

## **GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY (GTCSO)**

### **Intecma B.V.**

Version dated 11 December 2018

#### **Article 1. Definitions**

1. In these GTCSO, the terms and expressions used below have been defined as follows:
  - a) User: Intecma B.V.
  - b) Purchaser: any legal entity or natural person that, acting in a professional or commercial capacity, has entered into, or wishes to enter into, an agreement with Intecma B.V., and also their representatives and authorised agents, as well as their legal successors.
  - c) Terms and Conditions: these GTCSO of Intecma B.V.
  - d) Products: all items that are the subject of an agreement with the client.
  - e) Order: every assignment issued by the Purchaser to Intecma B.V.
  - f) Agreement: any agreement that is formed between the client and the Purchaser, as well as any amendment thereof or addition thereto, as well as any legal and other actions involved in the preparations for and performance of that agreement.
  - g) In writing: signed by the person(s) who is (are) authorised under the articles of association to legally represent the party concerned, unless the term “in writing” is expressly and unambiguously otherwise defined.

#### **Article 2. Scope**

1. These terms and conditions apply to all offers, quotations and agreements of Intecma and all obligations arising from them vis-à-vis the Purchaser.
2. Any General Terms and Conditions of the Purchaser declared to be applicable to an agreement with Intecma or referred to by the Purchaser shall not be accepted by Intecma. The applicability of General Terms and Conditions (of delivery and payment) and/or other terms and conditions of the Purchaser is expressly excluded. The General Terms and Conditions of the Purchaser shall be valid only if and insofar they have been expressly accepted by Intecma and this acceptance has been confirmed in writing to the Purchaser by Intecma.
3. Deviations from or additions to these general terms and conditions will only be binding for Intecma if they have been agreed expressly and in writing before the conclusion of the agreement and have been expressly agreed in writing by Intecma.
4. In writing is understood in these Terms and Conditions also to include electronically if electronic communication has been agreed.
5. Intecma is entitled at any time to unilaterally make amendments or additions to these Terms and Conditions and/or to apply new terms and conditions. Intecma shall inform the Purchaser of such amendment(s) or addition(s) and/or new terms and conditions 10 working days in advance.

6. If and insofar as a provision in these GTCSD is void or voidable, the other general provisions shall continue to be valid in full. If and insofar as these general terms and conditions do not provide for a provision or if there is uncertainty concerning a provision, this omission, or this ambiguous provision, should be interpreted 'in the spirit' of these general provisions.
7. The GTCSD of Intecma have been notified to the Purchaser in advance and can be viewed at any time via the website of Intecma ([www.intecma.nl](http://www.intecma.nl)), where they are also available for download as a PDF file. These Terms and Conditions will be sent free of charge at the Purchaser's request.
8. Everything stipulated in these Terms and Conditions and in agreements with Intecma is likewise stipulated for any intermediaries and other third parties engaged by Intecma.
9. If there is any uncertainty regarding the translation of these general terms and conditions, the Dutch text of the general terms and conditions shall prevail.

### **Article 3. Offers and contracts**

1. Offers and/or quotations issued by Intecma are non-binding, as are all statements concerning technical characteristics and suchlike, and cannot lead to any obligation for Intecma.
2. Offers and/or quotations are valid only if they have been issued in writing and during the term stated in the offer and/or quotation. If the offer and/or quotation does not state a term, the offer and/or quotation shall be valid for 10 calendar days.
3. During the term for which the offer is valid, offers shall be valid for as long as the products concerned can be delivered.
4. Images, drawings, dimensions, weights and prices of the products to be delivered are shown as accurately as possible on the website. Models or samples shown or provided or drawings in advertising materials are only intended as indications of the products concerned and shall in no case be binding for Intecma. The aforementioned indications of the products cannot be invoked by the Purchaser. Intecma shall however in no case be liable for any errors and/or deviations in them or their consequences.
5. Offers/quotations can only be accepted in writing (which also includes acceptance by electronic means or by fax). Intecma is nonetheless entitled to accept an oral acceptance.

