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General Terms and Conditions of Payment and Delivery

FIRMUS PRODUCTS B.V. in GEFFEN

Chamber of Commerce reg. no. 17225226

Filed on 1 April 2014 with the Chamber of Commerce in 's-Hertogenbosch

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Article 1. General

- 1.1 The term "these general conditions" will refer to the general terms and conditions as filed with the Chambers of Commerce and Industries on 1 April 2014 by FIRMUS PRODUCTS B.V. in Geffen, the Netherlands, Chamber of Commerce registration number 17225226.
- 1.2 The name "FIRMUS PRODUCTS B.V.", hereinafter to be referred to as "FIRMUS PRODUCTS", will refer to the company of FIRMUS PRODUCTS B.V., having its registered office and principal place of business in Geffen, registered with the Chamber of Commerce and Industries under number 17225226.
- 1.3 The term "contracting party" will refer to the private individual or legal entity with which FIRMUS PRODUCTS enters into an agreement for the delivery of a product, as well as their representative(s), attorney(s)-in-fact, heir(s) and beneficiary/beneficiaries.
- 1.4 The term "agreement" will refer to the order confirmation for the delivery from FIRMUS PRODUCTS of a product received, accepted and signed by the contracting party.
- 1.5 The term "product" (*plural: products*) will refer to a product, or component parts of a product, to be delivered by FIRMUS PRODUCTS to a contracting party, or work and/or services to be performed by FIRMUS PRODUCTS for the contracting party.
- 1.6 The term "order confirmation" will refer to the order for the delivery of a product by FIRMUS PRODUCTS to the contracting party agreed between the contracting party and FIRMUS PRODUCTS, and reduced to writing by FIRMUS PRODUCTS.
- 1.7 The term "order" (*plural: orders*) will refer to the offer made by the contracting party to purchase a product to be delivered by FIRMUS PRODUCTS.
- 1.8 These general conditions will apply to all offers and quotations issued by FIRMUS PRODUCTS, to any agreement entered into between FIRMUS PRODUCTS and the contracting party, and delivery made by FIRMUS PRODUCTS to the contracting party, ensuing from an agreement entered into between FIRMUS PRODUCTS and the contracting party.
- 1.9 These general conditions, together with the order confirmation accepted and signed by the contracting party, will constitute the agreement for the delivery of a product.
- 1.10 Any agreement entered into between FIRMUS PRODUCTS and the contracting party will not be governed by any conditions other than these general conditions.
- 1.11 Any derogations from these general conditions will be permitted only if FIRMUS PRODUCTS expressly includes derogating provisions in its order confirmation, FIRMUS PRODUCTS sets forth derogating provisions in an agreement with the contracting party, or FIRMUS PRODUCTS agrees to a proposal made by the contracting party to derogate from these general conditions on certain points by signed letter.

Article 2: Offers

- 2.1 All offers made by FIRMUS PRODUCTS, in any form whatsoever, will be subject to contract, unless expressly provided otherwise.
- 2.2 If an offer is accompanied by budgets, plans, pricelists or other documents, such documents will at all times remain the property of FIRMUS PRODUCTS and are to be returned to FIRMUS PRODUCTS on demand. The documents may not be reproduced or disclosed to third parties without the written consent of FIRMUS PRODUCTS.
- 2.3 Any images and other data stated in an offer or quotation relating to a product will be estimates only. Any minor discrepancies from the actual situation will not entitle the contracting party to damages, dissolution or any other claims.
- 2.4 Sending of offers and/or (other) documentation will not impose on FIRMUS PRODUCTS the obligation to accept an order. The contracting party will be notified by FIRMUS PRODUCTS of any non-acceptance as soon as possible, but in any event within 10 days.
- 2.5 FIRMUS PRODUCTS reserves the right to refuse any orders without stating reasons, or to deliver COD.

