELATES TO.

10 Force Majeure

In case the Seller is prevented from fulfilling its obligations according to the Agreement due to circumstances beyond the control of the Seller, such as wars, acts of God, governmental restrictions and actions, pan- or epidemics, events that prevent from acquiring raw materials, fires, or other incidents in production, storing, or transportation, strikes or any other equivalent circumstances, the Seller is not liable for any non-performance.

11 Other conditions

11.1 The Seller undertakes to arrange for the recycling and scrapping of the Products that are returned to the Seller by the Buyer and/or the Products that are received by the Seller in connection with maintenance services performed when Seller has deemed repairing of the Products inappropriate. The Seller will charge a scrapping fee from the Buyer according to the Seller's price list in force from time to time. No scrapping fee will, however, be charged for Products that are received by the Seller during the warranty period.

11.2 The Buyer acknowledges that each Deliverable and any related technology, including technical information supplied by the Seller or contained in documents (collectively "Items") may be subject to export controls laws or regulations and may be subject to export, re-export or import restrictions. The Buyer shall at all times comply with all applicable export laws, rules and regulations. The Buyer shall cooperate fully with the Seller in any official or unofficial audit or inspection related to applicable export or import control laws or regulations.

12 Applicable Law

12.1 The Agreement shall be governed by the laws of the Netherlands.

12.2 The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not be applied to the Agreement or any agreement in connection therewith.

13 Settlement of Disputes

Any dispute, controversy or claim arising out of or relating to the Agreement, or the breach, termination or validity thereof, shall be finally settled by binding arbitration in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The number of arbitrators shall be three. The arbitral tribunal shall be appointed by the parties and in case parties fail to agree on such appointment within a

reasonable period, directly by the NAI. The seat of arbitration shall be Amsterdam, the Netherlands. The language of the arbitration shall be English. Consolidation of the arbitral proceedings with other arbitral proceedings, as provided for in Article 1046 of the Dutch Code of Civil Procedure is excluded, unless the Seller decides in its sole discretion to do so. The Seller shall, however, have the right to bring up any claim, related to the Agreement and based on a due and undisputed receivable from the Buyer, in the court where the Buyer is domiciled.



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