

# S & P REINFORCEMENT BENELUX B.V. - GENERAL TERMS AND CONDITIONS OF SALE APRIL 2023

## 1. APPLICABILITY

These general terms and conditions of sale (“GTCs”) shall apply to any Contract except as otherwise expressly agreed in such Contract. Once Buyer has contracted under these GTCs, Buyer shall be considered to have tacitly agreed with the applicability of these GTCs for future Contracts. In case of conflicting provisions, the wording of the Contract shall prevail. Any general or purchase conditions of Buyer are hereby explicitly and entirely rejected and shall not apply to any Contract even if referred to or printed on any Order or any other document or communication of Buyer.

## 2. DEFINITIONS

The following terms shall have the following meaning:

2.1 **“Affiliate”** of a Party means an entity which is (i) directly or indirectly controlling such Party; (ii) under the same direct or indirect control as such Party; or (iii) directly or indirectly controlled by such Party. For these purposes, an entity shall be treated as being controlled by another if that other entity has fifty percent (50%) or more of the votes in such entity, is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

2.2 **“Business Day”** means a day (other than a Saturday, Sunday or public holiday) when banks in Amsterdam are open for business.

2.3 **“Buyer”** means the legal entity specified in the Contract as the purchasing Party.

2.4 **“Confidential Information”** means information of a confidential and/or proprietary nature, in whatever form (including on paper, electronically, orally or otherwise), including without limitation any information which relates to the other Party’s business(es), operations, plans, products, services, technologies, intellectual property, trade secrets, affiliates, shareholders, employees, business associates, customers and suppliers. For the avoidance of doubt, the provisions of the Contract (including these GTCs) shall be considered S&P’s Confidential Information.

2.5 **“Contract”** means any agreement for the sale and purchase of Products, (a) resulting from Buyer’s Order and S&P’s Order Confirmation or (b) executed by S&P and Buyer or (c) proposed by one Party and accepted by the other Party in writing including by exchange of correspondence or email or other forms of written communication.

2.6 **“Force Majeure”** means any event beyond the reasonable control of a Party (or any person acting on its behalf), which by its nature could not have been foreseen by such Party, including without limitation acts of God, storms, floods, pandemics, epidemics, labor trouble, embargoes or other import or export restrictions, shortage of or inability to obtain energy, equipment, transportation, raw materials or components, breakdown of malfunctioning of any plant, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared), armed hostilities or other national or international calamity or one or more acts of terrorism, and good faith compliance with any regulation, direction or request, valid or invalid, made by any governmental or other authority. Payment difficulty shall not constitute Force Majeure.

2.7 **“Intellectual Property” or “IP”** means all copyrights, patents, utility models, trademarks, service marks, moral rights, design rights (whether registered or unregistered), technical information, trade secrets, know-how, database rights, business names and logos, computer data, generic rights, proprietary information rights and all other similar

proprietary rights (and all applications and rights to apply for registration or protection of any of the foregoing) as may exist anywhere in the world.

2.8 **“Order”** means the document issued by Buyer to order Products for purchase from S&P.

2.9 **“Order Confirmation”** the document or other written communication issued by S&P to Buyer accepting an Order.

2.10 **“Party”** means each of S&P and Buyer and **“Parties”** means S&P and Buyer.

2.11 **“Products”** means S&P’s products specified in the Contract.

2.12 **“S&P”** means S&P Reinforcement Benelux B.V., a limited liability company established under the laws of the Netherlands, registered with the Chamber of Commerce under the number 59440678, with its registered office at Aphroditestraat 24, 5047 TW Tilburg, the Netherlands.

## 3. ORDERS

3.1 **Information only.** All specifications, dimensions, weights, illustrations, calculations and other information about the Products provided in S&P’s catalogues, brochures, price lists, offers and other commercial documentation are approximations and are provided by S&P for information purposes only, without any warranty or obligation.

