

ZENITEL – TERMS AND CONDITIONS FOR SALE OF PRODUCTS AND SERVICES

These terms and conditions apply for all deliverables of products and/or services from Zenitel NV, including its subsidiaries Zenitel Norway AS, Zenitel GB Ltd and all its other subsidiaries ("Zenitel" or "Seller") to Zenitel customers (the "Buyer"), unless otherwise is explicitly stated in writing from Zenitel.

1. Definitions

"Conditions" means these Terms and Conditions of Sale.

"Contract" means the contract between the Seller and the Buyer for the sale and purchase of Goods and/or Services consisting of an order from the Buyer which is accepted in writing by the Seller and these Conditions.

"Goods" means all goods and products supplied by the Seller pursuant to a Contract.

"Services" means all services supplied by the Seller pursuant to a Contract including (without limitation), design work, commissioning, training, maintenance and any other on-site or away from site services.

2. Applicable conditions

Unless otherwise agreed in writing by the Seller these Conditions shall override and exclude any terms or conditions stipulated, incorporated or referred to by the Buyer whether in any order or in any correspondence or negotiations relating to the purchase of Goods and/or Services or otherwise.

Despatch or delivery of the Goods or performance of the Services by the Seller to the Buyer shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions. No variation, waiver or addition to these Conditions or the Contract shall be binding unless agreed or confirmed in writing by the Seller.

3. Quotations, Orders and Confirmation of Advice

Unless otherwise stated in writing by the Seller, quotations are valid for a period of 30 days from the date of issue.

Any prices or rates contained within a proposal are at the economic conditions of the date of offer and will subject to indexation and variation in accordance with global market and supply chain conditions.

The Buyer shall be responsible for ensuring the accuracy of the terms of any order (including the suitability of the Goods for the Buyer's intended use). It is the responsibility of the Buyer to ensure that all Goods being supplied carry the relevant approvals and accreditations for the markets and industries in which they are being used.

No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller.

No work on any order will be started before all agreed financial terms are met by Buyer, e.g. prepayment is received in Zenitel's bank, information about Buyer or user is sufficient etc.

Should there be a delay of more than 3 months between order being placed and the buyer being ready to commence project / or set the schedule for delivery Zenitel reserves the right to revise the prices that made up the order in question.

Should an order be placed but not actioned by the client within 12 months Zenitel reserves the right to cancel the order.

Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods and/or the Services which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

4. Services

If the Contract includes Services, the Buyer shall allow the Seller's personnel access to the installation premises at all reasonable times, shall provide a clean and safe work area and shall make available a power supply and other facilities requested by the Seller for the provision of the Services. Installation Services shall be deemed to be complete when the Goods have been installed even though work to a larger system may still be required by the Buyer or a third party.

Unless specifically stated otherwise services pricing should not be considered fixed price.

Any pricing or estimates provided are based on programme assumptions. Changes to the programme schedule, buyer or end-user caused delays or scope of work changes will result in cost/price variations.

Where documents are produced as part of a project delivery (including but not limited to system designs or method statements) these documents shall be considered accepted by buyer 5 working days after submission unless the buyer indicates otherwise.

Where hardware (including but not limited to Racks, PCs, Servers) are part of the contracted deliverable such hardware shall be considered accepted by the buyer after 10 working days after delivery unless the buyer indicates otherwise.

5. Prices

Unless expressly agreed otherwise, prices quoted are delivery INCOTERMS 2020 FCA Zenitel warehouse, in accordance with the pricelist valid at date of order confirmation sent from Zenitel. Zenitel reserves the right to make price adjustments with a notice of 90 (ninety) calendar days. In case of cost increases, caused by factors out of Zenitel's control, Zenitel reserves the right to make immediate price adjustments if necessary.

Any price quoted or agreed for the Goods and Services is exclusive of value added tax unless expressly stated to be inclusive of any value added tax. The price of the Goods and Services will be paid in full by the Buyer, without deduction by way of set off or claim or counterclaim.

6. Payment Terms

Normal payment term is payment in advance, unless expressly agreed in writing otherwise. Invoices are issued upon delivery FCA INCOTERMS 2020.

