

GENERAL SALES AND DELIVERY CONDITIONS
OF:
FOREMOST BV

1. Applicability of these General Conditions

- 1.1. Unless explicitly agreed otherwise by the parties (hereafter: Parties), these General Sales and Delivery Conditions (hereafter: General Conditions) shall apply to any (future) agreements entered into by Foremost BV, registered address: Vlierberg 14, 3755 BS Eemnes, The Netherlands; Chamber of Commerce, Gooi-, Eem- en Flevoland, Registration Number: 32094351 (hereafter: Seller), under any title whatsoever, under which Seller shall deliver goods and/or render services, to all statements made in relation thereto and to all other contractual and non-contractual engagements between Seller and other Parties. Any third party called on by Seller to assist in execution of the agreement shall be entitled to invoke these General Conditions. The counterparty of Seller in the agreement will hereafter be called: the Buyer.
- 1.2. The potential application of general terms and conditions other than these General Conditions is explicitly precluded, howsoever such other general terms and conditions may be called and in whatever form they may occur. They are deemed to include terms and conditions governing procurement and any other general terms and conditions belonging to Buyer. As soon as Buyer accepts an offer made by Seller and/or the latter enters into an agreement with Buyer, where Buyer accepts any supply effected or services provided by or on behalf of Seller, the Buyer concerned shall be deemed to consent unconditionally to these General Conditions. Such Buyer shall also be deemed to consent to the preclusion of the potential application of any other general terms and conditions that are referred to in this article. Furthermore, in so far as is relevant Buyer shall be deemed to waive the application of any other general terms and conditions.
- 1.3. Deviations from these General Conditions are only valid when explicitly agreed upon in writing with the Seller.
- 1.4. Should one or more provisions of these General Conditions be found to be null and void and or be nullified, the remaining provisions shall remain in full effect. Buyer and Seller agree on a new provision or provisions to replace the null and void and/or nullified provision, whereby the intent and implications of the null and void provision and/or nullified provision(s) are to be preserved to the extent possible.
- 1.5. Seller shall be entitled to amend or supplement these General Conditions unilaterally. The Buyer shall be deemed to have declared in advance – unless this cannot reasonably be expected of him – that he consents to any amendment or supplement. Such an amendment shall come into effect at a time to be announced by Seller. If no notice is given of the time when an amendment is to come into effect, it shall come into force as soon as the relevant Buyer has been notified of it and/or the relevant version has been lodged with the Chamber of Commerce and Industry.

2. Conclusion of agreements, failure in performance and content of the agreement

- 2.1. Unless otherwise stated, the offers made by Seller shall be without engagement and shall be valid for eight (8) days after their date. Seller shall have the right to withdraw any offer without engagement up to and inclusive of the third working day after receipt of notification of acceptance. In the event that Seller fails to send a tender or confirmation of the order, the packing slip, or, in the absence thereof, the invoice shall serve as such. The Buyer shall bear the risk of an incorrect transfer of information if such transfer takes place orally.

- 2.2. If Seller shows or supplies the Buyer with a picture, sample or model, these shall only serve as an indication without requirement that goods will comply therewith, except if and in so far expressly otherwise agreed upon between the Parties.
- 2.3. In the event of failure in performance by the Buyer, Seller shall, besides the right to cancel the relevant agreement, also have the right to cancel or suspend execution of any (other) current agreements in force between Seller and Buyer that have not been completed yet by means of notification in writing. In that case, Seller shall also have the right to claim from Buyer in one single payment all that Buyer is due to Seller and/or make future deliveries only Cash on Delivery, Cash Against Documents or Wire Transfer. The rights contained in this paragraph in no way impose any limitation on other statutory rights of Seller, and Seller shall be entitled to exercise these other rights including in cases of (temporary) suspension of payment granted to Buyer by the courts.
- 2.4. Without prejudice to the provisions of section 2.3, Seller shall have the right to terminate the agreement, without court intervention, in writing if the Buyer has been declared bankrupt, if a provisional moratorium has been applied for, or, when the Buyer is a natural person, a request was made under the law on debt restructuring for natural persons, if the Buyer has been put under legal restraint or otherwise lost free disposition of its property and assets, or parts thereof. In all instances outlined above, all existing claims of the Seller shall become immediately due. In such instances, Buyer shall also be liable for the loss sustained by the Seller.
- 2.5. Buyer shall be entitled to cancel the relevant agreement in the event that Seller still culpably fails to comply with its material obligations pursuant to the relevant agreement, after being given proper written notice which is as detailed as possible, stipulating a reasonable period of time for it to remedy its default (be it substantial or otherwise). In setting a reasonable period of time for compliance the Buyer shall be required to take all of the concrete circumstances of the case into account.

