

GENERAL SALES AND DELIVERY CONDITIONS OF ARIZA B.V., WITH ITS REGISTERED OFFICE IN HELMOND

Version 2019.1

Filled with the Chamber of Commerce in Eindhoven on 3 January 2019 with number 17070997.

If there is any inconsistency between this translation and the Dutch text of the "ALGEMENE VERKOOP- EN LEVERINGSVOORWAARDEN VAN ARIZA B.V., GEVESTIGD TE HELMOND (Versie 2019.1)", the Dutch text will prevail.

Definitions:

Supplier/we: the private limited company ARIZA B.V., with its registered office in Helmond, registered in the commercial register of the Chamber of Commerce under number 17070997.

Customer/he/it: the natural person or legal entity that enters, has entered or is negotiating on entry into an agreement with the Supplier in relation to the sale and/or supply of goods.

Order confirmation: as defined in Article 3.1.

Written/in writing: by letter, fax or electronically.

Article 1 - Applicability of general terms and conditions/general:

- 1.1. These general terms and conditions will apply to all our offers, quotations and supplies, as well as to all agreements and additional agreements, including agreements relating to and/or ensuing from distribution or agency agreements, between the Supplier and the Customer.
- 1.2. Additional and/or different terms and conditions – also including general terms and conditions – of the Customer will not form part of the agreement between the Supplier and the Customer and, as such, will not bind the Supplier, except where the Supplier accepts all or some of the terms and conditions of the Customer in writing. The applicability of the general terms and conditions of the Customer is explicitly rejected.
- 1.3. Deviations from these general terms and conditions will only be binding if the parties have agreed on them in writing and solely for the offers, quotations, agreements and additional agreements to which they apply. These general terms and conditions will remain in full force in relation to other offers, quotations, agreements and additional agreements.
- 1.4. If these terms and conditions have also been drawn up in a language other than Dutch, the Dutch text will always be decisive in the event of any discrepancies and in relation to the interpretation of these general terms and conditions.
- 1.5. Should any provision of these general terms and conditions be void or voidable, the other provisions will remain in full force and the void or voidable provision of these general terms and conditions will be replaced by a valid provision in which the object and purport of the void or voidable provision is taken into consideration.
- 1.6. Should there be any inconsistencies between these general terms and conditions and the agreement or

purchase agreement entered into between the Supplier and the Customer, the agreement or purchase agreement will prevail.

- 1.7. The Customer may not transfer the rights arising for him/it from this agreement without the prior written permission of the Supplier. This provision will be deemed to be a clause with effect under property law, as referred to in Book 3, Section 83(2), of the Dutch Civil Code (*Burgerlijk Wetboek (BW)*).
- 1.8. An agreement will only apply to the parties to the said agreement. A third party – directly or indirectly affiliated to the Customer – will not be able to enforce any claim against the Supplier under the agreement.
- 1.9. All images and specifications of goods in catalogues, price lists, advertisements and suchlike will be regarded as approximate representations.
- 1.10. Should an agreement be entered into by e-mail or another electronic means of communication, the said e-mail or other electronic means of communication will have the same legal validity as a written declaration.
- 1.11. If the Supplier refers to technical, safety or quality instructions and/or other information in any document, the Customer will be deemed to be familiar with them, except where he/it notifies the Supplier of the contrary in writing immediately. In such an event, the Supplier will provide the Customer with further information about the said instructions.
- 1.12. These General Terms and Conditions have been prepared in the Dutch and English languages. In the event of differences in (the interpretation of) the text, the Dutch text will prevail.

Article 2 - Quotations:

- 2.1. All offers and quotations will be free of obligation, even if a period for acceptance is stipulated in the offer. The Supplier will have the right to withdraw a non-binding offer within three (3) working days of the date on which it is accepted. All prices stated will be in euro (€). The Supplier will have the right to rectify any printing and/or typing errors and any other mistakes in communication. Quotations will always be issued on the assumption of favourable growing and harvesting conditions.
- 2.2. All offers and quotations will be based on performance of the agreement by the Supplier under normal conditions, on the basis of information known to the Supplier and during the working hours customary, except where specified otherwise in writing.

