

STANDARD TERMS AND CONDITIONS OF SALE NELIPAK B.V. VENRAY

Please read these Standard Terms and Conditions of Sale (these “Terms and Conditions”) carefully. They materially affect the parties’ obligations. Nelipak B.V. (“Company”) and each of their applicable affiliates will accept orders and do business only under these Terms and Conditions.

- 1. ENTIRE AGREEMENT.** These Terms and Conditions together with the applicable order confirmation contain all of the terms and conditions of the agreement (the “Agreement”) between Company or the applicable affiliate of Company named in an order (“Seller”) and the buyer (“Customer”) of the products to be sold to Customer (collectively, “Goods”), to the exclusion and explicit rejection of any terms and conditions incorporated in Customer’s order or other documents of Customer, and to the exclusion and explicit rejection of any other statements and agreements except as set forth in a separate written agreement signed by Customer and by a duly authorized employee on behalf of Seller that expressly refers to these Terms and Conditions. Seller’s acceptance of Customer’s order is expressly conditioned on Customer’s acceptance of these Terms and Conditions, and Customer, upon placing an order, is presumed to have accepted these Terms and Conditions without modification. