

Terms & Conditions

C.RO VEC Ltd.



I. GENERAL CLAUSES

1. Definitions, Interpretation and Applicability

- (a) Definitions:
- "Company" means C.RO VEC LIMITED, 130 Shaftesbury Avenue, W1D 5EU London, Great Britain, or any other company of the CLdN Groups performing VEC/PDI services. company includes, unless the context otherwise requires, its successors, assigns, sub-contractors, agents and employees.
 - "CLdN Groups" means the group CLdN Lignes S.A. and/or the C.RO Ports group, and all of their direct and indirect subsidiaries.
 - "Customer" means the party who orders the VEC/PDI services for the goods.
 - "Processing" means moving, unloading, loading, accepting, delivering, sorting, measuring, weighing, counting, treating, sampling, repackaging, guarding, storing and depositing the goods in depots or elsewhere. This enumeration is not limitative. Transporting goods in the harbour area through the help of means of transport should be interpreted as processing and not as transport.
- (b) Unless agreed otherwise in writing, in a separate agreement, the legal and contractual relationship between the parties is governed by these C.RO VEC Terms and Conditions, which the Customer declares to have taken note of, and which prevail over the own purchase conditions of the Customer.
- (c) If these conditions are made available in other languages than English, the English version is to be considered as the original one in case of discrepancy in wording or in case of dispute.

2. Various operational aspects

- (a) The assignment of the Company begins at the moment that the goods are delivered at his premises. From that moment on it is responsible for the goods. The assignment ends from the moment that the goods have left the premises of the Company or have been collected by the Customer, whichever is the earlier. At that moment his responsibility for the goods also takes an end. If a delivery receipt for the goods is required then this should be agreed in advance and in writing. This agreement should also include any procedural requirements concerning the receipt of delivery. The goods remain on quay or in the shed at the expense and the risk of the consignee, the shipper or the Customer, or their appointees. The latter have to take proper insurance, without recourse for fire risks.
- (b) The Customer makes the commitment to notify the Company in writing on all characteristics and qualities of the goods and their package, which might be of any importance for Processing and safety.
- (c) Transportation or shipment of vehicles or goods, by which means of transport whatsoever, occurs at the Customers' risk, even if forwarding is free of charge.

3. Delivery and acceptance

- (a) Delivery is conditional upon the correct, timely arrival of goods purchased by the Company or to be provided to the Company.
- (b) Delivery of vehicles can only take place after agreement of C.RO VEC Ltd.
- (c) Unless agreed differently, all deliveries are "ex-works". The Company will not take out cargo insurance.
- (d) Exceeding the delivery period or non-respect by the Customer of his obligations towards the Company will not grant the Customer any right to indemnification of whatever nature
- (e) All costs caused by delay to which the Company has no fault, will be at the Customer's expense.
- (f) In case of Act of God, we are exempt from liability for any damages or losses arising there from, and we are entitled to postpone deliveries and performances of services during the Act of God-period.
- (g) For off spec or colour, which does not exceed minor differences in colour detail, we cannot accept responsibility. Such minor discrepancy will not entitle the Customer to refuse delivery.
- (h) The Customer has a duty to inspect the vehicles delivered by the Company immediately. The Customer declares having received the vehicles, goods and accessories in good, complete condition, unless within two (2) days from delivery C.RO VEC Ltd has been informed that damage or discrepancies have

been noticed upon delivery. This does not affect the following clause 4 (Guarantee). If a third party (haulier or other carrier) is involved the Customer has to make reservations (upon receipt of the vehicles into the custody of this carrier) on the CMR note in conformity with the CMR Convention. The absence of such reservations will constitute proof in favour of the Company that the vehicles were delivered in good, complete condition.

