

General Terms of Purchase

1 Definitions

The following definitions apply to these Conditions:

- **Offer:** also tender or quotation, any offer by or on behalf of the Other Party to the tender made by Supplier;
- **Buyer:** Proolution B.V.
- **In writing:** any reference in these General Conditions to confirmation, agreement or notification in writing shall be deemed to indicate that this shall take place between the parties by fax or regular post in the name of the appropriate authorised persons;
- **Seller:** the party who sells any product or good and/or delivers and/or manufactures/distributors/subcontractors/designers or processes and/or provides a service or services to the Buyer or who arranges any of the above on the order of or on behalf of the Buyer, or who makes an Offer to the Buyer for the sale and/or delivery of any product or good and/or the provision of any service, or who is the Other Party to the Buyer in an agreement for sale and/or delivery of goods and/or provision of services, or who in the widest sense delivers goods or services to, on the order of or on behalf of Seller.

2 Applicability

- 2.1 The General Conditions of Purchase are applicable to any Offer made to Buyer, to all purchase agreements whereby Buyer is party as buyer or purchaser, to all agreements for the delivery of goods to, on the order of or on behalf of Buyer and/or the manufacturing or processing or installation of goods for, on the order of or on behalf of Buyer and/or the provision of services to, on the order of or on behalf of Buyer, and to all supplies and services made or provided to, on the order of or on behalf of Buyer. This includes amongst other things that these General Conditions of Purchase as a whole shall form part of any agreement as specified above, unless and insofar may be expressly agreed otherwise in writing between Buyer and Seller.
- 2.2 General Conditions other than these General Conditions of Purchase (including conditions of sale or conditions of delivery or other such conditions of the Seller), regardless of how the other General Conditions may be named or what form they may have, are not applicable to that which is covered under Article 2.1 of these General Conditions of Purchase, and the application of any such other conditions is expressly rejected. By entering into a purchase agreement with Buyer whereby Buyer is party as buyer or purchaser, or entering into an agreement with Buyer for the delivery of goods to, on the order of or on behalf of Buyer and/or the manufacturing or processing or installation of goods for, on the order of or on behalf of Buyer and/or the provision of services to, on the order of or on behalf of Buyer, or else by commencing a delivery to or on behalf of Buyer or commencing to provide a service for or on behalf of Buyer, or by making an Offer to Buyer, Seller accepts that these General Conditions of Purchase are applicable, and that no other general conditions than these General Conditions of Purchase are applicable, and Seller insofar relevant waives application of any general conditions or standard conditions other than these General Conditions of Purchase.

3 Realisation of an agreement

- 3.1 A purchase agreement whereby Buyer is party as buyer or purchaser, or an agreement for the delivery of goods to, on the order of or on behalf of Buyer and/or the manufacturing or processing or installation of goods for, on the order of or on behalf of Buyer and/or the provision of services to, on the order of or on behalf of Buyer, shall only be realised once this is expressly accepted or entered into by Buyer in writing. This means for example, that an Offer that is made to the Buyer shall only result in an agreement when this is accepted by Buyer in writing.
- 3.2 The scope and content of an agreement shall be determined by the acceptance thereof by Buyer as indicated in Article 3.1.
- 3.3 An agreement as indicated in Article 3.1 and amendments thereto or detailed arrangements shall only be binding on Buyer if they are entered into in writing and signed by one or more persons who are appropriately authorised by Buyer; arrangements made with persons or representatives of Buyer who are not appropriately authorised shall only be binding on Buyer if and insofar as they are confirmed in writing in the name of Buyer by one or more authorized persons.

4 Risk

- 4.1 The risk for goods sold and/or supplied by or on behalf of Seller to, on behalf of or on the order of Buyer, remains with Seller until the moment that these goods are expressly accepted by Buyer.
- 4.2 If delivery is agreed as e.g. EXW, FOB, CIF, DDP or in accordance with another trading term, this shall be exclusively understood as a condition determining costs and has no significance whatsoever for the transfer of risk, delivery or ownership.

