

Venom International BV
Rotterdam, The Netherlands

COC:Rotterdam: 24399859
VAT number: NL816204913B01
Account number: 1239 98 816
BIC: RABONL2U
IBAN: NL93 RABO 1239 98 816

Contact: info@venomsnow.com

TERMS AND CONDITIONS OF COMMERCIAL SALE

1. OFFER, CONFIRMATION OR AGREEMENT

These terms and conditions of commercial sale (the "Terms and Conditions") apply to and form an integral part of:

- (a) all quotations and offers (hereinafter both referred to as ("Offer") of Venom International B.V. ("Venom") to Buyer,
 - (b) all acceptances, acknowledgements or confirmations by Venom (hereinafter all referred to as ("Confirmation") of any order of Buyer, including without limitation orders of Buyer resulting from any pricing- or other framework agreement between any Buyer and Venom, unless explicitly agreed otherwise in writing between Venom and Buyer,
 - (c) any agreement resulting from such Offer or Confirmation and
 - (d) any agreement incorporating these Terms and Condition by reference (both types of agreements referred to under (c) and (d) shall hereinafter be referred to as an "Agreement")
- regarding the sale by Venom and purchase by Buyer of goods ("Products"), unless Venom explicitly agrees in writing to the exclusion hereof.

These Terms and Conditions shall constitute all of the terms and conditions of any Offer, Confirmation and Agreement between Venom and Buyer relating to the sale by Venom and purchase by Buyer of Products. Any terms and conditions set forth on any document or documents issued by Buyer either before or after issuance of any document by Venom setting forth or referring to these Terms and Conditions are hereby explicitly rejected and disregarded by Venom, and any such document shall be wholly inapplicable to any sale made by Venom and shall not be binding in any way on Venom. No Offer, Confirmation or Agreement constitutes an acceptance by Venom of any other terms and conditions and Venom does not intend to enter into an Agreement other than under these Terms and Conditions.

Any Offer is expressly made conditional on Buyer's assent to all of the terms contained in the Offer without deviation. Acceptance by Buyer of an Offer may be evidenced by

- (i) Buyer's written or verbal assent or the written or verbal assent of any representative of Buyer,
- (ii) Buyer's acceptance of delivery of the Products or payment of purchase price for the first installment of the Products (if applicable), or any such acceptance by any representative of Buyer, or
- (iii) other conduct by Buyer or any representative of Buyer consistent with acceptance of the Offer.

If Venom receives an order from Buyer for the sale by Venom and purchase by Buyer of Products and such order is not a response to an Offer by Venom, or if Venom receives an order or acceptance by Buyer which deviates from Venom's Offer, such order or acceptance, respectively, shall be deemed to be a request for an Offer only. An acceptance by Buyer of any Offer made by an order gatherer, liaison officer, agent or sales representative for Venom shall first constitute an Agreement between Venom and Buyer upon explicit Confirmation by Venom itself.

The Buyer and/or Seller are bound to agreements made by the authorised individuals and by individuals whom the Seller and/or Buyer accepted as being authorised.

2. PRICES, INVOICING AND PAYMENT

Prices in any Offer, Confirmation or Agreement are in euros, unless agreed otherwise in writing between Buyer and Venom and do not include any taxes, duties or similar levies, now or hereafter enacted, applicable to the Products. Venom will add taxes, duties and similar levies to the sales price where Venom is required by law to pay or collect them and will be paid by Buyer together with the price.

The agreement will only be deemed effective upon reception of the wired mount T/T.

All payments shall be made to the designated address as supplied by Venom. Regardless of T/T amounts payable upfront, deliveries can be made in installments, hence each installment may be separately invoiced, and shall be paid for when due. No discount is allowed for early payment unless agreed to in writing by Venom. Interest will accrue on all late payments, at the rate of 18% per annum or the applicable statutory rate, whichever is higher and to the extent

All deliveries and performance of work agreed to by Venom shall at all times be subject to credit approval of Venom. If, in Venom's judgment, Buyer's financial condition at any time does not justify production, performance of work or delivery on the above payment terms, Venom may require full or partial payment in advance or other payment terms as condition for delivery, and Venom may suspend, delay or cancel any credit, delivery or any other performance by Venom.

