

General terms of purchase

Article 1 Definition of concepts

The following definitions are used in these general terms of sale:

Vidicode: Vidicode Datacommunicatie B.V.;

Other Party: the buyer/distributor/reseller of Products and/or Services, not being an End-user or a consumer to whom Vidicode sells directly;

Parties: Vidicode and the Other Party;

End-user: the party who purchases the Product for his own use;

Agreement: the arrangements laid down in writing between Vidicode and the Other Party concerning the delivery of Products and/or Services, of which these general terms are part;

Products: products to be supplied by Vidicode;

Services: activities to be carried out by Vidicode;

Software: operating and application programmes which Vidicode supplies with its Products;

Intellectual property: copyrights, design rights, patent rights, trademark rights and similar rights, which relate to (the development of) software, designs, trademarks, etc.;

Demo Product: ("Not for Resale Product") Product which is intended for demonstration or test purposes and which has been made available by Vidicode at a reduced rate or for no consideration;

Incoterms 2000: ICC – rules about harmonisation of a number of the most frequently-used terms in international business transactions;

RMA number: "Return Material Authorisation" number.

Article 2 General

1. These general terms of sale shall apply to all offers, Agreements and other legal relationships with Vidicode Datacommunicatie B.V., to be referred to hereinafter as: "Vidicode", with regard to Products and/or Services to be supplied to the Other Party.

2. Any general terms of delivery / purchase used by the Other Party shall be expressly rejected.

3. The Dutch text of the general terms of sale and delivery for non-consumers, to be referred to hereinafter as: "general terms of sale", shall be determining for their interpretation.

4. In the event of contradiction special written Agreements between the Parties shall take precedence over these general terms of sale.

5. If, and in so far as, provisions in the Agreement including these general terms of sale, are in violation of provisions of mandatory law, are null or annulable, as much significance as possible shall nevertheless be attributed thereto, without this leading to the violation, nullity or annulability concerned.

6. If there is a lack of clarity about the interpretation of one or several of the provisions of these general terms of sale, then interpretation shall take place in accordance with the purport of these provisions.

7. If strict compliance with these general terms of sale is not always enforced, that does not mean that the provisions thereof are not applicable, nor that Vidicode could thereby lose to any degree the right to demand strict compliance with the provisions of these general terms of sale after all or in other cases.

8. In the event of a difference of opinion about matters relating to (compliance with) the Agreement, the administrative records of Vidicode shall be decisive in so far as these relate thereto.

Article 3 Applicable law and court

9. Dutch law shall be exclusively applicable to all Agreements with Vidicode, as well as to other legal relations between the Parties that are closely related herewith, even if an obligation is carried out entirely or partly abroad or if the other party involved in the legal relation has its registered office abroad. Applicability of foreign legislation and of the Vienna Purchase Convention shall be excluded.

10. The court of The Hague shall be exclusively competent to take cognisance of all disputes between the Parties. Nevertheless Vidicode shall have the right to submit the dispute to the court which would be competent without this choice of forum.

Article 4 Offers, prices and conclusion of Agreement

1. Offers from Vidicode can be revoked as long as no written acceptance thereof by Vidicode has taken place.

2. For lack of acceptance in writing, an offer shall become void after expiration of 14 days after it has been issued or when the Product and/or Service to which the offer relates is no longer available.

3. Vidicode shall not be held to stand by an offer if the Other Party can reasonably understand that this offer is based on an apparent mistake or writing error.

4. An Agreement shall be concluded by the (timely written) acceptance of a written offer or - for lack thereof - by acceptance of Products or Services.

5. In the event of call Agreements the Agreement shall be concluded each time when the order for a (partial) delivery has been confirmed in writing by Vidicode or by the acceptance of Products or Services.

6. The Agreement (therefore including these general terms of sale) comprises the full representation of the rights and obligations of the Parties and takes the place of all earlier written and verbal arrangements, declarations, expressions and/or actions of the Parties.

7. From the attempts of Vidicode to improve the Products in accordance with the latest technological developments no rights shall be derived by the Other Party to information about these product modifications, nor to free adjustments of Products already purchased.