5 Quality and characteristics

- 5.1 Notwithstanding what is stated or stipulated in technical and other specifications, terms and descriptions in Buyer's order and accompanying Buyer's order, Seller guarantees with regard to the goods that shall be delivered to, on the order of or on behalf of Buyer, in each case:
 - that they comply entirely with what is specified or stated by or on behalf of Seller or in the agreement with regard to the quantity, description and quality;
 - that they are made, produced or assembled of or from new raw materials and new materials of good quality;
 - that they are made, produced or assembled with good engineering practice;
 - that, insofar as samples, models, specimens or examples are shown or made available to Buyer by or on behalf of Seller, they are identical to the samples, models, specimens or examples;
 - that they meet the applicable requirements with regard to capacity, production, efficiency, speed, use, serviceability, functionality, output, performance, etc., as agreed or as indicated or described in Buyer's order and/or in the specifications accompanying the order;
 - that they are entirely suitable for the purpose or purposes as stated by or on behalf of Buyer.
- 5.2 In the event the delivery consists of making available workforce, Seller guarantees that they shall meet the specifications or, if no specific arrangements are made regarding this, that they shall meet the relevant requirements for professional skill, and that the agreed number of workers shall be available throughout the agreed period.
- 5.3 If reference is made in the agreement and/or in related appendices to technical, safety, quality and/or other instructions that are not attached to the agreement, Seller shall be deemed to be aware of them.

6 Inspection, examination, testing

- 6.1 Seller is obliged before sending or shipping the goods to be delivered to, on the order of or on behalf of Seller, to inspect, examine or test them to establish that they comply entirely with the terms agreed between the parties. Buyer is entitled to demand of Seller that Seller shall inform Buyer sufficiently in advance about such inspection, examination or testing and offer Buyer and its representatives opportunity to be present at and observe the inspection, examination or testing.
- 6.2 If Buyer wishes, Seller is obliged to provide Buyer a certified copy of the results of the inspection, examination or test, as applicable. Furthermore Buyer is entitled, provided he has asked Seller punctually, to carry out additional inspection, examination and/or testing with regard to the goods to be delivered or any part thereof at own expense, in which case Seller is obliged to provide full support for the additional inspection, examination and/or testing.
- 6.3 Buyer is entitled (but never obliged) during the production, construction, fitting, assembly and installation of the goods to be delivered to, on the order of or on behalf of Buyer to inspect, examine and/or test these goods, or arrange for the same to be carried out, during normal working hours, and Seller is obliged to this end to grant access to the grounds and premises where these goods are located for the staff and representatives of Buyer and those undertaking the inspection, examination or testing, and if necessary to provide a suitable space for the inspection, examination or testing, and furthermore to cooperate as necessary.
- 6.4 If and insofar as the parties do not expressly agree otherwise in writing, the costs of inspection, examination and testing as referred to in this Article shall be for the account of Seller, with the exception of the costs for the staff of Buyer and Buyer's representatives.

- 6.5** If at the time of any inspection, examination or testing as specified in this Article Buyer claims or discovers that the goods (or any part thereof) to be delivered to, on the order of or on behalf of Buyer do not comply with the description or indications in the order or with the specifications accompanying the order, or do not comply with the agreement in another way, or that it is likely that the goods (or any part thereof) shall not comply with the same at the time of completion of the production, construction, fitting, assembly or installation, Buyer shall inform Seller of this in writing; Seller shall then be obliged to take all necessary measures to ensure that the goods shall comply with the descriptions, indications and specifications as stipulated.

7 Packaging

- 7.1** Goods that are to be delivered to, on the order of or on behalf of Buyer, must be packaged properly and sufficiently, unless by the nature of these goods packaging is not possible or not desired; the goods must furthermore be sufficiently protected (by packaging and/or otherwise) so that they can reach their destination in good undamaged condition.
- 7.2** Seller shall follow Buyer's instructions closely with regard to packaging and sending, preserving, labelling, and the accompanying shipping documents. Seller shall carefully follow special requirements for packaging and/or protection made by or on behalf of Buyer.
- 7.3** Buyer is entitled without further ado to refuse shipments that do not meet the specifications in Article 7.1 or Article 7.2.
- 7.4** Returnable packaging shall be returned by Buyer within a reasonable period at the expense and risk of Seller in return for the amount charged for it by Seller being credited in full.