- (i) In case of dispute in respect of the date of delivery the signature date for taking receipt of the vehicle at the Company is applicable. If the Customer formulates a claim, he has to leave the vehicle or the goods untouched, until the Company has had the opportunity to inspect the vehicle or the goods to verify the claim. The Company has to be granted the possibility of a joint survey. If this right to a joint survey was not taken into account, the Customer's claim is null and void.
- ### 4. Guarantee
- (a) V.E.C.-works are carried out as per technical specification and working instructions of the Customer, this in respect of work method and materials and will only consist of assembly of existing products.. As a rule, modifications will be performed as per strict instructions and procedures dictated by the Customer and materials will be used as per Customer's choices. Hence no advice will be given, no new design will be proposed and no new constructions will be made by the Company. The Customer has the exclusive liability therefore, the Company is only a performer, accordingly the Company's responsibility is limited to the actual performance and the Company will not accept any product liability. The guarantee clauses have to be read and construed in this context.
- (b) If vehicles show defects within twelve (12) months after delivery (defects resulting from wrong workmanship, assembly, mounting, or modification), these vehicles/goods will be repaired or replaced by the Company itself, unless agreed otherwise. The Company is not liable to pay for whatever additional costs of whatever nature the Customer would have. All claims against the Company will be time barred twelve (12) months after delivery.
- (c) In case of dispute in respect of the date of delivery, the signature date for taking receipt of the vehicle at the Company or the collection date of the goods is applicable.
- (d) The Company is not liable to provide any guarantee, if the Customer (or any party who has an interest) has made himself any modifications or repairs, or has used the vehicle or goods in an abnormal way or for an abnormal purpose.
- (e) If the Customer intends to invoke these guarantee clauses, it is his duty to report (in writing) the nature of the discovered deficiencies within eight (8) days after he noted these deficiencies, or reasonably should have noted them.
- (f) The vehicle(s) is (are) to be left in an unchanged condition until the Company had the possibility to investigate the complaint. If not, any claim will become null and void.
- (g) The cost of returning the vehicles to the Company is always for account of the Customer.
- (h) The travelling expenses and labour cost are always for the account of the Customer.
- (i) The application to the guarantee will not trigger a new guarantee period, unless if otherwise agreed in writing.
- (j) We reserve the right to make the fulfilment of our obligations under the guarantee conditional upon the complete payment of our invoices, and the fulfilment by the Customer of his obligations.
- (k) Vehicles, for which the guarantee is invoked, will have to be presented and collected afterwards at our premises as per agreed practical arrangements.
- (l) If the Customer does not respect these requirements and claims procedure, then the Company is entitled to consider his potential claim under the guarantee as being forfeited.
- (m) The liability limit of the Company for V.E.C.-activities is:
- as a maximum: the actual repair cost, for a repair by the Company at their premises;
Recall by the Customer is a commercial decision by the Customer, and as such cannot be opposed to the Company. A recourse action against the Company

is only open in case of proven gross negligence, and in that case is limited to maximum:

- a) per vehicle/unit: the cost that was initially invoiced by the Company to the Customer for the V.E.C.-works carried out on that unit; this is the absolute maximum per vehicle;
- b) in the aggregate: for a series of vehicles/units subject to a recall for the same cause: the amount is as defined sub 1 multiplied by the number of vehicles, and limited to a maximum of 100.000,00 €

- (n) If the Company act as an intermediary only, the guarantee on the products delivered by us, is identical and limited to the one the supplier or manufacturer granted us.

5. Offers and quotations

- (a) All offers are without engagement. Taxes are not included in the price. All given prices are based on the wages, National Insurance contributions and material prices, which are in force on the day of the offer. Official price changes, such as the ones provided by legal provisions, automatically involve corresponding changes to the prices established in the contract. This proportional rise may apply to a part of the command, or to the order as a whole.

- (b) Offers and quotations are valid for 30 days only.

6. Invoice-terms

- (a) All invoices (unless stipulated otherwise on the invoice, or in a separate written contract) are to be paid promptly (i.e. at the latest within 8 days). No set-off or deduction between our invoices and your claims is allowed.

- (b) Bad debt: interests and contractual indemnity for business disturbance: any sums remaining unpaid at the expiry of the payment-period shall automatically, and without prior notice, bear interest thereafter and interest will be calculated retro actively starting with the invoice date.

- (c) Such interest to accrue from day-to-day at a rate of interest fixed by the ECB (European Central Bank). Calculation method: as it was determined in the Late Payment of Commercial Debts Regulations 2002 which came into force August 7th, 2002, and which are bringing into force the European directive 2000/35/EG of June 29th, 2000, increased by 7 percent points, and rounded upwards up till the higher halve percent-point.

However the applicable interest rate shall never be less than 12% per annum, whatever the highest.

- (d) If within a term of 15 days, following the putting-on-notice, by means of a registered letter, the debtor still fails to pay, then the amount claimed will be increased *de iure* with 10% extra, with a minimum of 500 Euro and a maximum of 50.000 Euro, by way of a lump sum – indemnification for additional administration, follow-up of debtor position (credit control services) and disturbance of trade.

