

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

### 1. SCOPE

1.1 These General Terms and Conditions of Sale and Delivery (hereinafter GTCS) apply to all agreements between KLUBER LUBRICATION (hereafter "Seller") and its clients (hereafter the "Buyer"), according to which Seller sells and delivers goods to the Buyer.

1.2 Every order, in any form whatsoever, entails a legal acknowledgement on behalf of the Buyer of its cognizance of these GTCS and its acceptance of these GTCS without reservation. The Buyer expressly renounces the application of its own general or specific terms and conditions, even if these would be posterior to the present GTCS or stated on his purchase order. In the event of any conflict between the provisions of these GTCS and the provisions of any purchase order, the provisions of these GTCS shall prevail.

1.3 These GTCS automatically apply to all similar future commercial relations and legal transactions between the Seller and the Buyer without it being necessary to expressly refer to these GTCS.

1.4 The INCOTERMS 2010 are applicable as far as they are not inconsistent with the provisions of these GTCS or with the provisions of a written agreement between the parties.

### 2. OFFER AND CONCLUSION OF THE CONTRACT

2.1 The Seller's offers are made without engagement and do not imply any commitment as to prices, quantities and times of delivery and execution, which are always indicated approximately. Quotations are valid for a maximum period of thirty (30) days from the date of the original written quotation, unless otherwise stated on the offer.

2.2 The Seller is only bound and an agreement is only established as from a written confirmation of the Seller's acceptance of the order to the Buyer.

2.3 Contracts or agreements concluded by phone or orally with the Seller's representatives are only valid after a written confirmation.

2.4 In order for a document to be considered as a written order confirmation, it must be a bill or computer printout of the Seller.

2.5 The Seller is entitled to refuse orders, without having to explain such refusal.

2.6 Any variation or amendment to an order requested by the Buyer shall only be valid when accepted by the Seller in writing and signed by a duly authorised representative of the Seller. Such amendments shall be subject to appropriate adjustment in price, delivery dates and other matters as the Seller shall consider fair and reasonable.

2.7 If a Buyer annuls the order after having received the written order confirmation from the Seller, and before delivery of the goods, it will in any event be due payment of the following fixed amounts to the Seller: (i) in case of sale of standard goods: 40% of the invoice amount; (ii) in case of tolling/contract manufacturing or of any other made to order goods: 100% of the invoice amount. The aforementioned fixed amounts are without prejudice, however, to the Seller's right to claim additional damages, upon proof of the existence and the amount of such additional damages.

2.8 The Seller retains full rights of ownership and copyrights on all plans, reports, diagrams, drawings, estimates and other documents enclosed with its offers and the Buyer shall not remit any such documents to third parties without prior written approval from the Seller.

### 3. PRICE

3.1 All of the Seller's prices are listed in Euro unless otherwise stated and are quoted exclusive of VAT, any accessory charges, such as transport and insurance charges, customs duties and charges, taxes, etc. All such costs, taxes, levies or rights imposed on the goods by any authority are for the account of the Buyer.

3.2 Prices are based on the quantities and goods specified in the Seller's offers and on the specification in place at the time.

3.3 Special packaging is charged by the Seller at its cost price.

3.4 The Seller may upon prior written notice change the price payable for the goods; modify delivery terms or terms of payment. Such modified price, delivery terms or terms of payment shall apply for all orders of goods after the effective date, which shall be at least thirty (30) days after written notice of such change or modification.

3.5 If any information supplied by or on behalf of the Buyer is insufficient, incorrect, inaccurate or misleading, the Seller shall be entitled to amend the price, the terms of payment and/or delivery as the Seller shall consider fair and reasonable or to terminate the agreement with immediate effect and without being due any indemnities, compensation or damages, by giving written notice to the Buyer.

### 4. PAYMENT

4.1 The sales price will be the price mentioned on the invoice. Any taxes or levies on the prices are for the account of the Buyer. Our invoices are payable by bank transfer, without discount and within ten days of their issuance, unless stated otherwise.

4.2 In case of partial or full non-payment of an invoice at its expiration date:

- (i) the amount due will automatically and without prior notice be increased with the interests as stipulated in the Belgian Act on combating late payment in commercial transactions of 2 August 2002. Without prejudice to payment of these interests, the Buyer will also be due a lump-sum compensation in the amount of 10% of the unpaid or overdue paid invoice amounts, as well as other applicable legal and extra-legal recovery expenses, including any cost relating to bills of exchange, reminders and protest and also legal costs in accordance with the provisions of the Belgian Judicial Code and the aforementioned Act dated 2 August 2002;
- (ii) any other non-expired debt of the Buyer will become due automatically and without prior notice;
- (iii) the Seller is entitled to immediately suspend the execution of all pending orders and deliveries without prior notice.

