

## GENERAL PURCHASE CONDITIONS

### *Definitions*

In these General Purchase Conditions (the 'Purchase Conditions') the following expressions shall have the meanings assigned to them below:

*Agreement:* each agreement entered into between Customer and Supplier with respect to the supply of Products. Whenever any framework agreement is concluded between Customer and Supplier in relation (inter alia) to the Products, the Purchase Conditions shall be deemed to be incorporated into that Framework Agreement and shall prevail over any contrary or conflicting provision or provisions of that Framework Agreement;

*Appendices:* each and every appendix referred to in and/or attached to the Agreement;

*Customer:* Health Concern BV, Utrecht, The Netherlands, or, as the case may be, any subsidiary of Customer which contracts to purchase Products from Supplier;

*Hidden Defects:* defects which could not have been detected during Customer's normal incoming inspection procedures and which are attributable to Supplier's non-compliance with any Agreement;

*Indemnified Parties:* Customer and each of its subsidiaries and affiliates and each of its and their customers, and each of its and their officers, directors, employees, successors and assigns;

*Place of Delivery:* the delivery address specified by Customer to Supplier in respect of the relevant Products;

*Products:* all tangible movables supplied or (as the case may be) to be supplied by Supplier to Customer under an Agreement;

*Purchase Order:* either (1) whenever a Product has not previously been supplied by Supplier to Customer, acceptance of the Supplier's Quote by Customer, or (2) otherwise any Purchase Order issued to Supplier by a duly authorised representative of Customer;

*Quote:* a quotation by Supplier to Customer in respect of a proposed new Product;

*Supplier:* a supplier or prospective supplier of Product(s) to Customer;

*Parties:* Customer and Supplier;

1. *General*

- 1.1. The Purchase Conditions shall be deemed to be incorporated in full into all Agreements between Customer and Supplier.
- 1.2. To the extent that they conflict with or are inconsistent with the Purchase Conditions, the terms and conditions of Supplier shall be superseded within all Agreements by the Purchase Conditions.
- 1.3. No amendment to the Purchase Conditions shall be valid unless incorporated into a written Agreement between Customer and Supplier and executed by a duly authorised representative of Customer.
- 1.4. Each Quote made by Supplier shall be irrevocable and shall constitute an offer which remains valid for acceptance by Customer for a term of six (6) months from the date of that Quote, unless expressly agreed in writing to the contrary.
- 1.5. In these Purchase Conditions:-
  - 1.5.1 Words importing the singular shall include the plural and vice versa;
  - 1.5.2 Words importing the whole shall be treated as including a reference to any part of the whole;
  - 1.5.3 Reference to these Purchase Conditions or to any other document is a reference to these Purchase Conditions or to that other document as modified, amended, varied, supplemented or replaced from time to time;
  - 1.5.4 Reference to any legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or legal concept shall in respect of any jurisdiction other than The Netherlands be deemed to include that which most closely approximates in that jurisdiction to the English legal term;
  - 1.5.5 Headings used in these Purchase Conditions shall not affect the construction or interpretation of these Purchase Conditions; and
  - 1.5.6 The Appendices form part of these Purchase Conditions and will form part of each Agreement and have the same full force and effect as if expressly set out in their entirety in the operative part of such Agreement.

2. *Provisions relating to Quotes and Purchase Orders*

- 2.1. Each Quote shall be prepared at no cost to Customer. Each Quote shall confirm the price in Euros (or any other agreed currency), the quantity, the quality and all other specifications of Customer's request for a quote. Inconsistencies between the Quote and the request for a quote must be specifically highlighted to Customer by Supplier within the Quote. Any extra charges, which are not included in the price quoted, shall be separately itemized.
- 2.2. Supplier will acknowledge each Purchase Order within 3 working days from the day it has been delivered to Supplier – whether by fax, by email or otherwise.
- 2.3. No amendment to any Purchase Order, or any supplementary data or modifications to a Quote shall only be binding on Customer unless and until it is confirmed in writing by a duly authorized representative of Customer. Silence or inactivity by Customer will never amount to acceptance.

