

## GENERAL TERMS AND CONDITIONS OF SALE AND SUPPLY

### Article 1 Definitions

Unless it is expressly indicated otherwise below, in these General Terms and Conditions of Sale and Supply (“the Conditions”) the following terms will have the meanings assigned to them below:

- a) **Holmatro**: Holmatro Rescue Equipment B.V., Holmatro Industrial Equipment B.V., Holmatro Hydraulics B.V., Holmatro Assembly B.V. and/or N.V. Holmatro, all established at Raamsdonksveer, as well as their successors in law — whether by universal or singular title — and/or any (new) companies that may be incorporated or acquired by any of the aforementioned companies;
- b) **Client**: each individual or legal entity executing a profession or business, with which Holmatro has concluded a Contract or with which Holmatro is in the process of discussing or negotiating the possible conclusion of a (purchase) agreement.
- c) **Contract**: each and every agreement regarding the supply of goods and/or services that is effectuated between Holmatro and the Client as well as each change therein or addition thereto, as well as any (legal) transaction in preparation or execution of such agreement.
- d) **Products**: any and all goods or matters, including (digital) documentation, drawings, teaching instruction and training material, test equipment, installations, tools and fittings or appurtenances that are subject of a Contract.
- e) **Order**: every commission by the Client.
- f) **Parties**: Holmatro and Client together.

### Article 2 Scope of application

1. Except in the event that Parties expressly deviate from the Conditions in writing, or in the event that, also given the nature of the performance agreed upon or to be agreed upon, other general conditions in use by Holmatro should be applicable, the Conditions shall be applicable to all Contracts and to all (other) actions and legal transactions between Holmatro and the Client.
2. The applicability of any general terms and conditions applied by the Client is expressly rejected.
3. Any third parties called in by Holmatro will not influence the applicability of the Conditions.

4. Any and all (legal) transactions by Holmatro and its (potential) other parties in relation to any contracts or negotiation on such contracts, to which Holmatro will (partly) act as a purchaser of goods will be subject to Holmatro's General Purchase Conditions. Said General Purchase Conditions have been registered with the Chamber of Commerce Zuidwest-Nederland at Breda, The Netherlands and will be sent to the Client free of charge upon its first request thereto. If and when Holmatro should (in part) act as service provider, Holmatro's General Service Conditions shall be applicable. Said General Service Conditions have been registered with the Chamber of Commerce Zuidwest-Nederland at Breda, The Netherlands and will be sent to the Client free of charge upon its first request thereto.

### **Article 3      Offers, quotations, effectuation of Contracts and statements and specifications of Products**

1. Any offers made or proposals issued by Holmatro shall be valid for 60 days, unless otherwise indicated. Holmatro shall confirm acceptance of the offer or proposal by the Client in writing to the Client within 30 days of acceptance.
2. A Contract is effected only after the acceptance by the Client as described in paragraph 1 or the express written acceptance by Holmatro of an order placed by the Client. For sales/supplies from Holmatro's warehouse, the invoice will count as written evidence of the order by the Client and its acceptance by Holmatro.
3. If, upon request, Holmatro would execute any performance before full agreement has been reached about the price and payment conditions for said performance, the Client shall pay Holmatro for such performance with due observance of the provisions contained in articles 5 and 6, in accordance with the rates applied by Holmatro at that time. Acceptance of the offer by the Client shall regard the entire offer or quotation as such. Any alterations to the offer or proposal made by the Client upon acceptance will not have any effect.
4. In the event of compound quotations, Holmatro shall not be under any obligation to supply a portion of the goods/items included in the offer in return for a proportional part of the price quoted, nor shall the proposal automatically cover reorders.
5. Holmatro has observed the utmost care in providing any and all statements of numbers, sizes, weight and/or other (technical) specifications of the Products. Holmatro however does not guarantee the absence of any deviations. Documentation, samples, drawings or models shown or provided are only indications of the Products concerned.
6. Any technical requirements by the Client to the Products to be supplied that deviate from the normally applicable requirements shall be made known by the Client to Holmatro expressly prior to the conclusion of the Contract.

### **Article 4      Agency and distribution agreements**

The Conditions shall be applicable also if and when the Client acts as (commercial) agent or distributor for Holmatro and Parties have to that end entered into a written agency and/or distribution agreement.