### **Article 4. Agreement**

1. An agreement is formed if and insofar as Intecma accepts an order in writing or Intecma proceeds to complete the order. Intecma is entitled at any time not to accept an order, without being obliged to state any reason and without being liable for any form of compensation for damage or other compensation.
2. All agreements are entered into subject to the resolutive condition that the Purchaser proves to be sufficiently creditworthy with regard to the order(s) placed by the Purchaser, based on the (final) assessment by Intecma within 15 working days after the time described in article 4.1.
3. All agreements are entered into subject to the suspensive condition that the Purchaser has fulfilled the obligations under any agreement(s) concluded previously between Intecma and the Purchaser.
4. From the time when Intecma has accepted an order in writing or has completed the order, the agreement concluded shall be binding and entail a payment obligation on the part of the Purchaser. The Purchaser can no longer cancel that agreement. In the event of force majeure on the part of the Purchaser, the Purchaser

must notify Intecma of this immediately and Intecma may by way of exception nonetheless decide to cancel the agreement, subject to payment of 50% of the original purchase price by the Purchaser and compensation for any damage incurred by Intecma.

**Article 5. Prices and payment**

1. The prices for the products and/or services offered are stated in euros. Prices always exclude VAT/turnover tax, any other taxes and/or levies and shipping costs, postal charges and packaging costs, unless otherwise stated or agreed in writing. Any handling and/or shipping costs will be charged separately.
2. The prices are based on the circumstances applying to Intecma at the time of the agreement, such as - but not limited to - legal requirements, wages, costs of raw materials and other materials, purchase prices, excise duties, import and export duties, exchange rates, levies and taxes levied directly or indirectly on Intecma or charged to Intecma by third parties and/or other factors that affect the price for any reason whatsoever. If those circumstances change after the agreement has been concluded, but before delivery, Intecma is entitled to pass on to the Purchaser the costs arising therefrom by means of a price increase. If this applies, Intecma shall notify the Purchaser of the changes as soon as possible.
3. Notwithstanding the provisions of the preceding paragraph, Intecma is entitled at any time to increase the prices, by a maximum of 15% per calendar year. Intecma shall notify the Purchaser as soon as possible, and no later than 30 calendar days in advance, of this price increase. If the other party is a natural person, not acting in a professional or commercial capacity, this other party is entitled, in the event of a price increase, as referred to in paragraph 6 of this article, within three months after the agreement is concluded, to dissolve the purchase agreement in writing, unless the parties have stipulated that the delivery will take place three months after the purchase.
4. Payment of the invoices of Intecma must be made by the Purchaser to Intecma within 30 days after the invoice date, in full and without any deduction, withholding, discount or set-off, unless expressly agreed otherwise in writing.
5. Intecma is entitled to change the payment term stated in article 5.4 if this is indicated, in its view, due to information on creditworthiness or other reasons.
6. Upon receipt of the full payment due from the Purchaser of an invoice within 14 days after the invoice date, Intecma shall, on the Purchaser's request, grant a discount of 2% on the net invoice amount of the invoice concerned excluding VAT.
7. If the Purchaser has failed to pay on time, the Purchaser shall be in default by operation of law, without any notice of default being required, and any claims of Intecma with regard to the Purchaser will become immediately due and payable.
8. In that case the Purchaser shall owe, on all amounts that have not been paid by the last day of the payment term at the latest, default interest from that date equal to the statutory commercial interest rate applicable in the Netherlands at that time (as referred to in Section 6:119a of the Dutch civil code), plus an increase of 8 percentage points.
9. If the Purchaser is in default in respect of Intecma with regard to any obligation, the Purchaser shall be obliged to repay in full to Intecma the judicial and extrajudicial costs, including the costs of legal assistance and advice prior to the proceedings. The extrajudicial costs payable by the Purchaser are set at a

minimum of 15% of the amount payable by the Purchaser to INTECMA B.V. on demand, subject to a minimum of € 300 excl. VAT.