*3. Time of delivery.*

- 3.1. Supplier acknowledges (i) that Customer either resells Products to its own customers or processes Products for such re-sale and (ii) that Customer is frequently contractually bound to its own customers to deliver goods to its own customers by certain dates. Time of delivery of Products to Customer by Supplier is therefore of the essence of each Agreement.
- 3.2. Each Agreement will specify a delivery date (or dates) in respect of the relevant Products. Supplier shall deliver the Products to Customer on the specified delivery date or dates unless a duly authorized representative of Customer has agreed to a postponement in writing and in advance of the agreed delivery date or dates. Supplier shall, before the agreed delivery date, promptly notify Customer in writing of any delay in any delivery date, setting forth the reasons and the expected length of delay. Notwithstanding such notice, if Supplier cannot comply with the delivery date or dates agreed, Supplier shall be liable for any loss, expense or damage arising out of or resulting from the delay (including consequential, indirect or incidental damages and loss of profit), save for delays caused by Force Majeure as defined within clause 20 of these Purchase Conditions
- 3.3. If Supplier fails to deliver Products by any relevant delivery date, Supplier will (subject only to clause 3.2 above) automatically be in default without further action by Customer.
- 3.4. Following receipt of a notification from Supplier pursuant to clause 3.2 above, Customer shall, irrespective of whether or not the delay amounts to a fundamental breach of the relevant contract under the Convention on Contracts for the International Sale of Goods, have the right to cancel the relevant Agreement, to withhold all relevant payments to Supplier and to purchase replacement products and/or services from a third party supplier. Supplier shall reimburse Customer for all expenses incurred by Customer in effecting such replacement purchase (including, without limitation, the difference between the price which would have been charged by Supplier under the relevant Agreement and any higher price charged for equivalent goods by such third party) and for any other loss or damage incurred by Customer as a direct or indirect result of the delay (including consequential, indirect or incidental damages and loss of profit). The remedies of Customer specified herein are in addition to, and not in lieu of, any other or additional rights or remedies provided by law; and the right of Customer to claim additional damages remains reserved.
- 3.5. Supplier will grant Customer a discount equivalent to 3% per full week of delay with a maximum of 15% discount as a first payment towards the liability mentioned in clause 3.1. This discount does not limit Customer's right to additional compensation for damages and claims in respect of Supplier's default. Whenever Customer has paid for Products before these Products are delivered to Customer, and late delivery occurs in accordance with this clause 3, Supplier will (at Customer's option) either credit discount (calculated as above) to Customer against future purchases or repay that discount promptly to Customer. Whenever Customer has not paid for Products before these Products are delivered to Customer, and late delivery occurs in accordance with this clause 3, Supplier will promptly issue a credit note to Customer for the amount of that discount: and Customer shall deduct the amount of that credit note from the relevant Invoice.

#### *4. Changed or Discontinued Products*

- 4.1. Supplier must inform Customer in writing of any proposed changes in their Products that might influence or affect the use of any Products by Customer or by Customer's customers from time to time. Customer must be informed at least six (6) months before any changes take place.
- 4.2. Supplier must inform Customer of any proposal to discontinue any Product(s) at least six (6) months before such Product(s) are discontinued. Supplier will use its best endeavours to offer an alternative product that equals or improves upon the discontinued Product at no higher price level than the discontinued Product(s). Supplier will support Customer in the transition period (around the time of discontinuation of any Product(s)) with free sampling, product information and marketing efforts.

#### *5. Place of performance, Place of delivery*

- 5.1. Place of delivery of the Products shall be the delivery address specified by the Customer within the Purchase Order.
- 5.2. If no delivery address, or an incomplete delivery address, is specified within the Purchase Order or Supplier delivers to the wrong delivery address, no delivery, or transfer of title will be deemed to have taken place unless and until Customer has agreed in writing with Supplier what the correct delivery address shall be and the relevant Products have been delivered (in accordance with these Purchase Conditions) to that delivery address..