Buyer shall not offset, withhold or reduce any payment(s) due by it to Venom. The payment of fees and charges is a covenant of Buyer that is independent of the other covenants made by the parties hereunder.

if Venom incurs exchange rate losses due to Buyer's failure to pay when payments are due, Venom shall be entitled to equivalent compensation from Buyer for such losses.

In the event of any default by Buyer in the payment of any fees or charges due, or any other default by Buyer, Venom shall have the right to refuse performance of any work and delivery of any Products until payments are brought current and Venom may suspend, delay or cancel any credit, delivery or any other performance by Venom. Such right shall be in addition to, and not in lieu of, any other rights and remedies available under the Agreement or at law or in equity.

3. DELIVERY

- (a) Products shall be delivered at the agreed location, unless otherwise agreed in writing between Venom and Buyer. Delivery dates communicated or acknowledged by Venom are approximate only, and Venom shall not be liable for, nor shall Venom be in breach of its obligations to Buyer, because of any delivery made within a reasonable time before or after the stated delivery date. Venom agrees to use commercially reasonable efforts to meet the delivery dates communicated or acknowledged by it on the condition that Buyer provides all necessary order and delivery information sufficiently prior to the agreed delivery date.
- (b) Buyer will give Venom written notice of failure to deliver and thirty (30) days within which to cure. If Venom does not cure within thirty (30) days, Buyer's sole and exclusive remedy is to cancel the affected and undelivered portions of the Agreement.
- (c) Title in the Products shall pass to Buyer upon payment in full of the purchase price in respect thereof. Risk of loss in the Products shall pass to Buyer upon

Venom's delivery in accordance with the applicable Incoterms.

- (d) If Buyer fails to take delivery, then Venom may: - either to deliver the goods by means of a written notification by the Seller, in which case the goods shall be stored at the Seller or at the carrier from the time of forwarding of that notification, this at the expense and risk, including the risk of quality deterioration, of the Buyer; - or to entirely or partly dissolve the agreement with the Buyer and to sell and deliver the goods to (a) third party (parties). In that case the Buyer, if the Seller suffers damage in any way as a result of the non-acceptance by the Buyer, shall be liable for this damage.
- (e) In the event of shortages Venom may allocate its available production and Products, in its sole discretion, among its customers and as a result may sell and deliver to Buyer fewer Products than specified in Venom's Offer, Confirmation or Agreement, as the case may be.

4. and 5. NOT APPLICABLE

6. RESCHEDULING AND CANCELLATION

No order, Agreement or any part thereof may be rescheduled or cancelled without Venom's prior written consent.

7. FORCE MAJEURE

Venom shall not be liable for any failure or delay in performance if

- a) such failure or delay results from the fact that Venom's manufacturing volume of the Products concerned is lower than anticipated due to interruptions in the manufacturing process; or
- b) such failure or delay does not result from its fault; or
- c) such failure or delay is caused by Force Majeure as defined below or by law.

In case of such a non-attributable failure, the performance of the relevant part(s) of the Agreement will be suspended for the period such non-attributable failure continues, without Venom being responsible or liable to Buyer for any damage resulting there from.

The expression "Force Majeure" shall mean and include any circumstances or occurrences beyond Venom's reasonable control – whether or not foreseeable at the time of the Offer, Confirmation or Agreement – as a result of which Venom cannot reasonably be required to execute its obligations. Such circumstances or occurrences include but are not restricted to: acts of God, war, civil war, insurrections, strikes, fires, floods, earthquakes, labour disputes, epidemics, governmental regulations and/or similar acts, freight embargoes, non-availability of any permits, licenses and/or authorizations required, defaults or delays of suppliers or subcontractors and/or inability or impracticability to secure transportation, facilities, fuel, energy, labour, materials or components. In the event that the Force Majeure extends for a period of three (3) consecutive months (or in the event that the delay is reasonably expected by Venom to extend for a period of three (3) consecutive months), Venom shall be entitled to cancel all or any part of the Agreement without any liability of Venom towards Buyer. In the event Venom's production is curtailed, for any reason, Venom shall have the right to allocate its available production and Products, in its sole discretion, among its various customers and as a result may sell and deliver to Buyer fewer Products than specified in Venom's Offer, Confirmation or Agreement, as the case may be.