10. In the event that the Purchaser is in default in fulfilling the obligations under the agreement, or fails to do so on time, all extrajudicial costs reasonably incurred to collect payment shall be charged to the Purchaser. The Graduated Scale for Extrajudicial Collection Costs is applied for that purpose. The Purchaser will owe interest on the collection costs payable.
11. Disagreement on the invoice amount payable shall not suspend the payment obligation of the Purchaser.

**Article 6. Retention of title**

1. All items delivered by Intecma remain the property of the user until the other party has properly fulfilled all obligations arising from the agreement(s) concluded with the user. The ownership of the products will only pass to the Purchaser after fulfilment in full of all obligations, including the payment obligation(s), by the Purchaser in respect of INTECMA B.V.
2. The parties agree that, if the law of the country of destination of the purchased items applies further-reaching possibilities for the retention of title than provided above in paragraph 1, these further-reaching possibilities will be deemed to have been stipulated on behalf of Intecma, on the understanding that if it is not possible to determine objectively to which further-reaching rules this provision relates, the provisions in paragraph 1 above and the remainder of this article shall continue to apply.
3. Before the ownership of the products has passed to the Purchaser, the Purchaser shall not be entitled to pledge the products, otherwise to alienate or encumber them or to grant rights thereto to third parties.
4. In the event of a moratorium or bankruptcy on the part of the Purchaser, Intecma shall be free to terminate the agreement, without any obligation to pay compensation or any right to indemnification.
5. If Intecma wishes to exercise its ownership rights, the Purchaser hereby gives Intecma unconditional and irrevocable permission in advance to access the places where the item delivered is located and to effectuate its ownership right.
6. In the event that a third party levies attachment on items delivered subject to retention of title or a third party wishes to establish or lay claim to rights to those items, the Purchaser shall be obliged to notify Intecma of this immediately. In addition, the Purchaser shall immediately inform the bailiff levying the attachment, the administrator or the trustee of the ownership or other rights of Intecma. The Purchaser shall ensure and guarantee that any attachment on the products will be lifted without delay.
7. If the Purchaser has an insurance with regard to the item delivered, in the event of damage for which a payment is made by the insurer, the proceeds thereof shall accrue to Intecma.
8. The Purchaser is expressly not permitted to invoke a right of retention with regard to the custody costs and to set off those costs against the performance to be delivered by it.

**Article 7. Delivery/passing of risk**

1. Delivery will take place to the agreed location and at the agreed time. Unless otherwise agreed, delivery will take place DAP (Delivered at Place) in accordance with the latest Incoterms.

2. Intecma is entitled to make partial deliveries provided these do not lead an increase in costs for the Purchaser.
3. The risk relating to the products will pass to the Purchaser at the time of delivery. Delivery is deemed to have taken place as soon as the products have been offered to the Purchaser and the Purchaser (or a member of its staff) has signed to confirm their receipt. Delivery is also deemed to have taken place as soon as the Purchaser (or a member of its staff) has signed to confirm receipt of the products offered by Intecma, but that delivery proved to be impossible in Intecma's judgement.
4. If delivery of the products by Intecma has proved to be impossible (in Intecma's judgement), the Purchaser shall be in default without any notice of default being required and the Purchaser shall be obliged to compensate for any damage arising therefrom. Intecma is entitled in that case to store the products at Intecma for the account and risk of the Purchaser, notwithstanding the Purchaser's obligation to pay the invoice amount due on the due date and also notwithstanding the provisions in article 6 concerning retention of title. Intecma can in that case also opt to deliver the products to third parties, on the understanding that the Purchaser will, apart from the damage caused and storage costs as referred to above, pay for the difference in the invoice amounts.

**Article 8. Delivery times**

1. The stated delivery terms are approximate and are based on the circumstances applying for Intecma at the time when they are stated. This delivery term will be observed to the greatest possible extent by Intecma.
2. If Intecma requires data or equipment for the performance of the agreement that need to be provided by the Purchaser, the delivery term can in no case commence earlier than the day on which all required data or equipment are in Intecma's possession.
3. Intecma is entitled to defer delivery. If the delivery term is exceeded, the Purchaser shall not be entitled to any compensation for damage or other compensation. Nor shall the Purchaser be entitled in that case to any dissolution of the agreement, unless the non-compliance with the delivery term for the products concerned is such that the Purchaser cannot be reasonably expected to leave the part concerned of the agreement intact. The Purchaser shall in that case be entitled to dissolve the agreement, but only insofar as it relates to the products delivered too late/to be delivered as referred to above.

