

General Terms and Conditions of EUROBOOR B.V.

EUROBOOR B.V. (as defined below) hereby expressly rejects the applicability of any general conditions of the Customer (as defined below). These General Terms and Conditions contain conditions limiting or excluding liability and apply to any and all transactions concluded by EUROBOOR B.V.

1. General

1.1. These General Terms and Conditions ("Conditions") govern the offering, sale and delivery of all goods and/or services (the goods and services herein both separately and jointly referred to as: the "Goods") from or on behalf of (i) EUROBOOR B.V., in Zoetermeer The Netherlands, (ii) Euroboor USA Inc., Birmingham, USA., (iii) Euroboor LC, St. Petersburg, Russia, (iv) MEEBS FZE, Sharjah, UAE, and (v) Euroboor Metal Constructions Instruments Co., Zhangjiagang, China (each: "Seller" or "uns" for purposes of paragraph 8.3.2) to Customer or other contractor ("Customer") and apply to all similar dealings between Seller and Customer.

1.2. These Conditions supersede any and all prior, oral and written quotations, communications, agreements and understandings of the parties in respect of the sale and delivery of the Goods and shall apply in preference to and supersede any and all terms and conditions of any order placed by Customer and any other terms and conditions submitted by Customer. Failure of Seller to object to terms and conditions set by Customer shall in no event be construed as an acceptance of any terms and conditions of Customer. Neither Seller's commencement of performance nor Seller's delivery shall be deemed or constituted as acceptance of any of Customer's terms and conditions. If these Conditions differ from any terms and conditions of Customer, these Conditions and any subsequent communication or conduct by or on behalf of Seller, including, without limitation, confirmation of an order and delivery of Goods, constitutes a counter-offer and not acceptance of such terms and conditions submitted by Customer. Any communication or conduct of Customer which

confirms an agreement for the delivery of Goods by Seller, as well as acceptance by Customer of any delivery of Goods from Seller shall constitute an unqualified acceptance by Customer of these Conditions.

1.3. These Conditions may only be varied or waived by a duly executed written agreement between Seller and Customer.

1.4. By contracting on the basis of these Conditions, Customer agrees to the applicability thereof in respect of future dealings as described in paragraph 1.1, even if this is not expressly stated. Seller shall be entitled to update and/or amend these Conditions regularly and by and as of the moment of notifying Customer of such update or amendment or by sending Customer the updated or amended Conditions, these revised Conditions shall apply to all dealings between Seller and Customer.

1.5. Seller and Customer agree that valid, enforceable and binding obligations may result from electronic means of communication. Any electronic communication between Seller and Customer shall be considered to be a "writing" and/or "in writing".

2. Quotations, Orders and Confirmations

2.1. Quotations, made by Seller in whatever form, are not binding upon Seller and merely constitute an invitation to Customer to place an order. All quotations issued by Seller are revocable and subject to change without notice. Orders are not binding until accepted by Seller in writing ("Seller's Confirmation"). Seller is always entitled to refuse or cancel an order request and shipments and/or terminate all contractual obligations on the basis of Customer's credit worthiness without indication of its reasons and without liability to Seller whatsoever.

2.2. Oral statements and agreements made by Seller's employees, officers, representatives and/or agents are not binding upon Seller unless and only to the extent that such oral statements are confirmed or made in writing by duly authorized representative(s) of Seller.

2.3. Each delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries.

2.4. The sizes, weights, technical data, calculations, illustrations, stock lists, advertising material, design drawings, models, photographs, samples, designs, materials, formulations, etc., appearing in Seller's quotations apply only as approximating description and are entirely without obligation.

3. Prices

3.1. Prices and currencies of Seller's Goods are as set out in Seller's Confirmation. Unless agreed otherwise, Seller's prices include standard packaging but do not include Value Added Tax or any other similar applicable taxes, duties, levies or charges in any jurisdiction levied in relation to the Goods or the delivery thereof ("Taxes"). The amount of any Taxes levied in connection with the sale of the Goods to Customer, freight charges and margin arrangements shall be for Customer's account and shall be added to each invoice or separately invoiced by Seller to Customer. If Seller grants a discount, this discount only relates to the delivery specifically mentioned in Seller's Confirmation.