8. Prices in the offer / Agreement shall be net prices, excluding of turnover tax (VAT) and other government-imposed levies. Any discounts agreed upon have therefore been taken into account in the prices.

9. The costs of shipping which apply on the date of the Agreement shall be at the expense of the Other Party (FCA Seller's Premises; Incoterms 2000).

10. Vidicode shall be entitled to increase the agreed price: if this increase results from a competence or obligation pursuant to any legislation or regulation; if such an increase has occurred in the price of raw materials, wages, etc. that it could not have been anticipated at the time of conclusion of the Agreement, or in the event that the payment (in advance) period is exceeded.

11. Partial acceptance of a composite price quotation shall not oblige Vidicode to perform part of the order at a corresponding portion of the price quoted.

Article 5 Modification of the Agreement

1. If in the opinion of Vidicode a proper performance requires an adjustment of the Agreement, the Parties shall be held to arrive at the required adjustment in mutual consultation.

2. Vidicode shall not be held to perform the Agreement any sooner than after acceptance by the Other Party of the further price stated for the adjustment and of the other conditions relating thereto, including the period of execution. The fact that a modified Agreement is not performed or is not performed immediately shall not constitute a shortcoming of Vidicode.

3. Cancellation of an agreement by the Other Party shall be possible only against payment by the Other Party of all costs already incurred by Vidicode for the execution of the Agreement and of the profit lost because of the cancellation.

Article 6 Assignment of obligation

1. The Other Party shall not be entitled to assign to a third party any right or obligation resulting from this Agreement without prior written permission from Vidicode.

2. Even in the event that Vidicode consents thereto, the Other Party, next to the third party, shall continue to be fully responsible and liable for the fulfilment of the obligations transferred from the Agreement.

Article 7 Reselling

1. The resale of Products to End-users shall be permitted but only under the brand name designated by Vidicode. Intellectual property rights, such as rights to Software and trade name, shall continue to be vested in Vidicode or the owner thereof (licensee) so that Software made available in or with the Products shall not be allowed to be copied or in any other way distributed by the Other Party (and/or customers) without prior written permission from Vidicode or the party entitled.

2. The Other Party shall be held to notify its customers of these reserved rights and the licence conditions.

3. The Other Party shall be liable for non-compliance with the licence conditions by customers.

Article 8 Payment and collection costs

1. Payment in advance shall take place by means of bank transfer or credit card within fourteen days after the date of invoice or within the period and the manner and in the currency as indicated by Vidicode (whether or not on the invoice) and the bank account of Vidicode must have been credited before Vidicode can be held to carry out this delivery of Products or Services to the Other Party.

2. In the event of payment by means of credit card, foreign bank transfer, letter of credit, etc., the currency exchange costs and transaction costs shall be at the expense of the Other Party.

3. Vidicode shall be entitled to carry out the Agreement in several phases and to invoice separately (in advance) the part carried out in this way.

4. The Other Party shall not be allowed to set off any amounts which it owes to Vidicode against any claims which it has on Vidicode.

5. Vidicode shall be entitled to refuse an offer of payment, without thereby being in default, if the Other Party indicates another order for the allocation of the payment than results from Dutch legislation.

6. Objections to (the amount of) an invoice shall not suspend the payment obligation.

7. In the event of late payment the Other Party shall be in default by force of law. As of the moment of expiration of the payment period the Other Party shall owe over the amount owed the statutory commercial interest with a minimum of 0.5% per month.

8. All reasonable costs to obtain compliance in the event of non-compliance shall be at the expense of the Other Party. The extrajudicial costs shall be calculated on the basis of that which is customary in Dutch debt collection practice. However, if Vidicode has incurred higher costs, which were reasonably necessary in order to obtain satisfaction out of court, then the costs actually incurred shall also qualify for compensation. The Other Party shall owe interest over these costs owed as well.

9. The reasonable costs to be compensated as referred to in the previous section shall also include judicial costs, including those of legal assistance, in so far as these costs exceed the amount of the court order to pay the costs of the action on the basis of the applicable Dutch legislative provisions.