**Article 9. Products sent on approval**

1. If products are sent on approval at the Purchaser's request, the Purchaser must notify Intecma in writing, no later than 14 days after the date of the accompanying corresponding invoice or note, whether it wishes to retain all or part of the products received on approval.
2. If that is the case, the date on which the agreement is formed shall be deemed to be the date on which Intecma received the notification in writing concerning the retention of all or part of the products sent on approval.
3. Products sent on approval that are not retained must be returned by the Purchaser no later than 14 days after the date of the accompanying corresponding invoice or note, in their original condition, form of assembly and packaging with the original labels by registered delivery carriage paid, together with a written statement.

4. If Intecma does not receive notification in writing from the Purchaser during the maximum term of 14 days regarding products sent on approval, the first day after this term shall be deemed to be the day on which the agreement was formed, comprising the purchase by the Purchaser of all products stated on the accompanying corresponding invoice or note.
5. Both in the case of article 9.2 and 9.4, the applicable price shall be the price stated on the accompanying corresponding invoice.
6. The postal charges and/or handling costs for products sent on approval will be charged to the Purchaser.
7. Products sent on approval may not be disassembled.
8. The Purchaser is required to treat the products sent on approval prudently and to guarantee this. Any damage and suchlike that arose due to and/or during the stay of products sent on approval at the Purchaser shall be at for its account, as will be any costs for new assembly. Products sent on approval that are damaged to such an extent that they are no longer suitable for sale will not be taken back by Intecma. All additional (handling) costs that Intecma is required to incur to make the products ready for use again shall be for the account of the Purchaser.
9. In the case of products sent on approval, the Purchaser is obliged to adequately insure these for, as a minimum, theft, damage, burglary and robbery.

**Article 10. Trademarks / intellectual property rights / advertising materials**

1. The Purchaser does not acquire by virtue of the agreement any right of intellectual and/or industrial property with regard to the products and services.
2. Intecma declares that to the best of its knowledge, the projects do not infringe any third-party intellectual property rights applicable in the Netherlands.
3. The Purchaser undertakes to use any (trade)mark, any trade name or any brand that is used by Intecma, of which the aforementioned trademarks and trade names are part and which are owned by Intecma, only for transactions relating to the products delivered by Intecma.
4. The Purchaser is not permitted to remove or make additions or changes to any trademark, registration number, letters, numbers and/or designations that have been affixed by Intecma on the product and on the packaging.
5. The Purchaser is not permitted to carry products in its range that, in terms of model and/or 'technical' specifications, infringe or may infringe the design rights and/or other intellectual and industrial property rights of Intecma.
6. Designs, drawings and/or models may be subject to intellectual and industrial property rights of Intecma, which will continue to be owned by Intecma, even if development costs have been charged to the Purchaser, unless expressly agreed otherwise between the parties. The Purchaser shall respect in full and unconditionally all intellectual and/or industrial property rights on the products delivered by Intecma.
7. The Purchaser is therefore not permitted to copy and/or reproduce a product, in full or in part, in the original or modified form or in any way whatsoever. The above applies unless expressly agreed otherwise in writing between the parties.
8. Any advertising material, in the broadest sense, provided to the Purchaser shall remain the inalienable property of Intecma and may be reclaimed by Intecma at any time, even if a contribution to the costs has

been paid by the Purchaser, unconditionally and therefore also without repayment of any contributions paid by the Purchaser and the costs thereof.

9. The Purchaser shall inform Intecma immediately of any third-party claim concerning an infringement of intellectual and/or industrial property rights in relation to the products. In the event of such a claim, only Intecma or a supplier to be assigned by Intecma shall be authorised to - partly on behalf of the Purchaser - put forward a defence against this or take legal action against that third party, or reach an amicable settlement with that third party. In all cases, the Purchaser shall provide its cooperation to Intecma at the latter's request, on penalty of liability of the Purchaser for the damage arising from a failure to provide cooperation with regard to the (reasonable) requests of Intecma.