8 Transport

- 8.1** Unless and insofar expressly agreed otherwise in writing between the parties, Seller is entirely responsible for the transport of the goods to be delivered to, on the order of or on behalf of Buyer to the place(s) where these goods are to be delivered, supplied and/or installed, including loading and offloading of these goods. Seller guarantees that the stated goods shall be transported by suitable means and in such a way that the goods shall be delivered in good, unchanged and undamaged condition, and in an efficient way.
- 8.2** Seller is obliged at own expense and to the satisfaction of Buyer sufficiently to insure and keep insured all risks relating to the transport (including loading and offloading) of the goods to be delivered to, on the order of or on behalf of Buyer until the risk with regard to the goods has transferred to Buyer. Seller is obliged to follow any instructions of Buyer closely with regard to the insurance of the transport risk.

9 Delivery

- 9.1** Seller is obliged to deliver the goods to be delivered or provide the services to be provided to, on the order of or on behalf of Buyer at the place(s) stated in Buyer's order or as agreed by the parties.
- 9.2** Partial deliveries by Seller are not permitted, unless otherwise agreed upon in writing with Buyer.
- 9.3** Seller is obliged to deliver the goods to be delivered or provide the services to be provided to, on the order of or on behalf of Buyer within the period(s) and on the date(s) stated in Buyer's order or as agreed by the parties; the agreed delivery periods and dates of delivery and periods and dates for the provision of services are binding, and Seller shall be automatically in default if he fails to meet them, without requiring reminder or notice of default.
- 9.4** As soon as Seller learns that the goods to be delivered to, on the order of or on behalf of Buyer cannot be delivered to the place(s) to which and/or within the period(s) or within which and/or in the form in which delivery is to take place, or that the services to be provided cannot be provided for, on the order of or on behalf of Buyer at the place(s) and/or within the period(s) at which or within which and/or in the way in which these services are to be provided, he is obliged to inform Buyer of this in writing. Buyer is then entitled, notwithstanding any other rights to which he is entitled (including the right to claim compensation) to dissolve all or part of the agreement (regardless whether goods have already been delivered under the agreement or services already provided under the agreement), or to accept delayed delivery or service. If Buyer then opts to

dissolve all or part of the agreement, Buyer is entitled either (i) to return to Seller the goods that have already been delivered to which the agreement relates or to which that part of the agreement that is dissolved relates, at the expense and risk of Seller, in which case Seller shall repay to Buyer the sums already paid in relation to the goods, or (ii) to retain the goods that have already been delivered.

- 9.5** If Buyer for whatsoever reason is not able or not in the position to receive the goods to be delivered to, on the order of or on behalf of Buyer on the agreed date(s), Buyer is entitled to ask Seller to store the goods himself or to arrange to have them stored by one or more third parties as shall be acceptable to Buyer, and Seller shall in such case take care that the goods shall be protected against external influence and that the goods shall remain in good, unchanged and unadulterated condition. In this case, Buyer shall be obliged to pay Seller reimbursement for the total storage of the goods in accordance with the normal tariff applicable in the branch concerned.

- 9.6** If Seller wishes to store the goods to be delivered to, on the order of or on behalf of Buyer, for whatsoever reason, this shall be entirely at the expense and risk of Seller; such storage shall not affect the obligations of Seller towards Buyer.