Article 3: Orders

- 3.1 By placing an order, the contracting party makes an offer to FIRMUS PRODUCTS to purchase or take delivery of the product indicated by the contracting party subject to these general conditions. FIRMUS PRODUCTS will be entitled to refuse to accept such offer without stating reasons.
- 3.2 In the event of acceptance by FIRMUS PRODUCTS of the order placed by the contracting party, the contracting party will receive a written order confirmation from FIRMUS PRODUCTS by post, by fax or by email. Such order confirmation will be binding from the time of despatch to the contracting party.

Article 4: Agreements

- 4.1 An agreement between the contracting party and FIRMUS PRODUCTS will be formed if the contracting party signs and returns the order confirmation referred to in 3.2 to FIRMUS PRODUCTS by return.
- 4.2 Any changes in respect of the performance of an agreement will require the prior written consent of FIRMUS PRODUCTS.
- 4.3 Any notice relating to an agreement is to be given in writing to the other party's address.
- 4.4 If all or part of any provision of an agreement proves to be unenforceable, the enforceability of the other provisions will not be affected.

Article 5: Use Right

- 5.1 If FIRMUS PRODUCTS delivers a product to the contracting party by way of an agreement, a Use Right will be granted.
- 5.2 The contracting party will be required to use the product properly and with due observance of all the provisions of these general conditions. Damage to the product as a result of improper use, or as a result of wilful misconduct or gross negligence, cannot be recovered by the contracting party from FIRMUS PRODUCTS.
- 5.3 FIRMUS PRODUCTS will be authorised to transfer the Use Right formulated by it to a third party.

Article 6: Intellectual Property Rights

- 6.1 Any copyrights, patent rights, trademark rights, pictorial mark rights and any other intellectual or industrial property rights, as well as similar rights to protect information relating to the product, as well as documentation, will be owned exclusively by FIRMUS PRODUCTS. Nothing in this agreement will be construed as a transfer of all or part of such rights.
- 6.2 FIRMUS PRODUCTS will be authorised to take technical measures and/or to place intellectual property right notices on the product to protect its intellectual property rights in the product, as well as in the associated documentation.
- 6.3 The contracting party may not alter, remove or render unrecognisable any intellectual property right notice of FIRMUS PRODUCTS.

Article 7: Price

- 7.1 All prices stated by FIRMUS PRODUCTS are expressed in euros, based on delivery ex FIRMUS PRODUCTS facility, warehouse or other storage location in the Netherlands, exclusive of VAT and any other government levies, and exclusive of any additional delivery charges, costs of shipment, transport and postage, as well as costs of insurance, exchange rate changes, import duties and COD payments, ensuing from an agreement between the contracting party and FIRMUS PRODUCTS. Such costs will be stated in the invoice and will be payable by the contracting party.
- 7.2 If, after the date of formation of an agreement, one or more cost price factors are increased - even if due to foreseeable circumstances - or other facts and circumstances occur that lead to a cost increase for FIRMUS PRODUCTS, all subject to the relevant statutory provisions, if any, FIRMUS PRODUCTS may pass such higher costs on to the contracting party and increase the agreed amounts accordingly, provided that any future price increases already known are to be stated in the order confirmation by FIRMUS PRODUCTS. If any such increase occurs within three months of entering into the agreement, the contracting party will be entitled to dissolve the agreement within a reasonable term against payment of a reasonable compensation for the direct costs incurred by FIRMUS PRODUCTS in connection with the agreement.

