

## GENERAL TERMS AND CONDITIONS



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**RLP Leuven**

## **1. SCOPE OF APPLICATION**

- 1.1** Notwithstanding any communications to the contrary in the past or future, the Client accepts by requesting a quotation from MinDCet NV ("MinDCet") that only the following provisions apply to all contractual, precontractual and non-contractual legal relationships between MinDCet and the Client, both current and future: (in descending ranking order, the next in the absence or by implication of the previous one) (1) the written and signed special agreement; (2) the written order confirmation; (3) these General Terms and Conditions; (4) Articles 4-39 and 41-88 of the Vienna Convention on International Sale of Goods; (5) the Unidroit Principles; (6) Belgian law.
- MinDCet rejects all other provisions and conditions, only with the exception of terms and conditions that MinDCet expressly signs as agreed. Exceptions expressly signed as agreed only apply to the Project to which they relate and cannot be invoked for other, even similar Projects.
- 1.2** If one or part of a provision of these General Terms and Conditions should be rendered null and void, the rest of the provisions and/or the remainder of that provision shall remain valid. If one or part of the provisions is rendered null and void, MinDCet and the Client, as far as is possible and according to their own loyalty and convictions, shall negotiate to replace the invalid provision with an equivalent provision in the general spirit of these General Terms and Conditions.
- 1.3** MinDCet reserves the right to amend and/or adjust its General and/or Special Conditions at any time whatsoever.
- 1.4** Client is understood to mean anyone who calls on MinDCet's services in his own name and/or in the name and/or for the account of a third party.

## **2. DEFINITIONS**

The following terms will have the following meaning in these General Terms and Conditions:

- 2.1** "Materials": documents, plans, drawings, designs, calculations, materials and/or Products.
- 2.2** "Products": the products designed or created by MinDCet, whether or not in the framework of a Project or in the framework of the delivery of Services.
- 2.3** "Project": a project started up by MinDCet in cooperation with the Client.
- 2.4** "Services": the services provided by MinDCet, whether or not in the framework of a Project, including but not limited to the delivery of intellectual services, the creating and/or developing of (industrial) designs, concepts, and more specifically the delivery of turnkey IC solutions, design and layout services for integrated or discrete solutions, system studies or precise inductor characterization.

## **3. QUOTATION, ORDER AND ORDER CONFIRMATION**

- 3.1** MinDCet can withdraw any quotation at any time whatsoever. All quotations issued by MinDCet are in any case without obligation and shall be solely deemed an invitation for the Client to place an order. An agreement only comes about when a person who is authorised to bind MinDCet in law confirms the Client's order in writing, or when MinDCet starts to implement the order.
- 3.2** MinDCet is free to select the parties with which it wishes to enter into an agreement.

## **4. PRICE**

- 4.1** All prices are exclusive of VAT and are expressed in Euros [and/or US Dollars]. A separate individual price is calculated for every Project, Product and/or Service. This price is only valid for a specific defined Project, Product and/or Service and therefore does not apply to other, even similar Projects, Products and/or Services. Every Project will be divided into several phases. MinDCet will provide a fee estimate per phase. MinDCet reserves the right to revise its estimate for the phases that have not yet been implemented.
- 4.2** All deliveries of Products and/or Services that are not expressly provided for in the special agreement and/or written order confirmation, are deemed to be additional work requested by the Client, and are therefore charged as such to the Client. The Client may request a separate quotation for such additional work. If not, such additional work will be charged to the Client at the prices agreed with the Client in the special agreement and/or written order confirmation.
- 4.3** The following costs are not included and are for the Client's expense, unless expressly agreed otherwise: prices of packaging, transportation and travel costs, including transport insurance, storage costs, costs of carriage, import duties, taxes, levies, etc.
- 4.4** Travel costs are calculated from MinDCet's registered office and are invoiced per movement and on the basis of fixed prices.
- 4.5** Currency fluctuations, increases in prices of materials, auxiliary materials and raw materials, wages, salaries, social security charges, costs imposed by the government, levies and taxes, transportation costs, import and export duties, or insurance premiums, arising between the order confirmation and delivery of sold materials or Services entitle MinDCet to increase the agreed price accordingly.