10 Seller's failure to perform

- 10.1** If goods that should be delivered by or on behalf of Seller to, on the order of or on behalf of Buyer are not delivered within the delivery period or not on the agreed date(s), and/or not in the agreed place(s), and/or not in the way agreed, or if such goods or any part or element thereof do not comply with the direction(s), description or specifications in the order or agreement or any related documents or does not have the features or characteristics that Buyer might expect on the basis of the agreement, or is not of the quality that Buyer might expect, or does not comply with the agreement in any other way, Seller shall be automatically in default without requiring reminder, warning or notice of default.
- 10.2** If services that are to be performed by or on behalf of Seller to, on the order of or on behalf of Buyer are not performed within the agreed period(s) and/or not in the agreed place(s), and/or not in the way agreed, or if such services or any part thereof do not comply with the direction(s), description or specifications in the order or agreement or any related documents or does not have the features or characteristics that Buyer might expect on the basis of the agreement, or is not of the quality that Buyer might expect, or does not comply with the agreement in any other way, Seller shall be automatically in default without requiring reminder, warning or notice of default.
- 10.3** If Seller is in default Buyer shall be entitled either to demand that the agreement is properly fulfilled, or to dissolve the agreement with immediate effect or with effect from a date at Buyer's discretion, notwithstanding the provisions in Article 10.4. If in such a case Buyer dissolves the agreement, Buyer is entitled either to return to Seller the goods already delivered under the agreement at the expense and risk of Seller, or to retain the goods or any part thereof, in which case Buyer shall be entitled to reduce the purchase price of the retained goods in accordance with the circumstances, and Buyer shall also be entitled to offset amounts owed in connection with such retained goods with all debts of Seller to Buyer.
- 10.4** Seller is liable for all losses as a direct or indirect result of any failure to perform by Seller in the fulfilment of his obligations towards Buyer, and for all losses as a direct or indirect result of Seller's failure to inform Buyer or failure to do so punctually that a delay or other failure to perform on Seller's part is expected.

11 Recovery

- 11.1** Notwithstanding Buyer's right to dissolve all or part of the agreement and to demand compensation, Seller is obliged by replacement and/or repair at own expense to recover or to arrange for recovery of any fault or defect in or of the goods delivered by or on behalf of Seller to, on the order of or on behalf of Buyer or any part or element thereof, as quickly as possible and without cost to Buyer.
- 11.2** Seller is furthermore obliged at own expense to repair or replace or arrange repair or replacement of goods which are delivered by or on behalf of Seller to, on the order of or on behalf of Buyer, and which are damaged, broken down or mislaid in transport.
- 11.3** Buyer is entitled, if Seller fails to fulfil his obligation to repair and/or replace as indicated in Article 11.1 and Article 11.2 or does not do so punctually or

properly, as well as in cases that in the opinion of Buyer are urgent, to undertake the necessary work himself or have it done by one or more third parties at the expense and risk of Seller.

- 11.4** In the event that repair of damaged or faulty goods is not possible, the obligation of Seller under this Article 11 shall include that he shall ensure replacement of the faulty or damaged goods with goods which are entirely in proper condition as quickly as possible.
- 11.5** The ownership and risk of the replaced items rests entirely with Seller from the moment of replacement, and he must reclaim these items as quickly as possible.

12 Manufacturing of Buyer's items, etc.

- 12.1** If Buyer makes items available to Seller for manufacturing or processing or for combination or blending with items that are not the property of Buyer, then the former items remain the property of Buyer, and/or the items created by manufacturing, processing, combination or blending become the property of Buyer; Seller is obliged to keep these items apart so that they are clearly recognisable and identifiable as the property of Buyer.
- 12.2** The risk regarding all items specified in Article 12.1 remains with Seller until these items are delivered to Buyer and accepted by Buyer.
- 12.3** Seller is not entitled to remove, pledge, hire or make available the items as indicated in Article 12.1 to third parties or allow third parties to use them, nor to make these items the subject of a mortgage charge, nor to manufacture or process these items or allow them to be manufactured or processed, nor to combine or blend them with other items or undertake actions or arrange for actions to be undertaken with regard to these items so that they become part or element of one or more items that are not the property of Buyer.
- 12.4** If Buyer makes items available to Seller for fitting, to undertake supervision of fitting, or to test and commission fitted or assembled items, Seller shall bear the risk for the items from the point they are made available until Buyer's acceptance of the delivery in question.
- 12.5** The provisions in these General Conditions of Purchase in relation to the goods to be delivered by or on behalf of Seller to, on the order of or on behalf of Buyer are all also applicable to the manufacturing, processing, combining and blending as indicated in Article 12.1 and to the items thus manufactured, processed, combined and blended.
- 12.6** Seller is fully liable for all losses that may arise to the items indicated in this Article 12, and for all losses which may be caused directly or indirectly by the items, and Seller exempts Buyer against claims and entitlements of third parties based on or in connection with such losses. Seller is obliged to take out and maintain sufficient insurance for himself at his own expense with regard to the liability indicated in the preceding sentence.