3. Delivery

- 3.1. Buyer shall be obliged towards Seller to accept immediately delivery of the goods bought by him or the performance offered to him, as soon as it shall have been delivered or offered to him.
- 3.2. Any periods of delivery stipulated in the agreement shall be by approximation and shall not be peremptory, unless expressly agreed upon otherwise.
- 3.3. If the terms of delivery are not met, Seller shall be given notice of default in writing, and Seller shall, after consultation with Buyer, be granted a reasonable period yet to perform its obligations.
- 3.4. Seller shall have the right to deliver the goods in portions, provided that this shall be done within the period agreed or the period extended under the provisions of the preceding paragraphs.
- 3.5. Extension of the delivery period stipulated in the agreement shall be allowed in the event of force majeure as referred to in article 11. In that case, the delivery period will be extended with the time that the obstruction continues, increased with a reasonable period in which Seller is able to proceed with delivery of the goods, without Buyer having the right to cancel the agreement.
- 3.6. The conditions of delivery will be construed based on the most recent edition of the Incoterms of the International Chamber of Commerce. If not explicitly agreed upon

otherwise, delivery in Holland (i.e. both Buyer and Seller are established in Holland) shall be on DDU basis (Delivery Duty Unpaid). In the case of delivery abroad (Buyer and Seller are established in different countries), delivery will be on EXW, FOB or CIF basis.

4. Transport and risk

- 4.1. Unless the parties agree otherwise in writing, any risks pertaining to the products sold and/or supplied to a Buyer by or on behalf of Seller shall pass to that Buyer at such time as the products are delivered (in accordance with the provisions of article 3 of these General conditions).
- 4.2. In the event that the parties agree in writing that Seller will arrange transport for the relevant products, Buyer concerned shall be required to submit delivery instructions to Seller no less than five (5) working days before the agreed date of delivery.
- 4.3. Unless the parties agree otherwise, the products shall be transported at Buyer's risk and expense. Buyer shall also be responsible for any risks involved in the transport, even in the event that Seller declares to the transport company that Seller will be liable for any loss suffered during transport. Seller shall not be required to recover any loss suffered from some other party. If required, Seller shall assign its rights against the transport company to Buyer.
- 4.4. In the event that Buyer arranges transport himself, he shall have a duty to collect (or to cause this to be done) any product which he has bought immediately but at any rate within three (3) working days after Seller notifies Buyer that the product is ready to be collected. In the event that Buyer is unable to collect the product within that time, Seller shall be entitled to issue an invoice to Buyer for the relevant product, and also to store it (or cause this to be done) at its own discretion but at Buyer's risk and expense, and to charge Buyer for the relevant storage costs.
- 4.5. In the event that Buyer fails to collect a product or fails to do so within the collection period stipulated in Clause 4.4 of these General Conditions, Seller shall be entitled to demand compliance on the part of Buyer or to cancel the relevant agreement, subject to Seller's right in either case to seek compensation and payment of the costs referred to in Clause 4.4. of these General Conditions.