#### *6. Delivery, Transportation and Packaging*

- 6.1. Delivery, transportation and packaging shall be effected in accordance with DDP (according to the latest available Incoterms, from time to time) except to the extent otherwise provided within these Purchase Conditions.
- 6.2. Supplier shall contract, at its own expense, for the carriage of Products to their place of delivery. Each contract of carriage shall provide for the unloading of the Products at Supplier's expense.
- 6.3. Supplier shall procure that each delivery notice to Customer shall show the name and address of Supplier, the number of Customer's Purchase Order, the number of units and the precise designation of the Products. Supplier shall attach a similar delivery notice to the delivered Products.
- 6.4. If for a single Purchase Order there is more than one place of delivery, Supplier shall prepare and provide Customer with a separate delivery notice for each place of delivery. There shall be neither partial nor advance deliveries without Customer's prior written approval.
- 6.5. Supplier shall (no later than when delivering the Products to Customer) deliver to Customer all documents which Customer requires and/or has requested for the acceptance, operation, maintenance and repair (e.g. records of testing, factory certificates, drawings, plans, manuals and similar documents) of the Products. These documents shall be provided free of charge to Customer and if requested by Customer in a written and/or digital form which can be copied.
- 6.6. For the avoidance of doubt, delivery for the purposes of these Purchase Conditions shall not occur unless and until all documents referred to in Clause 6.5 above shall have been delivered to Customer..
- 6.7. Supplier shall comply with all applicable import or export regulations.
- 6.8. Supplier is responsible for the adequate and secure packaging of Products.
- 6.9. Supplier is liable for any damage caused by inadequate packing and/or inadequate preservation.

- 6.10. Supplier is obliged in accordance with Customer's instructions to provide Products and the packaging of Products with the required distinctive marks, texts or labels and shall ensure that such marks are clearly visible at the front or the back when stacked for transport.
- 6.11. Customer is under no obligation to provide Supplier with evidence of having taken delivery.
- 6.12. Whenever any Products shall come into the possession of Customer without such Products having been delivered to Customer in accordance with these Purchase Conditions, Customer is entitled to store these Products at Supplier's expense and risk until the contractually required documents relative to the Products are received by Customer - and the Products shall then become delivered.
- 6.13. Whenever Customer receives from Supplier goods in excess of those ordered by Customer, Supplier will promptly collect all excess goods from Customer (at Supplier's own expense) and reimburse Customer for the costs (at its internal rates, from time to time) of storing and handling such excess goods.

#### *7. Transfer of risks*

- 7.1. Supplier will bear all risks of loss or damage to the Products until such time as they have been delivered in accordance with these Purchase Conditions..
- 7.2. Title to the Products will pass to Customer upon delivery.

#### *8. Compliance with Applicable Legislation*

- 8.1. Supplier shall comply with all applicable (national and international) laws, regulations and legislation concerning product safety, including the delivery of the relevant declaration of conformity and the related documentation. All technical equipment must comply with generally /nationally accepted technical standards, with regulations for the health and safety of workers and prevention of accidents. All technical work equipment shall be equipped with the necessary protective devices to prevent occupational diseases and accidents. All such protective devices shall be provided by Supplier and be included in the price for such Products.
- 8.2. Supplier warrants and represents to Customer that all Products delivered shall comply with all applicable laws and regulations. Supplier shall indemnify and hold Customer harmless from and against all claims from third parties including, but not limited to, claims from public authorities arising out of or resulting from Supplier's failure to comply with such laws and regulations and its obligations to Customer under these Purchase Conditions.
- 8.3. Supplier warrants and represents to Customer that it complies and will comply in all respects with the United Nations rules for prevention of child abuse and child employment. Supplier will take all applicable actions concerning its own suppliers to ensure that its own suppliers meet the same compliance standards at all times.
- 8.4. Supplier irrevocably undertakes to Customer that it will comply in all respects with Customer's Business Conduct Policy – as set out in an appendix to each Agreement
- 8.5. The provisions of this clause 8 apply to all Products supplied, manufactured and / or assembled by Supplier, including Supplier's main brand products and Customer's own brand.