13 Assembly, fitting and installation

- 13.1** If goods to be delivered by Seller to, on the order of or on behalf of Buyer are as a consequence of the order or agreement to be assembled, fitted and/or installed by Seller, Seller is obliged to take care that there are sufficient well-trained staff available for this purpose.
- 13.2** After completion of the assembly, fitting and/or installation, (a) test(s) shall be held in the presence of Buyer and Seller or their representatives, and Seller is obliged to ensure that there are sufficient well-trained staff available until the test(s) are successful.
- 13.3** If during a test as indicated in Article 13.2 there appears to be a fault, failing or defect in or with regard to the goods or any part thereof, Buyer shall be entitled to dissolve the agreement and to return to Seller the goods or any part thereof at the expense and risk of Seller and to disassemble, demolish, remove and/or return or arrange the disassembly, demolition, removal and/or return of these goods or any part thereof at the expense and risk of Seller. If Buyer does not wish to dissolve the agreement in this case, Seller is obliged at own expense and risk to repair or replace or arrange the repair or replacement of the faulty, defective or non-functioning goods and/or to reassemble, refit and/or reinstall them or arrange their reassembly, refitting and/or reinstallation.

14 Instruction, manual, directions for use, etc.

- 14.1** Seller is obliged to make clear instructions, manuals, directions for use, assembly instructions, maintenance instructions, etc., as is necessary for the use and/or the application, maintenance and repair, and for storage and safekeeping of the goods delivered or to be delivered to, on the order of or on behalf of Buyer available to Buyer punctually and in usable form.
- 14.2** Seller is obliged to make written instructions and other information in relation to the features, characteristics, quality, use and application of the goods which are or shall be delivered to, on the order of or on behalf of Buyer, as necessary or desirable in connection with safety and/or the health and safety of humans and animals and/or in connection with the environment in the widest sense available to Buyer punctually and in usable form.
- 14.3** After completion of the assembly, mounting or installation of goods as referred to in article 14.1, the Seller shall make available for a period or periods as required, an adequate number of skilled workers to adequately instruct and/or train the Buyer and his personnel and other employees in the use, application, maintenance and repair of the goods supplied.
- 14.4** If the Seller supplies or plans to supply goods, commissioned by or for the benefit of the Buyer, that do not require to be assembled, mounted or installed, but for which instruction and/or training is necessary or desirable, the Seller shall make available an adequate number of skilled workers for this purpose, for a reasonable period of time.
- 14.5** Unless and insofar may be expressly agreed otherwise, manuals, directions for use, assembly, maintenance and other instructions shall be written in the Dutch language, and instruction and training shall be given in the Dutch language.
- 14.6** Manuals, directions for use, assembly and maintenance instructions and instructions on paper, disk, CD-ROM or other data carrier shall always be included in the price; the same shall apply to instructions and training, unless and insofar expressly agreed otherwise.

15 Transfer of ownership

- 15.1** If and unless expressly agreed otherwise in writing, and notwithstanding what is specified about risk in Article 4, and notwithstanding the provisions on ownership of goods in Article 12 and Article 17, the ownership of goods which are to be delivered by Seller to Buyer shall transfer to Buyer at the point of offloading at the place where they are to be delivered under the agreement.
- 15.2** If goods to be delivered to Buyer in accordance with the provisions in Article 9.4 are stored, and the ownership thereof may transfer to Buyer on the basis of the parties' agreement, Seller is obliged to take care that these goods are and remain stored in such a way that they are easily identifiable as the property of Buyer, on the proviso that, notwithstanding the provisions in Article 4, the risk for the goods remains with Seller until the point these goods are expressly accepted by Buyer.

16 Acceptance test

- 16.1** Buyer shall accept in writing goods that are to be assembled or installed or that are subjected to one or more examinations or tests. Acceptance of other goods shall take place either in writing or tacitly by the Buyer not rejecting them for fourteen days from delivery of the goods and not raising any complaints or reclaims in relation to these goods.
- 16.2** Buyer is entitled to use the goods delivered by or on behalf of Seller for their acceptance test by Buyer.

17 Buyer's materials

- 17.1** All documents, drafts, drawings, models, specimens, faxes, films, photographs, tapes, disks, CD-ROMs and other data carriers, form, matrices, calibres or specific tools and apparatus and other materials, that are made available to Seller by or on behalf of Buyer or that are manufactured or procured by Seller at the expense of Buyer or are obtained on behalf of Buyer in connection with an agreement between the parties or in connection with an Offer or delivery to Buyer, shall remain or become the property of Buyer.