5. Ownership Retention

- 5.1. All goods delivered to Buyer shall be subject to ownership retention. Seller will retain the ownership of all goods (to be) delivered to Buyer under any agreement until Buyer:
 - (a) Shall have paid in full the purchase price plus VAT of all the said goods, increased with payable costs and interests, and
 - (b) Shall have paid all the claims of Seller concerning activities performed by Seller on behalf of the Buyer under the relative agreements, and
 - (c) Shall have paid the claims that will accrue to Seller if Buyer fails to fulfil aforementioned obligations.
- 5.2. Buyer shall neither sell nor encumber the goods and not use the goods subject to ownership retention for the security of payment of any claims other than claims of Seller.
- 5.3. If the goods are held for Buyer by a third party and if Buyer fails to fulfil his obligations toward Seller, Buyer shall be required to inform Seller of the name and address of said

third party and Seller shall be entitled to inform third party that as of that date the goods are to be held by it on behalf of Seller.

6. Payment and Expenses

- 6.1. Unless agreed otherwise, prices of Seller shall be exclusive of charges for freight, VAT and/or other government levies and charges. Governmental obligations that do not directly relate to the sale – such as obligations with respect to the environment – are the responsibility of the Buyer, and at the expense of Buyer, or, if Seller is legally obliged to perform such obligations, such shall be done at the expense of the Buyer. If the said levies and/or charges or costs influencing the cost price of Seller's products - such as buying prices and wages due by Seller - are increased after the agreement is concluded, Seller shall be entitled to adjust the price agreed to the aforementioned increase(s). The aforementioned provisions shall also apply if Seller delivers on-call or in portions, for each part of the delivery separately. If government levies (including revenue taxes) increase, Seller shall be entitled forthwith to charge the increase to Buyer.
- 6.2. Unless agreed otherwise, payment shall be made within fourteen (14) days after invoice date. Under no circumstances shall Buyer be entitled to exercise any rights to any deduction, discount, setoff or suspension. If Seller sends Buyer a specification of the amounts Buyer is due to Seller and of the amounts Seller is due to him, the said specification shall also serve as a declaration of set-off. As soon as the period of payment elapses, Buyer shall, without the requirement of giving notice of default, be in default and he shall be charged an interest of delay on the total amount of the invoice at the rate of the Dutch statutory interest pursuant to article 6:119 of the Civil Code – and when Buyer is a natural person acting on behalf of a company or during performance of his professional activities, or is a legal entity, the legal interest pursuant to article 6:119a of the Civil Code - over the total invoice amount plus three (3) percent per year from the due date till the date of payment. Each time at the end of one year, the principal amount shall be calculated by adding the interest due over that year. At all times, the place of payment shall be the office of Seller at Eemnes, The Netherlands.
- 6.3. If despite summons, Buyer fails to pay any eligible sum due and Seller shall have handed over the claim to her legal advisor, Buyer shall be liable to Seller for all costs in and out of court. If Seller takes provisional measures for attachment, no summons or eligibility of the claim shall be required, the costs shall be calculated based on the rate per unit of time that the legal advisor of the Seller normally charges for similar cases, increased with the expenses that the legal advisor shall have to pay to third parties. In addition, the legal costs shall be charged in this way, and the minimum will be the amount to be liquidated by the court on the basis of the Dutch 'Preliminary Work Report II.'
- 6.4. The payments to be made by Buyer or any third parties shall at all times be deducted first from such claims concerning which Seller is not able to enforce the provisions with respect to ownership retention contained in the preceding article. Subject to said provisions, payments shall be deducted first from all costs due subsequently from all interest due and finally from the (oldest) principal sum.

7. Security

- 7.1. When entering into an agreement, Seller shall have the right to demand a security. Furthermore, Seller shall be entitled, during the execution of the agreement, to demand (additional) security if he receives indication of reduced solvency of the Buyer, that Seller may reasonably doubt the full performance of the Buyer's obligations. This will even be the case if Buyer, despite an issued notice of default, fails to perform his obligations. If Buyer,

despite an issued notice of default, fails to provide security, Seller shall be entitled to exercise the rights contained in Clause 2.3.