## **5. OBJECT OF THE AGREEMENT**

- 5.1** The Client is responsible for the timely and structured delivery of all data and information which MinDCet deems necessary or useful for the execution of the Project and/or delivery of the Products or Services, and/or of which the Client should reasonably know that it is necessary or useful for the execution of the Project and/or delivery of the Products or Services. The Client is liable for the accuracy and relevance of the provided data and information. The Client acknowledges and accepts that his cooperation and commitment are decisive for the quality of the Project, Products or Services. The Client consequently commits himself to provide the necessary time and means in function of the Project, Product or Services.

## **6. DELIVERY AND COLLECTION**

- 6.1** Unless explicitly agreed otherwise, the Client must collect the sold goods at his own expense at the location and time indicated by MinDCet. If the Client fails to collect the sold goods within 5 business days, he will be liable for storage expenses of 1% of the entire invoice amount per week. If the scheduled collection date is exceeded by two weeks, MinDCet has the right to declare the special agreement cancelled from the date when the cancellation notice is sent, without notice of default and without judicial intervention. The Client is in that case liable for fixed compensation equal to 30% of the total price for the special agreement that was cancelled, notwithstanding MinDCet's right to prove further damages. If the Parties agree that MinDCet is going to deliver materials outside its company, the materials will travel for the Client's account and risk.
- 6.2** MinDCet will prepare a timetable prior to the execution of the Project or the delivery of the Products or Services. The stated implementation and delivery times are always indicative and are not an essential part of the agreement. If the stated time limit is exceeded, MinDCet and the Client will agree on a reasonable additional time limit. Changes to an order, quotation and/or agreement automatically result in lapse of the proposed expected delivery times.
- 6.3** MinDCet has the right to deliver sold materials in various consignments. Partial implementation or delivery does not result in cancellation of the agreement.
- 6.4** MinDCet is not liable for delays incurred as a result of failures on the part of suppliers to MinDCet, the Client and/or any other third party.

**6.5** In the event any delay is attributable to the Client (whether due to failure on the part of the Client, to a decision by the Client to postpone the agreement, or otherwise), the Client is liable for fixed compensation equal to 30% of the total price for the special agreement that was cancelled, notwithstanding MinDCet's right to prove further damages.

**6.6** Any delay, whether in the original or additional time limit, will not give rise to the cancellation of the order or to any compensation whatsoever to the Client.

## **7. RISK**

Risk to the sold materials transfers to the Client at the time that the agreement is concluded.

## **8. GUARANTEE, COMPLAINTS AND LIABILITY**

**8.1** MinDCet will use its best efforts to execute the Project and/or deliver the Products or Services as agreed. MinDCet does not commit itself to achieve any results (no obligation of result).

**8.2** The Client shall carry out an initial check immediately on collection and/or delivery of Materials. The Client shall also carry out an initial check immediately after each implementation phase of a Project. This immediate compulsory check concerns among other things (this list is purely an example) the quantity and weight, compliance of the delivery, correct location(s), the full and/or correct execution of the order or implementation phase of the Project, use of correct data, visible defects on the delivered Products, etc.

The Client will note immediately apparent deviations on the delivery note, failing which he will be deemed to have accepted the Materials as agreed.

**8.3** The Client shall carry out a thorough inspection of the Materials and their implementation during the first month after delivery and/or collection as well as during the first month after each implementation phase of a Project.

Making use of or processing of the Materials after one month has lapsed after delivery/collection respectively the finalization of an implementation phase, is deemed to constitute approval and acceptance and final handover of Materials as delivered and/or collected.

**8.4** The Client forfeits the right to rely on non-compliance or defects in Materials, unless he notifies MinDCet by registered letter thereof within 24 hours of discovering or after he should have discovered the non-compliance or defect, stating the invoice number and/or the number on the delivery note, with precise identification of the Materials and a detailed statement of the non-compliance or the defect.

**8.5** The Client will in any case forfeit the right to invoke non-compliance or defects in the Products, unless he notifies MinDCet thereof at the latest within a time limit of one year starting from the date of delivery/collection of the Products. The time limit of one year can be extended in the event the Client enters into a service agreement with MinDCet. With respect to the Materials, other than the Products, the Client will in any case forfeit the right to invoke non-compliance or defects unless he notifies MinDCet thereof at the latest within a time limit of 3 months starting from the date of the final invoice in the manner set out above.