Article 9 Recall

1. The Other Party shall see to an up-to-date file containing the customer base for the Products. At least the following data shall be included in that file: name, address and town of those customers, a description of the Products which have been delivered to each of them, including the serial number and article number of each Product and the date on which the Product has been delivered to the end-customer.

2. If Vidicode finds it necessary to take recall measures, then the Other Party shall make available that update customer file at the first request of Vidicode. Vidicode shall use the file for the purpose of recall measures only. By recall shall be understood: warning about a fault in the Product, calling back and taking back faulty Products, all in the widest sense of the word.

3. The Other Party shall co-operate in recall actions in other respects as well. In connection herewith the Other Party shall comply with all instructions from Vidicode or from third parties, unless it can not be reasonably expected to comply with such instructions. The costs of the recall measures shall be supported by Vidicode, on the understanding that the Other Party shall support the costs which are involved in the deployment of its employees and its business operating resources.

4. If the Other Party does not fulfil any obligation resulting from this article, that shall constitute a ground for immediate termination of the (distribution / reseller) Agreement. In that case Vidicode shall not owe any compensation to the Other Party.

5. Vidicode shall be entitled to claim from the Other Party compensation for any losses which it suffers as a result of non-fulfilment by the Other Party of its obligations pursuant to this article.

Article 10 Delivery

1. Vidicode shall be entitled to contract out to third parties (parts of) obligations resulting from the Agreement.

2. Periods of delivery / handover shall not be fatal periods, so that the fact that such a period expires without delivery or handover having taken place shall not constitute an omission of Vidicode.

3. Products shall be delivered ex the business premises of Vidicode (FCA Seller's Premises; Incoterms 2000). As of the moment on which the Products have been transferred to the carrier (of the Other Party), the risk of loss, damage or decrease in value passes onto the Other Party.

4. If delivery of the Products is not taken on time, the Products shall be stored at the expense and risk of the Other Party.

5. Minor deviations of the products or Services delivered from the Agreement shall not be qualified as a shortcoming if the Products or Services delivered possess the qualities which are necessary for a normal use thereof or for the use anticipated in the Agreement.

6. The Other Party shall be held to inspect or have inspected the products immediately after delivery. In that inspection the Other Party shall examine whether the quality and the quantity are in compliance with that which has been agreed.

7. The Other Party shall be held to notify Vidicode of any shortcoming immediately and in writing, with a description of the shortcoming and with presentation of the original purchase invoice. The Other Party shall no longer be entitled to invoke that the Products are not in compliance with that which has been agreed if it has not notified Vidicode thereof within fourteen days after delivery in the event of visible faults and within two months after delivery in the events of invisible faults.

8. Even if the Other Party files a complaint in time, this shall not suspend its payment obligation. Also in that case the Other Party shall be held to continue to accept and pay for the other Products ordered.

Article 11 Software

1. The Software supplied by Vidicode and the documentation belonging thereto, full or partial copies, whether or not integrated into other programmes and/or Products, shall remain the property of Vidicode or of the party who shall be entitled to these rights.

2. The Other Party shall take care of the installation of the software and any further materials to be delivered for the benefit of the End-user. To that end Vidicode shall inform the Other Party and provide documentation if necessary.

3. The Other Party shall see to it that End-users take the measures required to protect the Intellectual property, the copyright and the confidentiality of the software with associated documentation and this in the manner prescribed by Vidicode if so requested. The Other Party shall have the same care obligation towards its own employees, supervisors and towards third parties.

4. In the event of (each) violation of this article and/or infringement of the Intellectual property rights of Vidicode and/or third parties the Other Party shall forfeit an immediately payable penalty of € 10,000.--, without prejudice to the right to compensation for further losses.

5. Vidicode shall not be liable for the inability to deliver Software which is developed by other parties than Vidicode. Vidicode expressly excludes any liability for alleged shortcomings in the Software delivered which are the result of incompatibility or bugs in Software supplied by other parties than Vidicode. Vidicode shall not be liable either for any losses, including business interruption losses or consequential losses, which result from or are connected with the use or the inability to continue the use of the Products and/or Software supplied by Vidicode.

