

## CONDITIONS OF SALE AND DELIVERY OF BIO-DYNAMICS SA

### Art. 1 Overview

1.1 These general conditions of sale and delivery are applicable for all contracts concluded with contractors and legal entities under public law and private law. They form an integral part of the sales contract. All derogatory or contrary conditions of purchase and other restrictions emanating from the buyer are recognised only to the extent that Bio-Dynamics has expressly agreed in writing for each such case.

1.2 Consequently, the placement of an order by a customer constitutes the unreserved acceptance by the customer of these general conditions of sale, except under the particular conditions agreed upon in writing by Bio-Dynamics for said customer.

1.3 Any document other than these general conditions of sale and, in particular, any catalogue, prospectus, advertisement or notice, has only informative and indicative value, and no contractual value.

### Art. 2 Delivery - performance

2.1 Bio-Dynamics always takes the necessary steps to deliver and perform as quickly as possible, without being bound by firm delivery deadlines.

2.2 Under no circumstances may a delay beyond the specified delivery and performance dates result in the termination of the contract. The delay of delivery cannot give rise to any right to damages for the customer. Changes to the order automatically result in the nullity of the indicative delivery times.

### Art. 3 Invoicing

3.1 Invoicing is conducted as follows:

- 20% upon ordering
- 75% according to the progress of work on a monthly basis.
- 5% upon reception of the work

Payment period: 30 days after the invoice date. 7 days in case of supplementary works.

3.2 Any amount remaining unpaid upon its due date will produce automatically and without any notice a late interest rate of 1% per month elapsed from the due date of the invoice. In addition, the amount of the invoice will be increased by lump sum damage and interest of 10% of the principal amount with a minimum of € 25 per invoice.

3.3 In the event of non-payment of an invoice on the day of its expiry, all claims and/or invoices not yet due by and on behalf of Bio-Dynamics will be due following notification via registered post with acknowledgement of receipt. Bio-Dynamics reserves the right to claim payment directly from the developer and/or to stop further work when the payment deadline is exceeded.

#### **Art. 4 Force majeure - Obstacles to the performance of the contract - Hardship**

4.1 Force majeure of any kind, unpredictable disruptions in operations, transportation and shipping, acts of war, acts of terrorism, fires and floods, unpredictable labor shortage, energy, raw materials or ancillary products, cases of strike or lockout, measures taken by public authorities and any other obstacle not under the control of the parties and slowing down, delaying, preventing or rendering unreasonable the manufacture, shipment, receipt or consumption of the goods releases the parties from their delivery and reception obligations for the duration of the disturbance. Taking account of its impact, to the extent that the date of delivery and/or reception is exceeded by more than 8 weeks due to a disturbance not under the control of the parties, each of them has the right to terminate the contract. In the event of the total or partial lack of the seller's sources of supply, the seller is not obliged to purchase from other suppliers. In such case, Bio-Dynamics has the right to distribute the quantities of goods available, taking its own needs into account.

4.2 The exonerating effect of a fortuitous event or force majeure extends to any exceptional event which renders the performance of contractual obligations impossible or abnormally difficult. In such cases, an amendment to the existing contract will be drawn up, which shall not affect the overall existing contract.

4.3 If the work site is stopped or not started according to planning for external reasons beyond the control of Bio-Dynamics (authorisations, etc.) and other than those mentioned in Article 4.1, Bio-Dynamics will charge a minimum indemnity of five thousand euros (€5,000) per calendar day.

#### **Art. 5. Site preparation**

5.1 Earthwork is not provided for in the tender offers. Unless otherwise explicitly stated, the offer is made on the assumption of good soil with sufficient lift (50MPa), seismic category 1 (agricultural building). The buyer must maintain the excavation free from water throughout the construction period.

5.2 Geomatic activities such as the determination of the centers and axes of the tanks are not included and are to be provided by the developer.

5.3 The buyer must provide a recent (G2PRO type) soil survey done on the building site.

5.4 The buyer must provide an "L Structural soundness of works constituent or inseparable from the building" technical control task if the contract amount exceeds five hundred thousand euros.

5.5 The work site must be accessible to heavy vehicles. The preliminary layout of a work site route, properly stabilised (with a layer of 30 cm of stones) and a sufficient width (min. 6 m) is to be completed and paid for by the owner. Each tank must be accessible diametrically by a truck and concrete mixer up to a maximum of 5 m from the tank wall. The additional costs related to this work site route (cleaning, reconstruction,...) are at the charge of the owner.

5.6 Excavation, gravel or filter layering, drainage and inspection work must be performed according to the soil survey, our earthworks plans and the instructions provided by qualified companies.

5.7 The earthwork will be accepted upon the condition of a sufficiently large size (min. internal tank diameter above 2 m), a flatness tolerance of a max. +1/-1 cm, and with a min. compaction of  $EV2 > 50MPa$  and  $EV2/EV1 < 2$  unless otherwise specified in the soil survey. The client delivers platforms that comply with the new decrees published in the Official Gazette of June 2021 with the permeability of the soil under the tanks at a speed lower than  $10^{-7}$  m/s. In the event of non-compliance of the earthwork, the modifications will be borne by the project owner. The excessive consumption of concrete due to the non-conformity of the flatness tolerance will be invoiced to the buyer at a price of at least €180/m<sup>3</sup>. Bio-Dynamics reserves the right to cancel the initial planning if the earthwork cannot be validated at least 3 weeks prior to the start of the project.

5.8 The tanks must be built above groundwater level. If this is not the case, the water under the tanks must be drained and evacuated at all times to ensure a healthy support. Keeping the work site and wells dry is, at all times, the duty and responsibility of the buyer. The risk of loss or damage to the tanks and/or structures concerned is transferred to the buyer when Bio-Dynamics leaves the work site; from that moment, Bio-Dynamics is no longer responsible for the conservation of the reservoirs and/or associated works.

5.9 If the earthwork has not been properly performed and in the event of a danger threatening the life or physical integrity of our workers, the launch of the work will not take place. Late fees and additional work fees will be charged to the buyer.

5.10 All pipes in the vicinity of the construction (above or below the surface, for example, water, gas, electricity, etc.) are to be protected or, if necessary, moved prior to the commencement of work at the time of construction at the cost and under the responsibility of the buyer. The buyer must first make a declaration of work to identify these piping networks.

5.11 The buyer must provide a rest area with toilet and conforming to standards in force or following the instructions of the SPS coordinator, available for use prior to the arrival of the team on site. Except if it is included on the Bio-Dynamics lot.

5.12 The buyer provides for the supply of electricity (63A, 220/380V) and water (5 m<sup>3</sup>/h) on the platforms prior to the arrival of the team. Bio-Dynamics reserves the right to cancel the initial schedule if electricity and water are not on site at least 3 weeks prior to the work site deadline.

5.13 Fences and site safety are at the cost and under the responsibility of the buyer. The buyer must provide insurance against theft covering the entire work site. The theft of goods will be charged to the buyer. The safety plan is drafted by Bio-Dynamics purely for the civil engineering portion.

5.14 These terms and conditions of sale are accompanied by a site start-up checklist that must be fully complied with before a start date is given.

5.15 If there is more than one tower crane on site, the interference system to be provided shall be the responsibility of the purchaser.

5.16 Safe deposition of construction pits is not part of Bio-Dynamics' scope.

5.17 The work to be performed cannot be considered as work in a confined space. Should local legislation nevertheless qualify these works as confined space works, the preventive measures to be taken will be considered additional work to be invoiced.

## **Art. 6 Plans and studies**

6.1 The type of mesh used as well as the thickness of the slab and the veil are determined according to a static study performed according to:

For France: the 2008 French Eurocode Annex. Category of importance 1, sealing class 1. Crack limit: wall: 0.15 mm, 0.2 mm offset Types of concrete C35/45 XA2 PMES D22.4 S3 NF EN 206-1.

For Belgium: Eurocode EN1990-series. Category of importance CC1, sealing class

0. Wall crack limit 0.2 mm, 0.2 mm apron. Types of concrete C30/37 CEMIII B42.5 LA S4 EA2.

For the Netherlands: Eurocode EN1990-series, Category of importance CC1, Tightness class 0. Wall crack limit 0.2mm, apron 0.2mm. Types of concrete C30/37 CEMIII B42.5 LA S4 EA2.

6.2 The tanks are calculated to store cold water, unless otherwise stipulated in the Contract. No antifreeze edge is provided under the floor slab, unless otherwise stated.

6.3 It is the buyer's responsibility to determine if the book work offered by Bio-Dynamics is suitable for the application for which it is to be used. The advice that Bio-Dynamics provides or fails to provide, as part of the work, does not imply any liability on the part of Bio-Dynamics.

6.4 The relevant tank formwork and/or construction plans are included in the above-mentioned price, according to the Bio-Dynamics standard, i.e. without an accompanying third-party study.

6.5 For complete support within the context of an L (Technical Controller) task, Bio-Dynamics will send you an additional offer through a third party office. This addition will be explicitly mentioned in the signed contract.

6.6 Earthwork, stability surveys and any additional validations are performed under the direction and supervision of the developer. If it is necessary to introduce a price for additional foundations, at least three soil surveys will be required for the tank and/or work concerned.

6.7 Cracks in the reinforced concrete tanks do not necessarily constitute a default. Due to the construction process and the materials used, such possibility is not to be excluded. Consequently, cracking is limited to a permissible value in the design of the structure. Despite this measure, slight cracks may appear, but these do not compromise the strength of the structure nor its function and therefore do not prevent the receipt of the work concerned.

6.8 Photos of our documents and our website must be considered non binding and represent an approximate description to illustrate the services provided. The photos may also include additional services that are not part of the offer or order.

6.9 Completion with Bio-Dynamics' exclusive non-absorbent metallic forms. The tanks are delivered unembellished after unveiling unless otherwise stated in the contract. Aesthetic defects that do not affect the proper operation of the work would not be held against Bio-Dynamics or justify any intervention on its part. Client has had the chance to visit reference sites and finished products so client should be well aware of the advantages and disadvantages of working with Bio-Dynamics.

6.10 No impact of seismicity will be taken into account in the calculation of the tanks. Resistance to seismicity will always have to be the subject of a separate quotation.

## **Art. 7 Works Art.**

### 7.1 Reception pits

7.1.1 The following assumptions have been taken into account and are to be complied with by the buyer: 20° C default thermal gradient, permissible density: 1.05 kg/l, pH: 5-7.

7.1.2 The buyer cannot store effluents other than slurry in the reception pits. Damage caused by another effluent/product would be exclusively attributable to the customer who should remedy it at its own expense and under its sole responsibility.

7.1.3 If the buyer plans to store products other than slurry, it must inform Bio-Dynamics in advance and special concrete protection (e.g. liner or resin) must be planned. The liner/resin concrete protection will be placed according to the max. height of the material stored. Bio-Dynamics cannot be held responsible if the maximum height is exceeded by the buyer. During co-fermentation, it is possible that the acidic co-fermentate comes into play. If this happens, the inside of the tank must be protected. This would be the case when the pH level is lower than 5.5 Bio-Dynamics gives a max. guarantee of 2 years for concrete protection (gas compositions, the veil, central post, fungi). The liner must be visually inspected every 2 years by the buyer, so as to not to lose the guarantee on the liner and thus assume the consequences of the possible equipment damage that may have at least partially arisen from this lack of inspection.

7.1.1 Pre-pits equipped with heating pipes in the veil may be heated to a maximum of 65° C. The water inlet temperature in the heating pipes cannot differ by more than 20° C from the temperature of the product present in the tank. The pipes must be maintained by the buyer. In the winter, the customer must take the necessary measures to avoid, when the tank is empty or out of service, a freezing of the pipes.

## **Art. 7.2 Digester - Post-digester**

7.2.1 The following assumptions have been taken into account and are to be complied with by the buyer: 0° C default thermal gradient, permissible density: 1.05 kg/l, pH: 5-7.

7.2.2 (Post-) digesters must be provided with sufficient thermal insulation on the outside (apron, wall, cover). The filling should be performed gradually and the heating also done gradually to the operating temperature.

7.2.3 Substances that are aggressive to concrete (e.g. H<sub>2</sub>S) can be formed in gas compositions. These parts must be provided with dedicated concrete protection (e.g. liner or resin). The liquid in the tank can reach a maximum height of the liner/resin concrete protection. Bio-Dynamics cannot be held responsible if the maximum height is exceeded by the buyer. Bio-Dynamics gives a max. guarantee of 2 years for concrete protection (gas compositions, veil, central post, mushroom). The liner must be visually inspected every 2 years by the buyer, so as to not to lose the guarantee on the liner and thus assume the consequences of the possible equipment damage that may have at least partially arisen from this lack of inspection.

7.2.4 Post-digesters equipped with heating pipes in the veil may be heated to a maximum of 65° C. The water inlet temperature in the heating pipes cannot differ by more than 20° C from the temperature of the product present in the tank. The pipes must be maintained by the buyer. In the winter, the customer must take the necessary measures to avoid, when the tank is empty or out of service, a freezing of the pipes.

7.2.5 If the buyer plans to erect a timber framed roof, it must inform Bio-Dynamics. The mounting of the roof is the complete responsibility of the buyer. In the event that Bio-Dynamics is commissioned to install the beams, floors, platforms or other structures as part of this assembly, Bio-Dynamics will install these according to the instructions and plans of the buyer and/or its builder. Bio-Dynamics is in no way responsible for the installation of the roof timber frame. The buyer must provide the static study for the timber frame roof; Bio-Dynamics does not provide such study. The assembly of the timber frame roof by Bio-Dynamics is excluded from the civil liability and the ten-year warranty.

7.2.6 In the (post-)digesters, pressure depressions or excesses of up to +/- 10 mbars may occur. All values exceeding this limit must be reported to us in writing and inspected. The buyer is obliged to install adequate protection valves.

7.2.7 High dynamic loads must not occur: motors, agitators, etc. must be placed on vibration dampers.

### **Art. 7.3 Storage**

7.3.1 The following assumptions have been taken into account and are to be adhered to: 20° C max. thermal gradient, allowable density: 1.05 kg/l, pH: 5-7.

7.3.2 The thermal gradient between the inside and outside temperature of storage can be a maximum of 20° C. The filling should be performed gradually and the heating also done gradually to the operating temperature.

7.3.3 Substances that are aggressive to concrete (e.g. H<sub>2</sub>S) can be formed in gas compositions. These parts must be provided with special concrete protection (e.g. resin lining). The liquid in the tank can reach a maximum height of the liner/resin concrete protection. Bio-Dynamics cannot be held responsible if the maximum height is exceeded by the buyer. Bio-Dynamics gives a max. guarantee of 2 years for concrete protection (gas compositions, the veil, central post, fungi).



**Art. 8 Reception of the work**

8.1 The commissioning of one or more tanks is included in the final reception of the tanks concerned.

8.2 The buyer will inspect, within 10 working days of their unveiling, the tanks and/or structures concerned. Any claims of the developer/primary contractor concerning the tanks and/or related works must, at the risk of being deemed invalid, be brought to the attention of Bio-Dynamics within the same period by registered letter containing reasons in writing and in detail. In the absence of claims made within the aforementioned period, the tanks and/or related works are deemed to be unquestionably received, even if the buyer does not perform the necessary inspection.

8.3 After receipt, the buyer is responsible for all of the works and must maintain them. Bio-Dynamics refuses any liability for damage or loss directly or indirectly caused by the poor maintenance of the installation by the buyer.

8.4 In the event that the buyer notices damage and/or problems with the tanks delivered by Bio-Dynamics, the buyer must take all necessary measures to safeguard the installation against further damage.

8.5 Bio-Dynamics does not accept any responsibility for the loss of profit, loss of sales or loss of production, slow-down or discontinuation of production, or damage to the installation delivered by Bio-Dynamics, as well as for resulting consequences, when this would be at least partially due to the action or inaction of a person not belonging to Bio-Dynamics and not tasked by it, whether this is the buyer itself or a third party.

8.6 In the event of damages that are covered by its insurer, the liability of Bio-Dynamics shall be limited to compensation for direct and personal damages, up to a maximum of EUR 5,000,000; the liability of Bio-Dynamics for indirect or consequential damages shall likewise be limited to the invoice amount up to a maximum of EUR 5,000,000 for direct and indirect damages combined. Indirect or consequential damages include, but are not limited to: financial and commercial losses, loss of production, loss of profit, increase in overheads, disruption of planning, loss of clientele, damage to reputation, etc. Likewise, Bio-Dynamics cannot be held liable for damage caused in whole or in part by equipment or tools delivered, applied or made available by the customer or third parties, in addition to damage caused in whole or in part by any other element present at the client's premises or brought into the client's company after entering into the agreement, for damage that the client suffers as a result of third-party claims or rights, or for damage caused to material other than that delivered by Bio-Dynamics in the execution of the agreement concerned.