## **Article 5     Prices**

1. Unless it is stated otherwise, all prices are denominated in Euros, exclusive of VAT and including packaging costs. Unless it has been otherwise stated or expressly otherwise agreed, the additional cost of packaging and preparation for sea shipping, import and export duties and excise and all (other) levies or taxes imposed or levied on account of any performance shall be charged to the Client.
2. Any changes in factors affecting the price or Holmatro' s additional cost, including purchase prices, exchange rates, import and export duties and other levies due upon import or export, insurance rates, freight rates and other levies or taxes will be recharged by Holmatro to the Client.
3. The Client shall indemnify Holmatro against all cost and loss or damage that may ensue for Holmatro from the fact:
  - a. that the Client is not properly registered for VAT or similar tax purposes in a relevant EU Member State; and/or
  - b. that the Client should issue incorrect data or should not on time issue data to Holmatro and/or the VAT or similar tax authority in a relevant EU Member State.

## **Article 6     Terms of Payment**

1. The Client shall pay the amounts charged to it, effectively in the invoiced currency, to Holmatro, according to the conditions as mentioned in the order confirmation. The agreed-upon term of payment is final. Payment shall be effected into a bank or giro account designated by Holmatro.
2. Any complaints regarding invoices, specifications, descriptions and prices shall be lodged with Holmatro in writing within 10 days, in default of which the invoices, specifications, descriptions and prices shall be considered as agreed between Parties.
3. All amounts charged to the Client shall be paid without discounts or withholdings.
4. The Client is not entitled to set off any claim on Holmatro against any amount payable to Holmatro, nor is it entitled to suspend its obligations under the Contract.

5. If at any time Holmatro should have reasonable doubt as to the Client's credit rating, and/or in the event that the Client should repeatedly fail to pay correctly or timely and provided the Client has been reminded at least once by Holmatro, Holmatro shall be entitled to (further) suspend its obligations, including the obligations under other Contracts. Holmatro shall furthermore be entitled to demand that the Client pay the purchase price for the Products in advance or provide proper security to the amount of the amount receivable by Holmatro from the Client under the Contract.
6. The Client shall ensure that all payments made and security given by way of documentary credit and/or bank guarantees, shall be effected always through a well-known and reputable Dutch bank.
7. Without any further notice of default being required, the Client shall be due interest on any amount not paid ultimately on the last day of the payment term, at a rate equal to the statutory (commercial) interest rate applicable in the Netherlands at that time. After the end of each month the amount on which interest is due shall be increased by the interest due for that month.
8. In the event that the Client, also after the end of a further term of payment fixed by registered letter, should have failed to pay the amount due and the interest, the Client shall reimburse Holmatro for any and all costs in and out of court, including the costs of legal aid regardless of whether legal proceedings are being conducted.
9. If Holmatro has granted the Client suspension of compliance with any performance, whether from considerations of courtesy or otherwise, any new term is always a final term.
10. The payments made by the Client shall always first serve to pay the interest and costs payable, then the oldest invoices due, even though the Client should State that the payment regards a later invoice.

## **Article 7      Terms of delivery**

1. The term of delivery for the Products stated by Holmatro is based on the circumstances at the time the Contract is concluded and, if and when dependent on performances by third parties, on the data provided by such third parties to Holmatro. Holmatro will as much as possible comply with the term of delivery. The terms of delivery provided by Holmatro shall always be estimated terms and shall never be final terms.
2. Said terms commence on the date the Contract is effectuated. If Holmatro requires data or auxiliaries for the execution of the Contract that have to be provided by the Client, the terms commence on the date that all required data or auxiliaries are in the possession of Holmatro if and when that is later than the date of effectuation of the Contract.
3. For exceeding of any term by Holmatro the Client shall not be entitled to any damages, nor will the Client be entitled to rescind or terminate the Contract.

## **Article 8      Delivery and risk**

1. The Products shall be delivered and the transfer of risk shall be effected in accordance with the Incoterm stated in the proposal or order confirmation, according to the Incoterms version issued by the International Chamber of Commerce in Paris applicable at the time of proposing or order confirmation.
2. If the conditions provided in the previous paragraph should not have been agreed upon, delivery and transfer of risk of the Products and packaging are always ex works. Holmatro shall notify the Client as soon as possible of the time and place in question and the Client shall collect the Products as soon as possible, though in any event within 30 days of the notice.
3. The Client shall ensure that on its part nothing will obstruct the realization of certain agreed-upon terms, including the terms of delivery, collection and installation.
4. Should the Client fail to collect the Products at all or on time for any invalid reason, it will be in default without any notice of default being required. Holmatro shall then be entitled to store the Products for the account and at the risk of the Client or to sell them to a third party. The Client will nevertheless be due the purchase price plus interest and costs by way of damages, possibly reduced by the net revenue from the sale to such third party.
5. Holmatro shall at all times be entitled to deliver the Products in instalments. In the event of a delivery in instalments, Holmatro shall be entitled to invoice each partial delivery separately.