Article 12 Retention of ownership

1. Without prejudice to the provisions elsewhere in these terms the products supplied within the framework of this Agreement shall remain the property of Vidicode until the Other Party shall have properly fulfilled all obligations resulting from the Agreement or other Agreement(s) entered into with Vidicode.

2. The Other Party shall not be entitled to resell any Products covered by the retention of ownership, to use them as a means of payment, to pledge them or to encumber them in any other way.

3. Only under retention of ownership shall the Other Party be competent in the normal conduct of its business to sell and deliver Products to which Vidicode can exercise a right of retention of ownership. The Other Party shall clearly stipulate the retention of ownership towards its Customers and shall agree that the Products can be taken back at first request as long as the purchase price has not been paid to the Other Party.

4. As long as the Other Party has not fulfilled its payment obligation or if there is a good reason to doubt that those obligations will be fulfilled (in time), Vidicode shall be entitled to take back the Products supplied.

5. The Other Party shall be obliged to keep proper records of the goods supplied under retention of ownership, to insure and keep insured these Products and to make the insurance policy available to Vidicode for inspection at the first request. In the event of any payment by the insurance company Vidicode shall be entitled to these insurance payments.

6. The Other Party shall not be entitled to invoke a right of retention of ownership with regard to Products of Vidicode; neither for costs of storage, nor to set off these costs against a debt to Vidicode.

7. If third parties attach Products falling under a retention of ownership, or wish to establish or exercise rights thereto, then the Other Party shall so notify Vidicode forthwith.

8. As soon as Vidicode indicates that it exercises its retention of ownership rights as referred to in this article, the Other Party hereby gives unconditional and irrevocable permission in advance to Vidicode (or to third parties to be designated by Vidicode) to access all those places where the Products are located according to the Other Party, in order to take back these Products.

9. All costs associated with the taking back as referred in this article such as - but not limited to - costs of disassembly, transport and legal assistance - shall be at the expense of the Other Party. In addition the Other Party shall be liable for the decrease in value of a Product taken back such as - but not limited to - as a result of use, damage, ageing and reduced saleability.

Article 13 Intellectual property

1. The Other Party shall acquire no intellectual property with regard to the Product, Documentation and/or Software supplied.

2. The Other Party shall not be competent to make invisible or replace any (Product) name and/or any logo of Vidicode on or in the Products, Documentation and/or Software supplied.

3. Vidicode declares that to the best of its knowledge the Product /Software does not constitute infringement of any valid intellectual property rights of third parties. In the event of claims by third parties with regard to an infringement of such rights Vidicode shall be entitled, if necessary, to replace or modify the Product /Software concerned or to dissolve all or part of the Agreement.

4. The Other Party shall have the right to dissolve the Agreement only if maintenance of the Agreement can not reasonably be expected in the case as referred to in the previous section.

5. The Other Party shall inform Vidicode immediately of any claim by a third party with regard to infringement of intellectual property rights with regard to the Product /Software. In the event of such a claim only Vidicode shall be entitled to conduct, also on behalf of the Other Party, a defence against such a claim or to take legal measures against that third party.

6. The Other Party shall refrain from such measures in so far as that can be reasonably expected of it. In all cases the Other Party shall lend co-operation to Vidicode.

7.

Article 14 Demo equipment

1. An Agreement concerning the use or the loan of a Demo Product shall be concluded in the same way as an agreement.
2. A Demo Product shall be returned -- with an RMA number to be applied for from Vidicode which shall be stated clearly on the returned package - within 30 days after it has been sent and at the expense of the Other Party.
3. If a Demo Product has not been returned within the agreed period and/or not provided with an RMA number, then an Agreement shall have been concluded by the acceptance and the Other Party shall owe to Vidicode for that product a purchase price which shall be equal to the then applicable sales price increased by the statutory commercial interest with a minimum of 0.5% per month, taking effect 14 days after the sending of the Demo Product by Vidicode.