4.3 The Seller is not obliged to accept bills of exchange, cheques or other promises of payment. Their acceptance does not discharge the Buyer who will only be fully discharged upon the actual receipt of the entirety of the sums due to the Seller.

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4.4 All discounts granted are subject to the condition that all obligations of the Buyer have been fully honoured.

4.5 The bankruptcy of the Buyer, its request for judicial agreement or judicial reorganisation, the announcement of a serious deterioration of its financial status, other payment difficulties, and the delay in the execution of its obligations, make all the Seller's invoices immediately payable and allow the Seller to immediately stop all deliveries, no longer execute any agreement in course, seek restitution of the goods delivered under retention of title, and require any goods remaining to be delivered by the Seller to be paid for in advance.

4.6 Each complaint regarding the content of the Seller's invoices is only valid if communicated to the Seller in writing within eight (8) calendar days as from the invoice date.

4.7 The Seller may at any time demand guaranties and securities, such as but not limited to advance payments, of the Buyer which it deems appropriate in view of the good execution of the Buyer's commitments. Should the Buyer omit to give such a guarantee, the Seller is entitled to immediately suspend the execution of all pending orders and deliveries without prior notice.

## **5. DELIVERY AND TRANSFER OF RISK**

5.1 Transport of goods purchased is at the expense and risk of the Buyer, regardless of the place of shipment.

5.2 If the Buyer imposes a specific mode of transport, additional costs are at the Buyers' expense.

5.3 Terms of delivery shall be indicative and not binding. The Seller commits itself to use its best efforts to comply with the suggested time of delivery. A possible delay can never give rise to any indemnification whatsoever or the cancellation of the order by the Buyer. The Seller shall immediately inform and notify the Buyer in writing via e-mail of its inability to comply with any of the delivery times. In the event a delivery delay is caused by any act or omission by the Buyer, the goods shall be stored at the Buyer's risk and storage will be charged to the Buyer at the rate of 1% of the value of the goods per month.

5.4 Unless otherwise stipulated and accepted by the Seller in writing, the delivery of goods purchased is at the Seller's headquarters. If the Seller agrees to deliver the purchased goods to another place, transportation will be provided by the Seller or by a carrier of the Seller's choice, while unloading must be carried out exclusively by the Buyer. In any case, and notwithstanding any delivery term stipulated in the written order confirmation or other contractual documents, the risk of the goods passes onto the Buyer as from the moment the goods leave Seller's warehouse, even when the transport charges are for Seller's account. All costs and damage, of every nature whatsoever, arisen during or because of the transportation, unloading or loading, shall never be at the expense of the Seller, but solely and fully for the account and risk of the Buyer, who in this respect renounces all of its claims regarding indemnification vis-à-vis the Seller. In the event the goods are damaged during transport, after the delivery to Buyer, or are fully or partially destroyed or are lost, the Buyer remains obliged to pay the full invoice amount.

5.5 In the event of delivery on call or in the long term, the delivery time must be stipulated in writing. In the event of delivery on call, the Seller has the right to obtain the materials necessary to complete the entire order and to manufacture the entire order immediately.

5.6 Partial deliveries are permitted and are considered as an individual transaction.

5.6 A tolerance margin greater than or less than 10% of the quantity to be delivered is acceptable.

5.7 In the case of small orders, the Seller reserves the right to charge for a minimum quantity with billing of standard costs.

5.8 The Buyer can only return the goods upon Seller's prior written approval and at the Buyer's risk and costs, unless expressly agreed otherwise.

## **6. MATERIALS AND EQUIPMENT**

6.1 The goods, materials and equipment, manufactured by the Seller or by third parties at the Seller's request, remain the Seller's property, even if the costs of production are fully or partially paid for by the Buyer.

## **7. RETENTION OF TITLE CLAUSE**

7.1 The goods delivered remain the Seller's property until full discharge of the Buyer's obligations, including payment of the price, the costs, interests, possible compensations, etc. as agreed upon, is received. In the period during which the goods are under retention of title, the Buyer may not encumber the goods nor pledge them. In case the goods are seized or subject to enforcement, the Buyer shall immediately inform the Seller in writing.