8. OWNERSHIP

8.1 Without prejudice to the provisions in these general terms, all goods delivered at any time by the Seller remain the property of the Seller until the Buyer has paid all his debts owed to the Seller, which are subject to Article 92 Book 3 of the Burgerlijk Wetboek (Civil Code), on any ground whatsoever and irrespective of any acceleration of payment, including interest and costs. Prior to complete payment, the Buyer is not authorised to pledge the goods to a third party or to transfer possession of it, with the exception of the goods delivered by the Seller which the buyer transfers as part of ordinary activities. If these regulations are violated, or in the case of complete or partial applicability of Article 9, the Seller is entitled to reclaim or to have returned any goods delivered by him from their current location, without the necessity of any authorisation from the Buyer or the Judge. In that case, every claim from the Seller is payable immediately and completely.

8.2 If the Seller wishes to exercise his rights mentioned in Section 1, the Buyer hereby unconditionally and irrevocably authorises the Seller or a third party indicated by the Seller to enter all locations where the Seller's property is situated to reclaim his property.

9. LIMITED WARRANTY AND DISCLAIMER

- (a) Venom warrants that under normal use the Products, shall, at the time of delivery to Buyer and for a period of three (3) months from the date of delivery (or such other period as may be agreed-upon in writing by the parties), be free from defects in material or workmanship and shall substantially conform to Venom's specifications for such Product, or such other specifications as Venom has agreed to in writing, as applicable. Venom's sole and exclusive obligation, and Buyer's sole and exclusive right, with respect to claims under this warranty shall be limited, at Venom's option, either to the replacement or repair of a defective or non-conforming Product or to an appropriate credit for the purchase price thereof. Venom will have a reasonable time to repair, replace or credit. The non-conforming or defective Products shall become Venom's property as soon as they have been replaced or credited for.
- (b) Buyer is held to submit any warranty claims directly to the Seller in writing. If there are visible faults, any claim must be in the possession of the Seller within 14 days of receipt of goods; The claim should be made by accurately stating in writing the nature and cause of the complaints, attaching the delivery note and stating the relevant invoice number.
- (c) If so done and acknowledged Buyer may ship Products returned under warranty claims to Venom's designated facility only so long as the returns are in conformance with Venom's then-current return material authorization policy and are accompanied by a duly completed return material authorization form issued by Venom. Where warranty adjustment is made, Venom will pay for freight expenses. Buyer shall pay for returned Products that are not found to be defective or non-conforming together with the freight, testing and handling costs associated therewith.
- (d) Notwithstanding the foregoing, Venom shall have no obligations for breach of warranty if the alleged defect or non-conformance is found to have occurred as a result of environmental or stress testing, misuse, neglect, improper installation, or accident, or as a result of improper repair, alteration, modification, storage, transportation or improper handling.
- (e) The express warranty granted above shall extend directly to Buyer and not to Buyer's customers, agents or representatives. Except for warranty of title, the express warranty granted above is in lieu of all other warranties, whether express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, or non-infringement of intellectual property rights. All other warranties are hereby specifically disclaimed by Venom.
- (f) Subject to the exclusions and limitations set forth in Section 'Guarantee and Liability' of these Terms and Conditions, the foregoing states the entire liability of Venom in connection with defective or non-conforming Products supplied hereunder.

10. INTELLECTUAL PROPERTY RIGHTS, MODEL, BRANDNAME AND INDEMNITY

- (a) Venom is the sole proprietor of the intellectual property, the brand name, the model, and other relevant elements of the product. The product in its broadest sense; technical execution name, brand, colour scheme, packaging can in no way be changed by the buyer without prior written consent by Venom.
- (b) Buyer hereby states that he will take no action whatsoever to (co-)produce, copy or manufacture in any way a product which would infringe one of the elements of section 10a
- (c) Venom, shall:
- (i) defend any legal proceeding brought by a third party against Buyer to the extent that the proceeding includes a claim that any Product (excluding Excluded Software) as furnished by Venom under an Agreement directly infringes the claimant's patent, copyright, trademark, or trade secret; and
- (ii) hold Buyer harmless against damages and costs awarded by final judgment in such proceeding to the extent directly and solely attributable to such infringement.
- (d) Venom shall have no obligation or liability to Buyer under Section (a) to (c):
- (1) if Venom is not:
- (i) promptly notified in writing of any such claim;
- (ii) given the sole right to control and direct the investigation, preparation, defence and settlement of such claim, including the selection of counsel; and