Article 15 Warranties

1. Products and Services shall comply with the requirements and standards which may reasonably be imposed thereon at the time of delivery in the event of normal use or special (agreed) use. The warranty mentioned in this article shall apply to Products which are intended for use within the Netherlands. In the event of (anticipated) use outside the Netherlands the Other Party itself shall verify whether these Products are suitable for that purpose and meet the requirements which are imposed there and then.
2. This warranty shall apply for a period of twelve months to be counted from the date of sale of a Product by the Other Party on the understanding that (even after expiration of the above-mentioned period of twelve months) a warranty shall always remain in force for eighteen months after the date of delivery ex works according to the administrative records of Vidicode.
3. The above-mentioned warranty shall not apply to: software, (not) rechargeable batteries, fuses and storage media.
4. Even if the Other Party files a complaint in time, this shall not suspend its payment obligation. Also in that case the Other Party shall be held to continue to accept and to pay for other Products already ordered.
5. Vidicode shall not be bound by any warranty if and as long as the Other Party does not fulfil its obligations, in particular its payment obligations.
6. The warranty shall be void if a fault in a Product has been caused by or results from: inexpert or improper use; incorrect storage or maintenance; if modifications have been made to it; or other goods have been fastened to it which should not have been fastened to it; or if a Product has been processed or treated in another way than the prescribed way. Nor shall the Other Party be entitled to any warranty if the fault has been caused by or is the result of circumstances beyond the control of Vidicode, including weather conditions (such as, but not exclusively, lightning, extreme rainfall or temperatures) etc.
7. A warranty obligation may be fulfilled, and this at the choice of Vidicode, either by replacing a faulty Product, by repairing it, or by paying a compensation. The amount of such a compensation shall be determined with observance of the provisions laid down in Section 9 of this article. In the event of replacement or repair the Other Party shall be held to return the Product to be replaced to Vidicode after it has received an RMA number from Vidicode.
8. Return shipments of Products under warranty shall take place on a "Carry In" basis (shipping costs at the expense of the Other Party). Vidicode shall be entitled to refuse Products which have been sent in another way than the way mentioned above. Vidicode shall return at its expense Products which have been repaired or replaced under warranty to the Other Party.
9. Only if Vidicode does not fulfil its obligation to replace or repair within a reasonable period after having been summoned to do so in writing, shall it be liable for, at the most, the costs of a repair by a third party. In the event of such a repair, however, the costs to be compensated for by Vidicode shall never be higher than the original purchase price. In the event of a necessary replacement Vidicode shall never owe the Other Party more than half the original purchase price. Moreover, in that case the Product shall first be returned to Vidicode in its original state. If repairs have been carried out in the meantime or if changes have been made by or on behalf of Vidicode, or if this has been done with its explicit permission, then the Product may be returned - after an RMA number has been received from Vidicode - in the state in which it was immediately after that repair or change.
10. If it is established that a complaint is unfounded, then the costs of handling, including the examination costs on the side of Vidicode, shall be at the expense of the Other Party.
11. Vidicode shall not be held by any warranty for faults which have not been reported to Vidicode in writing within fourteen days after they have been discovered. The same applies to goods if faults in these goods have not been reported within fourteen days after they could reasonably have been discovered. A notification to that effect shall have been sent not later than fourteen days after expiration of the warranty period referred to in this article.
12. For (the repair of) faults which are not covered (any more) by the warranty as referred to in this article, all costs of repair or replacement, including administrative, shipping and turning out costs, shall be charged to the Other Party. Non-warranty return shipments shall be accepted only after acceptance by Vidicode of a written notification to that effect from the Other Party.

13. No claim to repair can be filed any more after expiration of a period of six years after the shipping of a Product ex factory. The data in the administrative records of Vidicode shall be decisive for the determination of the above period.