3.2. Unless the prices have been indicated as firm by Seller in Seller's Confirmation, Seller is entitled to increase the price of the Goods still to be delivered, if the cost price determining factors, have been subject of an increase. These factors include but are not limited to: raw and auxiliary materials, energy, products obtained by Seller from third parties, wages, salaries, social security contributions, governmental charges, import duties, the exchange rate of the relevant foreign currency as stated in our quotations and confirmations of order, freight costs and insurance premiums. In the event of a change in one or more of the aforementioned or other cost-determining factors, Seller is entitled to pass on these changes to the Customer in the relevant sales invoice. Seller shall notify Customer of such increase.

4. Payment and Customer' credit

4.1. Unless expressly stated otherwise in Seller's Confirmation, payment shall be made on the basis of net cash, to be received by Seller within thirty (30) days following the date of Seller's invoice for the Goods by means of transfer into the bank account mentioned on the invoice. All payments shall be made without any deduction on account of any Taxes and free of set-off or counterclaim. Payment in some other way, in particular handing over to our staff, is only valid with prior approval in writing of Seller. The acceptance of bills of exchange will not be regarded as payment.

4.2. All bank charges arising from payment of the purchase price in the country of the Customer or from opening and confirmation of letters of credit shall be for the account of the Customer.

4.3. With regard to payment of the price for Goods, time is of the essence. Seller may, without prejudice to any other rights of Seller, charge interest on any overdue payment at the higher rate of either twelve percent (12%) per annum or one and a half times the prevailing rate under applicable law per annum, but not to exceed the maximum interest rate permitted under applicable law, from the due date computed on a daily basis until all amounts outstanding are paid in full. In the event of overdue payment of amounts owed to Seller, Customer is immediately in default, without notice of default being required. Without prejudice to the Seller's power in that case to declare all agreements concluded with the Customer concerned dissolved and to claim compensation of all damage that is the consequence thereof for Seller from the Customer, the Customer shall:

(i) have to pay interest on the amount owed to Seller in the amount of statutory commercial interest under article 6:119a of the Netherlands Civil Code;

(ii) have to reimburse us all the extrajudicial costs falling on the recovery of Seller's debt, the level of which is determined as follows:

on the first €6,500 15%,

on the excess up to €13,000 10%,

on the excess up to €32,500 8%,

on the excess up to €130,000 5%

and on the excess above €130,000 3%,

all with a minimum of €150,

all plus VAT;

(iii) have to reimburse Seller all the actual costs of taking legal measures for the recovery of the amounts due to Seller.

4.4. All costs and expenses incurred by Seller with respect to collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and other expenses of litigation) shall be for Customer's account.

4.5. Every payment by Customer shall in the first place serve to pay the judicial and extra-judicial costs and the interest owed by it and afterwards shall be deducted from the eldest outstanding claim regardless of contrary advice from Customer.

4.6. Seller reserves the right to demand security at any time for the timely payment with a view to supplies both already made and yet to be made, which security as Seller sees fit can take the form of advance payment, bank guarantee, mortgage, pledge or suretyship. If insufficient security is provided at Seller's request, Seller is entitled to suspend further performance of agreements concluded with Seller without any liability to pay compensation for any loss arising therefrom. Seller is also entitled only to supply goods subject to cash on delivery in cases that in the Seller's opinion are appropriate for this, where necessary at variance with agreements made.

4.7. In the event of non-fulfilment, overdue fulfilment or inadequate fulfilment of any obligation by Customer, which might arise for it from agreements concluded with Seller, and in the event of bankruptcy, court protection from creditors, application of the debt rescheduling arrangement for natural persons or placement into receivership of the Customer or closing down or liquidation of its business, Seller shall at any time be entitled without any obligation to pay compensation, without prejudice to the other rights due to Seller and without a warning or notice of default being necessary, to declare the transaction dissolved, without judicial

intervention being required, without prejudice to the Seller's claims for compensation, while Seller is then further entitled to dissolve other current transactions with the Customer concerned, where not yet carried out, under the same terms and conditions. Each dissolution results in the immediate exigibility of everything owed to Seller.