3.2 **Subject to Order Confirmation.** All offers made by S&P are non-binding and may at all times be withdrawn, even if they contain a deadline for acceptance. S&P may in its sole discretion accept or reject Orders. Orders shall become Contracts (and therefore binding upon S&P) only upon the issuance of an Order Confirmation by S&P, or upon delivery of the Products, whichever is earlier. Order Confirmations issued by S&P are subject to availability of Products. No changes of an Order shall become binding unless S&P issues a new Order Confirmation or upon delivery in accordance with such changes, whichever is earlier. Cancellation by Buyer of an Order is always subject to S&P’s written acceptance and may be subject to compensation.

3.3 **Subject to credit approval.** All Orders are subject to general credit approval and a specific credit limit set by S&P for Buyer at its reasonable discretion. In the event that (i) at any time Buyer places an Order to S&P which, as such or accumulated with the value of previous Orders for which payment has not yet been received in full by S&P, exceeds such credit limit, or (ii) any credit insurance obtained by S&P with respect to the Order no longer covers the risk of non-payment by Buyer, S&P shall promptly inform Buyer and shall be entitled at its discretion, at any time, thereby informing Buyer, to suspend such Order, including for the avoidance of doubt if an Order Confirmation has already been sent, as long as such credit limit is exceeded or until Buyer provides security reasonably acceptable to S&P in respect of any amount in excess of the credit limit or for which credit insurance no longer exists.

3.4 **Product change.** S&P shall have the right to change Products and/or to discontinue Products from time to time and shall not be liable for any loss or damage of whatever kind or nature suffered or incurred by Buyer as a result thereof. However, such change or discontinuation shall not affect any Order for which an Order Confirmation has been issued by S&P.

## 4. DELIVERY

4.1 **Delivery term.** S&P shall deliver the Products at the delivery point and in accordance with the delivery terms specified in the Contract. Delivery may be made in parts. If no delivery term is specified in the Contract, the applicable delivery term shall be Ex Works (Tilburg, the Netherlands), as such term is defined in the most recent version of the Incoterms.

**4.2 Conditions Precedent.** The delivery time agreed upon in the Contract commences once:

- (i) all official formalities have been met;
- (ii) all agreed facilities, materials, documents, information and data have been provided by Buyer;
- (iii) all applicable payments due by Buyer have been made;
- (iv) all agreed securities have been provided by Buyer; and
- (v) and all other applicable terms and conditions have been met.

**4.3 Late delivery.** S&P shall use commercially reasonable efforts to deliver the Products to the Buyer on or before the delivery date confirmed by S&P in the Order Confirmation (the “**Delivery Date**”). S&P will promptly notify Buyer of any anticipated delay in meeting any Delivery Date and the root cause for the delay. S&P shall provide Buyer with a corrective action plan to mitigate the delay, which may include delivery of the Products by expedited means of delivery. Under no circumstances does any delay in meeting a Delivery Date give Buyer the right to compensation or to terminate the Contract.

**4.4 Rescheduling of Delivery Dates.** Delivery Dates shall be rescheduled by S&P in its sole – reasonable - discretion, without any liability to Buyer, in case of (1) any delay due to Force Majeure; or (2) any delay by Buyer in the fulfilment of its obligations under the Contract. In addition, if there are circumstances other than those known to S&P at the time the Delivery Date was agreed, the Delivery Date period may be extended by the time S&P needs – taking into account its planning – to implement the Contract under these circumstances.

**4.5 Time limitation for partial deliveries.** Unless agreed otherwise in writing, Buyer must take delivery of Products, for which partial supply and delivery has been agreed upon, within six months after the date of the first delivery. In case no date of (first) delivery has been determined in the contract, a period of seven months applies. In case of exceeding these periods, S&P is entitled to – at its sole discretion - terminate the Contract for the part of the Contract that has not yet been executed, or deliver the remaining part of the Products against full payment of such Products.

**4.6 Packaging.** If packaging of the Products is intended to be reused, such packaging shall remain the property of S&P. Buyer shall keep such packaging at S&P’s disposal and shall be liable for any damage to or loss of such Packaging.

