

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

OF

TRANSNATIONAL BLENDERS B.V.

DATE OF VERSION: 17 APRIL 2023

1 DEFINITIONS AND APPLICABILITY

1.1 In these general terms and conditions:

- (a) **Agreement** means an agreement in place between TNB and Customer, as amended from time to time;
- (b) **Business Day** means a day on which the banks are open for business in the Netherlands;
- (c) **Conditions** means these general terms and conditions of sale and delivery;
- (d) **Customer** means a (potential) customer of TNB;
- (e) **Customer Portal** means TNB's online customer support portal;
- (f) **Export Controls** means the sets of laws, policies, and regulations that govern the export and reexport of items from one jurisdiction to another, such as may be applicable to the goods, services or technology at issue in the Agreement.
- (g) **Intellectual Property Rights** means copyrights, database rights, patents, registered and unregistered design rights, trademarks, trade secrets and other confidential know-how, and all other industrial, commercial or intellectual property rights existing in any jurisdiction;
- (h) **Invoice** means an invoice issued by TNB to Customer in relation to an Agreement or Order;
- (i) **Money Laundering** has the meaning as set out in Titel XXXA. (*Witwassen*) of the Dutch Criminal Code.
- (j) **Order** means an order placed by Customer, either as a stand-alone order or under an Agreement;
- (k) **Products** means all products developed, manufactured, produced or sold by TNB.
- (l) **Sanctions** means any Sanctions law, regulation, embargo, restrictive measure, or other similar instruments, which restrict dealings with certain individuals, entities or territories and which have been issued under the law of any jurisdiction, country or international

organization, including but not limited to the European Union, the United Kingdom, the United States, or the United Nations Security Council, as may be applicable to TNB or Customer.

- (m) **Services** means all services provided by TNB, such as transport, warehousing, doc services and lab services (testing).
- (n) **Terrorist financing** has the meaning as set out in Title XXXI. (Financieren van terrorisme) of the Dutch Criminal Code.
- (o) **Third-Party Payment** means a payment to TNB under or in connection with an Agreement from any natural or legal person that is neither (i) a contractual counterparty under that Agreement nor (ii) a group company (*groepsmaatschappij*) within the meaning of section 2:24b Dutch Civil Code of TNB's counterparty under the Agreement. '**Third-Party Payer**' will be read and construed accordingly.
- (p) **TNB** means Transnational Blenders B.V., with its registered office in Dordrecht, the Netherlands, listed in the Chamber of Commerce under number 23066083.

1.2 The Conditions apply to all:

- (a) Agreements;
- (b) Orders;
- (c) offers, proposals, quotations, Order confirmations regarding the supply of Products and Services, deliveries of Products, and Invoices.

1.3 The applicability of any other and/or additional terms and conditions other than expressly set out in the Agreement, an Order or these Conditions is explicitly excluded. Any such other and/or additional terms and conditions may only be invoked by Customer if and in so far these have been explicitly accepted by TNB in writing. Any such terms and conditions are without prejudice to the applicability of the Conditions and shall solely apply in respect of the specific Agreement or Order for which the applicability is expressly agreed in writing. In case of contradictions and/or inconsistencies between the Conditions and the expressly agreed other and/or additional terms and conditions, the Conditions shall prevail.

1.4 Customer's acceptance of the Conditions entails the simultaneous acceptance of the applicability of the Conditions to all future Agreements and Orders.

1.5 TNB has the right to unilaterally change these Conditions, which changes will become effective upon notification to Customer.

2 OFFERS AND CONCLUSION OF AGREEMENTS

- 2.1 All offers, proposals and/or quotations by TNB shall not be binding on TNB, unless the offer, proposal or quotation explicitly states otherwise in writing.
- 2.2 Customer should place Orders in a manner as agreed between the parties. TNB reserves the right to refuse any Order placed by Customer.
- 2.3 Unless otherwise explicitly agreed in writing, an Order shall be deemed to be a binding offer by Customer. Orders shall only be deemed confirmed and the Products shall be produced and/or Services shall be performed, upon receipt of the Order and, in case a Prepayment (as defined in clause 12.2(a)) is to be made, upon timely receipt of the Prepayment.
- 2.4 Customer is obliged to provide TNB in a timely manner the information and documents TNB requires or requests to prepare an offer, proposal and/or quotation, and to perform under an Agreement or Order.
- 2.5 TNB shall take reasonable efforts to ensure that documents and information such as brochures and leaflets provided by TNB are accurate, but they are not binding on TNB. Such documents and information cannot be regarded as an exact representation of anything offered by TNB, or that it is required to deliver, with the exception of the product specifications as communicated by TNB from time to time.
- 2.6 The purchase price in an accepted Order does not apply to repeat Orders, unless explicitly agreed in writing. Repeat Orders qualify as new Orders for which the then current purchase price will apply.
- 2.7 Customer may only cancel an Order after consultation and in agreement with TNB. The following conditions apply:
- (a) If TNB has commenced performance of the Order, Customer shall reimburse all reasonable costs made by TNB with regard to the performance of the Order including, but not limited to, purchase costs of raw materials, production costs, and costs in relation to the Services, as well as a compensation for TNB's losses as a result of cancellation of the Order;
 - (b) If TNB has not yet commenced performance of the Order but has placed orders with its suppliers for raw materials and/or packaging in connection with the Order, Customer is obliged to take over these raw materials and/or packaging at TNB's first request. This shall be done for the full amount TNB is charged for by its supplier(s).
- 2.8 TNB is entitled to engage third parties for the performance of an Agreement or Order. Costs made by these third parties or related to their performance shall be charged to Customer at cost. If reasonably possible, TNB will inform Customer beforehand about the engagement of third parties.