7.2 The Buyer has in principle the right to process the Seller's goods, and mix them or combine them with other goods in the context of his normal professional activity. In case the goods are processed, the Seller shall be considered a producer and as such shall immediately have co-ownership of the manufactured good. In case of a mixture or combination with other goods, the Seller shall have co-ownership pro rata the value of the Seller's good placed under retention of title clause and the value of the new good.

7.3 During the retention of title period, the Buyer shall be responsible for storing and keeping the goods in good condition, any loss and damage, including events of force majeure, being at its risk.

As from the delivery in conformity with article 5.4, the Buyer is obliged to insure the goods for their full replacement value against all risks at its expense (including, but not limited to: degeneration, perish, fire, moisture and theft) and to provide the Seller with a copy of the insurance policy.

The Buyer will store the goods separately or affix a sign on the goods so that they may be readily identified as the property of the Seller.

7.4 Except where revoked, the Buyer has the right to sell the goods delivered under retention of title, or the goods which are manufactured, all in the context of his normal professional activities.

As a guarantee of the customer's debts, given the Seller's co-ownership of the good sold, the amount of the debt, in proportion with the Seller's right to co-ownership of the good sold, is transferred to the Seller by the Buyer.

The Buyer has the right to collect the amount of the debt transferred, unless and until this right is revoked.

The Seller shall only revoke the right to resell and collect the debt, if the Buyer does not complete his contractual obligations.

This right shall expire without express revocation, when the Buyer assigns the payment.

At the Seller's request, the Buyer shall inform the Seller without delay, in writing, to whom the Buyer has sold the goods and what amounts are to be recovered from this sale.

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The Buyer will execute on its own account the certified documents in order to transfer the debt.

7.5 The Buyer cannot apply any form of set-off between the credits and debts that exist mutually between the Seller and the Buyer.

The Seller can at any moment, even in the event of bankruptcy, judicial reorganization, collective debt settlement or any other form of insolvency procedure in the Buyer's respect, execute a set-off between the credits and debts that exist mutually between the Seller and the Buyer. This set-off can be executed, whatever may be the object, form or origin of the mutual credits and debts. This set-off will be calculated in Euros after, if necessary, conversion of the foreign currency at the Buyer's expense

7.6 The (partial) non-payment of any invoice at its expiration date entitles the Seller to take back the goods. As from such moment, the Buyer will allow the Seller to enter its premises and to take back the goods, at the risk and cost of the Buyer.

7.7 Each payment by the Buyer shall in first instance be used as payment for the unpaid invoices relating to goods, which have been used, converted or resold by the Buyer.

## **8. INDUSTRIAL PROPERTY RIGHTS**

8.1 To the best of the Seller's knowledge, the goods, except as specifically made for the Buyer according to the Buyer's design, do not infringe any valid EU patent. The Buyer agrees that it shall promptly notify the Seller of any claim or suit alleging patent infringement, shall permit the Seller to control the defence or compromise of such claim or suit, and shall provide the Seller with all necessary information, authority and assistance.

8.2 The Seller's goods are protected by domestic and international intellectual rights. The Seller retains full rights of ownership and copyrights on all plans, reports, diagrams, drawings, estimates and other documents enclosed with its offers and the Buyer shall not remit any such documents to third parties without prior written approval from the Seller. Unless expressly stated otherwise, nothing in these GTCS vests in or confers on the Buyer any right or license in intellectual property of any kind, including without limitation any patent, trade mark, copyright or design right, whether or not registered.

8.3 The Seller may, without breach of these GTCS and without liability to the Buyer, decline to continue deliveries of any goods where the manufacture, sale or use of the goods would, in the Seller's reasonable opinion, infringe any patent now or hereinafter issued.

8.4 The Seller does not warrant that the Buyer's particular use of the goods in any process or in combination with any other materials not supplied by the Seller will not infringe a patent.

8.5 The Seller's instructions and recommendations are not intended to suggest operations that would infringe any patents, and the Seller assumes no responsibility for any such infringement.

8.6 When it comes to goods that were produced according to drawings, models, descriptions or other documents or data provided by the Buyer, the Buyer is liable if there is infringement of third parties' industrial property rights and must indemnify the Seller from third parties' claims. The Buyer must bear all costs and expenses incurred. In case of a third party claim of breach of industrial property, e.g. by the manufacture or the delivery of the Seller's goods, the Seller has the right to stop any activity, without further examination, subject to all the Seller's rights.