## **Article 9      Force majeure**

1. Force majeure is defined, in addition to the definitions in the law and case law, as being any external cause foreseen or unforeseen, provided against or not, that is beyond Holmatro's control, including the circumstance where suppliers and/or sub-contractors of Holmatro fail to comply with their obligations at all or on time, weather circumstances, earthquakes, fire, loss or theft of tools, the loss of materials to be processed, roadblocks, strikes or stoppages and import or commercial restrictions as a result of which Holmatro is (temporarily) unable to comply with its obligations (whether in full or in part).
2. Holmatro shall also have the right to claim force majeure if the circumstance preventing (further) compliance should occur after Holmatro should have complied with its obligation under the Contract.
3. During periods of force majeure the delivery and other obligations of Holmatro are suspended. If the period during which Holmatro is unable to comply with its obligations due to force majeure should last longer than 3 months, Parties shall be authorized to rescind the agreement, without there being any obligation to pay damages.

4. In the event that Holmatro should, upon origination of the force majeure, have fulfilled its obligations in part already, or is able to only fulfil its obligations in part, it shall be authorized to invoice any portion already delivered or, as the case may be, any portion separately deliverable and the Client shall pay this invoice as if it were a separate Contract. The foregoing does, however, not apply in the event that the portion delivered or deliverable does not have any value of its own, or in the event that it is connected with any portion not delivered to such an extent that it cannot be used independently.

#### **Article 10    Retention of title**

1. Notwithstanding the actual delivery, the title to the Products will pass to the Client only after it has fully paid any amounts in connection with Products delivered or to be delivered due to Holmatro, including the contract sum, any surcharges, interest, taxes and expenses that may be due in accordance with the Conditions or the Contract as well as any activities that may have been performed or are to be performed by virtue of such Contract.
2. Each amount received from the Client will first serve to pay the amounts due from the Client and in respect of which Holmatro has not retained the title in terms of paragraph 1 of this article.
3. As long as the title to the Products has not passed to the Client, the Client shall not be entitled to lease or rent out the Products to third parties or have third parties use them, to pledge them or otherwise encumber them for the benefit of any third parties. The Client shall be entitled to sell or deliver the Products — owned by Holmatro — to third parties provided such is necessary within the scope of the Client's usual operations.
4. The Client shall preserve the Products delivered to it subject to retention of title carefully and as Holmatro's recognizable property and have them insured against the risk of fire, explosion, damage and theft. Upon Holmatro's first request to that effect, the Client shall assign any and all rights towards the insurers involved to Holmatro.
5. If and as long as Holmatro is the owner of the Products, the Client shall notify Holmatro without delay in the event that any part of the Products should be lost or damaged, or in the event that the Products should be seized and/or other claims are laid on (any part of) the Products. Furthermore, the Client shall inform Holmatro upon its first request where the Products in respect of which Holmatro has retained its title, are located.
6. The Client hereby unconditionally and irrevocably gives his permission and shall lend every co-operation to Holmatro or to a third party designated by it, to enter all locations where Holmatro's property will be located and to remove said property if and when Holmatro wishes to exercise its rights of ownership. If and when Holmatro wishes to exercise its rights of ownership, the Client shall lend Holmatro any co-operation necessary for Holmatro to enter all such places where the property of Holmatro will then be located and to remove said property.



7. In the event of attachment, (preliminary) suspension of payment or in the event of winding up, the Client shall immediately notify the bailiff charged with the seizure, the administrator or the receiver of Holmatro's (ownership) rights.

#### **Article 11 Intellectual property**

1. Holmatro shall retain any and all intellectual property rights to the offers, designs, pictures, drawings, (sample) models, programs, etc., unless it has been expressly agreed otherwise.
2. The rights referred to in paragraph 1 shall remain Holmatro's property, regardless whether the Client has been charged for the manufacturing of said Products. The Client guarantees not to infringe on (nor to allow or enable third parties to infringe on) any intellectual property rights of Holmatro or its suppliers in respect of the Products, e.g. by multiplying, processing or copying the Products.