- 17.2** Seller is obliged to keep the resources and materials indicated in Article 17.1 apart and clearly recognisable as the property of Buyer as lender, to keep and maintain them in good condition and to take out and maintain insurance as long as they shall be used by or on behalf of Seller or are held by Seller and/or as long as any third party holds them on the order of or on behalf of Seller.
- 17.3** Seller is obliged to return the resources and materials indicated in Article 17.1 in good condition to Buyer or to make them available as soon as requested by Buyer, and if no such request is made to return them in good condition to Buyer or to make them available the moment that the goods shall be delivered to Buyer or at such other date(s) as expressly agreed in writing between the parties.
- 17.4** If Seller does not return or make available to Buyer resources and materials as indicated in Article 17.1 punctually or returns these resources or materials in damaged or diminished or worse condition, Seller is obliged to reimburse Buyer for all losses suffered in connection with this; in this case Buyer is entitled to offset the amount or amounts of such losses with all debts of Buyer to Seller.
- 17.5** Seller shall use the resources and materials indicated in Article 17.1 exclusively for the goods to be delivered to Buyer and the delivery thereof, or for the services to be provided for, on the order of or on behalf of Buyer and the provision thereof, and Seller shall not (a) use or allow to be used these resources and materials for any other purpose, or (b) copy, duplicate or distribute them, or (c) make available or allow to be made available these resources and materials by or from any third party, or (d) manufacture or process or combine or blend these resources and materials with other items or allow the same to take place or (e) undertake or allow to be undertaken any transactions with regard to these resources and materials whereby they become an element or component of one or more other items.

18 Secrecy

- 18.1** Seller is obliged to treat all data and information which are or become available or are notified by, on behalf of or on the part of Buyer, and the results obtained by their processing as strictly confidential and keep them secret from third parties, and not to use them or allow them to be used for any other purpose than that for which they are made available or are notified by or on behalf of Buyer, and Seller is furthermore obliged to ensure that his staff and all other persons on the part of Seller to whom such data and information and results are disclosed or notified or might become known, are sufficiently and adequately bound to keep them secret and to treat them as strictly confidential.
- 18.2** The obligation of Seller given in Article 18.1 shall not apply with regard to data and information which are generally known or which are freely accessible or available to the public.

19 Statutory regulations: licenses, etc.

- 19.1** Seller guarantees that the design, composition, characteristics and quality of the goods that shall be delivered by or on behalf of Seller to, on the order of or on behalf of Buyer in all regards comply with and are in agreement with the conditions and requirements set down in the applicable laws, directives, and official rules and regulations, including those of international organisations and supranational authorities; Seller furthermore guarantees that any normal, regular or reasonable use of these goods complies and is in agreement with this.
- 19.2** Seller is responsible for the punctual and proper obtaining of all permits, licences, consents, concessions, registrations and certificates that may be required for the transport, storage, delivery, handling, assembly, fitting, installation, commissioning and/or use and application of the goods which is or must be delivered by or on behalf of Seller to, on the order of or on behalf of Buyer, or which may be required for the provision of services for, on the order of or on behalf of Buyer, and Seller is obliged to arrange for these permits, licences, consents, concessions, registrations and certificates to be sent to Buyer; the costs of or in connection with the above shall be charged to the Seller.
- 19.3** Obtaining the permits, licences, consents, concessions, registrations and certificates indicated in Article 19.2 is an obligation of Seller, and lack of any requirements permits, licences, consents, concessions, registrations or certificates as indicated in this Article shall not discharge Seller from any obligation towards Buyer, and does not give Seller the right to postpone the fulfilment of any commitment to Buyer.