3 PRICES/RATES

- 3.1 The purchase price payable by Customer to TNB shall be agreed upon in each individual Order. If not specified in the Order, the purchase price will be determined in line with the applicable prices as follows:
- (a) For automotive: TNB's then current prices at the time of the Order.
 - (b) For marine: TNB's then current prices at the time of the delivery of the Products to Customer.
- 3.2 The purchase price shall be based on the price list provided by TNB from time to time. TNB is entitled to unilaterally change its prices and these amended prices will apply from the moment TNB has informed Customer.
- 3.3 All prices and sums payable to TNB are exclusive of value added tax (VAT) or similar taxations, and other governmental levies (including export and import levies), unless required otherwise under applicable law or explicitly stated otherwise. All Orders for delivering lubricants on board of seagoing vessels will have to be invoiced with VAT.
- 3.4 Any bank charges shall be borne by the Customer, unless explicitly agreed otherwise.
- 3.5 If any of TNB's costs have increased between TNB's acceptance of an Order and the delivery due to exceptional circumstances, TNB may increase its prices to reflect the increase in TNB's costs. TNB will inform Customer regarding the price increase at least five Business Days before delivery of the Products. Customer may decide to (i) cancel its Order ultimately two Business Days before delivery without either Party being liable for any damages, or (ii) accept the Products against the new prices. If TNB increases its prices as mentioned in this Section 3.5, and Customer does not cancel the Order ultimately two Business Days before delivery, Customer is deemed to have agreed to purchasing the Products against the new prices.
- 3.6 For any Products that are intended to be delivered outside the Netherlands but within the European Union, Customer is obliged to prove to TNB that the Products have been delivered to the location as specified in the CMR document by returning to TNB a signed copy of the CMR document. If Customer fails to comply with this obligation, Customer will be obliged to pay any VAT that will be due in relation to the Products.

4 DELIVERY DATE

- 4.1 After receipt of the Order and, if applicable, the Prepayment, TNB shall provide Customer with a delivery date for that Order.
- 4.2 Delivery dates provided by TNB to Customer are estimates only and do not bind TNB unless explicitly agreed otherwise in writing.

- 4.3 All delivery dates are based on the conditions of steady and regular labour situations and material supplies, steady and regular transportation, and timely deliveries by suppliers. In case of any irregularities, the delivery dates shall be changed accordingly. TNB shall inform Customer as soon as possible in case of a change in the delivery date.
- 4.4 Customer is not entitled to cancel an Order or Agreement on the basis of TNB failing to comply with a binding delivery date, unless Customer granted TNB a reasonable remedy period of at least ten Business Days in writing, and delivery did not take place within that remedy period. Cancellation must take place in writing within five calendar days after the end of the remedy period.
- 4.5 If TNB fails to comply with a delivery date, Customer will in no event be entitled to (i) any compensation of any damages, losses or costs; (ii) suspend any of its obligations under any Order or Agreement; and/or cancel any Order or Agreement, except as provided in clause 4.4.

5 TERMS OF DELIVERY AND RISK

- 5.1 Unless explicitly agreed otherwise in writing all Products shall be delivered at the conditions of FCA (Incoterms 2020), at the location set out in the Order. If the TNB and Customer have explicitly agreed an alternative delivery method for a specific Order, this alternative delivery method shall only apply to that Order, and not to any other Orders.
- 5.2 The risk of loss or damage to the Products delivered by TNB shall pass to Customer in accordance with FCA (Incoterms 2020).
- 5.3 TNB may deliver Products ordered by Customer in multiple shipments even if these Products were ordered in one Order.
- 5.4 Customer, or the third party it has engaged, shall ensure that delivery takes place correctly, and must immediately warn TNB, or the third party engaged by TNB, if something goes wrong or threatens to go wrong during delivery.
- 5.5 Any indications provided by or on behalf of Customer to TNB, or the third party it has engaged for the delivery, with regard to the maximum amount of contents, and the current fluid levels present in any storage tanks, as well as the nature of products currently present in such tanks, are assumed to be correct. The consequences of any incorrect or unclear indication are for the risk and account of Customer and TNB accepts no liability in this respect.
- 5.6 Any damages, including loss of delivered Products, caused by the overflow of storage tanks during filling, and caused by the lack of or improper functioning of a gauging stick or measurement indicator, are for the risk and account of Customer. Customer will indemnify TNB for any damages and costs of TNB as a result of a loss or spill of delivered Products caused by the lack of or improper functioning of a gauging stick or measurement indicator.

- 5.7 The sizes and weights determined at the delivery location are binding if delivery took place using a calibrated meter with a printable receipt system, or a comparable system. In all other situations the sizes and weights as documented by TNB are binding. Customer is entitled to have representation present during measurements and to have the delivered Products measured and/or weighed at its own expense.
- 5.8 If Customer does not take the delivery in full and at the agreed time and location, and TNB incurs extra costs as a result, TNB may charge these extra costs to Customer.
- 5.9 If Customer does not take delivery of the ordered Products in full – irrespective of the reason – at the agreed time and location, TNB is entitled to store the Products, or have the Products stored, at Customer's risk and account. After a period of sixty days has expired, TNB may sell or destroy these Products. If TNB does not succeed in selling the Products, or if the proceeds of such sale are lower than the price set out in the Order, TNB may charge the difference to Customer, without prejudice to TNB's other rights including in respect of storage and sales costs.
- 5.10 Products specifically produced for or blended in accordance with Customer's instructions and specifications can by their nature not be resold. If Customer does not take delivery of such Products in full, Customer shall at all times remain liable for the payment of such Products as provided in the Order, also if TNB destroys them after the abovementioned sixty-day storage period. The foregoing is without prejudice to TNB's other rights including in respect of storage costs.
- 5.11 If Customer picks up Products at TNB, Customer will ensure that (i) any means of transport will be adequate for the transport of the Products; and (ii) the means of transport will meet or exceed industry standards and comply with applicable laws.
- 5.12 Where applicable, Customer shall be responsible for a proper and safe connection of its installation to that of TNB.
- 5.13 If Products will be delivered by TNB, Customer, or the third party it has engaged, will upon arrival be obliged to provide the opportunity for immediate unloading into an installation suitable for the ordered Products. Customer shall be responsible for indicating the relevant lorry, warehouse, tank, barge, ship, or other designated installation of Customer, or the third party it has engaged, where the Products are to be unloaded. Customer will ensure that the relevant lorry, warehouse, tank, barge, ship, or other designated installation of Customer will be suitable for unloading of the Products.

6 CUSTOMER'S OBLIGATIONS

- 6.1 Customer will take all precautions and comply with all directions regarding safety and use that must be observed in respect of the transport and storage of the Products delivered by TNB and that contribute to the durability of the Products and the safety of Customer or third parties it has engaged. Such precautions and directions regarding storage, safety and use are stated, inter alia, on the

relevant product information sheets and material safety data sheets provided by TNB to Customer in respect of the Product.

6.2 Customer hereby confirms the following:

- (a) Customer is not the target of any Sanctions and/or Export Controls, including without limitation, the List of Specially Designated Nationals maintained by the US Treasury Department's Office of Foreign Assets Control;
- (b) Customer is not owned, directly or indirectly, nor is it controlled, or acting at the direction or in the interest, of an individual or entity targeted by applicable Sanctions and/or Export Controls;
- (c) None of Customer's board members, or persons signing the Agreement or any Order, is directly or indirectly targeted by applicable Sanctions and/or Export Controls; and
- (d) Any vessels or other means of transport used for transporting any goods, technology, or services obtained, directly or indirectly from TNB shall only trade in areas permitted by European Union, United Kingdom, United States and United Nations authorities. Customer shall not, for the performance of shipping, transferring or otherwise delivering those goods, technology and/or services under the Agreement or any Order, make use of vessels or other means of transport which are the target of Sanctions and/or Export Controls.

6.3 Customer shall notify TNB immediately if (i) it knows or reasonably expects that Customer or any of the persons referred to in clause 6.2 is or will become the target of any Sanctions and/or Export Controls; and/or (ii) if it becomes or reasonably expects to become owned or controlled, or act at the direction of persons targeted by Sanctions and/or Export Controls.

6.4 If Customer or any of its affiliates become the target of any Sanctions and/or Export Controls, it shall:

- (a) advise TNB on the effects of such Sanctions and/or Export Controls on any Agreement or Order and the parties' performance thereunder;
- (b) release, indemnify, defend, and hold harmless TNB and its affiliates (which for the purposes of this clause includes its and their officers, directors, employees, sub-licensees, customers, and agents) from any all cost, damages, and other losses TNB suffers as a consequence of (i) the Sanctions and/or Export Controls; and/or (ii) the inability to perform under any Agreement or Order.

6.5 Customer undertakes to fully comply with all applicable Sanctions and Export Controls. Customer shall not take any action, or refrain from taking any action, the result of which would be to cause TNB to violate any Sanctions or Export Controls.

- 6.6 Customer will, from time to time, at TNB's request, certify its compliance with the terms of this Agreement, including this Section 5.13.
- 6.7 Customer agrees during the term of this Agreement to (i) advise all individuals and entities acting on its behalf in connection with the performance of this Agreement of the obligations in this Section 5.13; and (ii) monitor such individuals and entities for compliance.
- 6.8 TNB has the right to immediately terminate the Agreement or any Order, or, at its sole discretion, to suspend the performance of its obligations under the Agreement or any Order, without incurring any penalties or damages, (i) if any of the declarations set out under clause 6.2 is untrue; (ii) if Customer or any of the persons referred to in clause 6.2 become targeted by Sanctions and/or Export Controls; (iii) in case of Customer's violation of clauses 6.3, 6.4, 6.6 and / or 6.7; and/or (iv) in case Sanctions and/or Export Controls become applicable to the performance of any transaction under the Agreement or any Order.

7 SUB-CONTRACTORS

- 7.1 TNB may subcontract its performance of the Services to a third party and/or use any third parties in relation to the development, manufacturing, producing or delivery of Products without Customer's consent. TNB will use reasonable care in the selection and supervision of its sub-contractors.
- 7.2 Customer may request TNB to use specific third parties or request that the relevant sub-contractors comply with certain requirements. TNB may in its sole discretion decide whether it will comply with Customer's request. Any additional costs relating to Customer's request will be borne by Customer.
- 7.3 TNB will not be responsible or liable for any damages caused by a third party that TNB uses following Customer's instructions or request.

8 USE OF PRODUCTS

- 8.1 TNB's Products are produced in line with the legislation that applies in the Netherlands.
- 8.2 If Products are intended for sale and/or use outside the Netherlands, Customer is responsible that the Products are suitable for sale and use outside the Netherlands as the case may be, in particular with regard – but not limited – to the legislation that applies in the relevant country with respect to trading, product liability, safety and other applicable regulations in connection with the delivery, sale or use of the Products.

9 INSPECTION AND COMPLAINT REGISTRATION

- 9.1 Customer is obliged to immediately upon delivery inspect the Products and the packaging for defects, shortcomings, and/or deviations. Customer must file any complaint regarding the Products and/or packaging in writing within twenty-four hours after delivery and must give TNB the opportunity to

verify the complaint. If Customer fails to comply with its inspection obligations and/or if no complaint has been filed within twenty-four hours after delivery, the delivered Products are deemed accepted by Customer as in accordance with the Order.

- 9.2 Complaints about the quality of the Products, or any defects that are not visible upon a thorough inspection, must be reported in writing accompanied by an exact statement of the nature and reason for the complaint. This complaint should be sent by email to salesupport@tnb.nl within seven calendar days after discovery or after they could reasonably have been discovered, but in any event no later than the later of (i) fifty calendar days after delivery has taken place; or (ii) three months if the complaint relates to a non-visible product defect, on pain of forfeiture of all claims.
- 9.3 Upon receipt of a complaint in accordance with clause 9.2 above, TNB shall investigate the validity of the complaint. Customer shall allow TNB, or any third party engaged by TNB, to inspect the Products for this purpose on Customer's premises. If TNB is not able to properly inspect the Products, TNB is entitled to reject the complaint.
- 9.4 Only with the TNB's explicit prior written consent may Customer return the relevant Products to TNB for inspection, at Customer's costs. The inspection shall include, but is not limited, to sampling of the Product. If Customer returns the Products without TNB's prior written consent, it shall be liable for costs TNB makes as a result, including handling and storage costs.
- 9.5 If TNB deems a complaint filed in accordance with clauses 9.1 and/or 9.2 well-founded, and Customer has furnished sufficient evidence that a defect already existed at the time of delivery, TNB shall in each individual case, at TNB's discretion, and without entitlement for Customer to any damages whatsoever:
- (a) reimburse or waive the purchase price of the defective Product(s), without VAT;
 - (b) replace the defective Product; and/or
 - (c) reimburse Customer for the transportation costs for returning the Product(s) in accordance with clause 9.4.
- 9.6 Costs that exceed the normal costs involved with the measures under article 9.5 incurred by TNB due to additional requirements and demands of Customer shall be for Customer's account. This also applies to any costs with regard, but not limited, to transport and waiting costs caused by Customer, and for any other costs that may reasonably not be attributed to TNB.
- 9.7 If TNB deems Customer's complaint unfounded or insufficiently supported by evidence that the defect already existed at the time of delivery, TNB is entitled to recover all incurred costs related to the inspection of the Product(s) from Customer, and Customer shall reimburse TNB for such costs at TNB's first request.

- 9.8 Customer shall in no event be released from, or be entitled to suspend its obligations arising from, any Order or Agreement in connection with a complaint as referred to in this article 9.

10 SERVICES

- 10.1 Unless agreed otherwise, TNB's obligations in respect to the Services constitutes an obligation to provide a certain effort (*inspanningsverbintenissen*) and not an obligation to provide a certain result (*resultaatsverbintenissen*).
- 10.2 TNB shall perform the Services using reasonable standards of skill and attention, and using personnel fit for the job.
- 10.3 The Services provided are provided on an "as is" basis, without any warranty of any nature. TNB expressly disclaims all warranties, whether express or implied, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.
- 10.4 For marine Customers only, TNB shall make the records of all Orders and operations performed thereunder, including delivery documentation, and issued invoices, available in the Customer Portal for Customer to view and download. The Customer Portal further provides information on stock levels, port lead times and restrictions, and logistics services. Customer shall primarily seek information and support through the Customer Portal.

11 COMPLIANCE WITH REACH REGULATIONS

- 11.1 In the event TNB sources substances contained within the Products from outside of the EU (i.e., TNB is the importer under Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals; **REACH**), TNB warrants and represents that it has fully registered the substances which require registrations (to support identified uses as notified by Customer) in accordance with REACH (the **REACH Registration**).
- 11.2 In the event Customer sources substances contained within the Products from outside of the EU (i.e., Customer is the importer under REACH), Customer warrants and represents that it has fully registered the substances which require registrations in accordance with REACH.
- 11.3 In the event TNB sources substances contained within the Products from (i) inside of the EU or (ii) outside of the EU and the non-EU manufacturer of such substances has appointed an only representative under REACH, TNB will ensure that the contracts for the sourcing of such substances contain appropriate provisions which place the burden of the REACH Registration on the EU manufacturer of such substances, on the importer of such substances into the EU or on the only representative, as the case may be.
- 11.4 In the event Customer sources substances contained within the Products from (i) inside of the EU or (ii) outside of the EU and the non-EU manufacturer of such substances has appointed an only

representative under REACH, Customer will ensure that the contracts for the sourcing of such substances contain appropriate provisions which place the burden of the REACH Registration on the EU manufacturer of such substances, on the importer of such substances into the EU or on the only representative, as the case may be.