4.8. Any complaint with respect to the invoice must be notified to Seller within eight (8) days after the date of invoice. Thereafter Customer shall be deemed to have approved the invoice.

5. Delivery and Acceptance

5.1. Unless expressly stated otherwise in Seller's Confirmation, all deliveries of goods shall be Ex Works Seller's production facility; the term Ex Works shall have the meaning assigned to same in the latest version of INCOTERMS published by the International Chamber of Commerce at Paris, France, at the time of Seller's Confirmation.

5.2. Unless otherwise agreed, Seller may arrange for shipment of product by common carrier to Customer's facilities. Title to and risk of loss on product sold hereunder shall pass to Customer upon Seller's tender of delivery of product to Customer at the F.O.B. point stated on the Seller's Confirmation. Seller shall invoice Customer on or promptly after the date of each shipment hereunder.

5.3. Unless expressly stated otherwise in Seller's Confirmation, any times or dates for delivery by Seller are estimates and shall not be of the essence. Unless otherwise expressly agreed in writing, an agreed delivery date is not a deadline, but is simply by approximation and is otherwise entirely without obligation. Exceeding agreed delivery dates, for whatever reason, does not give Customer – even after notice of default – any right to dissolution, compensation and/or suspension. Seller is entitled to deliver the Goods as stated in Seller's Confirmation in parts and to invoice separately. Delay in delivery of any Goods shall not relieve Customer of its obligation to accept delivery thereof. Deviations in quantity of Goods delivered from that stated in Seller's Confirmation shall not give Customer the right not to accept the Goods. Customer shall be

obliged to pay the rate specified in Seller's Confirmation for the quantity of Goods delivered.

6. Cancellation

Customer's wrongful non-acceptance or rejection of Goods or cancellation or repudiation of Seller's Confirmation shall entitle Seller to recover, in addition to any other damages caused by such action:

- (i) in the case of Goods which reasonably cannot be resold by Seller to a third party, the price of such Goods; or
- (ii) in the case of Goods which can be resold by Seller or where an action for the price is not otherwise permitted by law, damages equal to fifty percent (50%) of the price for the Goods as liquidated damages.

7. Examination and conformity to specifications

7.1. Customer shall examine the Goods and satisfy itself that the Goods delivered meet all contractual requirements.

7.2. Complaints about the Goods supplied shall be made in writing and must reach Seller not later than seven (7) days from the date of delivery in respect of any defect, default or shortage which would be apparent from a reasonable inspection on delivery, and seven (7) days from the date on which any other claim was or ought to have been apparent. Complaints must be accompanied by a copy of the relevant packing list, on pain of loss of all rights in respect of any failing on Seller's part. Use of the Goods shall be deemed to be an unconditional acceptance of the Goods and a waiver of all claims in respect of the Goods.

7.3. Goods that Seller consents or directs in writing to be returned shall be returned to Seller at the risk of Customer, to the destination directed by Seller.

7.4. Defects in parts of the Goods stated in Seller's Confirmation do not entitle Customer to reject the entire delivery of the Goods. Complaints, if any, do not affect Customer's obligation to pay as defined in paragraph 4. Upon receipt of a notice of defect, Seller is entitled to suspend all further deliveries until the complaints are established to be unfounded

and/or refuted or until the defect has been totally cured.

7.5. Complaints reported promptly and in writing can, if well founded, only lead to replacement of the goods supplied, or – as Seller sees fit – crediting of the Customer for the agreed price of the defective goods. Costs of disassembly and reassembly will not be reimbursed.

8. Transfer of Risk and Property

8.1. The goods to be supplied by Seller are at the risk of Customer from the moment at which the goods leave our warehouses or, in the event of supply through third parties, have left the plants or warehouses of those third parties.

8.2. Goods for which delivery is suspended pending payment by Customer, as well as Goods of which delivery is wrongfully rejected or not accepted by Customer, shall be held and stored by Seller at the risk and expense of Customer.