**4.7 Inspection.** Buyer must carefully inspect the Products upon delivery and claims for shortages and/or visibly damaged Products can only be made if these shortages and/or visible damages are proven by Buyer to have existed at the time of delivery. Claims for shortages must be notified to S&P by telephone or e-mail within one (1) Business Day after delivery, failing which such claim shall not be dealt with by S&P and S&P shall have no liability in respect of such claim. Any liability of S&P for non-delivery of Products shall be limited to delivering the missing Products within a reasonable time or, if Buyer so chooses, by issuing a credit note at the pro rata rate against any invoice raised for such Products. Claims for damaged Products must be notified to S&P within five (5) Business Days after delivery, failing which such claim shall not be dealt with by S&P and S&P shall have no liability in respect of such claim. Claims for damaged Products shall only be dealt with in accordance with Section 7.

**4.8 Non-acceptance of delivery by Buyer.** If, due to Buyer, delivery of the Products cannot be made at the Delivery Date, S&P may, without prejudice to its other rights and remedies under these GTCs, the Contract or applicable law, arrange for storage of the Products at the expense and risk of Buyer.

## 5. EXECUTION OF THE CONTRACT

**5.1 Subcontracting.** S&P may subcontract its obligations under the Contract to any third party without Buyer’s prior written consent.

**5.2 Deviations.** Due to reasons of a technical nature, S&P cannot exclude slight deviations in size, weight and/or color. Buyer must accept these variations. These deviations do not entitle Buyer to compensation, termination of the Contract or breach of any of its obligations under the Contract. Also, S&P is entitled to supply 10 per cent more or less than agreed, and charge accordingly. Buyer is obliged to purchase and pay for this possible deviation.

## 6. PRICES, INVOICES AND PAYMENT

**6.1 Price.** The price of the Products and the currency of payment shall be as set out in the Contract or, if not so specified, in accordance with the list prices published by S&P from time to time and in effect at the time of delivery. Prices are exclusive applicable taxes, duties, insurance and transportation costs.

**6.2 Price increase.** S&P shall be entitled, up to the time of delivery of the Products and with at least 10 Business Days written notice, to increase the prices payable by Buyer for the Products in the event of an increase of the costs that determine such prices, including without limitation the costs of raw materials, components, labor and energy, also in relation to Orders that have already been accepted by S&P by issuing an Order Confirmation. S&P is also entitled to increase the agreed prices when, during the execution of the Contract, it turns out that the originally agreed or expected amount of work under the Contract has been estimated so very insufficiently when concluding the Contract, through no fault of S&P, that S&P cannot reasonably be expected to execute the Contract against the original prices.

**6.3 Payment term.** S&P shall invoice the Products prior to delivery. Unless the Parties have agreed otherwise, all payments to be made by Buyer must be received by S&P within 30 days from the date of S&P’s invoice.

**6.4 Joint and several liability.** In case of a joint Contract, insofar as the Contract has been carried out on behalf of collective counter parties, such counter parties are jointly and severally liable for the payment of S&P’s invoice and interests and costs referred to in Section 6.6.

**6.5 Complaints.** If Buyer has any objections to S&P’s invoice, Buyer must sent its written and substantiated objections to S&P within five (5) Business Days after receipt of the invoice, failing which Buyer shall be deemed to have accepted by invoice.

**6.6 Late payment consequences.** If Buyer fails to pay within the agreed term, Buyer will be in default by operation of law with without a notification of default being required. From the moment that Buyer is in default, Buyer will owe compensation for interest, equal to the higher of 1,5% per month or the statutory commercial interest (in Dutch: wettelijke handelsrente) as referred to in section 6:119a of the Dutch Civil Code, for each month or part thereof by which the due date is exceeded. In addition, all judicial and extrajudicial costs incurred for collection will be borne by Buyer. The extrajudicial costs amount to fifteen percent (15%) of the unpaid amount due with a minimum of EUR 500.