Article 3 - Agreement and formation:

- 3.1. The agreement will be formed when the Supplier has accepted the order in writing by means of a confirmation (hereinafter: "**Order Confirmation**"). The Customer will be required to check the Order Confirmation immediately and without delay. The agreement will be deemed to have been entered into and substantiated in full by the Order Confirmation issued by the Supplier, except where the Customer has notified the Supplier of his/its reasoned objections in writing within 48 hours of the time at which the Order Confirmation was sent. Additional agreements and/or

- changes, by either of the two parties, will only be binding if confirmed in writing by the Supplier.
- 3.2. Each offer or undertaking made by a representative of the Supplier will only be binding if the latter has confirmed the said offer or undertaking in writing.
 - 3.3. Verbal agreements will not bind the Supplier until the Supplier confirms them in writing.
 - 3.4. If the Supplier has required additional payment security, agreements will only be formed once the Supplier has received an advance payment or partial advance payment and/or once credit insurance cover and/or a bank guarantee has been obtained and/or once the Supplier has accepted an irrevocable (confirmed) letter of credit in writing.
 - 3.5. Each agreement that is formed between the parties will be subject to the resolutive condition that the Supplier obtains credit insurance from its credit insurer, which credit insurance it then maintains; the suitability of the said credit insurance will be at the sole discretion of the Supplier. In the absence of the above, the Supplier will have the right to 1) terminate the agreement, without being liable for compensation for doing so, or 2) require immediate payment, even if specified otherwise in the agreement, or 3) require guarantees from the Customer before commencing or continuing performance of the agreement. The Supplier alone will be able to invoke satisfaction of the resolutive condition specified in this article. The Supplier will be entitled to suspend any obligations it might have until the cover set out above has been obtained under credit insurance.
 - 3.6. In the case of a combined quotation, the Supplier will not be under any obligation to supply the goods covered by the quotation at a corresponding part of the price specified. Nor will the quotation automatically apply for repeat orders.
 - 3.7. The goods to be supplied by the Supplier will not be required to meet other specifications and/or will not be required to have any other properties than those set out in writing in the Order Confirmation. With due observance of the other provisions of these general terms and conditions (and those of the agreement), the Supplier will supply the goods in accordance with the specifications set out in the Order Confirmation.
 - 3.8. Should the parties have agreed that the goods to be supplied by the Supplier are to be "organic", the following will apply. Except where agreed otherwise, the term "organic" will be defined as set out in applicable Dutch legislation and regulations. If the Supplier demonstrates that the products in question have been certified and/or approved and/or registered by the designated regulatory authority/inspection body in the Netherlands (currently, Stichting Skal in Zwolle, the Netherlands) – or any regulatory authority/inspection body designated by the government for any other jurisdiction – this will constitute conclusive proof of the organic nature of the products in question, unless the Customer proves the contrary.
 - 3.9. The Customer will be required to satisfy him/itself that the goods to be ordered or already ordered by the Customer and the corresponding documents,

packaging, labelling and/or other information comply with all governmental requirements applicable in the destination country for the goods in question. Except where expressly agreed otherwise in writing, the Supplier will not be subject to any obligations whatsoever in this respect. The latter will be fully at the expense and risk of the Customer.

Article 4 - Price:

- 4.1. Except where agreed otherwise in writing, the price specified will be a net price, excluding turnover tax, service charges and other government levies and/or the costs of third parties that are payable in relation to the sale and/or supply and/or performance of the agreement. Except where agreed otherwise in writing, the price will be based on Free Carrier, Helmond, the Netherlands (FCA, Incoterms 2010).
- 4.2. If the basis of the calculation made by the Supplier changes after the date of the Order Confirmation, but before delivery is effected, as the result of any change to one or more of the cost-determining factors, such as the price of raw materials, auxiliary materials, wage costs, freight charges, import duties, the value of the currency, or as the result of any other circumstances, all of the aforementioned solely at the discretion of the Supplier, the Supplier will be entitled to increase the price agreed.