## *9. Acceptance*

- 9.1. Whenever an Agreement specifies a period of time within which Products should be accepted, Customer will adhere to that time limit unless prevented from doing so by circumstances outside its control.
- 9.2. Under no circumstance shall Supplier have the right to cancel or terminate any Agreement as a result of any delay in Customer's acceptance of Products.
- 9.3. Whenever any Agreement provides for tests to be undertaken on Products as a pre-condition of Customer's acceptance of these Products, Customer shall accept delivery following "faultless" testing.

## *10. Warranties*

- 10.1. The general warranty provisions of the Convention on Contracts for the International Sale of Goods and the following additional specific warranties shall apply to all Products and be incorporated into all Agreements.
- 10.2. Supplier warrants and undertakes to Customer that all Products shall be of the quantity, quality and description required by the relevant Agreement and shall be contained and packed in the manner required by each relevant Agreement.
- 10.3. The Products shall:
  - be new and free of all liens, charges and encumbrances;
  - comply in all respects with all environmental and other legislation, regulations and requirements, from time to time;
  - be of a quality satisfactory to Customer and fit for the purposes for which products of the same description are ordinarily used by Customer and its customers;
  - be free from all defects in design, workmanship and material;
  - be fit for any particular purpose expressly or impliedly made known to Supplier at or prior to the time of the conclusion of the relevant Agreement;
  - possess the qualities of Products which Supplier has produced or represented or held out to Customer in any sample or model;
  - without prejudice to any other warranty within these Purchase Conditions, be produced according the specifications and within the tolerances published and provided to Customer within Supplier's datasheets (specifying for each Product specifications and tolerances acceptable to Customer). To the extent that such datasheets have not already been supplied to Customer in respect of any Product, Supplier will provide such datasheets and all other information relating to the Products to Customer promptly whenever Customer so requests;
  - subject to all other terms and conditions of the Purchase Conditions relative to packaging, be contained or packaged in the manner usual for such Products or, where there is no such manner, in a manner adequate to preserve and protect the Products from damage.
- 10.4. If any shortcomings or defects as described in Clause 10.3 occur during the warranty period (as specified in article 10.8.), Customer shall, at its own discretion and sole option and irrespective of whether or not such shortcomings or defects amount to a fundamental breach of the contract under the Convention on Contracts for the International Sale of Goods, have the following rights:
  - Customer may by notice in writing require Supplier, at Supplier's expense, to deliver substitute and faultless products of the same quality within an additional period of time, which shall be fixed by Customer in such notice of remedy;