- 11.5 Customer shall ensure that the Safety Data Sheet accurately reflects the REACH Registration and complies with the Safety Data Sheet content requirements of REACH.

12 PAYMENT TERMS

- 12.1 Unless explicitly agreed otherwise in writing, all payments by Customer to TNB shall take place in accordance with the payments options set out in these Conditions. If TNB and Customer explicitly agree on an alternative payment method for a specific Order, this alternative payment method shall only apply to that Order and not to any other Agreement or Orders.

- 12.2 TNB offers two payment options:

- (a) If TNB's credit insurance company provides Customer with a credit line, payment by Customer is due within thirty calendar days from the Invoice date, up to the amount set by TNB's credit insurance company. For any amount of the purchase price above the credit line, TNB shall determine a prepayment, which shall be a minimum of thirty percent of the Order value (the **Prepayment**). This Prepayment must be received by TNB on TNB's bank account as stated on the Invoice within the term specified on the Invoice; or
- (b) If TNB's credit insurance company does not provide Customer with a credit line TNB shall determine a Prepayment, which shall start at one hundred percent, and can be lowered by TNB to thirty percent over time based on Customer's payment behaviour at TNB's discretion. This Prepayment must be received by TNB on TNB's bank account as stated on the Proforma Invoice within the term specified on the Proforma Invoice. The remaining part of the purchase price (if any) must have been received by TNB on TNB's bank account as stated on the Proforma Invoice ultimately five Business Days before the loading date set out on the Order.

- 12.3 TNB is entitled to demand from Customer, and Customer shall promptly meet this demand, that it provides adequate security for its payment obligations. TNB is entitled to suspend its performance of any Agreement or Order if Customer fails to provide adequate security.

- 12.4 Any payment term on an Order or set out in these Conditions is a deadline for which non-observance constitutes a default (*fatale termijn*). Once such payment term has been expired without Customer having made the required payment in full, Customer shall be immediately in default without warning or notice of default being required.

- 12.5 If the payment term has been exceeded, statutory interest for commercial transactions (*wettelijke handelsrente* within the meaning of 6:119a Dutch Civil Code) shall be due, compounded monthly, for the remainder of the amount Customer owes, from the first day after the payment term has expired until the date of payment in full.
- 12.6 Unless explicitly agreed otherwise in writing, all payments by Customer shall first be regarded as payment for any costs owed, then to set off any interest due, and finally as payment for the principal sum of the unpaid invoices, starting with the oldest outstanding invoice.
- 12.7 All judicial and extrajudicial costs TNB incurs in relation to collecting the remaining amounts Customer owes to TNB, including costs for legal representation, shall be for Customer's account.
- 12.8 At all times, TNB reserves the right to request prepayment, or payment of outstanding invoices before accepting any new Orders or delivering any additional Products.
- 12.9 Customer is not permitted to suspend any payment obligation based on a perceived claim or set off any payment obligation against such perceived claim, whether disputed or not, on TNB.
- 12.10 All Orders shall be invoiced and are payable in the currency mentioned on the invoice (EUR or USD) unless explicitly agreed otherwise in writing. If at some point payment in that currency is not an available option (for example due to sanctions), payment may, after TNB's explicit prior written approval, be made in (i) USD if the currency was EUR; or (ii) EUR if the currency was USD; or (iii) the currency determined by TNB if payment in both EUR as USD is not available as currency options for the relevant payment.
- 12.11 If Customer fails to fulfil any of its obligations under an Order or Agreement, or fails to do so in time, TNB may, at its own discretion:
- (a) suspend the performance of the Order and of any other Orders or Agreements between the parties; or
 - (b) dissolve the Order, and any other Orders or Agreements between the parties, either wholly or in part,
- in both cases without any obligation on the part of the TNB to pay Customer any compensation, and without prejudice to any of TNB's other rights or remedies.
- 12.12 Unless otherwise agreed in writing, any complaint with regard to an Invoice or required Prepayment has to be sent to TNB in writing to salesupport@tnb.nl, accurately stating the reason for the complaint within ten Business Days after the Invoice date, after which Customer is deemed to have accepted the invoice or required Prepayment. Thereafter, any right from Customer to dispute that Invoice or required Prepayment shall have lapsed, and TNB will no longer consider any complaints about such Invoice or Prepayment.