Article 5 - Delivery:

- 5.1. The delivery period agreed or specified will commence on the date on which the agreement in question is formed in accordance with the provisions of Article 3. The delivery period specified or agreed will be approximate and will never be regarded as a strict deadline. The Customer will only have the right to terminate the agreement in the event of an excessive overrun (more than eight (8) weeks) of the delivery period agreed or specified, except where the overrun is the result of force majeure (for which the provisions of Article 8 apply). Nor will the Customer be entitled to any compensation for any fines or losses incurred.
- 5.2. Except where agreed otherwise in writing, delivery will be effected on the basis of Free Carrier, Helmond, the Netherlands (FCA, in accordance with Incoterms 2010). The risk of the goods will pass to the Customer when the Supplier presents the goods for delivery.
- 5.3. Except where agreed otherwise in writing, delivery will be effected at the times that the Supplier has specified, which times it will specify promptly and, if possible, in consultation with the Customer. The Customer will be subject to a purchase commitment. If the Customer fails to take delivery of the goods at the time determined, the Customer will be in default and the Supplier will be able to respond as follows, at its own discretion: (i) terminate the agreement; (ii) send the goods to the Customer at the risk and expense of the Customer; (iii) store the goods at the risk and expense of the Customer. The Customer will bear all costs ensuing from the situations set out above, including the cost of storage and any loss of profit. The aforementioned will apply without prejudice to the other rights vested in the Supplier.

- 5.4. Partial deliveries will be permitted, in which case the terms and conditions and terms of payment below will apply to each partial delivery too.
- 5.5. The Supplier will reserve the right to make changes to the composition of the goods to be supplied by it, if it is forced to do so further to changes to legislation and/or regulations and suchlike.

Article 6 - Payment:

- 6.1. If other terms of payment have not been agreed in writing, payment will be effected within thirty (30) days of the invoice date, without the deduction of any discount or bank costs and in the currency specified. Payment will only be deemed to have been effected once the amount due has been credited irrevocably to the bank account of the Supplier.
- 6.2. The Customer will waive the right to offset a debt due to the Supplier against a claim the Customer has against the Supplier.
- 6.3. The Customer will waive the right to suspend performance of any obligation ensuing from this agreement.
- 6.4. If the Customer fails to pay any amount outstanding to the Supplier, the Supplier will have the right to suspend further performance of all current agreements between the Supplier and the Customer until the said payment has been effected, while a cash payment in advance may be demanded for further supplies, even if agreed otherwise. The aforementioned will also apply should an outstanding payment be disputed. If the non-payment of the Customer is found to be justified at a later date, the Supplier will never be liable for compensation. Any reasoned objections to an invoice will be submitted to the Supplier in writing within eight (8) days of the invoice date; if no objection is made, or is not made on time, the invoice will be deemed to have been accepted.
- 6.5. If the term of payment agreed between the parties is not met, the Customer will be in default by operation of law and will be required to pay commercial interest as of the date on which the default commences (as referred to in Book 6, Section 119a, of the Dutch Civil Code).
- 6.6. The Customer will bear all costs, both judicial and extrajudicial, that are incurred in relation to the collection of amounts due from the Customer and not paid on time. Extrajudicial costs will be calculated in accordance with the Decree of 27 March 2012, containing rules standardising the compensation of extrajudicial collection charges (Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*)).
- 6.7. Payments made by the Customer will always serve to settle all interest, costs and penalties due and, thereafter, to settle those claims arising from agreements that have been outstanding longest, even if the Customer states that a payment pertains to a different claim.
- 6.8. In the event of the winding up, liquidation or insolvency of the Customer or the filing of a petition for his/its bankruptcy or winding up, the claims that the Supplier

has against him/it, for whatever reason, will become due and payable immediately.

- 6.9. The Supplier will always have the right to require security from the Customer for the fulfilment of all of the obligations ensuing for the Customer from the agreement, which the Supplier will have the right to do when or after entering into the agreement and before proceeding to perform or continuing to perform the agreement. If the Customer fails to comply with the request to provide security, the Supplier will have the right, without prejudice to its other rights, to terminate all or part of the agreement without notice of default or judicial intervention, or to immediately suspend (further) performance of the agreement, without prejudice to its right to the compensation of the losses it has sustained. Moreover, all that which is due from the Customer to the Supplier for whatever reason will be due and payable immediately.