8.3.1 The ownership of the Goods shall not pass to Customer and full legal and beneficial ownership of the Goods shall remain with Seller unless and until Seller has received payment in full for the Goods, including all secondary costs such as interest, charges, expenses etcetera.

8.3.2 For all sales to Customers located in Germany ("Käufer") the following shall apply in deviation of 8.3.1:

Das Eigentum an den gelieferten Waren bleibt zu Sicherung aller Ansprüche vorbehalten, die uns der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Käufer zustehen.

Unser Eigentum erstreckt sich auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Käufer stellt die neue Sache unter Ausschluss eigenen Eigentumserwerbs für uns her und verwahrt sie für uns. Hieraus erwachsen ihm keine Ansprüche gegen uns.

Bei einer Verarbeitung unserer Vorbehaltsware mit Waren anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerben wir zusammen mit diesen anderen Lieferanten – unter Ausschluss eines Miteigentumserwerbs des Käufers –

Miteigentum an der neuen Sache zu deren vollem Wert (einschliesslich Wertschöpfung) wie folgt:

a) *Unser Miteigentumsanteil entspricht dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu dem Gesamtrechnungswert aller mitverarbeiteten Vorbehaltswaren.*

b) *Verbleibt ein von Eigentumsvorbehalten zunächst nicht erfasster Restanteil, weil andere Lieferanten den Eigentumsvorbehalt nicht auf die Wertschöpfung durch den Käufer erstreckt haben, so erhöht sich unser Miteigentumsanteil um diesen Restanteil. Haben jedoch andere Lieferanten ihren Eigentumsvorbehalt ebenfalls auf diesen Restanteil ausgedehnt, so steht uns an ihm nur ein Anteil zu, der sich aus dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu den Rechnungswerten der mitverarbeiteten Waren dieser anderen Lieferanten bestimmt.*

Der Käufer tritt bereits jetzt seine Forderungen aus der Veräusserung von Vorbehaltsware aus unseren gegenwärtigen und künftigen Warenlieferungen mit sämtlichen Nebenrechten im Umfang unseres Eigentumsanteils zur Sicherung an uns ab. Bei Verarbeitung im Rahmen eines Werkvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages unserer Rechnung für die mitverarbeitete Vorbehaltsware schon jetzt an uns abgetreten.

Solange der Käufer seinen Verpflichtungen aus der Geschäftsverbindung mit uns ordnungsgemäss nachkommt, darf er über die in unserem Eigentum stehende Ware im ordentlichen Geschäftsgang verfügen und die an uns abtretenden Forderungen selbst einziehen. Bei Zahlungsverzug oder begründeten Zweifeln an der Zahlungsfähigkeit oder Kreditwürdigkeit des Käufers sind wir berechtigt, die abtretenden Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen, jedoch liegt ein Rücktritt vom Vertrag nur dann vor, wenn wir dies ausdrücklich schriftlich erklären.

Übersteigt der Wert der uns eingeräumten Sicherheiten unsere Forderungen um mehr als

10%, so werden wir auf Verlangen des Käufers insoweit Sicherheiten nach unserer Wahl freigeben.

Scheck-/Wechsel-Zahlungen gelten erst nach Einlösung der Wechsel durch den Käufer als Erfüllung.

Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten gilt ausschliesslich deutsches Recht.

In case of a conflict between this paragraph 8.3.2 and the other paragraphs of article 8, this paragraph 8.3.2 shall prevail.

8.4. In the event of termination on the basis of paragraph 15 of these Conditions, Seller shall, without prejudice to any other rights of Seller, be entitled to require immediate re-delivery of the Goods for which it may invoke a retention of title.