13 THIRD-PARTY PAYMENTS

- 13.1 Customer is obliged to make any payments to TNB itself. Third-Party Payments are not permitted unless:
- (a) TNB has whitelisted the Third-Party Payer; and
 - (b) TNB has granted its prior written consent for the Third-Party Payment.
- 13.2 Customer may seek (prior or retrospective) consent from TNB for a Third-Party Payment, or for a Third-Party Payer to be whitelisted, by sending TNB a substantiated and where relevant evidenced request to that end, in form and substance satisfactory to TNB, which outlines the rationale for the proposed Third-Party Payment or whitelisting. For this clause, "whitelisting" means that TNB provides its generic consent regarding one or more Third-Party Payers.
- 13.3 Consent regarding a Third-Party Payment or whitelisting is at TNB's absolute discretion. TNB will not provide its consent if in its sole opinion there is no valid rationale for the Third-Party Payment or whitelisting, and/or when it cannot authorize the Third-Party Payment or whitelisting in view of the Money Laundering or Terrorist Financing risks involved in the transaction or business relation.
- 13.4 Where TNB did not provide its prior consent to a Third-Party Payment, or the Third-Party Payer is not whitelisted prior to the payment, the payment does not constitute payment in discharge of the Customer (*geen bevrijdende betaling voor Customer*). TNB will book such payment as an undue payment (*onverschuldigde betaling*) pending a request for consent and TNB will not be obliged to provide any Services or Products relating to the Third-Party Payment, other than upon its consent for the Third-Party Payment or after payment by Customer itself. If TNB does not receive a request for consent, or when it does not provide its consent, TNB will request repayment with its account bank. Repayment is subject to the account bank's policies such as its Money Laundering and Terrorist Financing policies.
- 13.5 TNB may at its sole discretion:
- (a) subject its consent to a Third-Party Payment or whitelisting to any requirements as it may see fit to mitigate the Money Laundering and Terrorist Financing risks involved in the transaction or business relation;
 - (b) at all times and in its full discretion revoke its consent for a Third-Party Payment or whitelisting. This may for example happen when it is instructed to do so by its account bank, or by competent public authorities;
 - (c) at all times request additional information and documents from Customer with a view to assess a(n) (intended) Third-Party Payment. Customer shall cooperate with all requests from TNB to this end; and

- (d) share documents and information with its (legal) advisors and account bank and their respective affiliates and employees. Customer unconditionally approves that TNB shares documents and information with its account bank and shall procure that the (purported) Third-Party Payer shall do the same.

13.6 TNB shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of any third-party actions regarding a payment to TNB, such as where its account bank freezes the funds of Customer or a Third-Party Payer.

14 BANKRUPTCY OF CUSTOMER

14.1 In case of a bankruptcy, (provisional) suspension of payment, liquidation, or other form of insolvency proceedings (whether voluntary or not) of Customer or a company of the corporate group of which Customer is a part:

- (a) TNB has the right to immediately terminate any Order and Agreement by notice in writing; and
- (b) any outstanding Invoices become immediately due and payable in full.

15 RETENTION OF TITLE

15.1 TNB retains title to all Products delivered to Customer until the date on which the purchase price for all Products delivered to Customer under any Order is paid in full, including interest and costs if any are due. The retention of title also applies in respect of claims TNB may acquire against Customer due to Customer's failure to fulfil any of its obligations towards TNB.

15.2 For as long as TNB retains title to a Product, Customer may not dispose of this Product or create any restricted right on it, other than in the normal course of its business. Customer is obliged to agree a similar retention of title clause with the buyers of the Products. Customer's right to dispose of the Products in the normal course of its business automatically lapses if:

- (a) an attachment order is made against Customer;
- (b) Customer files for an administration order, bankruptcy, or other form of insolvency proceedings,
- (c) a bankruptcy petition or a petition for any other form of insolvency proceedings is or will be filed against Customer; or
- (d) Customer enters into a payment arrangement with one or more of its creditors.

15.3 If Customer creates a new product (partially) out of the Products supplied by TNB, Customer only creates that product for the benefit of TNB, and Customer shall retain such product on behalf of TNB

for as long as the title to such product remains with TNB or would have remained with TNB if Customer had not created the new product. During this period TNB retains all rights as owner of the new product.

- 15.4 Customer is obliged to store all Products sold and delivered to it by TNB separate from other products and clearly identified. Customer has a duty of care with respect to Products that are subject to retention of title and will insure these and keep them insured against the usual risks in the sector, including but not limited to theft, fire, explosion, destruction, pollution, and water damage. Customer will allow TNB to inspect its insurance policies on demand.
- 15.5 If Customer does not fulfil any of its payment obligations towards TNB, or if TNB reasonably suspects non-compliance with any such payment obligation, TNB has the right to reclaim any Products for which it has retained title, without prejudice to any further claims of TNB towards Customer.
- 15.6 If the delivered Products have been passed on to third parties and Customer has not yet paid the corresponding Invoice(s), Customer must grant a right of pledge in favour of TNB on Customer's claims on such third parties, and Customer shall at TNB's first request provide a list of all such pledged claims. TNB may inform the third parties of the right of pledge if Customer is in default under any obligation towards TNB. All sums paid by the third party to TNB under the right of pledge shall be deducted from TNB's outstanding claim on Customer in accordance with the order set out in clause 12.6.
- 15.7 If TNB exercises its retention of title rights, it may at all times sell the Products to a third party but is not obliged to do so. TNB will credit Customer for the lower of the market value (to be determined by TNB) of the Products, or the net sales value, after deducting all costs incurred in the repossession of the Products, and without prejudice to TNB's right to compensation for any damages or losses it suffered as a result of Customer's non-performance.
- 15.8 All costs related to the exercise of the retention of title by TNB, including those for transport and storage, shall be for Customer's account.