Article 7 - Retention of title:

- 7.1. In each case, the supply of goods by the Supplier will be effected subject to the suspensive condition that all existing and future claims that the Supplier has against the Customer by virtue of an agreement that has been entered into, or further agreements, have been paid in full. However, the retention of title will not apply in relation to claims other than the following:
 - a. claims relating to considerations for goods delivered or still to be delivered to the Customer by the Supplier, or work carried out or to be carried out by the Supplier for the Customer, and/or,
 - b. claims arising from the failure to fulfil obligations ensuing from the agreements referred to under *a*, including claims for the compensation and payment of extrajudicial and judicial costs, contractual and statutory interest, penalties and periodic penalty payments.
- 7.2. The Customer will be obliged to store the goods supplied separately and mark them as being the property of the Supplier. Until the suspensive condition referred to in 7.1. has been met the Customer will not have the right to sell the goods bought subject to retention of title, give all or some of the actual control over the said goods to one or more third parties, or to enter into a legal act that obliges it to give all or some of the said actual control over the said goods to one or more third parties.
- 7.3. The Supplier will have the right to transfer the retention of title and the attached rights and obligations to one or more third parties.
- 7.4. Should the Customer create or instruct the creation of new goods from one or more goods supplied or still to be supplied by the Supplier, the said new goods have or will have been created for the Supplier.
- 7.5. Goods that the Supplier encounters at the premises of the Customer that are of the same type as those that the Supplier has made available to the Customer will be presumed to belong to the Supplier, except where the Customer provides proof to the contrary.
- 7.6. If the Customer resides or has its registered office in the Federal Republic of Germany, an arrangement

different to the one set out in this article (Retention of title) will apply in this regard, as set out in **Annex 1 (Eigentumsvorbehalt)**.

Article 8 - Force majeure:

- 8.1. In addition to the provisions of Book 6, Section 75, of the Dutch Civil Code, if the Supplier fails to fulfil any obligation it has vis-à-vis the Customer, it will not be possible to attribute the said failure to the Supplier in the event of circumstances beyond the control of the Supplier that render it unable to fulfil all or some of its obligations vis-à-vis the Customer, or because of which fulfilment of the said obligations by the Supplier cannot reasonably be required of the Supplier. Circumstances of this nature will include the following in any event: an imputable failure on the part of suppliers or other third parties on which the Supplier is dependant in the context of the performance of the agreement, a lack of raw materials, transport problems, war, riots, sabotage, flooding, loss, damage and/or delays during and as a result of transport, extreme sickness absenteeism and wildcat strikes by employees, customs actions and/or measures, the (temporary) closure of certain geographic areas, a failed or disappointing harvest, fire and other serious disturbances in the company of the Supplier, or in the companies of its suppliers, and national disasters.
- 8.2. If a situation arises as referred to in Article 8.1., as a result of which the Supplier is unable to fulfil the obligations it has towards the Customer, the said obligations will be suspended for the duration of the period in which the Supplier is unable to fulfil its obligations. If the situation referred to in the previous sentence has continued for a period of thirty (30) calendar days, both parties will have the right to terminate all or part of the agreement in writing. In this situation, the Supplier will not be obliged to compensate any damage and/or loss, even if the Supplier benefits from the force majeure situation.
- 8.3. If the Supplier has already partially fulfilled, or will be able to fulfil, the obligations ensuing for it from the agreement, when the force majeure situation arises, the Supplier will be entitled to invoice the obligations already fulfilled, or to be fulfilled, separately. The Customer will be obliged to pay the aforementioned invoice as if a separate agreement were the case.

Article 9 - Liability:

- 9.1. The liability of the Supplier for direct damage or loss will be limited. Any liability of the Supplier for indirect damage or loss will be excluded. The term "indirect damage or loss" will be understood to include – but not be limited to: consequential loss, intangible loss, trading and business interruption losses, losses ensuing from a product recall that is initiated by the Customer or third parties, regardless of the reason for the recall, loss of profit or environmental damage, or damage as the result of liability to third parties.
- 9.2. Any liability (for direct and/or indirect damage or loss) – regardless of the basis of the liability – on the part of the Supplier will be limited to the amount paid out as appropriate by the liability insurer of the Supplier,

minus the excess to be paid by the Supplier. If no payment is effected under the liability insurance of the Supplier – regardless of the reason for the non-payment – the liability of the Supplier will be limited to the net invoice value charged by the Supplier to the Customer for a period of three (3) months prior to the date on which the liability arises, which net invoice value the Customer paid promptly, on the understanding that the liability of the Supplier will never exceed an amount of EUR 100,000.00 (in words: one-hundred-thousand euros) per incident or series of connected incidents.