8.5. As long as title to the Goods remains with Seller pursuant to this paragraph 8, Customer is entitled to use the Goods solely to the extent required in its ordinary course of business, and, to the extent possible, shall:

- (i) keep the Goods separate and in a clearly identifiable manner;
- (ii) mark the goods supplied subject to retention of title as Seller's property
- (iii) notify Seller immediately of any claims by third parties which may affect the Goods;
- (iv) adequately insure the Goods supplied subject to retention of title and to keep them insured against fire, explosion and water damage and against theft and to make the policy of this insurance available to Seller for inspection.
- (v) pledge to Seller all claims of the Customer on insurers with regard to goods supplied subject to retention of title in the manner prescribed by law;
- (vi) pledge to Seller the debts that the customer acquires in respect of its customers with regard to the selling on of goods supplied subject to retention of title in the manner prescribed by law;
- (vii) grant assistance in other ways to the reasonable measures that Seller wish to take

for the protection of Seller's proprietary rights in relation to the goods, which do not unreasonably hinder the Customer in the normal pursuit of its business.

8.6. Customer is not entitled to pledge the goods subject to our retention of title or to establish any other right on them for the benefit of third parties. If third parties wish to have any right to the goods supplied subject to retention of title established or enforced, the customer is obliged to inform us as soon as may reasonably be expected.

9. Limited Warranty

9.1. Seller's warranty covers malfunctions on purchased Goods caused by material defect or manufacturing error, clearly presenting themselves within the warranty period.

9.2. Seller applies the following warranty periods

Magnetic drilling machines: 12 months (+ additional 12 months after registration)

Beveling machines: 12 months (+ additional 12 months after registration)

Re-sharpening machines: 12 months (no extension possible)

Sawing machines: 6 months (no extension possible)

Grinding machines: 6 months (no extension possible)

Batteries and battery chargers: excluded from warranty.

9.3. Start date of the warranty period and extension is the date of purchase stated on the original proof of purchase.

9.4. Warranty claims follow the sales channel in reverse, with assessment and corrective measures to be initiated by the first authorized dealer or service point in this reverse line.

9.5. Seller or any of its authorized dealers and service points will always solve the malfunction of a validated warranty case by:

- Repair of the Goods covering cost of parts and labor, or if repair appears to be

impossible or too costly, at Seller's sole discretion:

- Replacement of the Goods with an equal alternative, or if repair or replacement are not possible, at Seller's sole discretion:

- Refund of the Goods only.

9.6. In case the malfunction of the Goods is not considered to be a valid warranty case, Seller will offer a repair proposal with matching quotation. The Goods will only be repaired after written approval of the machine owner.

9.7. To be able to apply for warranty, the date of defect must be within the warranty period, with the submission of the claim to follow within 4 weeks. This submission requires the return of the complete affected Goods with the original sales receipt (which must indicate the purchase date, product description and serial number) to the Seller's distributor in Customer's country or to Seller directly.

9.8. If a claim is made within the extended part of the warranty period based on the above mentioned registration, the proof of registration must also be submitted.

9.9. Partial or complete disassembly of the Goods will void the warranty.

9.10. The warranty does not cover the costs of transport, nor the risks related to the transportation of the Goods to and from Seller's authorized dealer, service point and/or to and from Seller directly.

9.11. The warranty does not cover:

(i) Components that are subject to natural wear and tear caused by use in accordance with operating instructions

(ii) Defects in the Goods caused by non-compliance with the operating instructions, improper use, abnormal environmental conditions, inappropriate operating conditions, overload or insufficient servicing or maintenance

(iii) Defects caused by using accessories, components or spare parts other than original "Euroboor" parts

(iv) Goods that have been modified

(v) Goods with repairs not performed by Seller or any of its authorized dealers and service points

(vi) Accessories supplied with the Goods.

9.12 All warranty assessments made by Seller or any of its authorized dealers and service points are conclusive and final.

9.13 Rental Goods are excluded from these warranty terms. Alternative (rental) conditions may apply.

9.14 For some countries or regions Seller's warranty terms might differ in detail.

9.15 Additional terms and conditions applicable in case of warranty extension by Goods' registration as per instructions and as further conditioned at Seller's website:

(i) Our standard warranty terms apply to the extended warranty with the following additional terms:

(ii) Extension of warranty period only applies to "Euroboor" magnetic drilling machines (batteries and chargers for cordless machines excluded)

(iii) The extension of the warranty period beholds an additional 12 months to the standard 12 month warranty period.