16 FORCE MAJEURE

- 16.1 Any circumstance beyond the reasonable control of TNB or Customer that is unexpected and unavoidable, and of such nature that it temporarily or permanently prevents TNB or Customer from performing under an Agreement or Order, either wholly or in part, is considered a **Force Majeure Event**. Both TNB and Customer shall take reasonable steps to reduce or eliminate the consequences of a Force Majeure Event.
- 16.2 Force Majeure Events include but are not limited to war, riots, flooding, extreme weather conditions, earthquake and other natural disasters, epidemics, pandemics, explosion, prolonged shortage of energy supplies, blockages, serious disruptions in a party's business including strikes and

operational failure, shipping risks, barricades, import and export prohibitions, dispossession, extreme traffic stagnation or transportation delays, boycott, acts of states or governmental action prohibiting or impeding either party from performing its obligations, embargoes, road, sea and inland shipping problems, production bans, unforeseen economic circumstances, and other stagnations in the party's business such as shortcomings by that party's suppliers or other (ancillary) persons or businesses engaged by that party for the performance of its obligations.

- 16.3 The party suffering the Force Majeure Event shall promptly notify the other party in writing of the Force Majeure Event, but in any case within five Business Days after becoming aware of the Force Majeure Event. A Force Majeure Event entitles the party suffering the Force Majeure Event to suspend performance of its obligations under the affected Agreement(s) or Order(s) for the period of the Force Majeure Event, without incurring any liability towards the other party.
- 16.4 If a Force Majeure Event, regardless of whether it affects TNB or Customer, lasts more than ten Business Days, TNB is entitled to cancel the affected Agreement(s) or Order(s). Such cancellation does not result in any obligation for TNB to pay any compensation or damages to Customer.
- 16.5 In case of a Force Majeure Event affecting TNB, TNB is still entitled to demand payment for its obligations already performed under an Agreement or Order before the Force Majeure Event arose.

17 LIABILITY

- 17.1 TNB is only liable for damages caused by non-compliance with the obligations arising out of the Agreement, if and insofar such damage is caused by TNB's wilful intent (*opzet*) or deliberate recklessness (*bewuste roekeloosheid*).
- 17.2 TNB is only liable for the following damages:
- (a) reasonable costs to prevent or limit the damage which could be expected as a result of the event which makes someone liable;
 - (b) reasonable costs for determining the nature and scope of the damage and of the liable persons;
 - (c) reasonable costs for attempts to get satisfied on the basis of a settlement out of court.
- 17.3 Without prejudice to clause 17.2, TNB is not liable for any damages that result from:
- (a) incorrect, incomplete, or unreliable information provided by or on behalf of Customer; or
 - (b) any acts or omissions of, or on behalf of, Customer.
- 17.4 Customer shall use the Products as delivered by TNB for their intended use only as provided in the relevant product sheets and safety data sheets provided by TNB to Customer from time to time. Without prejudice to clause 17.2, TNB is not liable for any damages if Customer uses the Products for a different purpose than the intended use as stated in the aforementioned sheets.

- 17.5 Without prejudice to clause 17.2, TNB is not liable for any lost business opportunities, lost profit, increased costs, reputational damage, loss of share value, and loss of goodwill.
- 17.6 Without prejudice to the foregoing provisions, the TNB's liability is limited to the lower of:
- (a) the purchase price for the Products as stated on the relevant invoice, excluding VAT, customs duties and other taxes or government levies; or
 - (b) the amount paid out under TNB's insurance coverage.
- 17.7 TNB shall maintain insurance policies reasonably adequate to cover its liability in accordance with the previous clauses.
- 17.8 At TNB's first request Customer is obliged to recall any Products delivered by TNB that Customer has brought on the market and that are shown to be defective within a reasonable period and in consultation with TNB, all this at the discretion of TNB.
- 17.9 Customer will indemnify TNB for all damages, costs, and other losses TNB incurs as a result from any breach of an Agreement or Order by or on behalf of Customer.
- 17.10 Unless explicitly agreed otherwise, or except where these Conditions provide otherwise, any claim against TNB will in any event lapse after twelve months from the moment Customer was or should have been aware of the claim. For Products delivered by TNB, Customer is deemed to be aware of any claim from the moment the Product is delivered in accordance with these Conditions.
- 17.11 Nothing in these Conditions intends to limit or exclude liability that by law cannot be limited or excluded.

18 INTELLECTUAL PROPERTY RIGHTS

- 18.1 All Intellectual Property Rights with respect to the Products and Services (including packaging), and any descriptions, technical data, specifications and/or other documents provided to Customer, will remain the property of TNB or its suppliers and licensors. Unless explicitly agreed otherwise, nothing in the Agreement, the Order or these Conditions should be construed as the transfer of any of TNB's Intellectual Property Rights to Customer.
- 18.2 TNB grants Customer a non-exclusive, non-transferable, non-sub-licensable, royalty free licence for the term of the Agreement or applicable Order to use TNB's Intellectual Property Rights insofar as necessary for the use or sale of the Products delivered under the Agreement or applicable Order. If no term has been agreed upon, TNB grants such licence for the shorter of one year or until Customer has used or sold the Products.
- 18.3 Unless with TNB's prior written approval, Customer is not entitled to reproduce documents received from TNB or disclose these any to third parties. This does not apply to the relevant product sheets

and safety data sheets insofar Customer is required to include these with the Products in case of a sale of such Products by Customer to a third party.