8.7 In the event of damages not covered by its insurer, the liability shall be limited to the invoice amount up to a maximum of EUR 250,000; in the event of defective goods, the liability of Bio-Dynamics shall in all cases be limited to the delivery of replacement goods or the commercial value of the goods delivered, notwithstanding any other liability. Bio-Dynamics shall be released from all liability in the event of non-performance due to force majeure. The guarantee of the goods delivered by Bio-Dynamics is limited to the guarantee to which the seller is legally bound with regard to the buyer.

8.8 In the event that Bio-Dynamics is held liable for repairs to the constructed structures, the preparatory work to be able to perform these repairs is the responsibility of the buyer (emptying the tank, cleaning, removing all accessories such as pipes, tarpaulin, agitators, etc.).

8.9 Warning! The buyer must take the necessary precautions in force to always work safely at each intervention on the tanks. The presence of harmful and flammable gases in the tanks is possible. No one can access the tanks without proper clothing and safety equipment.

8.10 Cost for an eventual watertest or watertest after Bio-Dynamics reparation is no part of the scope. Watertest does not include in Bio-Dynamics' planning.

8.11 A tolerance margin of 10 cm is observed according to the formwork system and reinforcement with regard to the position of the transit pieces.

8.13 Esthetic defects, such as discolorations or deformations (not exhaustive) that do not affect the proper functioning of the construction, cannot be held against Bio-Dynamics and do not justify intervention on Bio-Dynamics' part.

#### **Art. 9 Retention of title**

9.1 The transfer of ownership of our products is subject to full payment of the price thereof by the customer, in principal and ancillary costs, even in case of the granting of a payment delay. Any clause to the contrary, notably inserted in the general conditions of purchase, is deemed unwritten.

9.2 By express agreement, our company will be able to exercise the rights that it holds under this retention of title clause, for any of its payments, on all of its products in the possession of the customer, such products being conventionally presumed to be unpaid, and our company will be able to repossess them or claim compensation for them for all bills charged, without prejudice to its right of rescission of current sales.

9.3 The customer may only resell unpaid products in the normal course of business, and may not pledge or grant surety on any unpaid inventory. In the event of non-payment, the customer will not resell any inventory up to the amount of the unpaid products.

9.4 Our company may rescind, in the event of non-payment of an invoice due, the sales contract after having sent a simple formal notice. Similarly, our company will be able to, unilaterally, after sending formal notice, draft or have drafted an inventory of its products in the possession of the customer, who already commits to granting free access to its warehouses, stores or other such areas for this purpose, ensuring that the identification of the products of the company is always possible.

9.5 In the event of the launch of an insolvency or liquidation proceeding, the orders in process will be automatically cancelled, and our company reserves the right to reclaim the merchandise in inventory.

9.6 This clause does not prevent the risks of goods being transferred to the buyer upon their delivery to the buyer.



9.7 From the point of delivery, the buyer is deemed the depositary and custodian of such goods. In the event of non-payment and unless we prefer to ask for full and complete performance of the sale, we reserve the right to terminate the sale after formal notice and reclaim the delivered merchandise, the return costs being borne by the buyer and the payments made to us being accepted as a penalty clause.

#### **Art. 10 Burden of proof**

In the event of default, the designation of an expert or experts is the responsibility of the buyer. In the event of necessity, the disassembly of equipment (e.g. cladding, insulation, gas meters, mixers, pipes, etc.) is the responsibility of the buyer. Bio-Dynamics rejects each direct and/or indirect loss due to such intervention.

#### **Art. 11: Offers - Orders**

11.1 The Buyer's orders must be confirmed in writing by Bio-Dynamics, with an invoice or delivery note serving as confirmation.

11.2 The price is calculated for the construction of all of the tanks on a site in a single phase. If the work is to be performed in several phases, the transport costs per phase will be invoiced. The cost of renting the site facility continues to run on a monthly basis.