## **9. WARRANTY AND COMPLAINTS**

9.1 The Seller warrants only that the goods shall conform to the description given in the written order confirmation, or in the absence thereof, to the standard specifications for the goods, that the Seller will convey good title thereto, and that such goods shall be delivered free from any lawful security interest or encumbrance unknown to the Buyer.

All recommendations or statements about the goods by the Seller, including statements concerning substances present or not present in the goods, or anticipated performance of the goods, are based upon the Seller's research and experience and are believed to be reliable, but such recommendations or statement shall not constitute a warranty, and no employee, agent or representative of the Seller is authorized to give any such warranty. The Buyer must determine for itself, by tests or otherwise, the suitability of the goods for the Buyer's purpose. The Seller makes no warranty that the goods are merchantable or fit for any particular purpose. The Seller makes no other warranty, express or implied.

9.2 The Buyer is obliged to verify the goods immediately upon delivery with regard to conformity, quantity and quality.

9.3 Complaints regarding the aforementioned elements are only valid if (i) they are communicated by the Buyer to the Seller immediately upon delivery in conformity with article 5.4, (ii) they are confirmed by giving written notice thereof to the Seller at the latest within eight (8) calendar days after the delivery of the goods, (iii) such goods remain available for the Seller's inspection effected by the Seller or its representative and (iv) the Buyer undertakes all necessary and reasonable measures to restrict the damage.

Under penalty of forfeiture of all warranties, the written notice as taken up under (ii) must contain a detailed description of any defects affecting Our goods, whether it concerns delivery or apparent defects. After the deadline of eight (8) calendar days, the good is deemed to comply with the order and free from any visible defect.

9.4 Complaints regarding hidden lacks in conformity are only valid if they are communicated in writing to the Seller within ten (10) calendar days after discovery of the flaw, and under the express condition that such goods remain available for the Seller's inspection effected by the Seller or its representative. Such complaints shall no longer be admissible (i) within 6 months after delivery or (ii) after the use or conversion of the goods, whichever date is earlier. Under penalty of forfeiture of all warranties, the Buyer is obliged to describe to the Seller very precisely any defects affecting the Seller's goods and to do this, by sending this description to the Seller in writing no later than within the following ten (10) days. After this deadline, the good is deemed to comply with the order and free from any defect.

9.5 The use or conversion of the goods by the Buyer implies its irrevocable acceptance of the goods.

9.6 In any case, the Buyer's claims regarding non-conforming or defective Goods are subject to a period of limitation of six (6) months as from delivery of the goods, unless agreed otherwise in writing.

9.7 The Buyer is allowed to return the goods to the Seller insofar as they show a visible or hidden lack of conformity and upon prior and timely written complaint/notification by the Buyer. The Seller's reception of such returned goods or its acceptance of a return of the goods, does not imply any recognition of responsibility or correctness of the complaint. The costs of return will be borne by the Seller under the express condition that a lack of conformity is found which is due to the production process of the goods by the Seller. A return of the goods will only be accepted if they are in their original condition upon delivery, meaning in their original packaging and provided that they have been stored and handled in accordance with these

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GTCS and the requirements imposed and instructions provided by the Seller.

9.8 The Buyer is responsible for the correct transportation (within the boundaries of the Incoterm applicable to the delivery), storage, use and installation of the goods. In default of which, the Seller will not take into account the Buyer's claim (even in the event of non-conformity or defects in the goods) and the complaint will be deemed unfounded.

9.9 The quality of the delivery item shall be finally described by explicitly agreed features (e.g. specifications, labels, approvals, other information). The Seller shall reserve any customary or technically unavoidable deviations from physical and chemical quantities, including colors, formula, recipes, processes and the use of raw materials as well as order sizes, as far as this may not be accepted as unreasonable by the Buyer. Under its own responsibility, the Buyer is obliged to examine the goods with regard to their ability for the intended use.

If the Buyer complains about an alleged non-conformity or defect, which turns out to be non-existing or to be a non-conformity or defect for which the Seller is not liable, the Seller has the right to demand compensation for the costs it encountered due to the unjustified complaint. A complaint shall be deemed unfounded in case of (i) insignificant deviations from the agreed quality, (ii) only minor impairment of usability, (iii) natural wear and tear, (iv) damage arising after the passing of the risk, (v) faulty or negligent handling, (vi) excessive strain, (vii) unsuitable equipment, (viii) failure on behalf of the Buyer to give notice of the alleged defect (ix) failure on behalf of the Buyer to allow the Seller to inspect the goods in the state they were upon delivery, (x) use which deviates from that contractually agreed, (xi) incorrect use by the Buyer, the user or a third party (e.g. inappropriate or over-extended storage, an incorrect application or a use not in accordance with its destination), etc.