(iv) Registration of "Euroboor" power tools other than magnetic drilling machines is possible, but does not extend the original warranty period

(v) In order to apply for warranty extension, Goods' registration must take place within 4 weeks after date of purchase

(vi) Since the registration takes place on basis of machine serial number, every machine must be registered separately.

9.16 Seller hereby disclaims any and all warranties, express or implied, including warranties of merchantability or fitness for a particular purpose, use, or application concerning the product supplied hereunder other than the warranty of title and the warranty that the Goods shall conform to the quality and specification stated by Seller.

10. Limitation of Liability

10.1. Under no circumstances shall Seller be liable to Customer or any other person for any kind of special, incidental, indirect, consequential or punitive damage or loss, cost or expense, including without limitation, damage based upon lost goodwill, lost sales or profits, work stoppage, production failure, impairment of other goods or otherwise, and whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation, negligence or otherwise. Notwithstanding anything herein contained to the contrary, the liability of Seller for any and all claims for direct damages arising out of or in connection with the Goods and the use thereof shall not (under no circumstances) exceed the sum of Customer's payments for the Goods that are the subject of the claim.

10.2. Without prejudice to the provisions of paragraphs 7, 8, 9 and 11 of these terms and conditions, Seller is not liable for damage that has arisen through the use or application for particular purposes, or in connection of/with goods supplied by Seller.

10.3. Customer is liable for all damage resulting from loss, theft, fire or damage of our goods, tools and materials as soon as they are in the hands of the Customer

11. Force Majeure

11.1. Neither party shall be liable in any way for any damage, loss, cost or expense arising out of or in connection with any delay, restriction, interference or failure in performing any obligation towards the other party caused by any circumstance beyond its reasonable control, including, without limitation, acts of God, laws, statutes, ordinances, regulations, legislative measures, acts of governments or other administrative measures, orders or decrees of any court, natural disasters, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, sickness, strike, lockout, slowdown, labor disturbances, difficulty in obtaining necessary labor or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities or energy, delay in delivery or defects in goods supplied by suppliers or subcontractors ("Force Majeure").

11.2. Upon the occurrence of any event of Force Majeure, the party suffering thereby shall promptly inform the other party by written notice thereof specifying the cause of the event and how it will affect its performance of its obligations under Seller's Confirmation. The party invoking Force Majeure hereunder shall utilize best efforts to terminate or remove the Force Majeure conditions. In the event of any delay, the obligation to deliver shall be suspended for a period equal to the time loss by reason of Force Majeure. However, should a Force Majeure event continue or be expected to continue for a period extending to more than two (2) months after the agreed delivery date, either Party is entitled to cancel the entire or the affected part of Seller's Confirmation without any liability to the other Party to pay any compensation. If in such a case partial performance of an order takes place, Customer shall owe a proportional part of the total purchase price.

12. Compliance with Laws and Standards

Seller makes no promise or representation that the Goods shall conform to any law, statute ordinance, regulation, code or standard ("Laws and Standards"), unless expressly stated in Seller's Confirmation or in the Specifications. Customer acknowledges that the use of the Goods may be subject to requirements or limitations under Laws and Standards. Customer shall be exclusively responsible for (i) ensuring compliance with all Laws and Standards associated with its intended use of the Goods; and (ii) obtaining all necessary approvals, permits or clearances for such use.

13. Independent Contractors

Seller and Customer are independent contractors, and the relationship created hereby shall not be deemed to be that of principal or agent. No sale to or obligation of either party towards a third party shall in any way bind the other party.

14. Non-assignment

Neither party may assign any of the rights or obligations under Seller's Confirmation without the prior written consent of the other party, provided however, that Seller may assign such rights and obligations, wholly or partly, to any of

its parent companies, subsidiaries or affiliates or to a third party acquiring all or a substantial part of Seller's assets or business relating to the Goods.