Article 8: Payment

- 8.1 All payments by the contracting party to FIRMUS PRODUCTS are to be made in euros.
- 8.2 Upon purchase of the product, the contracting party will have various options to pay the amount due on account of the agreement to FIRMUS PRODUCTS:
- a.- If the contracting party pays by cheque, bank or giro transfer, the contracting party will receive an invoice from FIRMUS PRODUCTS stating the total amount payable according to the agreement, divided, if applicable, into amounts for payment in instalments. All payments by the contracting party are to be made within 14 days of the date of the invoice, by way of transfer to the account number stated in the invoice, in the name of FIRMUS PRODUCTS B.V. in Geffen, referring to the invoice number.
 - b.- If the contracting party pays COD, the contracting party will, upon delivery of the product, receive an invoice stating the amount payable according to the agreement, inclusive of the costs for COD payment. The contracting party is to pay the invoice in cash.
- 8.3 After expiry of the payment period, the contracting party will be in default by operation of law. From the time that the contracting party is in default, the contracting party will, without any further notice of default by FIRMUS PRODUCTS, being required to pay interest of 1% per month on the payable amount - part of a month being counted as a full month - or the statutory interest, if this interest is higher.
- 8.4 All judicial and extrajudicial costs relating to the collection of the overdue amount payable by the contracting party to FIRMUS PRODUCTS will be at the expense of the contracting party. The costs of extrajudicial collection will be charged to the contracting party according to the collection rate of the Netherlands Bar Association [*Nederlandse Orde van Advocaten*]; those costs will, however, at least amount to EUR 1,000.
- 8.5 Payments will in the first instance go to reduce judicial and extrajudicial costs and interest and only thereafter to reduce invoice amounts due, always settling the longest outstanding invoice first.
- 8.6 In the event that the contracting party is declared bankrupt or is granted a moratorium on payment of debts, FIRMUS PRODUCTS claims against the contracting party or any of the latter's other obligations vis-à-vis FIRMUS PRODUCTS will become immediately due and payable.
- 8.7 Irrespective of the agreed payment conditions, FIRMUS PRODUCTS will be entitled to require the contracting party, as security for payment, to provide an approved bank guarantee or any other security that is acceptable to FIRMUS PRODUCTS, and to suspend or discontinue the delivery of the product if such security is not, or cannot be, provided.

Article 9: Delivery

- 9.1 A product will be delivered by FIRMUS PRODUCTS to the contracting party as soon as possible after formation of an agreement between the contracting party and FIRMUS PRODUCTS, or at such time as the contracting party and FIRMUS PRODUCTS may agree.
- 9.2 The delivery periods indicated by FIRMUS PRODUCTS will be estimates only and can never be deemed to constitute strict deadlines. FIRMUS PRODUCTS cannot be in default in respect of the delivery period until the contracting party gives FIRMUS PRODUCTS written notice of default. In such event the contracting party is to grant FIRMUS PRODUCTS a reasonable term to perform its delivery obligations. If the delivery period of a product is extensively exceeded, this may constitute ground for dissolution of an agreement. In no event can late delivery entitle the contracting party to any damages.
- 9.3 In respect of the delivery period, the product will be deemed to have been delivered if it is ready for shipment and FIRMUS PRODUCTS has so notified the contracting party in writing.
- 9.4 The place of factual delivery of the product by FIRMUS PRODUCTS will be FIRMUS PRODUCTS' office address or such address as FIRMUS PRODUCTS and the contracting party have recorded in the agreement.
- 9.5 If the contracting party and FIRMUS PRODUCTS have agreed an address for delivery of the product other than that referred to in paragraph 9.4, and if FIRMUS PRODUCTS will arrange transport to the agreed delivery address, FIRMUS PRODUCTS or the party arranging transport on the instructions of FIRMUS PRODUCTS will be responsible and, thus, liable for any damage to the product or delay in delivery of the product as a result of such transport.
- 9.6 The contracting party will be under the obligation to take delivery of the product at such time as it is at the contracting party's disposal according to the agreement or is delivered to the contracting party.
- 9.7 If the contracting party refuses to take delivery or is negligent in providing information or instructions required for delivery of the product, the rejected product will be stored at the risk of the contracting party. In such event additional costs, including in any event costs of storage and transport, will be due by the contracting party to FIRMUS PRODUCTS.
- 9.8 The delivery period of the product will be extended by the duration of the delay occurring on the part of FIRMUS PRODUCTS if the contracting party fails to perform any obligation ensuing from the agreement or to render any cooperation that may be required of the contracting party in respect of the performance of the agreement, without prejudice to any other provisions in these general conditions in respect of extension of the delivery period.
- 9.9 Save wilful misconduct or gross negligence on the part of FIRMUS PRODUCTS, specific non-conformities in terms of quantity and quality of the product, as well as in respect of the agreed delivery period, will never entitle the contracting party to any form of damages or to dissolution of the agreement, unless such non-conformities were reasonably foreseeable for FIRMUS PRODUCTS.
- 9.10 FIRMUS PRODUCTS will at all times be entitled to deliver the product in consignments.