**6.7 Reservation of title.** Title of the Products, and rights granted to Buyer, shall first pass upon full payment of: (i) the price of the Products; (ii) if applicable, any interest charges and collection costs due under Section 6.6; and (iii) any other sums due to S&P from Buyer under any account. For all stock of the Products for which title has not yet passed, Buyer shall: (i) place notices of S&P’s ownership on the same and (ii) maintain the same in satisfactory condition. Further, Buyer shall provide, at Buyer’s costs, for adequate insurance against theft, loss or damage of Products for which title has not yet passed. If Buyer fails to make payment for the Products when such payment is due, S&P shall have the right to take possession of such unpaid Products and Buyer shall, at its own costs, render to S&P without charge all assistance and cooperation

S&P reasonably requires to exercise such right. Buyer hereby grants to S&P, its agents and employees, an irrevocable license at any time to enter, after providing prior written notification, any premises where the Products are or may be stored in order to recover them where Buyer's right to possession has terminated.

6.8 **Set-off.** Buyer may not set off any amounts owed to S&P or its Affiliates against any claim Buyer or its Affiliates might have against S&P or its Affiliates, nor may Buyer suspend its payment obligations on the basis of any claim it might have against S&P or its Affiliates.

6.9 **Authorization to pledge.** Buyer irrevocably authorizes S&P to pledge or assign S&P's existing and future claims against Buyer to third parties as security and/or in the course of any factoring arrangement.

## 7. WARRANTY AND LIMITATIONS

7.1 **Warranties.** S&P warrants that, at the time of delivery of the Products to Buyer, (a) it shall have good title to the Products and the Products shall be free of liens and encumbrances; and (b) the Products shall meet the specifications and properties specified in the Contract. The warranties specified in this Section 7.1 (b) shall be deemed to have been met upon inspection and acceptance of the Products by Buyer after their delivery to Buyer.

7.2 **Exclusions.** The warranties provided by S&P do not extend to any warranty that the Products shall (a) be fit for Buyer's intended application and/or intended purpose (even if the Products have been specifically ordered for such application or purpose and irrespective whether S&P was aware of such intended application or purpose), and (b) comply with laws and regulations that apply to such intended application and/or purpose. As a result of the foregoing, Buyer accepts that S&P shall not have any responsibility or liability for any defect, damage, claim, loss, cost or expense incurred by Buyer (hereinafter referred to as "Losses") resulting from Products that appear to be unfit for Buyer's intended application and/or purpose, or that do not meet laws and regulations applicable to such application or purpose.

7.3 **Exclusive Warranties.** Except for the express warranties specified in Section 7.1, S&P makes no other warranty whatsoever and disclaims all warranties, express or implied or statutory, with respect to the Products.

7.4 **Remedies.** If any Product does not conform to the warranties specified in Section 7.1, S&P's only obligations, and Buyer's only remedies, shall be to replace the non-conforming Product within a reasonable time or, if Buyer so chooses, by issuing a credit note for such Product. S&P shall bear its own costs related to the remedies set out above. S&P explicitly disclaims and excludes any further obligation and liability for Products that do not meet the warranties specified in Section 7.1, to the maximum extent permitted by law.

## 8. CONFIDENTIAL INFORMATION

Each Party shall at all times protect the confidentiality of the Confidential Information obtained from the other Party with the same degree of care as it would for its own Confidential Information, but in no event with less than a reasonable degree of care. Neither Party shall use or disclose the other Party's Confidential Information except as permitted in this Section or in order to fulfill its obligations under the Contract. Confidential Information shall not include information that: (i) is generally known to third parties through no fault or omission of the receiving Party; (ii) was obtained by the receiving Party after its communication in a legally permissible manner from a third party who was entitled to disseminate the information without restriction; (iii) was already known to the receiving Party before it was received from the communicating Party and was not obtained from a third party in breach of its confidentiality obligations; or (iv) was independently developed by the receiving Party without the use of the communicating Party's Confidential Information. Each Party's confidentiality obligations under this Section shall survive expiration or termination of the Contract.