7. Credit facilities

- (a) If (deviating from the general principle that all invoices are to be paid promptly as stipulated above) the Company has granted payment facilities in writing (e.g. a 30 days payment term granted on the invoice itself, or in a separate written agreement a Customer-specific payment term and/or credit limit were granted) then the benefit of such credit facilities is given under the dissolving condition of strict observance and compliance by the Customer to these credit terms.

- (b) Non-compliance with the credit terms as granted (i.e.: general ones mentioned on invoices, or specific agreements), and regardless the nature/magnitude of the breach, (such as e.g. exceeding the payment term with 1 day, or exceeding the credit limit with 1 £), will be sanctioned, without prior notice, with the automatic cancellation and withdrawal of the granted credit facility as a whole, and accordingly then all outstanding invoices will automatically become due at once, and interests thereon will be due as from the issuing date of the invoice(s). Payment terms mentioned on the invoices shall then become null and void and shall read "prompt payment" instead.

- (c) If no such prompt payment is received, then the Company is entitled to exercise all securities, liens etc. as stipulated elsewhere in the present Terms & Conditions and to stop performance immediately.

- (d) If and when credit terms have been breached and accordingly automatic cancellation has taken place, then, - once the Customer has rectified his breach of contract - credit terms can only be reinstated in writing, and such reinstatement is to be granted/signed by the competent staff of the Company.

- (e) Pending such written reinstatement, further bookings/shipments/billings cannot be construed as a tacit waiver of this automatic cancellation of credit facilities. Credit facilities (payment terms and/or a monetary limit) are a discretionary favour, not a "right", and are always granted on a temporary 'ad hoc' basis and evaluation, for an undetermined period, and taking into consideration available solvency data and market information. Accordingly credit facilities are subject to constant review, can be reformulated or made subject to additional security being put up, and/or can be cancelled (such decisions will be notified in writing) at any time, without any obligation of the Company to motivate this decision, and no indemnity whatsoever shall be due in that respect.

8. Transfer of employment / TUPE

- (a) Any proposal and/or quotation the Company submits, is formulated on the express condition that its calculated labour cost will not be adversely affected by labour cost increases as they might result from the safeguarding of employees' rights, such as but not limited to effects resulting from the Council Directive 2001/23/EC of 12 March 2001.

- (b) Such effects and costs, resulting in higher labour cost levels being incurred thus, affecting our initial cost calculation, will be for account of the Customer.

9. Payment and securities for C.RO VEC Ltd

- (a) Good delivered by C.RO VEC Ltd:

All goods which are not fully paid, remain entirely our unrestricted property. In case of advances, these will serve as set-off for expenses and loss of profit.

- (b) Goods owned by the Customer:

Rights of retention: all claims on the Customer constitute an undivided claim; even those that have no bearing on previous assignments and on goods that are not in process anymore. C.RO VEC Ltd is entitled to exercise a lien and to keep the goods that are entrusted in its possession and not to deliver them as long as its claim is not satisfied.

- (c) All companies/legal entities being a member of the CLdN Groups will on basis of reciprocity be entitled to make use and invoke the payment securities and liens stipulated in the conditions of other group-companies, and will be entitled to enforce securities and liens upon goods held within the group, i.e. under the custody of other group-companies, regardless whether these goods are on the group's vessels and crafts, trucks, trailers, containers, premises or terminals.

- (d) Cross default clause in favour of C.RO VEC Ltd and his group.

C.RO VEC Ltd is a member of the CLdN Groups. A default or breach of any nature whatsoever by the Customer of any of its obligations under the present Conditions towards C.RO VEC Ltd, will be considered to constitute a material breach of its obligations (of any nature whatsoever) towards each entity of the CLdN Groups and will entitle any entity of the CLdN Groups - immediately and without further notice - to suspend or terminate any of its contractual obligations towards the Customer, to trigger/accelerate its contractual rights vis-à-vis such Customer and/or to enforce any security or surety granted to it by the Customer. Such breach will automatically cancel and render all credit facilities null and void and accordingly will make each outstanding invoice become due immediately.

If the Customer is a part of a group, a default or breach committed by any entity of the Customer's group towards any entity of the CLdN Groups will be considered a breach by the Customer under the present Conditions and will give rise to the right of any entity of the CLdN Groups as described in the preceding paragraph.