Minimum invoice value exclusive of VAT and freight charges is EUR 100,-. Zenitel reserves the right to levy a handling charge on all orders of net value less than EUR 100,-. A fee for invoices on paper will be charged.

If the Buyer fails to make any payment on the due date, then without prejudice to any other rights or remedies available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries to the Buyer. In addition, except for local mandatory applicable regulations, the Seller shall be entitled to charge interest on the overdue sum at the rate of 10% per annum or, if higher, 4% above the EURIBOR rate (Euribor 12 months rate applicable at due date) from time to time, from the due date until the date of actual payment, whether before or after any judgment.

If the credit insurer of Zenitel would change the terms of the credit insurance related to the Buyer, then Zenitel has the right to modify the payment terms and/or to demand immediate payment of the outstanding amounts. The Seller will also have the right to suspend any further delivery to the Buyer.

7. Delivery

Terms of delivery are FCA Zenitel warehouse, INCOTERMS 2020.

Delivery dates are given in good faith but are estimates only and the Seller shall have no liability for any loss, consequential loss, damage or expenses arising out of any delay or delivery for whatever reason. Delay shall not entitle the Buyer to cancel any order or Contract or to refuse to accept delivery of all or any of the Goods

Unless otherwise specifically agreed in writing by the Seller any delivery time or date quoted or agreed by the Seller is not of the essence; and the Seller shall not be liable for the consequence of any delay in delivery. The Goods may be delivered by the Seller in advance of any quoted delivery date upon giving reasonable notice to the Buyer.

The scope of delivery is confirmed in the order confirmation.

Any change requested few weeks prior to delivery may postpone the delivery time, unless agreed in advance.

Unless specifically agreed in writing to the contrary by the Buyer the Seller may deliver the Goods in such separate amounts or parts as the Seller may choose.

8. Warehouse Fee

If Buyer fails to pick up the goods within 14 (fourteen) calendar days from confirmed "ready for pick up" notice, a warehouse storage fee will be charged. The current storage fee is EUR 100,- per m3 per week. The Goods are stored at the risk of the Buyer.

9. Packing

Products will be delivered in standard export packaging, which shall be in a manner consistent with the usual and customary form of packaging for commercial shipment. Packaging costs are normally included, but will be invoiced if special packaging is required i.e. wooden crates, seaworthy/airworthy packaging etc.

10. Marking

Marking on shipments, boxes and pallets and information on order confirmations, proforma invoices, packing slips, packing lists etc. not within Zenitel's standard will be invoiced.

11. Cancellation and Order Fee

Zenitel reserves the right to charge a fee for cancellations or changing of orders according to the terms below.

Buyer may by written notice to Zenitel cancel the order in full or partly, whereupon Zenitel will confirm acceptance and cease the performance of the work and/or the delivery. In case of cancellation of an order or for parts thereof, Buyer shall pay a cancellation fee according to the following schedule:

- a) 30 (thirty) or more calendar days before delivery date: 50 (fifty) % of the order amount that relates to the cancellation.
- b) Less than 30 (thirty) calendar days before delivery date: 75 (seventy-five) % of the order amount that relates to the cancellation.

Only Zenitel standard products can be subject to changes or cancellation once the order has been placed. Specially made products, modified standard products, products that have already been configured or built in or third-party products cannot be changed or cancelled. Where an order being cancelled involved the delivery of services, in addition to the above terms at (a) and (b) the seller shall recover the selling value of all work undertaken to the date of cancellation. In such circumstance all work product (or part thereof) shall be available to buyer. If there are unclear elements or disagreement on what the order amount is or what part of the order amount that relates to the cancellation, the percentage of the order amount shall be calculated from the prices for the product set out in Zenitel's latest pricelist.

In case the Buyer desires to change the scope of supply including but not limited to amendments in volume, type of supply, quality, delivery date or any other matter, less than 28 (twenty-eight) calendar days before agreed delivery date, Zenitel reserves the right to charge a fee according to the latest price list.