20 Liability

- 20.1** Seller is liable for all losses which are directly or indirectly caused by goods which are or shall be delivered by or on behalf of Seller to, on the order of or on behalf of Buyer, or directly or indirectly caused by any use or application of these goods or any fault in these goods.
- 20.2** Seller is furthermore liable for all losses which are directly or indirectly caused by any failure of or on the part of Seller in the fulfilment of any obligations towards Buyer.
- 20.3** Seller is further liable for all losses which may be directly or indirectly caused by the lack of any requirements permits, licences, consents, concessions, registrations or certificates as indicated in Article 19.2.
- 20.4** Seller exempts Buyer against claims of third parties based on or in connection with losses as indicated in Article 20.1, Article 20.2 or Article 20.3.
- 20.5** Seller is obliged to reimburse Buyer for all losses, on whatever legal basis, suffered by Buyer, his staff and other workers and persons on the part of Buyer as a consequence of a failure of or of the part of Seller in the fulfilment of the obligations of Seller or as a consequence of an illegal act by Seller or by any member of Seller's staff, or of any persons involved on the part of Seller in implementing an agreement; this obligation to reimburse losses also includes reimbursing losses caused by any good or used by Seller or any good of or used by a member of Seller's staff or any good of or used by a person involved on the part of Seller in the implementation of an agreement, or caused by any use, application or transport of such a good.
- 20.6** Seller exempts Buyer against any claim by a member of staff or worker of Buyer or of a third party based on or in connection with any losses as indicated in Article 20.5.
- 20.7** Subject to mandatory legal provisions concerning liability, including product liability, and taking into account the legal rules on public order and good faith, Buyer is never liable for any losses which may or shall be directly or indirectly caused by items, resources or materials which are made available by or on behalf of Buyer to Seller in connection with the implementation of an agreement, and Seller exempts Buyer against third party claims and entitlements based on or in connection with such losses.

21 Price

- 21.1** The agreed price is the full price for the goods to be delivered including costs of packaging, transport, insurance and delivery to the place(s) indicated by Buyer, and including the instructions, manuals, directions for use, assembly and maintenance instructions and furthermore (where applicable) including costs of assembly, fitting, installation, commissioning, testing, instruction and training.
- 21.2** The agreed price is fixed and binding, unless and insofar expressly stated otherwise in the agreement.
- 21.3** In the case that Buyer requests delivery of goods to another place than agreed, the additional costs of this shall be at the expense of Seller, unless and insofar agreed otherwise in writing by the parties.
- 21.4** Buyer is entitled to offset the amounts that he for whatever reason owes to Seller with all debts of Seller to Buyer.

22 Industrial and intellectual property rights

- 22.1** Seller exempts Buyer against any third party claim and entitlement in connection with any good delivered by or on behalf of Seller to, on the order of or on behalf of Buyer, and/or any data or information made available by or on behalf of Seller to Buyer and/or in connection with any use, application, manufacturing, replication or distribution or any exhibition or display of such good, data or information, and based on violation or presumed violation of any patent law, industrial design right, models law, design right, grower's right, exclusive right with regard to the topography or circuit lay-out of a semiconductor product, copyright or associated right, or any other right of industrial or intellectual ownership.

22.2 If any good delivered by or on behalf of Seller to, on the order of or on behalf of Buyer is the subject of a patent, industrial design right, models law, design right, copyright or associated right, or any other right of industrial or intellectual property of Seller, or is the subject of a licence in relation to a right of industrial or intellectual property, recovery or repair or change to such good shall not be deemed to violate that right.

23 Buyer's failure to perform

23.1 In the event of any failure to perform by or on the part of Buyer with regard to an agreement with Seller or the implementation thereof, Buyer shall never owe Seller more than the amount for the goods to be delivered to Buyer as a consequence of the agreement and never owe more than the actual or estimated value of the goods at the time that the failure arises.

24 Force majeure

- 24.1** If Buyer is prevented by force majeure from fulfilling any obligations to Seller, Buyer is entitled to postpone the fulfilment of his obligations until the force majeure is ended, or to dissolve all or part of the agreement.
- 24.2** "Force majeure" shall denote any circumstance, cause or incident, wheresoever it applies, arises or occurs, and regardless whether they were to be expected or foreseeable, which temporarily or permanently prevent the correct, full and punctual fulfilment of any commitment of Buyer, or makes the same impossible or very difficult or unreasonably difficult, and which circumstance, cause or incident Buyer cannot reasonably prevent or which occurs wholly or partly beyond the scope of Buyer or lies outside the influence of Buyer; force majeure shall also denote force majeure affecting a supplier or other third party contractual partner of Buyer and non-performance by a supplier or other third party contractual partner of Buyer.
- 24.3** "Force majeure" shall further denote any consequence of a circumstance, cause or incident as indicated in Article 24.2.
- 24.4** If Buyer is prevented by force majeure from satisfying his obligations with regard to one or several of his suppliers or contractual partners but not with regard to all of them, then Buyer is entitled to select which obligations for which of his contractual partners he shall fulfil and in what order, and which he shall not.