In addition, in the case the Customer is a part of a group, the Customer hereby guarantees for the benefit of any specific Company involved under the present Conditions or any other relevant entity of the CLdN Groups (as the case may be) the due and punctual performance by each and every entity of the Customer's group of any and all of such entity's obligations towards the relevant entity of the CLdN Groups.

C.RO VEC Ltd can enforce bad debts against assets of any company in the Customer's group, which has received these Terms and Conditions and - based thereupon - has transacted business with the CLdN Groups.

Any breach by the Customer/the Customer's group towards any entity of the CLdN Groups will automatically render all credit lines, payment facilities and payment Terms granted to any company of the Customer's group under the present conditions null and void vis-à-vis any entity of the Customer's group: the payment of all services rendered and invoiced by any entity in the CLdN Groups will then become due with immediate effect.

- (e) An overdue payment entitles us to cease further deliveries or services and suspend all activities in order not to let credits accumulate any further and this without warning from our side.

- (f) Late delivery of goods or services (i.e.: on a later date than the one provided for that delivery or service), provided same is not due to bad faith or a major mistake of C.RO VEC Ltd, can never imply cancellation of the order or breach of contract, nor give right to any compensation whatsoever.
- (g) In case of non-payment in cash or on the stipulated expiry date, interests will be legally due without warning, counting from the issue date of the invoice or from the provided expiry date. Every started month will be charged for as a full month.
- (h) The Customer shall pay to the Company in cash, or as otherwise agreed, all sums when due, immediately and without reduction or deferment on account of any claim, counterclaim or set-off. Save for the calculation method as stated in article 3.2, the Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.
- (i) The Company is entitled to determine the payment method from time to time. The Company is entitled to refuse to be paid by way of cheques.
- (j) As a mutual guaranty and engagement for quick settlement of disputes, both parties accept that disputes are to be (in as much as possible) resolved by way of mediation, and only after such attempt fails there will be litigation in accordance with the jurisdiction clause sub Clause 11.
- (k) Complaints about delivery of goods and services or execution of works have to be made at the time of delivery and they must be introduced and motivated by registered mail within eight (8) days after the date of delivery or realisation. These complaints do not suspend the obligation of payment. All claims are time barred one (1) year after delivery.
- (l) Remarks and restrictions concerning the invoice and/or General Terms and Conditions on it, must be transmitted by registered mail within eight (8) days after the date of the invoice. For settlement of disputes this term is thirty (30) days.

10. General Principles of Liability / Time Bar

- (a) C.RO VEC Ltd has an obligation to use fair, reasonable endeavours, but not to guarantee a specific result.
- (b) C.RO VEC Ltd is only liable for the direct damages, caused by its proven fault or negligence. C.RO VEC Ltd is only liable for the damage that directly results from a positively proven own fault and/or from a fault by his appointees. Proof by way of any legal or factual presumption, is excluded. Failing a written declaration of the value of the goods to be processed at the moment of the order and after the written acceptance by the Company, the liability is restricted in any case to 500,00 £ per unit / package, or unless specified differently in these Terms and Conditions.
- (c) Act of God:
Any damage or loss caused, or any delay or failure of C.RO VEC Ltd to perform its obligations, shall be excused if, and to the extent that it is caused by an event or occurrence beyond the reasonable control of C.RO VEC Ltd and without its own fault or negligence, such as, by way of example and not by way of limitation 'Act of God' or 'Force Majeure', actions by governmental authority (whether valid or invalid), fire, floods, windstorms, explosions, riots, natural disasters, industrial fall out and airborne contamination, insufficient through put of parts, disturbance of production of suppliers, bad performance of suppliers, wars, terrorism, sabotage, labour problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labour equipment or transportation, or court injunction or order; provided that written notice of such delay, including the anticipated duration of the delay, shall be given within ten (10) days.
- (d) Any recourse against the goods processor expires at the end of the activities. Without prejudice to this provision, any legal action against C.RO VEC Ltd expires after the term of one (1) year, unless a shorter term is provided for in the law.

11. Jurisdiction and applicable law

- (a) These conditions and any act or contract to which they apply shall be governed by English law and any dispute arising out of any act or contracts to which these Conditions apply shall be subject to the exclusive jurisdiction of the English courts.
- (b) For recovery of "bad debt", the Company is entitled to issue the proceedings in any appropriate jurisdiction of its choice, at its discretion, e.g. in the jurisdiction where the Customer has either his principal seat of business, or a subsidiary, or where debtor's assets are available for executing the judgement.