- Customer may by notice in writing require Supplier, at Supplier's expense, to eliminate the shortcomings or defects free of charge within an additional period of time, which shall be fixed by Customer in its notice of remedy. Supplier shall also bear the expenses of packaging, shipment, import, work, travel expenses, third party costs (e.g.; installer labour costs), disposal and all other costs of Customer in eliminating any shortcomings and/or defects.
  - Customer may by notice in writing require Supplier either (at Customer's sole option) to refund the purchase price of such defective Products or to issue a credit of such purchase price against future Purchase Orders.
  - Customer may within a reasonable time after the delivery of faulty Products or, if it had chosen one of the alternatives above, after the additional period of time granted to Supplier has elapsed, declare the relevant Agreement to be terminated. In such a case Customer may purchase alternative products from a third party supplier and Supplier shall hold Customer harmless from any and all loss incurred (including consequential, indirect or incidental damages and loss of profit). If there is a market price of the Products, Customer may alternatively claim the difference between the contract price and the actual market price at the time of the breach giving rise to the right to terminate the Agreement as well as any further damages.
  - Customer may, irrespective of whether or not the purchase price has already been paid, reduce the price of the Products in the same proportion as the value that the Products actually delivered had at the time of the delivery bears to the value that conforming Products would have had at that time.
- 10.5. Supplier has no right, under any circumstances, to attempt to remedy a shortcoming or a default/breach on its own initiative, without prior written approval by Customer.
- 10.6. In addition to Customer's rights under clause 10.4., Customer may claim damages (including consequential, indirect or incidental damages and loss of profit) for breach of contract from Supplier. The provisions of this clause 10 do not affect in any way Customer's other (statutory) rights.
- 10.7. Whenever Customer accepts replacement Products, Supplier agrees that all warranties as to the characteristics of these Products according to Clauses 10.1, 10.2 and 10.3 above shall have effect as from the date of delivery of the replacement Products.
- 10.8. The warranty period for visible shortcomings or defects shall (unless the Supplier generally offers a longer warranty period, in which that longer warranty period shall apply) be 24 months from the date of Customer's acceptance of delivery of the relevant Products in accordance with these Purchase Conditions. Customer will notify Supplier of any defects as soon as practicable during this warranty period. Notwithstanding the previous provision of this Clause, if hidden defects appear during or after the above-mentioned warranty period, then Supplier shall, at its own cost and without delay, undertake any and all necessary corrective action(s) to ensure that the Products are made to conform to the standards required by the relevant Agreement and that hidden defects do not reappear in the Products. These corrective actions may include, but are not limited to, (i) redesigning, (ii) modifying, (iii) repairing and/or (iv) replacing all Products of that particular delivery with new Products that do not have any hidden or other defect. Whenever defective Products are supplied by Supplier to Customer, Supplier shall promptly compensate Customer and Customer's customers for all costs, losses and expenses suffered or incurred by them and arising from the supply of the defective Products and their subsequent replacement.

### *11. Price, Payment Conditions, Invoice*

- 11.1. The price referred to in the Purchase Order is, when the Purchaser Order is accepted by Supplier, binding on Supplier. That price excludes sales taxes and other value added taxes and it shall, in accordance with DDP, include packaging. Customer shall have the right to return packaging material and obtain from Supplier a reimbursement at market value.
- 11.2. All costs of shipping and customs duties are to be borne by Supplier; these costs shall be included in the price of the Products. If Supplier is obliged to or decides to insure the Products such costs shall be borne by Supplier and shall be deemed to be included in the price of the Products.
- 11.3. Unless otherwise agreed in writing, the cost of delivery of Products in excess of the quantities ordered by Customer will not be reimbursed by Customer, even if such Products are not rejected by Customer.
- 11.4. Provided that no other terms have been agreed, payments for Products shall be made net within 60 days or within 14 days with a 3% payment discount solely at the discretion of Customer.
- 11.5. The date from which the period by which payment must be made by Customer shall be calculated is the later of: (1) the day after both the faultless and complete delivery of the Products has been made and (2) the day on which the invoice for the Products has been received by Customer.
- 11.6. Partial deliveries shall only be paid for if a duly authorised representative of Customer has expressly agreed to this in writing. Payment for a partial delivery by Customer shall neither constitute final acceptance of the Products by Customer nor confirmation that Supplier's contractual obligations have been fulfilled.
- 11.7. The prices of Products and grounds for discount shall be specified in an Appendix to each Agreement. Any changes in any prices shall only be effective if mutually agreed in writing between the Parties. Whenever Supplier proposes to increase the price of any Product, it shall notify Customer and Supplier's new price(s) shall come into force no earlier than three months Customer receives such notification.
- 11.8. Invoices must be issued immediately after the shipment of the Products and separately for each Purchase Order. Supplier shall indicate on each invoice the precise number of units of each item, the packaging, the number of Customer's Purchase Order, the item numbers and the specifications and any other information requested in the Purchase Order. When applicable, costs for packaging, shipment and insurance as well as value added taxes and customs duties shall be specified separately.
- 11.9. Payment by Customer does not imply acknowledgement of the Products satisfying the Agreement or being free of any defects.
- 11.10 Customer will be entitled to set off any claims on Supplier that are capable of being expressed in money against any debts payable by Customer and/or its group companies to Supplier, even if these have not yet become due and payable.

