



MASARYKOVA UNIVERZITA  
**PRÁVNICKÁ FAKULTA**  
ÚSTAV DOVEDNOSTNÍ VÝUKY A INOVACE STUDIA

**Contract for International Sale of Goods**  
agreed on by and between

**SELLER**

**Cataclysm Equipment Ltd.**

Seated in: Castle Pines, Colorado, USA

Country of Incorporation: USA

ID No.: 1234

VAT No.: 1234

Company represented by: John Smith, representing on the basis of Power of Attorney from 25 August 2013

Hereinafter as “Seller“

and

**BUYER**

**Wegwerkzaamheden N.V.**

Seated in: Amsterdam, Netherlands

Country of Incorporation: Netherlands

ID No.: 5678

VAT No.: 5678

Company represented by: Peter Herenberger, on the basis of Power of Attorney from 10 June 2012

Hereinafter as „Buyer“

**I. Preamble**

This Sales Contract is made as between **Cataclysm Equipment Ltd.**, as a business company seated in Castle Pines, Colorado, USA (the “seller”) and **Wegwerkzaamheden N.V.**, as a business company seated in Amsterdam, Netherlands (the “buyer”). This contract covers the purchase of goods specified in article II of this contract, which shall serve for the purposes of construction of motorway between Amsterdam and Gent carried out by the buyer.

**II. Sale of goods**

1. According to this Contract the Seller is obliged to prepare the Goods specified hereinafter to delivery and to transfer the ownership of the goods to the Buyer and the Buyer is obliged to accept the Goods from the Seller and to pay purchase price agreed hereinafter.

**III. Specification of Goods and purchase price**



evropský  
sociální  
fond v ČR



EVROPSKÁ UNIE



MINISTERSTVO ŠKOLSTVÍ,  
MLÁDEŽE A TĚLOVÝCHOVY



OP Vzdělávání  
pro konkurenceschopnost



INVESTICE DO ROZVOJE VZDĚLÁVÁNÍ

MASARYKOVA UNIVERZITA, **PRÁVNICKÁ FAKULTA**, Veveří 70, 611 80 Brno

tel.: +420 549 49 1211 • fax: +420 541 210 604 • www.law.muni.cz

Bankovní spojení: KB, pobočka Brno, č.ú.: 85636621/0100 • IČ: 00216224 • DIČ: CZ00216224

1. The subject of this Contract is following Goods:

**Cataclysm Burning Oil Heavy Excavators** in quantity of **4**. The purchase price of one piece of the goods is **2,500,000 USD** (two millions five hundreds United States Dollars). The VAT is excluded from this price. The Goods shall be in conformity with document Cataclysm Burning Oil Heavy Excavators – technical specifications. This document is part of this Contract as **Annex no. 1**.

**Cataclysm Fire Trucks** in quantity of **10**. The purchase price of one piece of the goods is **1,000,000 USD** (one million United States Dollars). The VAT is excluded from this price. The Goods shall be in conformity with document Cataclysm Fire Truck Excavators – technical specifications. This document is part of this Contract as **Annex no. 2**.

#### IV. Payment Terms

1. The Seller shall pay to the Buyer for the goods, which is subject of the present Contract, with a bank transfer as follows:
  - a) The Buyer shall pay a first down payment in the amount of 30 % of the purchase price via a bank transfer against a Seller's pro-forma invoice. Such invoice shall be issued not earlier than on the day when the Contract entered into force, and shall be payable within seven (7) days from the date of the receipt of the pro-forma invoice by the Buyer.
  - b) The Buyer shall pay a second down payment in the amount of 50 % of the purchase price via a bank transfer against a Seller's pro-forma invoice and pre-shipment inspection protocol signed by both Contracting Parties. Such invoice shall be issued not earlier than the pre-shipment inspection protocol signed by both parties stating that the goods conform with the Contract, and shall be payable within seven (7) days from the date of the receipt of the pro-forma invoice by the Buyer.
  - c) The Buyer shall pay a third down payment in the amount of 15 % of the purchase price via a bank transfer against a Seller's invoice after the release of goods for shipment (EXW delivery) with all related documentation in strict conformity with the contract. Such payment shall proceed against an invoice sent to the Buyer at the day when the goods were released for shipment (EXW delivery). Such invoice shall be payable within thirty (30) days from its receipt by the Buyer.
  - d) The Buyer shall pay last 5 % of the purchase price via a bank transfer within thirty (30) days after the date of receipt of goods and all certificates to the Buyer's seat, if:
    - the goods were delivered in strict conformity with the contract or the minor defects were completely removed, and
    - All the related documentation was delivered in strict conformity with the Contract.
2. The invoices are considered to be paid on the day, when the relevant amount is debited from the account of the Buyer in favour of account of the Seller.
3. The banking information for the payment are as follows:

Bank: USA commercial bank  
 Swift Code: THDKSJ5421  
 Credit Account Name: Cataclysm  
 Account No.: 225522664455/2365

Variable

symbol:

000965

4. The invoice shall contain the following details:

- Company Name, seat or place of business, including a country code, and a fiscal and tax identification number of Seller and Buyer
- Registration number of the invoice
- The object of the fulfillment
- Date of issue of the invoice

**V. Currency clause**

- Every payment of financial obligations under this contract will be provided in USD.
- Ensuring currency is EUR, its middle exchange rate is 1 EUR = 1,3551 USD to the day of 24.11.2012 in the state of seller's domicile.
- In case of a change of middle exchange rate USD to ensuring currency for more than 3 %, every financial obligation will be changed in the same proportion as the exchange rate ratio of the ensuring currency to 24.11.2012 and to the due date of financial obligation.
- The seller is obliged to provide the recounting of the value of financial obligation in accordance with the paragraph 3. The seller shall notify the buyer about the recounted value of financial obligation together with the exchange rate difference and the new exchange rate by the invoice.
- In case the seller does not provide the recounting of the exchange rate in accordance with the paragraph 4, the buyer is allowed to provide the recounting in accordance with the paragraph 3 and to pay financial obligation changed in the same ratio as the exchange rate to the due date of financial obligation.
- In case neither party provides the recounting in accordance with the paragraph 4 and 5, it is assumed that value of the financial obligation has not been changed.
- In case of default of the payment of any financial obligation agreed in the contract, the value of this financial obligation will be counted in accordance with the middle exchange rate valid to the due date of financial obligation.
- Middle exchange rate will be determined by Exchange Rates of the National Bank of the USA.
- In case the purchase price changed in accordance with the paragraph 3 is not paid, the seller is allowed to require, besides the exchange rate difference, liquidated damages in the value of the half of the exchange rate difference. The mentioned liquidated damages are payable within 5 days from the claim for payment made by the seller in the written form within the period of 14 days from the payment of the purchase price. The claim for liquidated damages does not affect a claim for the obligation ensured by the liquidated damages. The right to damages is not affected by the claim for liquidated damages.

**VI. Pre-shipment Inspection**

- The goods shall be inspected in a pre-shipment inspection done by the Buyer and the Seller at the Seller's plant. The Seller shall send a Notification of Readiness of the goods for the inspection one week before the intended date of the inspection. The Buyer may inspect the goods as well as the related documentation by

himself or use specialized Inspector Company.

2. The Seller and the Buyer shall issue and sign a Pre-shipment Inspection Protocol stating result of the inspection. In case the goods as well as the related documentation was not in strict conformity with the contract, the Contracting parties must state this fact in the Pre-shipment Inspection Protocol and agree on the procedure for removing of the defects before the goods will be released for transport.

**BUYER version:** Longer period before pre-shipment inspection, at least three weeks, specifications of checkings which shall be checked during the inspection The Subject of the inspection will be the following:

- Checking of the completeness of the subject of the Contract in accordance with the technical specification
- Checking of the documentation

## VII. Delivery Terms

1. The 2 Cataclysm Burning Oil Heavy Excavators shall be delivered one item every 6 months. The first one shall be delivered no longer than 30 March 2014. The second one shall be delivered no longer than 31. October 2014.

2. The 10 Cataclysm Fire Trucks shall be delivered one item every 4 months. The first one shall be delivered no longer than 30 March 2014. Every other shall be delivered no longer than on the last day of every 4 months.

3. The goods will be delivered in conformity with the **INCOTERMS 2010 EXW** seat of the Cataclysm Equipment Ltd., Castle Pines, Colorado, US.

4. The Seller will notify the Buyer about the readiness of the goods for the shipment from the warehouse. The Buyer shall confirm the receipt of readiness signal and arrange the transport immediately. The notification as well as the confirmation shall be in writing.

**BUYER version:** try to negotiate earlier delivery, no EXW INCOTERMS 2010, delivery shall be governed by DDP INCOTERMS 2010.