- 9.3. The Supplier will not be excluded from liability for any damage or loss that is the result of intent or deliberate recklessness on the part of the Supplier or its management employees.
- 9.4. Claims that the Customer has against the Supplier, either by virtue of a failure in performance, or by virtue of a wrongful and/or unlawful act, or on any other ground will lapse following the expiry of a period of one (1) year after the date on which the Customer became, or could reasonably have become, aware of the existence of the said claims and the Customer fails to bring the claims in question before the court within the said period of one (1) year.

Article 10 - Indemnification:

- 10.1. The Customer will indemnify the Supplier against any claims from third parties for damage or losses that are sustained by third parties in connection with goods supplied by the Customer to the said third party, into which goods the goods of the Supplier have been incorporated, except where it is established by law that the said claims are the direct result of an intentional act or gross negligence on the part of the Supplier and the Customer also demonstrates that he/it is in no way to blame in this respect.

Article 11 - Complaints:

- 11.1. Except where agreed otherwise, supplies will be effected in accordance with a sample and/or model approved by the Customer, which sample and/or model will serve as a quality reference, on the understanding that all samples and models are provided for indication purposes only, in the sense of Book 7, Section 17(4), of the Dutch Civil Code.
- 11.2. The Customer will be required to inspect (or arrange the inspection of) the supplied goods immediately, in full and precisely, which inspection will include but not be limited to quantity/weight and visible and invisible defects. Complaints about the quantity or weight of goods and/or visible defects will be made within 24 hours of the time at which the goods are received, specifying in detail the nature of and grounds for the complaints. Complaints that pertain to defects that are not possible to observe immediately will be made within 48 hours of the time at which they are discovered and never any later than three (3) weeks after the date on which the goods are received. Any claims that the Customer has against the Supplier that relate to mistakes in the delivery or defects in or on the goods delivered by the Supplier will lapse irrevocably

once the aforementioned time limits for complaints have expired. Minor defects, or defects that are customary in the sector, and differences in quality, quantity, dimensions or finishing, may not be deemed to give ground for complaints. The Supplier may supply up to 10% less or more of the quantity contracted.

- 11.3. The Customer will carry out the inspection, or ensure that it is carried out, with all due care. The Customer will bear the risk of random inspection and may not rely on the fact that he/it failed to discover a defect that was visible and that could have been discovered at the time of delivery, because he/it failed to check the entire consignment.
- 11.4. The possibility for the Customer to submit a complaint will also lapse if the defect is attributable to the Customer, which will include but not be limited to a situation in which the goods delivered have been stored or used improperly, or have not been used as agreed or customary. The term "improperly" will also include the failure to observe any storage or usage instructions provided by the Supplier.
- 11.5. In the event of a complaint, the Customer will be required to keep the goods that are the subject of his/its complaint at the disposal of the Supplier. The Customer will also be obliged to cooperate in any investigation by the Supplier or a third party engaged by the Supplier. Should a complaint be declared justified, the Supplier will bear the costs of the investigation. If declared unjustified, the Customer will bear the costs of the investigation.
- 11.6. A complaint will not give the Customer the right not to fulfil his/its obligations and/or payment obligations vis-à-vis the Supplier, or to invoke suspension or setoff respectively.
- 11.7. The Customer will only be permitted to return the goods with the prior written permission of the Supplier, subject to conditions to be determined by the Supplier at a later date. If goods are returned without the permission of the Supplier, the goods will be despatched and stored at the risk and expense of the Customer.
- 11.8. If a complaint is found to be justified and has been submitted within the relevant time limits for complaints, the Supplier will only be obliged to deliver any goods that are missing, replace goods delivered previously or accept the return of the goods in question and credit the Customer for the invoice amount in question. Under no circumstances will the Supplier be obliged to compensate other costs and/or losses.

Article 12 - Product recall:

- 12.1. The Customer will undertake to assist the Supplier with the implementation of any product recall. In this connection, the Customer will undertake to keep proper files of its sales activities and customers for a period of at least five (5) years after the sales date, in order to ensure the traceability of the goods supplied. The aforementioned files will contain information about sales dates, sales numbers, consignment numbers and consignment specifications at the very least, as well as all other information that could be necessary in the context of a possible product recall.