25 Staff and representatives of Buyer

25.1 Buyer is not liable for losses which are directly or indirectly caused by a member of his staff, by a person involved on the part of Buyer in the implementation of obligations to Seller, or by an agent or representative of Seller.

26 Security

- 26.1** On request from Buyer, Seller is obliged before commencing or continuing the commissioned work to provide sufficient security for the fulfilment of his obligations under the agreement concluded with Buyer.
- 26.2** If the security required by Buyer is not proven or is in the opinion of Buyer not satisfactorily proven, Buyer is entitled to cancel or dissolve all or part of the agreement, notwithstanding Buyer's rights to demand compensation and to require repayment by Seller of payments already made by or on behalf of Buyer in connection with the implementation of the agreement.

27 Cancellation

- 27.1** If Seller is in default with the fulfilment of any obligations to Buyer, Buyer is entitled to dissolve or cancel the agreement with immediate effect or with effect from a date at Buyer's discretion, notwithstanding Buyer's rights to demand compensation and to require or demand fulfilment whether or not with compensation
- 27.2** Furthermore Buyer is entitled, notwithstanding the other rights of Buyer including the right to claim compensation, to dissolve or cancel the agreement with Seller with immediate effect or with effect from a date at Buyer's discretion if:
- Seller is declared bankrupt;
 - Seller applies for a letter of licence or a provisional or definitive letter of licence is granted to Seller;
 - Where Seller is a natural person: Seller dies or is placed under guardianship or

- all or part of the assets of Seller are placed under administration;
- Where Seller is a legal person: Seller is dissolved or a resolution to dissolve is or will be taken in relation to Seller or Seller goes into liquidation or a resolution is or will be taken in relation to the liquidation of Seller;
- Seller merges with a third party or is taken over by a third party;
- the legal form of Seller is changed, or;
- there is a significant change to the activities of Seller.

27.3 If any instance such as indicated in Article 27.1 or as indicated in Article 27.2 occurs, all claims that Buyer may have or obtain against Seller shall immediately be claimable in full.

28 Titles

28.1 The titles of the Articles of these General Conditions of Purchase serve solely to simplify their comprehension and have no other significance; in particular, these titles may not be used for the interpretation of these General Conditions of Purchase.

29 Applicable law; tribunal

- 29.1** The agreement between Buyer and Seller and implementation thereof shall be governed by Dutch law.
- 29.2** Disagreements between Buyer and Seller, including those which are only regarded as such by one party, arising from or in connection with an agreement to which these General Conditions of Purchase apply or from or in connection with the implementation thereof, and which cannot be resolved amicably, shall be settled by the court of the district where Buyer is established, on the understanding that Buyer retains the right as plaintiff to file his claims before the authorised judge of the place of residence or establishment of Seller, and furthermore on the understanding that if a specified judge is mandatorily appointed as the competent judge, the disagreement shall be settled by the judge thus appointed as judge of first instance, in either case notwithstanding the right of Buyer to attach Seller's assets and take other provisional measures or arrange for them to be taken and/or to appear summarily at the place(s) and before the judicial instance(s) that Buyer regards as desirable.

30 Validity

30.1 In the event that all or part of any provision of these General Conditions of Purchase is invalid and/or unenforceable as a consequence of any statutory regulations or judgement, or of any directive, decision, instruction or measure by any local, regional, national or supranational authority or instance, or otherwise, this shall not have any effect on the validity of all other provisions of these General Conditions of Purchase. If one provision of these General Conditions of Purchase is not valid for a reason indicated in the previous sentence, but would be valid if it had a more limited scope or purport, then this provision shall automatically apply with the widest or most extensive yet limited scope or purport with or within which it is valid.