### *12. Ownership of Delivered Products*

- 12.1. In delivering the Products, Supplier declares itself to be – and warrants to Customer that it is - the sole owner and to have full and unencumbered title in the Products and that no third party has any rights over or interests in the Products.



*13. Copyrights / intellectual property rights of Customer*

- 13.1. The copyrights and all other rights to the documentation (such as plans, outlines, drawings, reproductions, calculations, descriptions, own brand details and other documents as well as auxiliary means) handed out by Customer to Supplier will remain the property of Customer. These documents shall constitute confidential information of Customer and may be used by Supplier solely for the execution of relevant Purchase Orders of Customer. Without Customer's written consent Supplier is not entitled to use such documents or information to make products for third parties, to copy or otherwise duplicate the documents, or to make the documents or information in any way available to third parties.
- 13.2. Supplier shall return the documentation referred to in Clause 13.1 above without demand as soon as it no longer needs it for the execution of Customer's Purchase Orders, or at any time immediately on demand from Customer.

*14. Indemnity, Insurance, Obligation to take back*

- 14.1. Notwithstanding anything to the contrary contained herein, Supplier shall fully indemnify and hold harmless all Indemnified Parties from and against all law suits, claims, damages, liabilities, losses, costs, fines, penalties and expenses (including but not limited to attorneys' and experts' fees and costs) arising out of, in connection with or resulting from:
- injuries or death to persons or damage to property in any way arising out of or occasioned by, caused or alleged to have been caused by or on account of the delivery of Products or the performance of any services by Supplier pursuant to any Agreement;
  - any failure on the part of Supplier to satisfy all claims for labour, equipment, materials and other obligations relating directly or indirectly to the delivery of any Products or to the performance of any services pursuant to any Agreement;
  - claims of infringement of any patent, copyright, trademark or trade secret right, or other intellectual property right, private right, or any other proprietary or personal interest related by circumstances to the existence of any Agreement or performance under or in contemplation of it;
  - any failure by Supplier to perform Supplier's obligations under any Agreement;
  - the breach of any representation or warranty under these Purchase Conditions; or
  - the delivery of Products, materials or services under any Agreement (including, without limitation, any losses arising out of, in connection with or resulting from any allegation or claim that any Products or services supplied under any Agreement were defective, faulty or otherwise contributed to any personal injury or property damage).
- 14.2. The obligation of Supplier pursuant to clause 14.1 shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or other Indemnified Party. Supplier agrees to defend each of the Indemnified Parties, at that Indemnified Party's request, against any such claim, demand or lawsuit.

- 14.3. For the terms of the Agreements and during the applicable statutes of limitations thereafter, Supplier shall maintain sufficient and broad form vendor liability coverage and product liability insurance with a minimum combined single limit of not less than € 10.000.000 per claim for personal and property damages and notify Customer of any termination, cancellation or material change to such insurance coverage. Supplier shall provide Customer with a certified copy of the insurance certificate evidencing such insurance.
- 14.4. For the terms of the Agreements and for the whole period during which Customer is under a legal obligation to or it is advisable under the applicable law to take back Products directly or indirectly from its customers, Supplier shall, in turn, take back those Products upon prior written notice from Customer within 20 business days, and Supplier shall bear all costs related to such taking back.

#### *15. Intellectual Property rights of Supplier*

- 15.1. Supplier is liable for and responsible and represents and warrants that the Products and documentation delivered to Customer and the fulfilment of Agreements does not contravene any third party copyright, patent, trade secret, trade name, service mark or otherwise infringe any third party intellectual property rights and that Supplier is either the legal owner or has a legally valid license in respect of any and all intellectual property rights contained within the Products and documents delivered.
- 15.2. Supplier shall indemnify and hold harmless Customer from any claims of third parties arising out of any breach of intellectual property rights in accordance with clause 15.1 above. In the event that Customer is in any way enjoined from using any Products, Supplier will promptly, at its expense (including, without limitation, the payment of any royalties occasioned by the following) and at Customer's choice either (i) provide to Customer non infringing Products, or (ii) negotiate and procure for Customer the right to use such Products without restriction.