- (iii) given full reasonable assistance and cooperation by Buyer in such investigation, preparation, settlement and defence;
 - (2) if the claim is made after a period of one (1) year from the date of delivery of the Product;
 - (3) to the extent that any such claim arises from:
 - (i) modification of the Product if the claim of infringement would have been avoided by use of the unmodified Product;
 - (ii) design, specifications or instructions furnished by Buyer; or
 - (iii) the combination of the Product with any other product, service or technology; or
 - (iv) the use of the Product or any part thereof in the practise of a process if Buyer does not incorporate the Product into a device of which the end-user is a consumer;
 - (4) to the extent the claim is based directly or indirectly upon the quantity or value of products manufactured by means of the Product or upon the frequency of use or the amount of use of the Product irrespective of whether such claim alleges that the Product as such, or its use, infringes or contributes to the infringement of any intellectual property rights of the claimant;
 - (5) for unauthorized use or distribution of the Product or use beyond the specifications of the Product;
 - (6) to the extent any such claim arises from Buyer's manufacture, use, sale, offer for sale, importation or other disposition or promotion of the Product, after Venom's notice to Buyer that Buyer should cease any such activity, provided such notice shall only be given if the Product is, or in Venom's opinion is likely to become, the subject of such a claim of infringement; or
 - (7) for any costs or expenses incurred by Buyer without Venom's prior written consent; or
 - (8) to the extent the claim is based on any prototypes, risk production units, or Excluded Software;
 - (9) to the extent any such claim arises from any infringement or alleged infringement of third party's intellectual property rights covering a standard set by a standard setting body and/or agreed between at least two companies;
 - (10) for infringement of any third party's intellectual property rights covering the manufacture, testing or application of any assembly, circuit, combination, method or process in which the Product may have been used, or
 - (11) for infringement of any third party's intellectual property rights with respect to which Venom or any of its Affiliates has informed Buyer or has published (in a datasheet or other specifications concerning the Product or elsewhere) a statement that a separate license has to be obtained and/or that no implied license is granted.
- Buyer shall indemnify Venom against and hold Venom harmless from any damages or costs arising from or connected with such claims of infringements and shall reimburse all costs incurred by Venom in defending any claim, demand, suit or proceeding for such infringement, provided Venom gives Buyer prompt notice in writing of any such suit or proceeding for infringement.
- (e) If any Product is, or in Venom's opinion is likely to become, the subject of a claim of infringement as referred to under Section 10 (a) above, Venom shall have the right, without obligation and at its sole option, to: (i) procure for Buyer the right to continue to use or sell the Product; (ii) replace or modify the Product in such a way as to make the modified Product non-infringing; or (iii) terminate any Agreement to the extent related to such Product. In the event of any such termination, Venom shall repurchase all Products in Buyer's possession at the time of such termination, which are then subject to the claimant's continuing claim of infringement.
 - (f) Subject to the exclusions and limitations set forth in Section 11 of the Terms and Conditions, the foregoing states Venom's entire liability and obligation to Buyer and Buyer's sole remedy with respect to any actual or alleged infringement of any intellectual property rights of any kind.