Article 10: Transfer of Risk and Title

- 10.1 As from the time that the product is deemed delivered within the meaning of paragraph 9.3, the contracting party will bear the risk of all direct and indirect damage that may be caused to or by the product, save to the extent due to wilful misconduct or gross negligence on the part of FIRMUS PRODUCTS. Title to the product delivered by FIRMUS PRODUCTS to the contracting party will not pass to the contracting party until the contracting party signs the packing list or the receipt.
- 10.2 In the event of attachment of the product delivered by FIRMUS PRODUCTS to the contracting party when title to such product has not passed to the contracting party, the contracting party is to notify FIRMUS PRODUCTS of such attachment forthwith. In the event of attachment, in the event of a moratorium on payment of debts granted to the contracting party or in the event that the contracting party is declared bankrupt, the contracting party is to notify the attaching bailiff, the administrator or the receiver immediately of FIRMUS PRODUCTS property rights.

Article 11: Cooperation

- 11.1 The contracting party is to render as much cooperation as possible in the performance of an agreement entered into it with FIRMUS PRODUCTS. To that end, the contracting party is to provide FIRMUS PRODUCTS in good time with all data and materials necessarily relating to the product and to warrant the correctness of such data and the quality of such materials. If it has been agreed that the contracting party will provide materials or data on information carriers, such information carriers are to satisfy the necessary specifications for work to be performed by FIRMUS PRODUCTS.
- 11.2 The contracting party will be responsible for the proper use and application of the product, for any implementation within its organisation and the necessary procedures in that respect, as well as for security of data relating to the product.
- 11.3 If the data and materials of the contracting party required for the performance of the agreement are not made available to FIRMUS PRODUCTS, or not made available to it punctually or in accordance with the agreements, or if the contracting party otherwise fails to perform its obligations vis-à-vis FIRMUS PRODUCTS, this may lead to suspension of performance of FIRMUS PRODUCTS' obligations and charging of additional costs to the contracting party.
- 11.4 In the event that a FIRMUS PRODUCTS employee performs work at the offices of the contracting party, the contracting party will ensure that the employee can perform such work without interruption. The contracting party will arrange the facilities reasonably required by the employee, free of charge. The contracting party will arrange that the rooms in which the employee is to perform the work are in accordance with the requirements that FIRMUS PRODUCTS may set for such rooms.