8. Inspection and Complaints

- 8.1. Buyer shall on receipt of the goods supplied or after performance of services rendered by Seller promptly inspect the same as to quantity and apparent defects. If Buyer intends to file a complaint in this respect, Buyer shall at all times notify Seller in writing within five (5) working days after delivery specifying the lack of conformity.
- 8.2. Furthermore, Buyer shall within ten (10) working days after delivery of goods supplied or after performance of services rendered by Seller, thoroughly inspect the goods or services and if a defect is present, Buyer shall file a complaint in writing with Seller within five (5) working days after delivery specifying the lack of conformity.
- 8.3. If and insofar as the aforementioned concerns a defect that could not reasonably have been discovered within the periods stated in the two preceding paragraphs, Buyer shall, after he reasonably could have discovered a defect, have five (5) working days to file a complaint in writing with Seller specifying the lack of conformity. This provision shall also apply if the goods lack any quality which, according to a statement to that effect from Seller, they should have, or if the defect concerns facts Seller knows or should have known but failed to communicate to Buyer.
- 8.4. Seller shall not be obliged to consider any complaints raised after the periods stated in this article, and such complaints shall not lead to any liability of Seller. If, however, Seller takes such a complaint into consideration, its efforts shall be regarded as a forthcoming attitude with no acceptance of any liability, unless otherwise provided. If a complaint appears to have been raised erroneously and Seller in respect of the said complaint has carried out activities or has supplied goods, Seller shall have the right to charge the aforementioned to Buyer at its normal prices.
- 8.5. Only in the event that Seller deems that there are grounds for a complaint concerning (the quality of) a consignment, Buyer shall be entitled to return a product when and after he receives written consent from Seller to do so. Such return shall be effected entirely at the Buyers' risk and expense.

9. Warranty

- 9.1. Seller shall be deemed to have complied with its duties in full, if the products that have been supplied satisfy the requirements of normal commercial quality. More onerous quality requirements shall only apply if agreed to in writing.
- 9.2. Buyer may only invoke a warranty in the event that the use of a product supplied corresponds with its designated purpose. Use corresponding to its designated purpose shall at any rate be deemed to refer to its use in line with the information concerning the product supplied by Seller and only in accordance with the properties ascribed to it by Seller or its manufacturer.
- 9.3. A warranty shall not cover and/or shall not apply in the event that:
 - (i) any defect which occurs as a result of a failure to comply (strictly) with the relevant installation, operating or maintenance instructions;
 - (ii) any defect which occurs as a result of exposing the relevant product to abnormal, unforeseen circumstances or as a result of handling the product in some other careless and/or incompetent way;

- (iii) any defect which occurs due to the normal wear and tear that the product experiences;
- (iv) any defect which occurs or probably occurred as a result of stress corrosion;
- (v) any defect which occurs or probably occurred as a result of the product being assembled and/or installed by some other party, which is deemed to include the relevant Buyer himself;
- (vi) any defect which occurs as a result of abiding by any government rule concerning the nature or quality of the material used;
- (vii) any defect which occurs as a result of using a part sourced from some other party;
- (viii) the relevant Buyer is in default vis-à-vis Seller;
- (ix) the Buyer concerned fails to afford Seller an opportunity to inspect a defect within ten (10) working days after it is discovered;
- (x) one (1) year has elapsed since supply was effected.

9.4. Seller shall not grant a warranty in relation to the operation and/or potential use of any product which Buyer supplies (or passes on) to some other party or in respect of any product which Buyer processes and then supplies (or passes on) to some other party.