9.10 In the event a complaint is considered unfounded, the Seller's costs for inspection of the goods shall be borne by the Buyer.

9.11 In the event a complaint is considered founded by the Seller, such goods shall, at the Seller's option, either be replaced free of charge or reimbursed in part or in full, excluding any compensation for consequential damages or any other damages whatsoever. In case the Seller delivers a replacement good, the Buyer is obliged to return the defective material upon request.

9.12 The Buyer cannot invoke any complaint in order to suspend or refuse payments.

9.13 The Buyer may not rescind the contract in case of minor defects.

9.14 Differences by input to samples, to previous deliveries or to other characteristics do not justify a claim, when the goods delivered correspond to the characteristics specified in the contract.

9.15 The Buyer must avoid any risk for damage while carrying out adapted trials and tests in good faith, and must consider the nature, duration and magnitude of the transaction, as well as the value of the good and of the services concerned.

This clause of responsibility is also valid for information given orally or in writing on the tests and recommended tests.

#### **10. INDEMNITY AND LIABILITY**

10.1 The Seller warrants only that the goods shall conform to the description given in the written order confirmation, or in the absence thereof, to the standard specifications for the goods, that the Seller will convey good title thereto, and that such goods shall be delivered free from any lawful security interest or encumbrance unknown to the Buyer.

10.2 To the largest extent permitted by the relevant laws, the Seller shall have no liability for loss of profits, loss of production, loss of business, loss of productivity or other special, incidental or consequential damages.

10.3 The Seller's liability and the Buyer's exclusive remedy for any cause of action arising out of the sale, use or non-delivery of the goods is expressly limited to, at the Seller's option, either the replacement or reimbursement in part or in full.

10.4 If the Seller is liable to pay damages, these damages shall not exceed the lower amount of the invoice for the goods that caused the damage, or if the damage is covered by insurance, the amount actually paid by the insurance to the Seller.

10.5 The Buyer shall indemnify, defend and hold the Seller and its directors, officers, employees, agents, suppliers, parents, affiliates, subsidiaries, successors and assigns harmless from any and all fines, penalties, suits, actions, claims, liabilities, judgments, costs and expenses (including attorney's fees) resulting or arising from (i) the Buyer's negligence, including but not limited to: unfit or illegal use, improper assembly or operation, natural wear and tear, improper treatment and maintenance, use of the goods with improper equipment, damage arising after the passing of the risk, faulty or negligent handling, excessive strain, improper modifications; (ii) the Buyer's use, sale, handling, storage or disposal of the goods or any other good or waste derived therefrom; (iii) the Buyer's discharge or release of the goods or any good or waste derived therefrom into water, onto land or into the air; or (iv) the Buyer's exposing any person (including the Buyer's employees) to the goods or any good or waste derived therefrom, including failure to warn of such exposure.

The foregoing shall apply, without limitation, to injury to person (including death) or damage or harm to property or the environment. This indemnity shall not apply to any fine, penalty, suit, action, claim, liability, judgment, cost or expense caused by the Seller's sole gross negligence or willful misconduct, but shall apply where there is concurrent negligence or willful misconduct of the Seller and the Buyer.

10.6 The Seller will not be liable for damage caused by goods if that damage is caused by a fault of the Buyer or a third party.

10.7 The Seller must not consider particular use of the goods by the Buyer. Therefore, Seller can never be held liable for a use of the goods by the Buyer that deviates from a normal use.

10.8 The Seller shall be responsible for injuries or damages to persons or goods in accordance with the law on liability of goods. Except through express written agreement, the Seller does not accept any responsibility for the Seller's goods because of non-compliance with non-domestic rules.

#### **11. COMPLIANCE WITH STATUTORY AND REGULATORY REQUIREMENTS**

11.1 Unless otherwise agreed to in writing, the Buyer shall be responsible for compliance with applicable statutory and regulatory requirements (including but not limited to requirements relating to the import, transport/shipping, storage, export, resale/distribution, application and use of the goods). The Buyer shall ensure to be and to remain fully informed about all applicable registration, information, and/or notification obligations. The Buyer must ensure compliance with any such obligations, including but not limited to obligations relating to the import, transport/shipping,

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storage, export, resale/distribution, application and use of the goods. The Buyer must comply with all applicable statutory and regulatory requirements during the Seller's business relationship and must indemnify the Seller against and hold the Seller harmless from any claims or damages based on a breach of this obligation.