**8.6** The guarantees set forth in this article do not apply to the commercial measuring equipment included in the Products.

**8.7** MinDCet will under no circumstances be held liable for any damage incurred during transport, incorrect use of sold Materials, damage caused by the Client and/or third parties, and/or failure of the Client to comply with statutory and/or other obligations. MinDCet will under no circumstances be obliged to compensate indirect damage (including but not limited to the loss of profit), or damage that exceeds the amount of the last invoice.

**8.8** MinDCet will under no circumstances be held liable for mistakes attributable to incorrect, incomplete or untimely information or data notified by the Client; for any damage resulting from changes made by the Client or a third party to the documents, overviews, designs, calculations and/or other Products resulting from Services performed by MinDCet; for the use of these documents, overviews, designs, calculations and/or other Products; and/or for the non-compliance by the Client of legal or other obligations. The guarantees relating to the Products are subject to their being used within the safe operating area and provided the anti-tamper seal is intact. The guarantees respecting the functioning of any chips integrated in the Product are subject to the correct use of the chip as set forth in the data sheet provided to the Client at delivery/collection of the Product, whereby the burden of proof lies with the Client.

**8.9** In case non-compliance or defects are notified on time and correctly, MinDCet will at its own discretion: (1) replace or correct the non-compliant or faulty documents, designs, Materials or parts of Materials or other Products, re-execute the Project or re-deliver the Services; or (2) compensate for the non-compliance or fault. In the event of (partial) replacement of Materials in connection with non-compliance or fault that is covered by a guarantee set out in the agreement or these General Terms and Conditions, the work hours and travel costs, etc. (this list is merely given as an example) are for the Client's expense.

**8.10** The Client shall under no circumstances return Materials or buy goods to replace those to which the contract relates. The Client shall under no circumstances contract third parties to correct the Materials or to execute the Services or Projects.

**8.11** MinDCet reserves the right to examine the defects and investigate the causes on site with the Client, either itself or through a representative.

**8.12** Complaints do not in any case release the Client from his payment obligations within the stated time limit under these General Terms and Conditions, the quotation, the agreement and/or the invoice.

The Client is required to compensate costs incurred in connection with unjustified complaints.

## **9. CLIENT'S OBLIGATIONS**

**9.1** The Client is responsible for:

- notifying MinDCet prior to delivery of Materials of possible standards and statutory regulations which the Materials need to fulfil;
- complying with all safety and health regulations in its work place;
- taking out the necessary insurance policies, including in relation to (this list is merely given as an example): transportation, retention of title as set out in Article 11.3 of these General Terms and Conditions, safety and health, etc.

The Client will send MinDCet on first request a copy of the policies and proofs of payment for the above-mentioned insurance policies.

**9.2** If the Client does not comply with these obligations, MinDCet reserves the right to suspend the agreement. Costs associated with this interruption will be invoiced to the Client. These costs concern, among other things (this list is given purely as an example): additional hours worked, additional transportation and travel costs, re-scheduling costs, etc.

## **10. FORCE MAJEURE AND HARDSHIP/IMPREVISIE**

**10.1** MinDCet is not liable for any shortcoming in the performance of any obligation caused by force majeure or hardship/imprevisie.

**10.2** In case of force majeure or hardship/imprevisie MinDCet may at its discretion (1) temporarily suspend performance of its obligations; (2) cancel the agreement by registered letter; and/or (3) invite the Client to renegotiate the agreement.

If the Client does not participate in good faith in the renegotiation, MinDCet may, in accordance with Article 19 of these General Terms and Conditions, request one or more arbitrators to decide new contractual conditions and/or order the Client to pay compensation.

- 10.3** By force majeure and hardship/imprevisie are understood, among other things (this list is purely given as an example): unavailability/scarcity of (raw) materials, ice formation, exceptional weather conditions, strikes, mobilisation, wars, disease or accidents, communication and information technology breakdowns, government measures, export bans, delays in deliveries, transport and/or travel obstacles, including lack or withdrawal of transport facilities, export obstacles, import obstacles, breakdowns, traffic jams, illness, etc.