11. LIMITATION OF LIABILITY

- (a) Except for Buyer's liability under Section 10 hereof, no party shall be liable to the other for any lost profits or lost savings, indirect, incidental, punitive, special or consequential damages whether or not such damages are based on tort, warranty, contract or any other legal theory – even if such party has been advised, or is aware, of the possibility of such damages. In no event shall Venom be liable for any damage, costs or expenses associated with warranty or intellectual property infringement claims whether for the replacement or repair of products, including labour, installation or other costs incurred by Buyer and, in particular, any costs related to the removal or replacement of any Products soldered or otherwise permanently affixed to any printed circuit board, excess procurement costs, or rework charges.
- (b) Venom's and its Affiliates aggregate and cumulative liability towards Buyer under any agreements regarding sale by Venom and/or its Affiliates and purchase by Buyer and/or its Affiliates between Venom and/or its Affiliates and Buyer and/or its Affiliates and resulting from any event(s) occurring during a calendar year and for any series of events triggered by the same cause started during a calendar year, shall not exceed the lesser of
 - (i) the amount actually received by Venom in the twelve (12) months immediately preceding the event, or series of events, as the case may be, giving rise to any liability for the Products causing any liability and
 - (ii) an amount of Euro 1 million, but in case of liability for delay or non-delivery of Products, also never more than the purchase price of the delayed or none delivered Products concerned.
- (c) Venom's Products are not designed, authorized or warranted to be suitable for use in medical, military, air craft, space or life support equipment nor in application where failure or malfunction of Venom's Product can reasonably be expected to result in a personal injury, death or severe property or environmental damage. Inclusion and /or use of Venom's Products in such equipment or applications, without prior authorization in writing of Venom, is not permitted and for Buyer's own risk. Buyer agrees to fully indemnify Venom for any damages resulting from such inclusion or use.
- (d) Venom is exclusively liable for damage to goods or individuals related to the Buyer, his personnel or his customers, which result from actions which can be exclusively considered as failures or wrongful acts on the part of Venom, his personnel or any other individuals involved at Venom's side.
- (e) Any Buyer's claim for damages must be brought by Buyer within thirty (30) days of the date of the event giving rise to any such claim, and any lawsuit relative to any such claim must be filed within one (1) year of the date of the claim. Any claims that have been brought or filed in conflict with the preceding sentence are null and void.
- (f) The limitations and exclusions set forth above in this Section 11 shall only apply to the extent permitted by applicable mandatory law.

12. CONFIDENTIALITY

Buyer acknowledges that all technical, commercial and financial data disclosed to Buyer by Venom and/or its Affiliates is the confidential information of Venom and/or its Affiliates. Buyer shall not disclose any such confidential information to any third party and shall not use any such confidential information for any purpose other than as agreed by the parties and in conformance with the purchase transaction contemplated herein.

13. COMPLIANCE WITH LAWS

Each party hereto represents that it is duly authorized to enter into the Agreement and represents that with respect to its performance hereunder, it will comply with all applicable federal, state and local laws, including, but not limited to those pertaining to U.S. Export Administration or the export or import controls or restrictions of other applicable jurisdictions.

If the delivery of Products or services under the Agreement is subject to the granting of an export or import license by a government and/or any governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or import control laws or regulations, Venom may suspend its obligations and Buyer's rights regarding such delivery until such license is granted or for the duration of such restriction and/or prohibition, respectively, and Venom may even terminate the Agreement, without incurring any liability towards Buyer.

Furthermore, if an end-user statement is required, Venom shall inform Buyer immediately thereof and Buyer shall provide Venom with such document upon Venom's first written request; if an import license is required, Buyer shall inform Venom immediately thereof and Buyer shall provide Venom with such document as soon as it is available.

By accepting Venom's Offer, entering into any Agreement and/or accepting any Products, Buyer agrees that it will not deal with the Products and/or documentation related thereto in violation of any applicable export or import control laws and regulations.

14. ASSIGNMENT AND SETOFF

Buyer shall not assign any rights or obligations under the Agreement without the prior written consent of Venom. Buyer hereby waives any and all rights to offset existing and future claims against any payments due for Products sold under the Agreement or under any other agreement that Buyer and Venom may have and agrees to pay the amounts hereunder regardless of any claimed offset which may be asserted by Buyer or on its behalf.