#### **Article 12 Examination and complaints**

1. The Client shall (have) the Products immediately inspected as soon as they have reached the destination or, if that is earlier, after receipt by itself or any third party acting on its behalf. Holmatro shall be informed in writing of any complaints concerning visible defects to the Products at the time of delivery within 14 days of arrival of the Products.
2. The Client shall notify Holmatro of any visible defects within 14 days of delivery of the Products, such on penalty of loss of all liability of Holmatro.
3. The Client shall report any defect which is not discovered at the date of delivery, in writing, to Holmatro within 3 days of discovery, though at least within 6 months of delivery, such on penalty of loss of liability of Holmatro.

#### **Article 13 Warranty**

1. Unless it has been expressly otherwise agreed in the Contract, for a period of 6 months after the Products are ready to be collected, Holmatro warrants the good and safe operation of the Products in conformity with the specifications in the Contract. The agreed-upon warranty does not apply to such parts of the Products as are, in Holmatro's opinion, subject to normal wear and tear and in the event that the Products have not been used by the Client for the intended use or if Holmatro instructions have not (in full or in part) been observed properly by the Client.
2. The warranty period referred to in paragraph 1 shall be reduced to 3 months if and when the Client should, contrary to its statement in the Contract, have used the Products during more than 40 hours per week..
3. After detection of any defect, the Client shall immediately cease the use, working, processing or installation of the related Products.

4. The Client shall grant any co-operation desired by Holmatro in order to examine the defects, among other things by enabling Holmatro to investigate the circumstances of working, processing, installation and/or use or have them investigated.
5. The Client shall not be entitled to any guarantee in respect of Products in respect of which Holmatro cannot exercise control over the defects.
6. The Client shall not be free to return the Products before Holmatro has given its written consent. The costs of returns shall be for the Client and the Products will remain at its risk.
7. In the event that, during the term of warranty, complaints are lodged on time, correctly and in accordance with the provisions contained in paragraphs 3 to 7 of this article and it has been sufficiently demonstrated in Holmatro's opinion that the Products do not function properly, Holmatro will, at its choice, either replace the unreliable Products free of charge in return for return of the unreliable Products, repair the Products concerned or grant the Client a discount of the purchase price after all.
8. If Holmatro delivers Products to the Client which Holmatro has obtained from its supplier(s), Holmatro shall never be bound by any guarantee or liability towards the Client that extends beyond the warranty or liability that Holmatro can claim of its supplier(s).
9. Holmatro expressly does not warrant any of its recommendations or advice regarding the installation or the use of the Products, nor does it warrant such advice or instructions by the Client to its customers.
10. The Products shall remain for the risk of the Client in the event that Holmatro repairs the Products, unless the repair is due to faulty performance by Holmatro and the Client cannot reasonably be expected to insure the Products against said risk.
11. If and when during the agreed-upon term of warranty the Client should have a third party repair the Products or repair them itself, make any alterations to the Products or if it has not complied with its payment obligations under the Contract in full or for the major part without the prior express written permission of Holmatro, the warranty as described in this article shall lapse.

#### **Article 14 Liability and indemnity**

1. Except if and when any provisions of imperative law in respect of (product) liability should provide otherwise, Holmatro shall not be liable to compensate any damage of any nature whatsoever inflicted on any real or movable property or on any person, including direct or indirect damage to operations, to the Client or any third party, which damage has been caused directly or indirectly by or is related to any Products delivered by or on behalf of Holmatro, or which is directly or indirectly caused by or related to any use or application or processing of such Products or information provided by Holmatro about the Products.



2. In the event that the Products to be delivered in the Netherlands should be used outside the Netherlands, Holmatro shall not be liable either for any damage resulting from the fact that the Products do not meet the technical requirements, standards and/or regulations set by laws or stipulations in the country where the Products have to be used.
3. Holmatro's liability towards the Client shall always be limited to the lower of the related contract sum (exclusive of VAT) and the amount received by Holmatro on such account from its business liability insurance per individual event (a relating series of events counting as one single event).
4. The liability restrictions referred to in paragraphs 1 and 2 shall not be applicable if and when the damage concerned should be caused by intent or gross negligence by Holmatro.
5. Except in the event of gross negligence or intent by Holmatro, the Client shall indemnify Holmatro against any claims by third parties, regardless on what account, in respect of compensation of damage, costs and/or interest, relating to the Products or ensuing from the use of the Products, unless the Client cannot reasonably be blamed for the damage.
6. If and when the Contract provides that Holmatro will, for the agreed-upon purchase price, also ensure the installation, mounting and putting into operation of the Products, Holmatro shall never be liable for improper working of the Products in the following circumstances:
  - a. mounting and putting into operation could not be effected according to the instructions of and under guidance and monitoring of Holmatro or a third party called in by Holmatro;
  - b. the rooms where the activities had to be performed had an obstructing influence on the installation, mounting and putting into operation as a result of their nature and layout;
  - c. the foundations on which the Products had to be mounted were laid improperly and incorrectly before commencement of the activities;
  - d. the Client does not strictly or at all follow the advice given by Holmatro or a third party called in by Holmatro.
7. The Client shall at its own account organize sufficient manpower and auxiliaries for the purpose of installation, mounting and putting into operation of the Products.
8. In the event that the Client fails to comply with its obligations under paragraphs 5 and 6 of these presents, as a result of which Holmatro has incurred any loss or damage, the Client shall compensate Holmatro for such loss or damage.