## **11. BILLING AND PAYMENT**

- 11.1** The Client shall notify any complaints concerning invoices in writing within three business days after receipt of the invoice.
- 11.2** All invoices are payable in cash within 30 days after the date of the invoice by transfer to the bank account number stated on the invoice. No discount will be granted for cash payments. Medium-term Projects will be invoiced on a monthly basis. Long-term Projects will require an advance payment (as set out below) and will be invoiced on the basis of milestones. The Client is not allowed to make payments to intermediaries. Only receipts signed by persons authorised to bind MinDCet in law are valid.
- 11.3** MinDCet reserves the right to request an advance payment or a bank guarantee from the Client for orders and/or assignments for a value exceeding EUR or USD 100,000, VAT excluded, before implementing the agreement.
- 11.4** In case of non-payment or incomplete payment on the due date of one invoice:
- interest at 10%, capitalised annually, will become payable, by force of law and without notice of default;
  - the Client will be liable for fixed compensation equal to 10% of the invoice amount, with a minimum of two thousand five hundred euros (€ 2,500), notwithstanding MinDCet's right to prove further damages.
  - the Client is liable for all collection costs in court and otherwise, including lawyers' fees;
  - all other invoices, even those that have not fallen due, issued by MinDCet to the Client will immediately become due and payable;
  - MinDCet will have the right to take back all Materials already delivered and/or collected, to suspend further implementation of the relevant and/or one or more other agreements with the Client, and/or cancel these by registered letter, without requiring notice of default or judicial intervention.
- 11.5** Acceptance of partial payment is subject to reservation of all rights and will be charged in the following order: (1) collection costs, (2) compensation for damages, (3) interest, (4) principal amounts.

## **12. CANCELLATION**

- 12.1** Subject to the express written agreement of MinDCet, the Client is not allowed to cancel the agreement.
- 12.2** In the event that an order is partially cancelled by or on behalf of the Client, even with the express written agreement of MinDCet, the Client will be obliged to pay fixed compensation in the amount of 30% of the price relating to the cancelled parts of the order, without prejudice to MinDCet's express right to claim higher compensation on submission of proof.
- 12.3** In the event that an order is fully cancelled by or on behalf of the Client, even with the express written agreement of MinDCet, the Client will be obliged to pay fixed compensation in the amount of 30% of the total price, without prejudice to MinDCet's express right to claim higher compensation on submission of proof.

## **13. SUBCONTRACTING**

- 13.1** If necessary, the execution of a Project, the production of Products and/or delivery of Services will take place in cooperation with a third contracting party. Such third contracting party can be recommended by the Client or by MinDCet, depending on the agreement. MinDCet is in no event liable for the products or services delivered by such third contracting party.
- 13.2** In order to check the quality of the services delivered by the subcontractor, the communication between the subcontractor and the principal will at all times take place through MinDCet.
- 13.3** In the event MinDCet acts as subcontractor, MinDCet has a direct claim vis-à-vis the principal in the amount of what the principal owes to the contracting party – main contractor at the time the claim is filed and this in conformity with Article 1798 of the Belgian Civil Code.
- 13.4** Furthermore, in the event MinDCet acts as subcontractor, it has a pledge right on all receivables of the contracting party – main contractor resulting from the subcontracting agreement relating to the work for which MinDCet was involved as subcontractor.
- 13.5** The direct claim and pledge right mentioned in this article do not only relate to the respective receivables, but also to their accessories, such as the interests for late payment and possible compensation relating to a penalty clause.

## **14. RETENTION OF TITLE**

- 14.1** Rights of ownership to sold materials only transfer to the Client at the time of full payment of the price, costs, interest and all other related amounts.
- 14.2** The Client must do what can be reasonably expected of him to secure ownership rights to unpaid materials. If third parties seize materials or wish to establish or enforce rights to materials, the Client is obliged to notify MinDCet immediately.
- 14.3** The Client also undertakes to insure unpaid materials against fire, explosion, water damage and theft. The Client grants MinDCet consent to examine on first request the policies and proofs of payment for the above-mentioned insurance policies. Any pay-out from such insurance policies is for the benefit of MinDCet.
- 14.4** If the Client does not comply with his obligations, or if MinDCet suspects that the Client will not comply with his obligations, the Client shall return the materials within 24 hours on demand to MinDCet for his own account and risk. The exercise of this right will result in immediate and automatic cancellation of the agreement.
- 14.5** In case of a breach of the retention of title clause, MinDCet will automatically acquire a right of pledge to the sale price that is realised for the materials, and the Client will be liable for fixed compensation equal to 30% of the total price for the special agreement that was cancelled.