15. Suspension and Termination

15.1. If (a) Customer is in default of performance of its obligations towards Seller, or (b) Seller has reasonable doubts with respect to Customer's performance of its obligations to Seller and Customer fails to provide to Seller adequate assurance (such as by means of ongoing credit approval) of Customer's performance before the date of scheduled delivery and in any case within thirty (30) days of Seller's demand for such assurance, or (c) Customer becomes insolvent or unable to pay its debts as they mature, or goes into liquidation (otherwise than for the purposes of a reconstruction or amalgamation) or any bankruptcy proceeding shall be instituted by or against Customer or if a trustee or receiver or administrator is appointed for all or a substantial part of the assets of Customer or if Customer enters into a deed of arrangement or makes any assignment for the benefit of its creditors, then, without prejudice to any other rights of Seller, Seller may by notice in writing forthwith

(i) demand re-delivery and take repossession of any delivered Goods which have not been paid for, for which purpose Customer hereby grants an irrevocable right and license to Seller to enter upon all or any of the premises where the Goods are or may be located and all costs relating to the recovery of the Goods shall be for the account of Customer; and/or

(ii) suspend its performance or terminate Seller's Confirmation for outstanding delivery of Goods unless Customer makes such payment for Goods on a cash in advance basis or provides adequate assurance of such payment for Goods to Seller; without any intervention of courts being required and without liability for Seller of whatsoever kind arising out of or in connection with such suspension or termination.

15.2. In any such event of (i) and/or (ii) and/or (iii), all outstanding claims of Seller shall become due and payable instantly in proportion

to the quantity of Goods delivered to Customer and not re-possessed by Seller.

16. Waiver

Failure by Seller to enforce at any time any provision of these Conditions shall not be construed as a waiver of Seller's right to act or to enforce any such term or condition and Seller's rights shall not be affected by any delay, failure or omission to enforce any such provision. No waiver by Seller of any breach of Customer's obligations shall constitute a waiver of any other prior or subsequent breach.

17. Separability and Conversion

In the event that any provision of these Conditions shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever, the validity or enforceability of the remaining provisions between the parties and shall be severed therefrom. The pertaining provisions held to be invalid or unenforceable shall be reformed to provisions satisfying the legal and economic intent of the original provisions to the maximum extent permitted by law.

18. Limitation of action

No action by Customer shall be brought unless Customer first provides written notice to Seller of any claim alleged to exist against Seller within thirty (30) days after the event complained of first becomes known to Customer and an action is commenced by Customer within twelve (12) months after such notice.

19. Governing Law and Jurisdiction

19.1. Notwithstanding paragraph 8.3.2 the parties' rights and obligations arising out of or in connection with Seller's Confirmation and/or these Conditions shall be governed, construed, interpreted and enforced according to the laws of the Netherlands, excluding principles of conflict of laws. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

19.2. The parties agree that any suits, actions or proceedings that may be instituted by any party shall be initiated exclusively before the competent courts in the District of Rotterdam, the Netherlands without prejudice to Seller's

right to submit the relevant case to the court which would have jurisdiction if this provision has not been incorporated in the Conditions, and the parties do hereby consent to the jurisdiction of those courts and waive any objection which they may have, now or hereafter, to venue of those suits, actions or proceedings.

19.3. Seller nevertheless reserves the right to bring a dispute before the court in whose jurisdiction the Customer is registered.

20. Survival of Rights

The parties' rights and obligations shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, directors, officers, employees, agents and legal representatives. Termination of one or more of the rights and obligations of the parties, for whatsoever reason, shall not affect the provisions of these Conditions which are intended to continue to have effect after such termination.

21. Headings

The headings contained in these Conditions are included for mere convenience of reference and shall not affect their construction or interpretation.

22. Intellectual and Industrial Property Rights

22.1. Seller has not verified the possible existence of third party intellectual property rights which might be infringed as a consequence of the sale and/delivery of the Goods and cannot be held liable for any loss or damages in that respect. In this respect, Seller's liability for the indemnification of such loss or damages shall be limited to the amount Customer paid to Seller for the Goods subject to the infringement claim.

22.2. The sale of Goods shall not, by implication or otherwise, convey any license under any intellectual property right relating to the compositions and/or applications of the Goods, and Customer expressly assumes all risks of any intellectual property infringement by reason of the use of the Goods.