Article 16 Act of God

1. Vidicode shall not be held to fulfil any obligation if the fulfilment of this obligation has become more inconvenient or more expensive because of a circumstance for which Vidicode is not to be blamed and which should not be at its expense pursuant to the law, a legal act or the generally accepted opinion. In addition to what has been laid down about this in the legislation and in case law, the same applies to any external cause, whether anticipated or not, because of which Vidicode is unable to fulfil its obligations, such as war, risk of war, riot, full or partial mobilisation, strikes, lack of raw materials, stagnation in the supply of goods by suppliers and other unforeseen circumstances in the business, transport difficulties, import and export restrictions, frost, fire, epidemics, (natural) disasters and other obstructions which make the manufacture or the transport of the goods entirely or partly impossible. Vidicode shall also have right to invoke this of the circumstance which prevents (further) fulfilment of the Agreement occurs only after expiration of a period within which Vidicode ought to have fulfilled an obligation.

2. Vidicode shall be entitled to suspend the obligations resulting from the Agreement for the period that the Act of God continues to exist. If this period lasts for more than four weeks, Vidicode shall be entitled to dissolve the Agreement, without being obliged to pay any damaged whatsoever.

Article 17 Liability

1. Without prejudice to the provisions laid down in article 11, any liability of Vidicode shall be limited to that which is allowed in the Agreement.

2. The liability of Vidicode under the Agreement shall be limited to the warranty obligations. In particular Vidicode shall not be liable for business interruption losses and/or consequential losses, of whichever, nature, which may arise for the Other Party or for third parties as a direct or indirect consequence of (the use of) the Products supplied by Vidicode.

3. Therefore Vidicode shall be liable only for direct losses as a result of non-compliance with warranty obligations. Before compensation for such losses can be claimed, Vidicode shall first be offered in writing a reasonable period to fulfil its obligations as yet or to perform a (counter-)investigation into the loss or to have such a (counter-)investigation performed by an expert agency. If it appears that Vidicode is not liable, then the Other Party shall reimburse Vidicode for the costs incurred at the first request from Vidicode.

4. Vidicode shall not be liable for any losses as a result of the use and/or storage of Products and/or Software.

5. Vidicode shall not be liable for any losses as a result of intent or gross fault of persons, or of unfitness of goods, which persons or goods Vidicode has used in the execution of an obligation.

6. Without prejudice to the other provisions Vidicode shall be liable only for (losses as a result of) shortcomings in the fulfilment of an obligation, if and in so far as there has been intent or gross fault of its directors or actual supervisors.

7. The liability of Vidicode within or outside the framework of the Agreement shall furthermore be limited at any rate to (whichever is the lower) either the amount which in connection herewith is paid to Vidicode by its insurance company, or the invoice value of that part of the Agreement to which the liability relates.

8. Without prejudice to the other provisions of these terms and in deviation from the legal periods all legal claims shall be subject to the statute of limitation on the ground of a shortcoming in the fulfilment of an obligation and the defences based thereon towards Vidicode and the third parties used by Vidicode in the execution of an Agreement, by the expiration of one year after the start of the day following the day in which the claim concerned became exigible.

9. In the event that claims are disputed by Vidicode, the Other Party shall have filed a claim in court within 6 months under penalty of this claim being null and void.

Article 18 Protection

1. The Supplier shall protect Vidicode against any claim concerning losses (including consequential losses, business interruption losses, lost profit and take back losses) which are the direct or indirect result of non-fulfilment, late fulfilment of improper fulfilment by the Other Party of any other contractual or non-contractual obligation towards Vidicode or towards third parties, (including, but not limited to, employees of Vidicode, companies with which Vidicode is associated in a group, or third parties or employees of third parties used directly or indirectly by Vidicode).

Article 19 Confidentiality

1. The Other Party shall keep secret the nature, the existence and the contents of the Agreement as well as the business information and shall not publish anything relating to it without written permission from Vidicode. The Other Party shall impose this obligation on its customers as well.

2. Without prejudice to its other rights, Vidicode shall be entitled in the case of a violation of the first section of this article unilaterally to dissolve all or part of the Agreement without notice of default and without any judicial intervention being required.

3. The obligations resulting from this article shall survive after the termination of the Agreement.

Article 20 Location and modification of terms

1. These general terms of sale and purchase have been filed at the Chamber of Commerce for The Hague under number 27107395, January 2009.

2. The latest filed version or the version which was in force at the time when the legal relation with Vidicode came into existence shall be applicable.