Any cancellation or changes to orders are not regarded as validly made, until explicitly accepted and confirmed in writing from Zenitel. The Seller reserves the right to cancel a Buyer's order, either in whole or in part.

12. Retention of Title / Security for Unpaid Purchase

To the extent applicable under law, all deliverables from Zenitel shall be covered by Retention of Title ("ROT") including similar legislation (e.g. security for unpaid purchase). All goods delivered by Zenitel

will remain Zenitel's property until all debts owed to Zenitel by the Buyer, including any existing balances, are settled.

The Buyer is not entitled to sell or in any way transfer, process or join the goods with other items without Zenitel's explicit consent to do so, as long as the goods are comprised by the ROT.

If the Buyer defaults in payment, Zenitel has the right to take back goods that are comprised by the ROT and the Buyer is under obligation to return the goods to Zenitel. If the Buyer fails to do so then the Seller may enter upon any premises where the Goods are stored and repossess the Goods. A recall of goods does not imply contract termination. The contract will in such cases be terminated only through Zenitel's written confirmation.

Buyer is at Buyer's own expense obligated to insure goods that are included in the ROT to the extent of damage, fire, theft, water damage and similar events that may reduce the value of the goods.

13. Transfer of Risk

Unless expressly agreed in writing to the contrary the Goods are delivered on an FCA basis (as defined by Incoterms 2020) with the risk of damage to or loss of the Goods passing to the Buyer on delivery to the Buyer's carrier at the Seller's premises.

14. Losses or Damage in Transit

Insurance of the product during transport shall be subject to FCA INCOTERMS 2020. Zenitel shall not be liable for any loss, damage, delays, costs or other expenses incurred during or resulting from transportation. In such case, the Buyer shall immediately give both Zenitel and the Buyer's agent a written notice of the deviations to substantiate any resulting formal claim.

15. Warranty

The Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 24 months from the date of delivery. The Seller warrants that it will exercise reasonable skill and care in providing the Services. Regardless of the aforementioned, the Seller reserves the right to make any changes in the specification of the Goods and/or the Services which are required to conform with any applicable safety or other statutory requirements or, where the Goods and/or the Services are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

Delivered batteries are generally not covered by Zenitel's warranty terms.

When placing the purchase order the Buyer has an option to extend the 24 (twenty-four) months warranty time for a product at a separate charge. Zenitel will have the right to offer an alternate solution, if not possible to replace the actual product one to one. The details for this are found in the latest pricelist.

To the extent permitted by mandatory law, Zenitel shall not be liable for any other direct or implied warranties for products and/or services.

16. Claims

Notice of claims related to delivery, damage to or defects of the products or services or lack in quantities or quality, shall be made to Zenitel by prompt written notice and no later than 30 (thirty) calendar days after receipt of the product and/or services. The claim must be registered either online at <https://www.zenitel.com/after-sales-spares-support-form> provided by Zenitel or through claims@zenitel.com.

The product must have been properly stored, installed and used to claim under the warranty.

Zenitel shall not be liable for claims that can be related to accidental or improper use, wrong installation, work performed by unqualified technicians, or from other circumstances beyond Zenitel's control.

The product shall be returned to Zenitel, subject to prior written consent from Zenitel, in the form of a RMA reference number (Return Merchandise Authorization). The product shall be returned immediately, and no later than 14 (four-teen) calendar days after RMA reference number has been received. Returned products which lack such reference will not be accepted by Zenitel, and returned to Buyer at Buyer's cost.

The cost of the return shipment is to be covered by the Buyer. Zenitel will cover the cost of shipment for replaced or repaired parts.

Where any valid warranty claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods is notified to the Seller, then the Seller shall be entitled to repair or replace the Goods free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

If a defective product shall be returned to factory for repair or replacement, Buyer shall uninstall the product and reinstall it again after repair or replacement.