22.3. All the sizes, weights, technical data, calculations, illustrations, stock lists, advertising

material, design drawings, models, photographs, samples, designs, materials, formulations, etc., appearing in Seller's quotations shall not be available to third parties without Seller's express prior consent in writing, either as a whole or in part, in whatever form, without prejudice to all further claims that Seller can enforce in respect of intellectual and/or industrial property in relation to these data.

22.4. The data referred to in this article 22, and the trademarks, patents, trade names, models, copyright or any other right to these data, do not pass to the Customer, unless otherwise expressly agreed.

22.5. Customers that assign to Seller the supply of goods in accordance with drawings, models, samples and/or such like provided or indicated by them shall indemnify Seller for all costs and damage that would arise if the performance of the agreement were to infringe rights of third parties, such as trademark rights, copyrights, patent rights, etc.

22.6. Unless otherwise specifically agreed to in writing by Seller, all drawings, techniques, formulations, processes, inventions, patents, patent applications and other intellectual property owned by Seller at the moment of the acceptance of these Terms and Conditions, created thereafter by Seller outside the scope of the Purchase Order or the Terms and Conditions under which a Purchase is submitted, or created by Seller or created jointly by Seller and Customer in connection with the Purchase Order or with these Terms and Conditions (collectively, "Seller's Intellectual Property") shall be and remain Seller's property. Seller grants no license or other rights to Customer in Seller's Intellectual Property, whether currently owned or hereafter created. Unless otherwise specifically agreed to in writing by Customer, all drawings, techniques, formulations, processes, inventions, patents, patent applications and other intellectual property owned by Customer at the moment of the acceptance of these Terms and Conditions and/or effective date of the Purchase Order (Customer's Intellectual Property") shall be and remain the property of the Customer.

23. Confidentiality

Seller and Customer agree to keep confidential and, except as required by law, not disclose to any other third person any proprietary information (including, without limitation, all data, drawings, descriptions, design sheets, computer prints, scientific and technological information, process specifications and procedures, including quality control instructions, production costs, production procedures, supplier information and any other technical and commercial information relevant to the supplied Goods (collectively, the "Confidential Information") received from the other party in connection with these Terms and Conditions. Each party further agrees to use such Confidential Information only for the proper purposes necessary for performance of its obligations under any Purchase Order, and/or these Terms and Conditions. To the extent disclosure is required by law, the disclosing party shall provide prior notice of such impending disclosure to the other party and the disclosing party shall use reasonable efforts at its own cost and expense to limit such disclosure and to maintain the confidentiality of such Confidential Information to the extent permitted by law. In the event the Parties have entered into a separate Confidentiality or Non-Disclosure Agreement governing the transactions to which these Terms and Conditions of sale apply, the terms of such Agreement shall take precedence over this Paragraph 23.

24. Technical Assistance

Technical assistance, if any, furnished by Seller in connection with the sale of the Goods hereunder shall be furnished for the accommodation of Customer; and Customer assumes all liability for the proper receipt and application of such information, utilizing Customer's own technical expertise and know-how. Customer shall indemnify and hold Seller harmless from and against any claims, demands, or liability arising out of or in connection with Customer's receipt and/or use of any technical assistance furnished by Seller.

25. Taxes and Customs

Customer shall reimburse Seller for all taxes, customs duties, excises, or other charges hereafter imposed or increased which Seller may be required to pay to any government

(federal, state, or local) and which are levied directly upon, or measured directly by, the sale, production or transportation (a) of product supplied hereunder or (b) of raw materials utilized by Seller in the production of Goods supplied hereunder.

26. Entire Contract/Amendment

These Terms and Conditions constitute the entire agreement between the parties with respect to the subject matter hereof and there are no understandings or warranties, express or implied, except as set forth herein. No modification shall be effected by the acknowledgement or acceptance of purchase orders, invoices, shipping documents, order confirmations, or other forms or documents containing terms or conditions at variance with or in addition to those set forth herein. This Agreement may be amended only by mutual agreement in writing, duly signed by authorized representatives of both parties.

27. Translations of These General Terms and Conditions

Only the English version of these Conditions shall be authentic and shall prevail, in case of inconsistency, over any translation of these Conditions and Terms in another language.