Article 12: Warranty, Inspection and Complaints

- 12.1 FIRMUS PRODUCTS warrants for a period of 3 months after delivery that the product delivered by it is free of errors in material, design and workmanship, unless any component part of such product supplied to FIRMUS PRODUCTS is subject to a different warranty period. In such event such other warranty period will prevail.
- 12.2 The contracting party will be required to subject the product to a thorough inspection immediately upon delivery by FIRMUS PRODUCTS and to notify FIRMUS PRODUCTS by registered letter within 14 days of the time of actual delivery of any errors, defects or other complaints relating to the product delivered. After such term, the contracting party will be deemed to accept the condition of the product delivered and any right to complain and/or to claim damages will expire.
- 12.3 A complaint will not suspend the contracting party's payment obligation. Any liability ensuing from an error or defect will at all times be limited in accordance with the provisions of Article 15 of these general conditions.
- 12.4 The contracting party is to give FIRMUS PRODUCTS the opportunity to verify the complaint lodged by it.
- 12.5 The contracting party is to demonstrate that a defect covered by the warranty referred to in paragraph 12.1 in the product has occurred within the warranty period set.
- 12.6 If the warranty referred to in paragraph 12.1 applies and the product delivered shows an error or defect, FIRMUS PRODUCTS will be required to repair or replace the product delivered, or component parts thereof, within 30 days of the contracting party reporting such error or defect to it in writing. In the event of repair or replacement, the contracting party is to submit the product delivered to FIRMUS PRODUCTS. The contracting party will not be free to return the product delivered before FIRMUS PRODUCTS has agreed thereto.
- 12.7 The obligation referred to in 12.6 will expire if all or part of the relevant errors, defects or complaints can be traced back or are due, in any way whatsoever, to any acts or omissions on the part of the contracting party, its staff or any other persons engaged by or on behalf of the contracting party, or of any other person for whose acts or omissions the contracting party may be held responsible.
- 12.8 If the complaint proves to be founded, FIRMUS PRODUCTS can opt to remedy defects, to replace the product delivered or component parts thereof, or to grant a price reduction. The contracting party may claim replacement of the product delivered, or component parts thereof, or dissolution of the agreement if, during the warranty period:
- a. FIRMUS PRODUCTS has made repeated unsuccessful attempts to remedy the same defect in the product delivered and the defect is sufficiently serious to justify replacement or dissolution;
 - b. the contracting party demonstrates that the product delivered shows so many defects that it is not in conformity with the agreement, and that the defects justify replacement or dissolution.
- 12.9 Repair or replacement of the product delivered, or component parts thereof, within the warranty period will be free of charge. After that, in addition to the costs of repair or replacement, also call-out costs and other associated costs, if any, will be charged by FIRMUS PRODUCTS to the contracting party.

- 12.10 In the event of a complaint, the contracting party can never claim any further compensation, warranty or damages than that which FIRMUS PRODUCTS, in its turn, can claim from its supplier and/or insurer.
- 12.11 The warranty in respect of the product delivered by FIRMUS PRODUCTS to the contracting party will expire if the numbers of the product line of the product have been removed or altered.
- 12.12 The contracting party will be required, after communication of the complaint, to discontinue the use of the relevant product delivered, in order to avoid complications for FIRMUS PRODUCTS. The contracting party will render its full cooperation in an investigation of the complaint, if any, failing which FIRMUS PRODUCTS will not be required to handle the complaint.

Article 13: Settlement, Suspension and Retention Right

- 13.1 If the contracting party fails to perform any obligation imposed on it pursuant to any agreement entered into with FIRMUS PRODUCTS subject to these general conditions, FIRMUS PRODUCTS will, without prejudice to its other rights in that respect, at all times be authorised, until such time as the contracting party has performed as yet:
- to suspend performance of its part of the agreement;
 - to exercise the retention right;
 - to invoke setoff.
- 13.2 Unless agreed otherwise in writing between the contracting party and FIRMUS PRODUCTS, or provided otherwise by mandatory law, the contracting party will never be authorised, for any reason whatsoever, to invoke setoff, nor will the contracting party be entitled to any right to reduction or discount, or to application of the retention right or the right to suspend its part of the agreement.

Article 14: Termination

- 14.1 An agreement may be terminated by FIRMUS PRODUCTS by way of dissolution by registered letter and without any judicial intervention being required, if the contracting party, after having been given proper written notice of default, attributably fails to perform essential obligations under the agreement.
- 14.2 All or part of an agreement may be terminated by FIRMUS PRODUCTS, with immediate effect and without any judicial intervention being required, by giving written notice to the contracting party, if the contracting party is unable to perform its payment obligations or if its business is wound up or discontinued.
- 14.3 The agreement will be dissolved by operation of law if the contracting party is declared bankrupt or is granted a - provisional or definitive - moratorium on payment of its debts. In such event any claims that FIRMUS PRODUCTS may have against the contracting party will become immediately due and payable. Otherwise, the rights in respect of non-performance will be fully reserved to FIRMUS PRODUCTS.
- 14.4 In no event will FIRMUS PRODUCTS be liable to pay any damages as a result of the methods of dissolution described in the foregoing paragraphs.