- 12.2. The Customer will adhere to and observe all instructions and measures of the Supplier with regard to product safety and product recall. The Supplier will only compensate the Customer for the actual costs incurred by the Customer if agreed on in writing between the parties. The Customer will indemnify the Supplier against all costs, damage and losses, including but not limited to sanctions by authorities, government authorities, which costs, damage and losses were sustained by the Supplier due to the continued failure of the Customer to fulfil his/its obligations under this provision.

Article 13 - Cancellation:

- 13.1. In principle, it will not be possible for the Customer to cancel an order. If the Customer still proceeds to cancel all or a part of an order, based on whatever cause, he/it will be obliged to compensate the Supplier for all costs reasonably incurred with a view to fulfilment of the order (including costs for preparation, storage and suchlike), without prejudice to the right of the Supplier to compensation for loss of profits and other losses. The Customer will also be obliged to compensate the costs ensuing from the cancellation and any currency differences, if the Supplier has entered into a currency agreement with a bank or another third party in connection with the order.
- 13.2. The Customer will also be required to pay cancellation costs if an order is cancelled. The aforementioned costs will be 30% of the capital sum, plus VAT.

Article 14 - End of the agreement:

- 14.1. Without prejudice to that which is arranged elsewhere in these general terms and conditions, the Supplier will be entitled to terminate the agreement with the Customer – and all agreements connected with the said agreement – with immediate effect, without a prior notice of default being required, in the following situations:
 - a. an attachment before judgment or attachment in execution is levied against the Customer and this attachment has not been lifted within sixty (60) days;
 - b. in the event of the winding up or liquidation of the Customer, the filing of a petition for his/its winding up or liquidation, if a (provisional) moratorium or the application of a debt restructuring arrangement apply on the part of the Customer, if the Customer is dissolved, or the Customer submits a composition with creditors (or if similar circumstances and legal facts are the case under applicable foreign legal systems);
 - c. the cessation or actual termination of the business operations of the Customer;
 - d. there are reasons to assume that the Customer will fail in his/its performance of the obligations ensuing for him/it under the agreement (and/or associated agreements);
 - e. the Customer is in default, having failed to fulfil the obligations ensuing for him/it under the agreement (and/or associated agreements);

- f. a change of control takes place in the company operated by the Customer, which change of control will be understood to mean: the transfer of the majority of the shares in the capital of the company or a situation in which actual control of the Customer comes to be vested in one or more third parties under an agreement.
- 14.2. All claims that the Supplier has against the Customer will become due and payable with effect from the date on which the agreement is terminated. The Customer will be required to pay the said claims immediately. The same will apply for all invoices outstanding on the date on which the agreement is terminated (regardless of whether the term of payment has expired) and the interest and costs due (in accordance with Article 6).
- 14.3. Termination of the agreement will not affect the pre-existing rights of the Supplier, including the right to claim compensation. Nor will it affect those provisions of the agreement or these general terms and conditions that are, by their purport, intended to remain in force once the agreement has been terminated.
- 14.4. If the agreement is terminated, the Supplier will not be liable for any loss sustained by the Customer as a result. Liability will be limited in accordance with the provisions of Article 9 at all times.

Article 15 - Intellectual property rights:

- 15.1. The Customer acknowledges and agrees that all intellectual property rights to the goods supplied to the Customer by the Supplier (including promotion material) and any results ensuing from the said rights will be vested in the Supplier and that the Customer will not acquire any right or associated goodwill whatsoever in the intellectual property rights of the Supplier. The "intellectual property rights" of the Supplier will include all trademarks, trade names, logos, designs, symbols, emblems, distinguishing marks, slogans, service marks, copyrights, patents, models, drawings, know-how, information and any other distinctive material – whether or not liable to registration or deposit – and all other intellectual property rights of the Supplier.
- 15.2. The Customer will refrain from doing or allowing anything to happen that could harm, jeopardise or detract from the intellectual property rights of the Supplier. Nor will the Customer assist third parties in this respect, or allow them to do the aforementioned.
- 15.3. The Customer will notify the Supplier immediately of any actual, expected or intended infringement of the intellectual property rights of the Supplier.