#### **Article 11. Guarantees**

1. The items from Intecma that are delivered shall not be defective and at the time of delivery shall meet the requirements that can reasonably be imposed on them and for which they are intended in normal use.
2. Insofar as a guarantee is provided by Intecma, that guarantee shall not extend beyond delivering new parts (to replace what is defective). Expressed in money, it shall amount at most to the invoice value of the items delivered, insofar as the items delivered are defective. In the case of a factory guarantee, that guarantee shall apply for the Purchaser with Intecma as intermediary.
3. If defects of the items become apparent more than two years after delivery, Intecma shall in no case be liable for this, unless this is precluded by the nature of the product.
4. Every form of guarantee shall lapse if the defect arose as a consequence of incorrect assembly, or improper or injudicious use of the products of Intecma. The guarantee shall also lapse if the Purchaser itself or third parties have made modifications to the items delivered. In addition, the guarantee cannot be invoked if the defect arises due to or as a consequence of circumstances beyond Intecma's control.

#### **Article 12. Complaints**

1. The Purchaser is obliged to carefully check the products immediately upon delivery to determine whether the correct number and the correct type have been delivered in accordance with the shipping documents. In addition, the Purchaser is obliged to carefully check the products immediately upon delivery for visible defects and for damage.
2. Complaints concerning the products must be reported in writing to Intecma by the Purchaser without delay but no later than 14 calendar days after delivery of the products, on penalty of the lapse of the right to submit a complaint.
3. The report on the complaint must be submitted to Intecma in writing, stating the serial number of the soft starter.
4. Intecma is not obliged to proceed to consider complaints relating to deviations concerning the products delivered that reach it later than 14 calendar days after receipt of the products by the Purchaser.
5. After identifying any defect, the Purchaser shall be obliged to immediately discontinue, or arrange for the discontinuation of, the use, the modification and/or the processing of the products concerned and in addition to do or omit everything that is reasonably possible to prevent damage or further damage.

6. The Purchaser shall provide every cooperation necessary for investigating the complaint, which shall include giving Intecma the opportunity to proceed to or arrange for the launching of an investigation into the circumstances of the use, the modification and/or processing.
7. If the Purchaser fails to provide its cooperation or investigation is not (any longer) possible for Intecma for other reasons, the complaint will not be considered and the Purchaser shall not be entitled to any claims in this regard. If the complaint is determined to be unfounded by Intecma, the costs of the investigation of the complaint shall be for the account of the Purchaser.
8. The Purchaser cannot derive any rights from the fact that Intecma proceeded to the consideration of a complaint.
9. The Purchaser is not free to return the products before Intecma has agreed to this in writing. Reasonable costs of return shall only be for the account of Intecma if the complaint was made on time and correctly and was justified.
10. If the Purchaser's complaint concerning defects of a product was made on time and correctly and was justified, the liability arising therefrom shall be expressly limited to what is provided in articles 11 and 13.
11. The guarantee expressly does not cover damage caused by normal use and/or wear and tear, water damage (unless and insofar as it has been expressly stated by Intecma that the product is 'waterproof ' and/or 'wasserdicht', which expressly does not include the term 'waterresistant' or related terms) and damage that does not originate in a manufacturing defect.
12. If Intecma delivers products to the Purchaser that Intecma obtained from its suppliers, Intecma shall in no case be obliged to provide a further-reaching guarantee in respect of the Purchaser than that which Intecma is able to invoke in respect of its suppliers.
13. Return shipments will only be accepted if the product is in the packaging of the product and both the product and the packaging are in an intact, complete, undamaged, clean, unused and original condition. This shall be assessed by the user. In addition, all user instructions and/or accessories must be returned in the aforementioned condition.