## **Article 15 Other obligations and responsibilities of the Client**

1. The Client shall at all times make any data required for the execution of Holmatro's work available to Holmatro on time and guarantee the correctness and completeness of such data.
2. The Client shall refrain from removing or making invisible any brand and/or identification marks and/or CE-markings from the Products.

## Article 16 Dissolution

1. In the event that the Client should be adjudicated in winding-up or have petitioned for winding-up, or in the event that the Client has applied for or been granted suspension of payment, if the Client has ceased or liquidated his operations, a considerable part of the Client's assets have been seized or the Client should transfer its operations to a third party, any and all Contracts with the Client shall be rescinded by operation of the law, unless Holmatro should notify the Client within a reasonable period of time (in certain situations at the administrator's or receiver's request) to require compliance with (any portion of) the related Contract(s), in which event Holmatro shall be entitled to do the following without any notice of default being required:
  - a. suspend the execution of the Contract until payment has been sufficiently secured;
  - b. suspend any of its obligations towards the Client;  
all that without prejudice to Holmatro's other rights under any of its Contracts with the Client and without Holmatro being required to pay any damages whatsoever.
2. If the Client should fail to comply with any of its obligation under any Contract properly or within a predetermined term or otherwise, the Client shall be in default and Holmatro shall be entitled, without any notice of default or judicial intervention:
  - a. to suspend the execution of that Contract and any Contracts directly related thereto, until payment has been sufficiently secured; and/or
  - b. rescind such Contract and directly related Contracts in full or in part;  
without Holmatro being required to pay damages, all that without prejudice to Holmatro's other rights under whatever Contract with the Client.
3. Upon occurrence of an event referred to in paragraph 1 or 2 of this article, any and all amounts receivable by Holmatro from the Client and such accounts receivable on account of the Contract(s) concerned respectively shall be immediately and fully payable and Holmatro shall be entitled to immediately take back the Products concerned. In that event Holmatro and its authorized parties shall have the right to enter the Client's land and buildings, whereby the Client shall enable Holmatro to take possession of the Products. The Client shall take such measures as to enable Holmatro to exercise its rights.

## Article 17 Transfer of rights and obligations

1. Holmatro shall be permitted to transfer any of its rights and obligations under any Contract with the Client to a third party. Holmatro shall notify the Client of any transfer of Holmatro's rights beforehand and the Client shall have the right to rescind the Contract.
2. The Client shall not be entitled to transfer its rights and/or obligations under a Contract to any third party without Holmatro's prior written consent.

## **Article 18** Changes and additions

Holmatro shall be entitled to alter these Conditions or make any additions thereto. Holmatro shall notify the Client thereof in writing.

## **Article 19** Choice of law and forum

1. The Conditions, as well as any Contracts shall be governed by the laws of the Netherlands.
2. Any and all disputes, including those that are considered disputes only by one of the Parties, ensuing from or relating to the Contract or the Conditions and their interpretation or execution, shall be settled by the competent court in the District where Holmatro has its registered address.
3. Applicability of:
  - a. the Convention containing a Uniform Act regarding the Effectuation of International Sale of Moveable, Corporeal Things of 1 July 1964;
  - b. the Convention containing a Uniform Act regarding the International Sale of Moveable, Corporeal Things of 1 July 1964;
  - c. any (uniform) legislation in any country drafted based on said Conventions;
  - d. The Vienna Convention 1980 (CISG);is expressly excluded.

## **Article 20** Registration of the Conditions

1. The Conditions have been registered with the Trade Register at the offices of the Chamber of Commerce and Industry Zuidwest-Nederland at Breda, the Netherlands.
2. The most recently registered version or, as the case may be, the version applicable at the time of effectuation of the transaction in question shall be applicable at any time.