11.3 In the event of a significant delay, or an increase in price of materials, raw materials, equipment or energy taking place during the performance of the contract through no fault of the contractor, the contract amount, the performance period and the contract requirements shall be adjusted by means of an amendment to the existing contract, with the all other terms of said existing contract being unaffected. A change in the price of an item of material, raw material, equipment or energy shall be considered significant when the price of an item increases by 15% between the date of this contract and the date of installation. For variations of less than 15%, the local price adaption index for the construction industry will be applicable.

11.4 Specifically with regard to concrete, Art. 11.3 is not applicable and the final price will be calculated at the time the concrete order is placed. In case of negative or positive fluctuations of more than 5%, there will be a settlement with the concrete price per cubic meter determined at the time of signing the agreement.

11.5 The total price indicated on the offers is indicative. The various elements indicated on the offer and in the progress reports are decisive.

11.6 Unless otherwise notified, an offer shall be valid for 2 months.

#### **Art. 12 Claims**

12.1 Claims relating to defects shall be considered only if they are issued immediately in writing containing a clear and precise statement of the reasons and a precise and supported formulation of the request in

terms of technical requirements, costs and performance time. These claims must be made no later than one month after receipt of the works.

12.2. In the event of a hidden defect, the claim must be made in writing immediately after the discovery of the defect. The burden of proof of a hidden defect rests with the buyer.

**Art. 13 Applicable law - interpretation of the clauses**

13.1. This contract is subject to Belgian law.

13.2. Customary commercial clauses are to be interpreted according to the Incoterms in the version in force.

**Art. 14 Competent jurisdiction**

14.1. The contract is deemed to have been executed at the Bio-Dynamics registered office, where all of the invoices are payable. The courts of the judicial district of Ghent are exclusively competent to hear all disputes.

**Art. 15 Validity clause**

15.1 The total or partial invalidity of certain clauses of these general conditions of sale and delivery does not affect the validity of the other clauses or valid stipulations contained within the partially invalid clauses. A clause or stipulation deemed void shall be replaced, by mutual agreement between the parties, by a valid contractual stipulation with as close an economic impact as possible to the invalidated clause or stipulation.

**Art. 16 Marketing**

Bio-Dynamics acquires the right to take and use photographs and/or images of the sold project for marketing and promotional purposes, including but not limited to advertisements, websites, social media and printed materials. If you object to the use of any photograph or image, you must notify our sales manager in writing.

Signed in Wielsbeke, on .....

On behalf of Bio-Dynamics SA

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On behalf of

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## Appendix: WORK-SITE STARTING CHECKLIST

As part of the preparation for your work, the items below must be confirmed BEFORE Bio-Dynamics can give you a starting date for your work-site.

- Signed contract/ Purchase Order
- Copy of the Building permit
- Copy of bank agreement
- Copy of the 'all site risks' certificate according to the following conditions:
  - Bio-Dynamics and its subcontractors are insured under the non-recourse property loss cover
  - Coverage of defective items/design
  - Extended maintenance of at least 1 year after acceptance
- Down-payment
- Bio Dynamics endorsement as a subcontractor by Maître d'ouvrage (direct payment or bank guarantee) if applicable
- Ground study
- Final engineering drawings
- Confirmation of the calculation notes (if technical inspector on the work-site)
- Acceptance of all earthworks (including work-site access)
- Availability of water and electricity on the work-site (63A if tower crane)
- Work-site cabin - Toilet - Waste skip on site (if in your plot)
- Delivery of equipment by the builder (if applicable) onto the work-site
- The availability of a sufficient quantity of water (inverse area in  $m^2 \times 0.05 =$  required  $m^3$  and this for each tank) is the same day after pouring the floor slab with concrete. This is necessary to slow down the hardening of the top layer and This is necessary to slow down the hardening of the top layer and This is necessary to slow down the hardening of the top layer and thus prevent shrinkage cracks when pouring the concrete to prevent cracking. In the absence of sufficient water on the day of pouring, Bio-Dynamics will not start this work and its team's waiting time will be billed. If the work has already started and it is not possible to provide sufficient water, Bio-Dynamics cannot be held responsible for cracks or other damage to the floor slab.

**AFTER confirmation of ALL these items, Bio-Dynamics shall confirm the starting date within a maximum of 3 weeks.**

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