Article 15: Liability

- 15.1 In the event of wilful misconduct or gross negligence, or if specific non-conformities in the product were reasonably foreseeable for FIRMUS PRODUCTS, FIRMUS PRODUCTS' liability will be limited to the lowest of the following amounts:
- the payment agreed between the contracting party and FIRMUS PRODUCTS in the agreement to which the liability relates, exclusive of VAT, interest and costs;
 - the amount for which FIRMUS PRODUCTS can hold its supplier or other previous links liable;
 - the maximum amount for which FIRMUS PRODUCTS' insurer will accept liability in connection with the contracting party's claim for damages.
- 15.2 The contracting party will indemnify FIRMUS PRODUCTS against any liability asserted by the contracting party or by any other private individual or legal entity for financial loss, including but not limited to consequential damage, lost profits, lost savings, damage due to business interruption and/or loss of data files or any other claim relating to the product or its use thereof.
- 15.3 Any right to damages will in any event expire to the extent that the contracting party fails to take measures to mitigate the damage, or prevent further damage, immediately upon occurrence of the damage, and to notify FIRMUS PRODUCTS of all the relevant information as soon as reasonably possible.

Article 16: Force Majeure

- 16.1 FIRMUS PRODUCTS will be entitled to invoke force majeure, which, for the purpose of these general conditions, in addition to the definitions thereof in the law and in case law, is understood as any external, unforeseen causes beyond FIRMUS PRODUCTS' control, as a result of which FIRMUS PRODUCTS is unable to perform its obligations vis-à-vis the contracting party, including strikes at FIRMUS PRODUCTS.
- 16.2 FIRMUS PRODUCTS will also be entitled to invoke force majeure if the circumstances that prevent further performance of the agreement occur after FIRMUS PRODUCTS should have performed its obligations.
- 16.3 In the event of force majeure, FIRMUS PRODUCTS' agreed obligations will be suspended. If, at the time of occurrence of the situation of force majeure, FIRMUS PRODUCTS had already partially performed the agreed obligations or can only partially perform such obligations, it will be entitled to invoice the part already delivered and/or the part to be delivered separately, and the contracting party will be under the obligation to pay the relevant invoice as if it were a separate agreement. The foregoing will, however, not apply if the part already delivered and/or to be delivered has no independent value.

Article 17: Telecommunications

If, in connection with the product, the contracting party and FIRMUS PRODUCTS use any telecommunications facilities, either party will be responsible for the correct choice and punctual availability of such facilities on its own part. FIRMUS PRODUCTS will not be liable for any mutilation, interception or loss of data or processing results during transmission of data using telecommunications facilities.

Article 18: Applicable Law

- 18.1 Any agreement entered into subject to these general conditions and any agreement resulting from same will be exclusively governed by the laws of the Netherlands.
- 18.2 Any disputes ensuing from the agreement entered into subject to these general conditions and any agreement resulting from same will - unless the Subdistrict Court is competent to hear such dispute - be submitted to the exclusive jurisdiction of - at FIRMUS PRODUCTS' option - the competent Court in the District of 's-Hertogenbosch, the Netherlands, or the competent Court in the District where the contracting party has its registered office, all including seeking provisional arrangements.

Article 19: Final Provisions

- 19.1 Any amendments or additions to these general conditions will be valid only if recorded in writing by FIRMUS PRODUCTS.
- 19.2 No waiver of any right under this agreement by either party will mean that such party will have to waive its right in any subsequent situation as well.
- 19.3 FIRMUS PRODUCTS will be entitled to include the name of the contracting party in its customer database.