## VIII. Transfer of the Ownership

1. Ownership to the Goods is transferred from the Seller to the Buyer at the time when the purchase price is fully paid according to the article IV. of this Contract.

## IX. Warranty

1. The Seller warrants to the Buyer that the goods shall be free from defects in material and workmanship (“Defects”) under normal uses and service for a warranty period, which is 6 months from the date of handover.

2. Warranty Claims by the Buyer must be submitted to the Seller in writing, within 7 days of the discovery of the defect. In such a notice, the Buyer is obliged to specify the detected defect, to state what claim out of the defect the Buyer enforces and in what time period they require to remove the defect.

3. The Seller is obliged to remove defects that occurred during the warranty period without any unnecessary delay after a notice is submitted from the Buyer and at their own expenses. Should the Seller fail to fulfil this obligation, the Buyer is

– after the

futile expiration of a reasonable grace period – entitled to remove the defaults at the Seller expenses.

4. This limited warranty does not apply to defects in performance caused by hostile environments such as corrosion due to aggressive fluids, lightning, mishandling or misapplication. Seller's obligations to perform Warranty Service under this warranty shall not apply to repairs or replacements necessitated by normal wear and tear or necessitated in whole or for product operating in conditions for which it was not manufactured. In these cases the Buyer's claims shall be excluded.

**BUYER version:** warranty period 18 months, the period for remove the defects by the Seller has to be expressly settled – the period shall be 7 days.

## X. Liquidated Damages

1. The Seller is well aware of the necessity to keep up with the delivery deadlines. Notwithstanding, in the case the Seller is in delay with the delivery of the goods, the Buyer is not entitled to demand liquidated damages.

2. In the case of the Buyer is in delay with the payments, the Seller is entitled to demand default interest of the unpaid amount calculated according to the base rate of 0, 1 % for each commenced day of delay with the payment. The right to claim damages is neither excluded nor limited.

**BUYER version:** The Seller shall be responsible for delay with delivery, the Buyer is entitled to demand the liquidated damages, 100 USD for every day the Seller is in delay with delivery of the goods.

## XI. Assignment

1. The Seller may assign the whole or any part of its obligations arising from this Contract at any time without notice. The Seller will not be responsible for carrying out assigned obligations.

2. The Buyer may not assign any of its rights under this agreement or delegate any performance under this agreement, except with the prior written consent of the Seller.

**BUYER version:** Assignment is not possible for both parties or Seller may assign part of obligation but he will remain responsible for carrying out obligations under the Contract.

## XII. Choice of Law

1. This Contract, its interpretation, issues of validity or invalidity as well as consequences of its breach shall be governed by American law.

**BUYER version:** Netherlands law

## XIII. Jurisdiction

1. Any dispute, controversy or claim arising out of or in relation to this contract, or the breach, termination or invalidity thereof, shall be decided by Colorado Court, US. The rights and obligations of the parties shall be governed by the substantive laws of the US. The language to be used in proceedings shall be English.

**BUYER version:**

Disputes

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shall be decided by arbitration, the arbitration shall be held in Amsterdam, Netherlands, language of use shall be English

#### XIV. Force Majeure

1. Except for the obligation to pay monies due, the Parties are free from the liability for complete or partial non-fulfillment of the obligations under this Contract if circumstances are beyond their control namely: fire, flood, earthquake and other acts of God, strike, war or military actions, export or import embargo, epidemic and if these circumstances have an influence on the execution of the Contract.

2. Notwithstanding the obligation under previous subsection, each Party is entitled to terminate individual purchase order, if Force Majeure exceeds 120 days. However, the contracting parties agree to be responsible even after the termination for all their mutual claims. In such a case, the Buyer shall pay the Seller for all goods executed by the Seller up to the date of such termination.

**BUYER version:** Also except for the obligation to deliver the goods which are already paid.

#### XV. General Provisions – changes, communication

1. All changes and amendments of this Contract are valid only if they are presented in writing and signed by both Contracting Parties.

2. Both Parties are entitled to withdraw from the Contract if the other Party breaks substantially its contractual duties. In such case, both Parties are obliged to return previous fulfilment mutually.

3. This Contract is drawn up in two English duplicates each Contracting Party shall retain one copy each.

**Place of signature:**

**Date of signature:**

**On behalf of the Seller**

**On behalf of the Buyer**

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John Smith

Peter Herenberger