#### *16. Liability and Damages*

- 16.1. Supplier will be liable for all damage directly or indirectly caused by any shortcoming in the performance of any obligation entered into by Supplier with Customer, and for all damage directly or indirectly arising from a wrongful act of Supplier or one or more persons for whom Supplier is liable.
- 16.2. The parties agree that Section II, Article 74 of the United Nations Convention on Contracts for the International Sale of Goods (or any comparable provision in any subsequent amendment or revision), which provides that damages may not exceed the loss which the party in breach foresaw or ought to have foreseen at the time of the conclusion of the contract, shall not apply to any damages suffered by Customer.
- 16.3. Customer (and its directors, officers, employees and representatives) shall not be liable for any special, reliance, consequential, exemplary, punitive, economic, incidental or indirect damages, including without limitation damages to property, for loss of profits or income, loss of use or loss of time, whether in contract, tort, or otherwise resulting from its performance, non-performance or delay in performance of its obligations under this Agreement whether or not it had notice of the possibility of such damages occurring.

### *17. Customer's Remedies*

- 17.1 Without prejudice to any other right or remedy which Customer may have, if any Products are not supplied in accordance with, or Supplier fails to comply with, any of the terms of any Agreement Customer shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Products have been accepted by Customer:-
- 17.1.1 to rescind the Purchase Order;
  - 17.1.2 to reject the Products (in whole or in part) and make them available for collection by Supplier at the risk and cost of Supplier on the basis that a full refund for all Products so returned shall immediately be paid to Customer by Supplier;
  - 17.1.3 at Customer's option, to give Supplier the opportunity at Supplier's expense either to remedy any defect in the Products or to supply replacement Products and carry out any other necessary work to ensure that Supplier's obligations under all relevant Agreements are fulfilled;
  - 17.1.4 to refuse to accept any further deliveries of Products, but without prejudice to any liability by Supplier to Customer;
  - 17.1.5 to carry out at Supplier's expense any work necessary to make Products comply with the relevant Agreement(s); and
  - 17.1.6 to claim such damages as may have been suffered in consequence of Supplier's breach or breaches of the Agreement(s).

### *18. Data protection*

Customer reserves the right to process Supplier's personnel data, (i.e. data relating to Supplier as a legal entity and to Supplier's employees), in relation to Purchase Orders. In particular, Supplier grants Customer permission to transfer such data (abroad) to other companies within the Customer group and to third parties for the purpose of conducting Customer's business. Customer and Supplier will ensure data protection by appropriate measures.

### *19. Advertising Material*

Supplier may refer to the business relationship with Customer in Supplier's advertising materials only after having first been granted Customer's express written consent.

### *20. Force Majeure*

- 20.1. In the event of Force Majeure on the part of Supplier, Customer will be entitled to (1) terminate the Agreement with immediate effect or (2) to set Supplier a further term for performance. If upon expiry of this term Supplier is unable to perform its obligations, Customer will be authorized to terminate the Agreement with immediate effect. In the event of termination due to force majeure Customer will not be obliged to pay compensation for damage and costs.
- 20.2. Customer reserves the right to defer the date of delivery or payment or to cancel the Agreement or reduce the volume of Products ordered if it is prevented from or delayed in carrying on its business due to circumstances beyond its control – including, without limitation, acts of God, war or national emergency, acts of terrorism, riot, civil commotion, fire, explosion, flood and epidemic.
- 20.3. The following, but not limited thereto, shall in any case be at Supplier's expense and risk and shall not be considered Force Majeure: strikes, workers' lockouts, shortage of manpower, absence due to illness, energy problems or shortages, shortages of raw material, transport problems, non-performance of Suppliers' obligations and interruptions in Supplier's operations and non-performance of Supplier's suppliers.