## 9. INTELLECTUAL PROPERTY

All IP rights with respect to the Products, documentation, and all other materials provided to Buyer by or on behalf of S&P under the Contract, such as analyses, designs, documentation, reports, offers, as well as preparatory materials in that regard, shall be held solely by S&P or its third party licensors. Provided that Buyer has made all payments due under the Contract, Buyer shall only acquire a non-exclusive license to use such IP rights as incorporated in the Products for the sole purpose of using the Products for the application set out in the Contract. Buyer is not allowed to act in a way that violates such IP rights.

## 10. DEFENSE AND INDEMNIFICATION FOR IP VIOLATIONS

10.1 **Indemnification by Buyer.** Except as provided otherwise in this Section 10, Buyer assumes all risks of any intellectual property infringement claims resulting from the use, (re)sale, processing of the Products or resulting from or arising out of any modification or adaptation of the Products made by Buyer, whether singly or in combination with any other materials. Therefore, except as provided otherwise in this Section 10, Buyer shall defend S&P against and keep S&P harmless from any third party claim made against S&P for such infringement.

10.2 **Indemnification by S&P.** If a Claim, as defined in this Section 10.3, is made against Buyer, S&P shall at its own expense defend Buyer against such Claim, or at its option, settle the Claim and - subject to the limitations of liability set forth in Section 11 - pay any and all damages finally awarded to the claimant by a court of law, or agreed with the claimant under a settlement agreement between the claimant and S&P. In addition, S&P shall, at its own expense and option: either (i) acquire for Buyer the right to continue using the Product; or (ii) to replace the Product with or modify the Product into a non-infringing Product. To the maximum extent permitted by law, the foregoing remedies will be the sole and exclusive remedies available to Buyer in the event of a Claim.

10.3 **Definition Claim.** For purposes of Section 10.2, "Claim" means any claim by a third party made against Buyer based on the allegation that a Product, on the Delivery Date thereof, infringes a published patent that is valid in the Netherlands.

10.4 **Exceptions.** S&P shall have no defense or indemnification obligation for any Claim based on: (i) a Product modified by anyone other than S&P; (ii) a Product modified by S&P in accordance with specifications or instructions provided by Buyer; (iii) the application of the Product or use of the Product for Buyer's intended purpose; or (iv) the combination of the Product with Buyer's or third-party parts or products.

10.5 **Conditions.** Parties' indemnification obligations under Section 10.1 and Section 10.2 shall be subject to the following conditions: (i) the Party against whom a claim for infringement is made shall promptly notify the other Party in writing of the claim as soon as it becomes aware of it; (ii) shall give the other Party sole control over the defense or (if applicable) settlement of the claim; and (iii) shall provide all information and assistance reasonably requested by the other Party in the defense or settlement of the claim.

## 11. LIABILITY

11.1 **Liability.** The Party that imputably fails to comply with its obligation(s), including any failure to comply with an obligation agreed upon with the other Party, shall be liable to the other Party for compensation for the damage suffered by the other Party.

11.2 **Limitations.** The liability of the Parties for all claims arising out of or in connection with any Contract shall per such Contract be limited to the amount of the price paid or payable by Buyer under the Contract with a maximum of 30.000 Euros per contract year. However, if - and to the extent that - with respect to an event or series of connected events for which a Party is liable, such Party's liability insurers would cover and

pay out damages in excess of the limitation set out in the preceding sentence, such Party shall pay such excess to the other Party.

11.3 **Exclusions.** In no event shall S&P, its Affiliates and its suppliers, be liable for (i) any claim for damages made under section 6:185 of the Dutch Civil Code; and (ii) any indirect or consequential damages, including without limitation, damage incurred by any third party, loss or interruption of business, wages paid in vain, loss of profits or income, loss of savings, loss of contracts or loss of energy revenues.

11.4 **Scope.** The limitations and exclusions of liability in this Section will apply to all damages in any way caused, and whatever the basis of liability.

11.5 **Representatives.** The limitations and exclusions of liability in this Section shall also apply to the liability of directors, employees and suppliers of the Parties.