- 18.4 If TNB manufactures Products based on Customer's specifications or other directions, Customer warrants that no other third party's Intellectual Property Rights will be infringed as a result of the manufacturing, marketing and/or delivery of these Products. Customer indemnifies TNB for all damages, costs, and other losses TNB incurs as a result of Customer's breach of the foregoing warranty.

19 ASSIGNMENT

- 19.1 TNB may freely assign its rights and obligations under any Agreement, Order, or these Conditions, subject to notice in writing to Customer. Customer hereby grants TNB permission to assign, transfer or novate any Agreement, Order and these Conditions and all rights and obligations under it.
- 19.2 Customer is not allowed to assign its rights and obligations under any Agreement, Order, or these Conditions, unless TNB has given its prior written approval. This provision excludes the transferability in respect of Customer within the meaning of Article 3:83 (2) Dutch Civil Code (*sluit de overdraagbaarheid uit*).

20 ANTI-BRIBERY

- 20.1 The parties shall not do, allow or omit anything, both direct and indirect (including through intermediaries), in connection with negotiating, entering into and executing an Agreement or Order which may result in (one of) the parties or their affiliates acting in violation of any applicable anti-bribery laws or regulations, including the "French Penal Code", the United States "Foreign and Corruption Practices Act", the "UK Bribery Act" and articles 177, 178, 328ter and 363 of the Dutch Criminal Code. This clause aims to prevent unlawful payments, including kickbacks, to government officials, representatives of any public authority (national or local), public institution or any person who is in charge of or responsible for a public service, and/or their partners/companions, family and friends.
- 20.2 The parties agree that they will not provide or promise any undue gifts or any benefits to each other and to each other's employees, representatives and/or third parties acting on behalf of the other party, whether in cash or in any other form, with regard to negotiating, entering into and executing an Agreement or Order. The parties also agree that they will not accept or receive any undue gifts, nor any undue benefits, whether in cash or in any other form, from any employee of the other party, representatives of the other party and third parties acting on behalf of the other party, with regard to negotiating, entering into and executing an Agreement or Order.
- 20.3 Customer will maintain adequate internal controls and procedures to ensure compliance with this clause 20, including the ability to demonstrate compliance towards TNB.

20.4 Each party shall immediately inform the other party, if there is any form or suspicion of bribery (including acting in violation of this clause) with regard to negotiating, entering into and executing an Agreement or Order.

21 KNOW YOUR CUSTOMER

21.1 Upon TNB's first request, Customer shall promptly provide any documentation and other evidence as may be requested by TNB for TNB to carry out "know your customer" or other similar checks it may perform. As part of the foregoing obligation, Customer will provide TNB with any relevant documents to confirm Customer's ultimate beneficial owner.

21.2 TNB may postpone its performance under any Agreement or any Order until TNB is satisfied in respect to the "know your customer" or other similar checks.

21.3 Customer is obliged to inform TNB regarding any intended changes which may have any impact on TNB's "know your customer" checks or other similar checks it performed in relation to Customer.

22 MISCELLANEOUS

22.1 If the TNB does not invoke the Conditions or any provision thereof towards Customer, this does not entail a waiver of any right TNB may have.

22.2 Each party undertakes not to disclose any Agreement or Order, or any information contained therein or obtained in connection with the conclusion or performance of such Agreement or Order (**Confidential Information**) to any third party, unless and to the extent there is an obligation to disclose such Confidential Information pursuant to any applicable law, regulation or a binding decision of the court or any other government authority, or with the prior written approval of the other party. The party making the disclosure shall consult with the other party before the disclosure about the form and contents thereof, unless prohibited by the applicable law, regulation or a binding decision of the court or any other government authority.

22.3 If parties process information that concerns identifiable natural persons, such data shall be processed in accordance with all applicable data protection laws.

22.4 Customer's right to in whole or in part dissolve (*ontbinden*), annul (*vernietigen*) or otherwise terminate the Agreement or any Order, or to request the court to amend the consequences of the Agreement or Order as referred to in section 6:230 (2) of the Dutch Civil Code is excluded.

22.5 The invalidity, nullification or unenforceability of one or more of the provisions of the Conditions does not affect the validity of the other provisions. TNB and Customer will, in spirit of these Conditions, and in good faith consultation, replace the invalid or non-binding provision with another provision that is valid and binding, and whose legal consequences approach as closely as possible those of the invalid or non-binding provision.

22.6 The headings of these Conditions are for convenience only and shall not affect the interpretation of any provision of the Conditions.

22.7 The singular includes the plural and vice versa, and each gender includes the other gender.

23 GOVERNING LAW AND JURISDICTION

23.1 These Conditions are governed by and construed in accordance with the laws of the Netherlands, with the exclusion of its conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1988) does not apply.

23.2 Disputes and disagreements arising out of or in connection with any Agreement, Order or these Conditions shall be exclusively brought before the Court of Rotterdam (the Netherlands) (*rechtbank Rotterdam*).