15. GOVERNING LAW AND FORUM

All Offers, Confirmations and Agreements are governed by and construed in accordance with the laws of the Netherlands. All disputes arising out of or in connection with any Offer, Confirmation or Agreement shall first be attempted by Buyer and Venom to be settled through consultation and negotiation in good faith and a spirit of mutual cooperation. All disputes that are not so settled within a period of thirty (30) days from the date the relevant dispute first arose may be submitted to the courts of Amsterdam, The Netherlands, provided that Venom shall always be permitted to bring any action or proceedings against Buyer in any other court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any Offer, Confirmation or Agreement. Nothing in this Section 15 shall be construed or interpreted as a limitation on either Venom's or Buyer's right under applicable law for injunctive or other equitable relief or to take any action to safeguard its possibility to have recourse on the other party.

16. BREACH AND TERMINATION

Without prejudice to any rights or remedies Venom may have under the Terms and Conditions and/or the Agreement or at law, Venom may, by written notice to Buyer, terminate with immediate effect the Agreement, or any part thereof, without any liability whatsoever, if:

- (i) Buyer fails to make payment for any Products to Venom when due;
- (ii) Buyer fails to accept conforming Products supplied hereunder;
- (iii) any proceedings in insolvency, bankruptcy (including reorganization) liquidation or winding up are instituted against Buyer, whether filed or instituted by Buyer, voluntary or involuntary, a trustee or receiver is appointed over Buyer, or any assignment is made for the benefit of creditors of Buyer; or
- (iv) Buyer violates or breaches any of the provisions of these Terms and Conditions and/or the Agreement.

Upon occurrence of any of the events referred to under (i) through (iv) above, all payments to be made by Buyer under the Agreement shall become immediately due and payable.

In the event of cancellation, termination or expiration of any Agreement the terms and conditions destined to survive such cancellation, termination or expiration, which shall include without limitation Sections 8, 9, 10, 11 and 12, shall survive.

17. PRODUCT AND PRODUCTION CHANGES

Venom reserves the right to make at any time Product and/or production changes. In such event Venom represents that said changes shall not negatively affect form, fit or function of the Products and their performance characteristics.

18. DISCONTINUATION OF PRODUCT

Venom reserves the right to discontinue manufacturing and sale of Products at any time. If however at any time during the term of an Agreement under which Venom sells and Buyer purchases Products on a regular basis, such regularly sold and purchased Products are to be permanently discontinued ("Discontinued Product"), Venom shall use its reasonable commercial efforts to give Buyer prior written notice of such discontinuance and shall use reasonable commercial efforts to accept last-time-buy orders for such Discontinued Product all in accordance with Venom's product discontinuation process and general information related thereto as published on Venom's website.

19. SEVERABILITY

In the event that any provision(s) of the Agreement or these Terms and Conditions shall be held invalid or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions thereof.

20. WAIVER

The failure on the part of either party to exercise, or any delay in exercising, any right or remedy arising from any Offer, Confirmation or Agreement shall not operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy arising therefrom preclude any other or future exercise thereof or the exercise of any other right or remedy arising from any Offer, Confirmation or Agreement or from any related document or by law.

21. NOTICES

All notices and communications to be given under this Agreement shall be in writing and shall be deemed delivered upon hand delivery, confirmed facsimile communication, or three (3) days after deposit in the mail of the home country of the party, postage prepaid, by certified, registered, first class or equivalent mail, addressed to the parties at their addresses set forth on the Offer, Confirmations and/or Agreements.

22. ATTORNEYS' FEES

Should a dispute arise from the subject matter of any Offer, Confirmation or Agreement, the prevailing party in any resulting litigation shall be reimbursed by the other party for any and all reasonable attorneys' fees and expenses incurred.

23. RELATIONSHIP OF PARTIES

The Parties hereto intend to establish a relationship of buyer and seller and as such are independent contractors with neither party having authority as an agent or legal representative of the other to create any obligation, express or implied, on behalf of the other.

24. MODIFICATIONS AND CHANGES

Venom reserves the right to make any amendments or changes to these Terms and Conditions at any time. Such amendments, modifications and changes shall have effect (1) to all Offers, Confirmations and Agreements referring to such amended or modified Terms and Conditions as from the date of such Offer, Confirmation or Agreement, and (2) to any existing Agreement thirty (30) days from notification of such amendments or modifications by Venom to Buyer, unless Buyer has notified Venom within such 30 days period that it objects thereto.