Article 16 - Packaging:

- 16.1. The Supplier will be entitled to charge the Customer separately for the cost of packaging.
- 16.2. Packaging that is not intended for one-off use, including but not limited to pallets, crates, containers and other transport aids, will remain the property of the Supplier and the Customer will be required to return the material. The Supplier will be able to stipulate a period of time within which a return of this nature is to be effected.

- 16.3. Returns of this nature will be effected carriage paid. All such packaging returns will be effected at the risk of the Customer.

Article 17 - Other provision, choice of law and forum:

- 17.1. If one or more provisions of these general terms and conditions is or are found to be invalid, or are rendered inoperative by a court, the other provisions will remain in full force.
- 17.2. These general terms and conditions, all offers and quotations issued by the Supplier and also all agreements between the Customer and the Supplier will be governed exclusively by Dutch law.
- 17.3. The Vienna Sales Convention (United Nations Convention on Contracts for the International Sale of Goods) will not apply and the same will apply for any future international arrangements regarding the purchase of movable goods.
- 17.4. All disputes between the parties, ensuing from or otherwise relating to quotations, offers, these general terms and conditions and/or agreements, by whatever name, will be submitted to the district court in the Netherlands (in the court district of East Brabant) to the exclusion of any other court. Claims in preliminary relief proceedings will be submitted to the judge in preliminary relief proceedings of the district court of East Brabant. Disputes between the Supplier and Customers that reside or have their registered offices outside the European Union will be settled definitively by means of arbitration by the International Chamber of Commerce (ICC), in accordance with the Arbitration Rules of the ICC by one arbitrator who will be appointed in accordance with these Rules, which will not affect the possibility that the Supplier has to demand urgent measures before the Dutch court (including: a prejudgment attachment and requesting preliminary relief). The language used in the arbitration proceedings will be Dutch. The arbitration proceedings will take place in 's-Hertogenbosch (the Netherlands).

ANNEX 1

In this Annex 1 the definitions 'Supplier/we' and 'Customer/he/it' as used in the general sales and delivery conditions are mentioned as 'uns/wir' respectively 'Abnehmer/sie'.

Contrary to article 7 (Retention of title) the following applies to German clients (clients with their registered office in the Federal Republic of Germany):

Eigentumsvorbehalt

- 1. Das Eigentum an den gelieferten Waren bleibt zur Sicherung aller Ansprüche vorbehalten, die uns aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Abnehmer und seine Konzerngesellschaften zustehen. Unser Eigentum erstreckt sich auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Abnehmer stellt die neue Sache unter Ausschluss des eigenen Eigentumserwerbs für uns her und verwahrt sie für uns. Hieraus erwachsen ihm keine Ansprüche gegen uns.

2. Vorbehaltsware mit Ware anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerben wir zusammen mit diesen Lieferanten –unter Ausschluss eines Miteigentumserwerbs des Abnehmers –Miteigentum an der neuen Sache, wobei unser Miteigentumsanteil dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu dem Gesamtrechnungswert aller mitverarbeiteten Vorbehaltswaren.
3. Der Abnehmer tritt bereits jetzt seine Forderungen aus der Verausserung von Vorbehaltsware aus unseren gegenwärtigen und künftigen Warenlieferungen mit sämtlichen Nebenrechten im Umfang unseres Eigentumsanteils zur Sicherung an uns ab.
4. Bei Verarbeitung im Rahmen eines Werksvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages unserer Rechnung für die mitverarbeitete Vorbehaltsware schon jetzt an uns abgetreten. Solange der Abnehmer seinen Verpflichtungen aus der Geschäftsverbindung an uns ordnungsgemäß nachkommt, darf er über die in unserem Eigentum stehende Ware im ordentlichen Geschäftsgang verfügen und die an uns abgetretenen Forderungen selbst einziehen.
5. Bei Zahlungsverzug oder begründeten Zweifeln an der Zahlungsfähigkeit oder Kreditwürdigkeit des Abnehmers sind wir berechtigt, die abgetretenen Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen.
6. Scheck-/ Wechselzahlungen gelten erst nach Einlösung der Wechsel durch den Abnehmer als Erfüllung.
7. Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten gilt ausschließlich deutsches Recht.