If repair/change of a product or parts thereof is to be done on on site (including on vessel), Zenitel shall approve by certification the company/technician doing the labour on behalf of Zenitel. After the repair is done on site, Zenitel will, based on the repair report, decide if the mentioned repair is a warranty matter or not. If it is a warranty matter, Zenitel will cover labour time up to 4 (four) hours, and spare products or parts to correct the fault. Service technician's preparation, travelling time and travelling expenses, if any, are for the account of the Buyer. If Zenitel has to deliver new products or parts to solve a warranty matter before the claimed product or part is received for inspection and acceptance, Zenitel will invoice the new product or part with standard order terms at shipment, and then issue a credit note when the defective product or part has been received by Zenitel and approved as covered by the warranty by quality department.

Repair or replacement of products or parts thereof in a configuration done by Zenitel during the warranty period has no effect on the expiration of the warranty for a complete project delivery and does not give rise to a renewal or extension of the warranty period for the configuration.

If the Goods and/or the Services are to be manufactured or any process is to be applied to the Goods and/or the Services by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

17. Remote Service

Zenitel will charge an hourly rate if remote support is requested by Buyer. The hourly rate is according to Zenitel's latest price list.

18. Onsite Services

Zenitel will charge an hourly or daily rate if onsite service is requested by Buyer. The rates are according to Zenitel's latest price list.

The service engineer attending the service will produce hour lists with a brief description of the work carried out every day. The service engineer will have the hours lists signed at the end of each working day.

Onsite working hours is 8 hours per working day. Saturday and Sunday are non-working days unless otherwise agreed with the Seller. All travel and accommodation expenses will be invoiced including travel time.

Buyer shall assist with all services, personnel etc. required for Zenitel to perform the services.

Zenitel will invoice all hours performed including any interruptions, waiting time etc. not attributable to Zenitel.

19. Availability of Spare Parts

Zenitel warrants availability of spare parts, meaning any item listed in the current Zenitel spare part price list.

20. Intellectual Property Rights

15.1 All Intellectual Property Rights pertaining to the products belong to Zenitel and shall remain Zenitel's sole property.

21. Software

Terms and conditions of use of software are found in the ZENITEL END USER LICENSE AGREEMENT.

Any software contained within the Goods is supplied by way of a non-exclusive licence to the Buyer to use such software only in respect of the Goods. The Buyer acknowledges that the copyrights and all intellectual property rights in such software belong to and shall remain with the Seller.

The ZENITEL END USER LICENSE AGREEMENT applies for products purchased under these terms and conditions of sale in the same way as if these terms had been a part of the terms and conditions itself.

Buyer is responsible for ensuring that the ZENITEL END USER LICENSE AGREEMENT is distributed to end customers.

When Buyer or Buyers customer has taken the product into use, the terms in the ZENITEL END USER LICENSE AGREEMENT shall be deemed to have been accepted by Buyer or Buyers customer. Selected Zenitel products contain open source software.

New software versions may be released from time to time. Buyer is responsible for keeping the software up to date and all systems at any time at Buyers expense. Buyer is responsible for ensuring that the responsibility to update the software is communicated to Buyers customers.

22. Precedence of Documents

In case of inconsistencies or disagreements, precedence shall be given to documents in the following order:

- a) Any Contract that clearly sets out amendments or supplements to these Conditions and what these amendments or supplements are; then
- b) the confirmation of the order from Zenitel; then
- c) these Conditions.

23. Limitation of Liability

Except for gross negligence, willful misconduct or other liability that cannot be excluded by mandatory law, Zenitel's entire liability under these terms and conditions and under law including for negligence or under any indemnity or warranty, shall be limited to 100% of the amount, exclusive of VAT, other taxes and fees, actually paid or payable by the Buyer to Zenitel relating to the actual product and/or services that form the basis for the claim in the previous 12 month period, calculated from the date the Buyer informs Zenitel in writing of the claim.

Zenitel shall not be responsible to the Buyer for any loss of profits and/or indirect losses arising, such as but not limited to consequential damages, loss of data (including but not limited to business information), interruption of business or financial damages.