10. Liability

- 10.1. Seller shall only be liable for loss which occurs directly pursuant to any foreseeable and avoidable default for which it may be held to be culpable, and which directly relates to an agreement (or its fulfilment or execution respectively).
- 10.2. Seller's liability shall at any rate be confined to its obligations pursuant to any warranty referred to in Article 9 of these General conditions.
- 10.3. Any duty (legal or otherwise) which Seller has towards Buyer on any grounds whatsoever shall at all times be confined to compensation for direct loss (as provided for in Clause 10.7 below) – only – subject to a maximum equivalent to what Seller's liability insurer disburses or pays out in the relevant case plus any excess for which Seller is liable. If necessary, Seller shall provide information setting out the amount for which it is insured, if so requested by Buyer.
- 10.4. If and in so far as Seller's liability insurer does not proceed with such disbursement or payout for any reason whatsoever as provided for in Clause 10.3, any duty (legal or otherwise) on the part of Seller to pay compensation on any grounds whatsoever shall be confined to no more than the equivalent of the amount for which Seller has issued an invoice pursuant to the relevant order and/or agreement (exclusive of VAT).
- 10.5. If and in so far as Seller's liability insurer does not proceed with a payout or disbursement for any reason whatsoever as provided for in Clause 10.3 and any limitation of such liability referred to in this article contravenes any applicable provisions of mandatory law or is not upheld by a court of law (for example, because it is contrary to the principles of equity and fairness) and this were to result in Seller being liable for any loss (which is deemed to include any indirect loss) which amounts to more than EUR 5000.00 (five thousand euros), Seller's liability or at any rate its duty (legal or otherwise) to pay compensation shall be confined to no more than the latter amount.

- 10.6. Nonetheless, any maximum sum referred to in Clauses 10.3 to 10.5 shall not apply if, albeit only in so far as, the loss concerned is due (or partly so) to a deliberate act or omission, wilful recklessness or gross negligence on the part of Seller, such to be proven by the Buyer concerned, unless otherwise applicable pursuant to the legally stipulated onus of proof.
- 10.7. Direct loss shall be deemed to refer to:
- (i) material damage to any property owned by Buyer;
 - (ii) any reasonable expenses which Buyer incurs for the purposes of determining liability and loss (or the extent of direct loss);
 - (iii) any reasonable expenses which Buyer reasonably incurs, could incur or was permitted to incur for the purposes of preventing or limiting any loss in so far as the Buyer can show that such costs had the effect of limiting direct loss;
 - (iv) any reasonable expenses which Buyer reasonably incurs for the purposes of obtaining extrajudicial redress under the terms of Section 96(2)(c) of the Civil Code, Vol. 6.
- 10.8. Under no circumstances may Seller be held liable for or be required to effect compensation for any indirect and/or incidental loss, unless any applicable mandatory legislation does not permit such an exclusion or at any rate the entire exclusion of such loss (or part thereof). Amongst other things, indirect and/or incidental loss shall refer to (but shall not be confined to) consequential loss, a loss of turnover and or earnings, foregone savings, any investments that have been made, any loss due to the interruption or standstill of business operations and/or any expenses incurred for the purposes of preventing, determining or limiting indirect and/or incidental loss and/or liability for same, or costs incurred for the purposes of obtaining compensation for indirect or incidental loss by extrajudicial means. Should Seller nevertheless be held liable for indirect loss, the provisions of Clause 10.4 and/or 10.5 shall apply (including direct loss).
- 10.9. Any claim for compensation and/or compliance made against Seller or any right which Buyer is required to enforce against Seller, shall lapse or be extinguished merely by virtue of the expiry of one (1) year following the incident which occasioned the loss or the invocation of any other right, unless it follows from these General Conditions that some other period (of prescription or otherwise) is applicable.
- 11. Non-culpable non-compliance on the part of seller – force majeure**
- 11.1. Seller shall not accept any liability in the event that it is unable to fulfil its duties due to non-culpable non-compliance or force majeure.
- 11.2. For the purposes of these General Conditions non-culpable non-compliance or force majeure is deemed to refer to any circumstances as a result of which Buyer cannot reasonably expect Seller to comply with the relevant agreement, which is at any rate deemed to include war, the danger of war, rioting, a natural disaster, drought, an industrial strike, a lockout, a lack of personnel, transport difficulties, fire, a nuclear reaction, government action, an import or export prohibition, and a disruption of business.
- 11.3. In the event of non-culpable non-compliance or force majeure Seller shall be entitled at its discretion to postpone the relevant delivery time and suspend its obligations for the duration of the relevant impediment or to cancel the agreement concerned to the extent that it is affected by that impediment. In the event that Buyer issues a written reminder to Seller, the latter shall be required to state its intentions within fifteen (15) days.