- 20.4. Immediately after the circumstance giving rise to the Force Majeure has arisen, Supplier shall inform Customer thereof, stating the cause of the Force Majeure. Customer will be entitled to demand a statement from an independent organisation to be appointed by Customer regarding the existence of the Force Majeure and the effects thereof upon Supplier.

#### *21. Assignment*

Supplier may not assign any rights or obligations arising under any Agreement to any third party.

#### *22. Non disclosure*

All information regarding the business relationship of the Parties which is not from time to time within the public domain, hereafter called "Confidential information" will be kept strictly confidential at all times. If the Parties enter into a separate Non Disclosure Agreement the provisions of that Non Disclosure Agreement shall prevail.

#### *23. Termination*

- 23.1. Customer shall have the right at any time by giving notice in writing to Supplier to terminate any Agreement(s) forthwith if:-
- 23.1.1 Supplier commits a material breach of any of the terms and conditions of the relevant Agreement(s); or
- 23.1.2 any distress, execution or other process is levied upon any of the assets of the Supplier or
- 23.1.3 Supplier makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory)(except for a solvent voluntary liquidation for the purposes only of reconstruction or amalgamation in a manner pre-approved in writing by Customer), or has a receiver or manager, administrator or administrative receiver appointed to its undertaking or any part thereof, or documents are filed with any court for the appointment of an administrator by Supplier or its directors or by a qualifying floating charge holder or a resolution is passed or a petition presented to any court for the winding up of Supplier or for the granting of an administration order in respect of Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of Supplier; or
- 23.1.4 Supplier ceases or threatens to cease to carry on its business; or
- 23.1.5 any change of control of Supplier occurs; or
- 23.1.6 Supplier's business relocates; or
- 23.1.7 any licences required by Supplier to fulfil any Agreement are challenged or suspended or withdrawn or otherwise cease to be in full force and effect; or
- 23.1.8 the financial position of Seller deteriorates to such an extent that, in the opinion of Customer, the capability of Supplier adequately to fulfil its obligations under any Agreement(s) has been placed in jeopardy.
- 23.2. Termination of the Agreement(s), howsoever arising, shall be without prejudice to the rights and duties of Customer accrued prior to termination. Those Purchase Conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.
- 23.3. Upon termination, all claims Customer has or may acquire on Supplier shall at once become due and payable in the event of the occurrence of any of the events mentioned in clause 23.1.

- 23.4. Any extrajudicial costs, expressly including the sending of any demands for performance, the making of settlement or other related proposals, and any other preparatory actions, as well as any extrajudicial costs incurred by Customer as a result of non-performance by Supplier, shall be borne by Supplier.
- 23.5. Supplier shall have the right to give notice at any time in a given calendar year for ending the agreement per the last day of the year that follows.
- 23.6. Supplier will not be allowed to deliver same or similar products to the clients and prospects of the Client within a period of 5 years after termination of the contract. If supplier infringes this, penalty will be 30% of his turnover with a minimum of €100.000 per year.

#### *24. Severability*

- 24.1 If any provision of an Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, unenforceability or unreasonableness, be deemed severable and the remaining provisions of that Agreement and the remainder of such provision shall continue in full force and effect.

#### *25. Applicable Law*

All issues and disputes arising out of these Purchase Conditions and any Agreement shall be governed exclusively by Dutch law.

#### *26. Place of Jurisdiction*

All disputes arising out of or in connection with these Purchase Conditions and any Agreement - shall be resolved exclusively by either (at the sole option of Customer) (1) the competent courts of the place of domicile of the Customer – unless Customer at its sole discretion determines to raise court proceedings in a jurisdiction in which Supplier operates, or (2) arbitration in The Hague, The Netherlands under the rules of the International Chamber of Commerce. To the extent possible under applicable law, such proceedings shall be conducted in the English language.