24. Force Majeure

The Seller shall not be liable to the Buyer for any loss or damage which may be suffered by the Buyer as a result of the supply of the Goods or Services being directly or indirectly prevented, hindered or delayed by reason of any circumstances outside the control of the Seller. Without limitation, such circumstances shall include any act of God, war, riot, strike, lockout, trade dispute or labour disturbance, accident or breakdown of plant or machinery, failure or shortage of power supplies, fire, flood, drought, explosion, difficulty in obtaining workmen, materials or transport, refusal of any licence or permit or any order, sanction or request of any government or government authority. In the event of any such circumstances the Seller shall have the option (exercisable by notice to the Buyer) to terminate the Contract (whereupon the Seller shall be relieved of all further liability under the Contract) or to vary the time for delivery or other performance, in any case without incurring any liability for any loss or damage suffered by the Buyer as a result.

25. WEEE Regulations

When the Buyer wishes to replace or dispose of any of the Goods purchased from the Seller, the Buyer shall be solely responsible for arranging and financing the collection, treatment, recovery and disposal of such Goods, in accordance with the standards and requirements of the WEEE Regulations. The Buyer shall indemnify the Seller from and against all actions, proceedings, liabilities, fines, penalties, costs and expenses suffered or incurred by the Seller arising out of or in connection with a failure by the Buyer to carry out its responsibilities under this Clause.

26. Assignment

The Contract is personal to the Buyer which shall have no right to assign or sub-contract or delegate all or any of its rights and obligations thereunder.

27. Sanctions and Export Control

The Buyer represents and warrants that neither the Buyer, any shareholder, employee, or director of the Buyer are subject to trade sanctions or export control restrictions adopted, maintained or enforced by the European Union, Norway, the United Kingdom, or the United States of America ("the Sanctions Authorities").

The Buyer represents and warrants that it will comply with sanctions and export control legislation in relation to the Contract including but not limited to, laws, regulations, decisions, or executive orders adopted, maintained or enforced by the Sanctions Authorities. The Buyer acknowledges to comply with the said regulations even if parts of or all such regulations are not formally applicable to the Buyer. The Buyer will retain documentation to support compliance with such laws and regulations. The Buyer will promptly provide all information required by the Seller to assess the Seller's sanctions and export control risks in relation to the Seller's fulfilment of the Contract, or to provide information necessary for the Seller to obtain licenses or approval by relevant authorities.

The Buyer is aware that Belgian, Norwegian and other countries' sanctions and export control regimes may have imposed restrictions on the Buyer's use of the goods and/or technical data, and/or on their transfer to third parties. The Buyer is therefore not entitled to transfer any part of the Goods under the Contract to any third party without the prior written consent from the Seller. The Buyer will immediately notify the Seller and cease intended activities with regards to the Goods in question if the Buyer knows or has a reasonable suspicion that the Goods may be redirected/diverted to other end-use or end users than what has been approved by the Seller in writing.

The Seller shall not be held liable towards the Buyer for any failure to perform and shall be free of any obligations under the Contract, if the Seller

- Has reason to suspect that by performing the Contract the Seller will potentially violate sanctions and export control regulations adopted, maintained, or enforced by the Sanctions Authorities
- Fails to obtain necessary licenses or approvals from relevant export control authorities, and/or visas or consents for personnel required to provide Services.
- In a timely manner does not receive requested information from the Buyer enabling the

Seller to conduct sanctions and export control risk assessments pertaining to the deliveries of Goods and Services under the Contract.

The Buyer shall obtain at its own expense all consents necessary for the import of the goods to the country of final destination and where required any visas or consents required for the entry of the personnel into the country of final destination and shall comply with all laws and regulations in connection therewith.

The Buyer shall notify the Seller promptly in writing upon discovery of any instance where it fails to comply with any of the provisions of this Clause 27.

The Buyer shall indemnify and hold harmless the Company from and against any losses, damages and claims arising from breach of this Clause 27. This indemnity shall survive termination of the Contract.

28. Governing Law and Legal Venue

All matters arising out of or relating to these terms and condition or the order, shall be governed and construed in accordance with the laws of the registered seat of the Seller.

Disputes shall be exclusively settled through the courts of the country of the registered seat of the Seller, without restriction each party's right under applicable law to seek injunctive relief through other courts or jurisdictions.

29. Customer Code of Conduct

The Buyer shall comply with and accept Zenitel's [Customer Code of Conduct](#).