### **Article 13. Liability and indemnification**

1. Intecma shall not be liable for damage to the products other than with due observance of the provisions of article 11.
2. Intecma shall not be liable for misunderstandings, mutilations, delays or deficient conveyance of orders, regardless of the reason for this, and communications in the interaction between Intecma and the Purchaser, or between Intecma and third parties, insofar as these relate to the relationship between Intecma and the Purchaser, unless and insofar as intent or gross negligence applies on the part of Intecma.
3. Notwithstanding what is otherwise provided in these Terms and Conditions, the contractual and legal liability of Intecma shall in any case be limited at all times to the amount of the agreed price of the product and/or the service delivered in respect of which that liability is claimed to have arisen.
4. Intecma shall, if an assignment for custom manufacture has been issued to it, or if products have been provided to it for repair, modification or processing, solely be liable for damage that is claimed to have been caused by intent or gross negligence on its part.



5. Intecma shall not be liable, neither pursuant to the law nor pursuant to an agreement, for consequential damage that the Purchaser or a third party may suffer in connection with the performance of the agreement by Intecma and/or (the use of) the products, including business interruption losses and immaterial damage.
6. Unless the damage was caused by intent or gross negligence on the part of Intecma, the Purchaser shall indemnify Intecma against any third-party claims on any grounds whatsoever, including compensation for damage, costs or interests, directly or indirectly related to (the use of) products and shall compensate Intecma for any damage, including costs of (legal) advisers, that Intecma suffers as a consequence of such agreements.

**Article 14. Force majeure**

1. If Intecma is impeded as a result of a circumstance that cannot be culpably attributed to it, and that is not for its account according to the law, a legal act or generally accepted standards, Intecma shall not be obliged to comply with any obligation in respect of the Purchaser.
2. Force majeure is understood to be a non-attributable failure on the part of Intecma as a result of which fulfilment of an obligation becomes impossible, that is not culpably attributable to Intecma or the Purchaser and that should not be for their account.
3. If the aforesaid force majeure continues for longer than two months, both parties shall be entitled to dissolve the agreement in writing, without one of the parties being liable to pay compensation or grant indemnification to the other party.

**Article 15. Suspension, dissolution and premature termination**

1. The user is entitled to suspend the fulfilment of its obligations, or to dissolve the agreement, if the other party fails to fulfil the obligations under the agreement, fails to do so in full or fails to do so on time. In that case, the other party shall be obliged to compensate the user for the costs and damage arising from this, including financial loss.
2. If the dissolution is attributable to the other party, the other party shall be obliged to compensate the user for the (direct and indirect) damage that has arisen.
3. If the user suspends or dissolves (a part of) the agreement, the user shall not be obliged in any way to compensate the other party for any damage caused thereby. However, the other party
4. is obliged to provide compensation for damage if the other party proceeds to suspend or dissolve (a part of) the agreement.
5. Premature termination by the other party will result in an obligation for the other party to compensate the user for damage.

**Article 16. Amendments to and deviations from the Terms and Conditions**

1. Deviations from these Terms and Conditions shall only be valid if these have been confirmed in writing by Intecma.
2. In the event of any conflict between the agreement and these Terms and Conditions, the agreement shall prevail at all times, unless expressly stated otherwise in the agreement.

3. In the event of any deviations from one or more provisions of these Terms and Conditions, the other provisions shall continue to apply in full.
4. If, during a shorter or longer period, deviations from these Terms and Conditions on any point and/or part have been expressly or tacitly permitted by Intecma, this shall not alter the right of Intecma to immediate and strict compliance with these Terms and Conditions in the future. Even if Intecma has not exercised, or not exercised in full, one or more of its rights under these Terms and Conditions during a period, the Purchaser cannot derive any rights therefrom for the future.

**Article 17. Applicable law and competent court**

1. Dutch law shall be applicable to any disputes that may arise in which Intecma is a party, regardless of the place where the dispute arose.
2. The competent court in Breda has exclusive jurisdiction to hear disputes, unless this is precluded by provisions of mandatory law. If Intecma wishes, Intecma may submit the dispute to another competent court.

**Article 18. Authentic language**

In the event of conflict between the Dutch text of these Terms and Conditions and the English translation thereof, the Dutch text shall prevail.