11.6 **Notice Period.** Any claim for compensation must be notified to the other Party in writing within twelve (12) months of the event from which the claim arose, failing which the claimant's right to claim shall have lapsed

11.7 **Indemnification.** Buyer shall defend and indemnify S&P, its Affiliates, and its and its Affiliates' present and future officers, directors, shareholders, employees and agents, and to hold each of them harmless from and against any third party claim arising from Buyer's use or commercialization of the Products, unless S&P is liable for such claim under these GTCs and/or the Contract.

## 12. APPLICABLE LAW AND DISPUTE RESOLUTION

These GTCs, the Contract and any dispute arising out of or in connection with these GTCs and the Contract shall be governed by Dutch law to the exclusion of the "United Nations Convention on Contracts for the International Sale of Goods" and the Parties submit to the exclusive jurisdiction of the competent court in 's Hertogenbosch, the Netherlands. However, in the event Buyer has its statutory seat in a country in which a decision of a Dutch court is not enforceable, the dispute will be exclusively settled by means of arbitration in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The place of arbitration in that event shall be Amsterdam, the Netherlands. The language of arbitration shall be English. The parties agree that the Vienna Convention on the International Sale of Goods 1980 (CISG) shall not apply to the Agreement.

## 13. FORCE MAJEURE

13.1 **Force Majeure.** Neither Party (or any person acting on its behalf) shall have any liability or responsibility for failure to fulfil any obligation under these GTCs or the Contract so long as, and to the extent to which, the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.

13.2 **Obligations.** A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure event:

- (i) notify the other Party of the nature and extent of such Force Majeure event; and
- (II) use all reasonable endeavors to remove any such causes and resume performance under the Contract as soon as feasible.

## 14. TERMINATION

14.1 **Termination for insolvency.** Without prejudice to any other rights (including the right to suspend performance of the Contract), either Party may terminate the Contract in writing and without prior judicial intervention with immediate effect if there is a moratorium, bankruptcy or liquidation of the other Party or if the other Party has issued a request for application of the Act on the Confirmation of Private Plans (the "WHOA").

14.2 **Termination for breach or Force Majeure.** Without prejudice to any other rights (including the right to suspend performance of the Contract), either Party may terminate the Contract without prior judicial intervention with immediate effect if (i) the other Party has not remedied a material breach of the Contract (including repeated late payments) within thirty (30) Business Days after receipt by it of written notice of the breach by the non-defaulting Party requesting that it ceases; or (ii) there is a Force Majeure situation for at least sixty (60) Business Days.

14.3 **Termination for Change of Control.** Without prejudice to any other rights (including the right to suspend performance of the Contract), S&P may terminate the Contract without prior judicial intervention with immediate effect if a Change of Control occurs in relation to Buyer and such Change adversely affects the interests of S&P (e.g. because as a result of such Change, control is transferred to a competitor of S&P). For the purpose of this Section, Change of Control shall mean (a) the sale of all or substantially all of the assets of Buyer to a third party; or (b) a sale of stock, merger, consolidation or other reorganization of Buyer or its holding company(ies), resulting in more than 50% of the voting stock of Buyer, its holding company(ies) or the resulting or surviving entity being directly or indirectly owned or held by third parties other than those directly or indirectly owning or holding the voting stock in Buyer or its holding company(ies) on the effective date of the Contract.

## 15. MISCELLANEOUS

15.1 **Assignment.** S&P may assign any Contract to any of its Affiliates.

15.2 **Subcontracting.** S&P shall be entitled to subcontract all or any part of its obligations to be performed under the Contract, but shall remain responsible for such work.

15.3 **Invalidity.** If any one or more of the provisions contained in these GTCs or the Contract is held invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without invalidating the remainder of such provision or provisions or the remaining provisions of these GTCs or the Contract. The Parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

15.4 **Modification.** No modification or deviation from these GTCs and/or the Contract shall be effective unless set out in a written amendment, signed by both Parties.

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