11.2 The Seller provides information relevant for foreign trade law such as the non-preferential origin as defined by foreign trade law and the customs tariff number in the Seller's commercial invoices. The Seller does not issue long-term supplier declarations stating the preferential origin. The import of goods depends on their non-preferential origin. The declaration of this type of origin does not lead to the granting of tariff benefits.

11.3 The Buyer may not take part, in any case, in the following commercial activities (hereinafter referred to as "transactions"):

- Transactions with persons, organisations or entities which would be included on a list of sanctions, whether in European Community directives or in export regulations of the United States.
- Transactions contravening the regulation on the countries under embargo.
- Transactions for which the required permissions are not granted, in particular, export authorisations.
- Transactions that could be in relation to nuclear power, biological, or chemical weapons or transactions with any other final military use, and for which the required authorisation is not granted.

11.4 The Seller normally purchases raw materials and primary packaging material from suppliers certified at least according to ISO 9001. If we purchase from non-certified suppliers or suppliers certified according to other standards in exceptional cases, we monitor and guide them as to their quality management system by means of other adequate methods (e.g. supplier audits, supplier assessment, development discussions, etc.).

## **12. ASSIGNMENT**

12.1 Neither party shall assign or transfer any of its rights or obligations under these GTCS, either in whole or in part, to any third party without the prior written consent of the other party. Any such assignment or transfer without the prior written consent of the other party shall be deemed null and void.

12.2 However, the Seller shall be entitled to assign or transfer the agreement or transaction with the Buyer to any of its Affiliates, or subcontract its contractual obligations as it sees fit.

## **13. FORCE MAJEURE AND HARDSHIP**

13.1 In case a party is prevented from executing the agreement, with the exception of a payment obligation, in full or in part due to force majeure or circumstances out of its control, it is entitled to suspend its obligations or to terminate the contract without judicial intervention. This shall not give the other party the right to any indemnification.

13.2 For the purpose of this clause, force majeure will be considered as all circumstances which according to the law or prevailing opinions of society, are beyond the parties' reasonable control, such as: action by government, war, riots or other disturbances of public order, strikes, lock-outs, fire, breakdown of machines, inadequate supply of raw materials or energy, exceptional climatic circumstances, partial or total default of third persons who have to deliver the necessary materials or services, interruption in transport or any other circumstances beyond a party's control, which hinder the normal production or shipment of the goods. This list is illustrative and not exhaustive.

13.3 Equal to force majeure are unforeseeable events beyond the Seller's control, which substantially change the economic importance or contents of the delivery, considerably affect the Seller's business or render the Seller's contractual duties excessively onerous. In such circumstances, the agreement shall be adapted taking into account the principles of reasonableness and good faith. To the extent this is not economically justifiable, the Seller shall have the right to rescind the contract without being due any indemnification to the Buyer.

## **14. SEVERABILITY**

14.1 If any (part of a) provision of the present GTCS is held to be invalid or unenforceable, or contrary to imperative law or the public order, then such provision will (so far as it is invalid or unenforceable) have no effect and will be deemed not to be included in the present GTCS, but without invalidating any of the remaining provisions.

14.2 The Parties must then use all reasonable endeavours to replace the invalid or unenforceable provision by a valid and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

## **15. WAIVERS**

15.1 No failure or delay by any party in exercising any right or remedy provided by law or pursuant to these GTCS will impair such right or remedy or be construed as a waiver of it and will not preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy will preclude any further exercise of it or the exercise of any other remedy.

## **16. DEROGATING (SPECIAL) CONDITIONS**

16.1 If the Seller were to accept in writing to derogate from one or more provision(s) of these general terms and conditions of sale, all other provisions shall remain in full application. In order to be valid, each deviation to the present GTCS must be subject to an explicit, prior and written agreement between parties. Any lack of reaction or lack of protest from Seller's side can under no condition be considered an acceptance of such deviation.

## **17. GOVERNING LAW AND JURISDICTION**

17.1 All transactions and agreements between the Seller and the Buyer, irrespective of the Buyer's location, shall be exclusively governed by Belgian law.

17.2 Any dispute that should arise between the Seller and the Buyer pertaining but not limited to the validity, performance, interpretation or termination of any agreement or transaction, shall be exclusively settled by the competent courts of Hainaut, Division Tournai, unless Seller, in its capacity as plaintiff, should prefer to bring the case before another court. No circumstances shall alter this clause.