## **15. FORFEITURE OF RIGHTS**

If MinDCet fails, even repeatedly, to enforce any right, this can only be deemed toleration of a certain situation and will not result in forfeiture of rights.

## **16. NETTING**

- 16.1** In accordance with the Belgian Act on Financial Guarantees of 15 December 2004, MinDCet and the Client will automatically set off all currently existing and future debts towards each other by operation of law. This means that in the long-term relationship between MinDCet and the Client the largest amount receivable will always remain on balance after the above-mentioned automatic set-off.
- 16.2** This set-off will in all events be enforceable against any trustee in bankruptcy and other joint creditors, who will therefore not be able to object to the set-off performed by the Client and MinDCet.

## **17. SUSPENSION AND CANCELLATION**

- 17.1** In case of any change to the situation of the Client, such as decease, conversion, merger, takeover, transfer, liquidation, suspension of payments, collective composition or out of court settlement, application for postponement of payment, closing down of activities, seizure or any other circumstance that could harm confidence in the Client's creditworthiness, MinDCet reserves the right simply for that reason: either to suspend execution of one or more agreements with the Client until the Client has offered sufficient payment guarantees; or to declare one or more agreements with the Client cancelled from the date of sending the cancellation, without prior notice of default and without recourse to a court of law, without prejudice to the right of MinDCet to claim additional compensation.

## **18. CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

- 18.1** Any documents, plans, drawings, calculations, images, know-how and information of any nature whatsoever provided to the Client by MinDCet, its employees, consultants or subcontractors during the negotiations, execution or delivery of Projects, Products and/or Services (the "Confidential Information"), must be treated as confidential. The Confidential Information must be returned at MinDCet's first request. The obligation to observe confidentiality also continues after the end of the agreement, at least until all information in question has entered the public domain without the fault of the Client.
- 18.2** Any intellectual property rights relating to the Confidential Information as well as to any Products and Services provided to the Client by or in cooperation with MinDCet, its employees, consultants or subcontractors during the negotiations, execution or delivery of Projects, Products or Services, remain the exclusive property of MinDCet and shall not be disclosed to third parties, or used directly or indirectly, wholly or partially for purposes other than those for which they are intended, except with the express written consent of MinDCet.
- 18.3** In the event any intellectual property rights arise as a result of the creation of Products or Services, whether or not in the framework of a Project, MinDCet can grant the Client a non-exclusive and non-transferable licence for the use of such intellectual property right for the period necessary for the execution of the Project or the delivery of the Products or Services. The Client is, however, in no event allowed to separately market the Products or Services created by MinDCet.
- 18.4** With the exception of any licences granted by MinDCet, the delivery of Products and/or Services by MinDCet to the Client does not imply any transfer of intellectual property rights and the compensations paid by the Client to MinDCet do not imply any payment for any transfer of any such right.
- 18.5** The Client expressly acknowledges that it is under no circumstances allowed to perform any reverse engineering on any of MinDCet's Products. In the event the Client breaches this provision, the Client will be obliged to pay a fixed compensation in the amount of 30% of the total purchase price, without prejudice to MinDCet's express right to claim higher compensation on submission of proof.
- 18.6** MinDCet cannot be held liable for possible breaches on other intellectual property rights as a result of the use of its Products or Services. The Client acknowledges and guarantees that MinDCet, by executing the agreement, does not breach any intellectual property or other rights of the Client or of third parties. The Client guarantees that his directors, shareholders, employees, consultants, subcontractors and any third parties will undertake the same confidentiality obligations and that they will comply with the intellectual property provisions set forth in these General Terms and Conditions.

## **19. DISPUTES - MEDIATION**

- 19.1** MinDCet and the Client will apply the CEPANI Rules of Mediation to all disputes arising out of their relation.
- 19.2** Should the mediation fail, the dispute shall be finally settled under the CEPANI Rules of Arbitration, by one arbitrator appointed in accordance with those rules. The seat of arbitration is Leuven. The arbitration will be conducted in the Dutch language.

## **20. LANGUAGE**

These General Terms and Conditions are available on request and can also be consulted on [www.mindcet.com](http://www.mindcet.com) in English.