- 11.4. In the event that a situation of non-culpable non-compliance or force majeure lasts longer than three (3) months, either party shall be entitled to cancel the relevant agreement by means of a written statement addressed to the other party.
- 11.5. In the event of non-culpable non-compliance or force majeure Seller shall not be liable for and/or have a duty to pay any compensation to the Buyer concerned in accordance with the provisions of Article 10.

12. Intellectual property

- 12.1. Any intellectual property rights to goods supplied and any related materials, such as designs, advice, sketches, drawings, documentation and also any preparatory materials for same which belong to Seller (or its licensors or suppliers) shall explicitly continue to vest in Seller (or its licensors or suppliers). Nothing in this agreement can or shall be construed as being a transfer of Seller's intellectual property rights.
- 12.2. Intellectual property rights shall be deemed to refer to all international intellectual property and similar or related rights in the broadest sense of the term, which in particular is deemed to include – but is not confined to – (1) copyright, (2) design rights, (3) trade mark rights, (4) patents, (5) know-how (6) database rights, and (7) rights to domain names (or entitlement to the foregoing), including any future intellectual property rights, which is deemed to include all of the powers (including the right to disclose the work to the public and to reproduce it) that the relevant national and international legislation confers or may yet confer.
- 12.3. The provisions of Clause 12.1 shall also apply in relation to goods developed for, placed at the disposal of or delivered to a Buyer pursuant to an agreement (for professional services or otherwise), which will be released into the public arena in that Buyer's name or under Buyer's trademark.
- 12.4. Buyer shall not be permitted to remove or alter any inscription on the relevant goods concerning Seller's intellectual property rights, unless explicitly agreed otherwise in writing.
- 12.5. Buyer shall warrant that he will not do or fail to do anything which has the effect of infringing Seller's intellectual property rights, of rendering them invalid and/or of endangering them.
- 12.6. Should it nevertheless appear that any goods which Seller supplies to Buyer infringe any intellectual property rights belonging to a third party in the Netherlands and that Buyer is sued in this respect or receives notice that infringement is being made by Buyer and/or Seller, the latter shall have a duty to notify Seller of this in writing immediately. In this case Seller, acting at its sole discretion, shall obtain a licence to use the goods supplied, supply replacement goods (equivalent or otherwise) which do not cause any infringement, or refund the Buyer the purchase price after the latter returns the goods concerned. Subject to the provisions of Article 8 of these terms and conditions, Buyer shall not be entitled to enforce any claim against Seller with regard to the infringement of any intellectual property right outside the Netherlands.
- 12.7. Seller shall not in any way be held liable for the infringement of any intellectual property or some other exclusive right which occurs as a result of any modification made to goods sold or delivered by or on behalf of Seller, or of any use or application of such goods other than as Seller has prescribed and/or assumed, and/or which occurs without Seller's knowledge or consent.

13. Governing Law and Competent Court

- 13.1. The legal relationship between Seller and Buyer is solely governed and construed in accordance with the laws of the Netherlands.
- 13.2. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 13.3. Any dispute that may arise between Buyer and Seller shall be submitted for settlement to the competent Court in Amsterdam, the Netherlands, notwithstanding the right of the Seller to submit the case to any other competent Court, both absolutely and relatively.

14. Venue

- 14.1. These General Sales and Delivery Conditions entered into by Foremost BV, registered address: Vlierberg 14, 3755 BS Eemnes, The Netherlands; registration number Chamber of Commerce Hilversum: 32094351

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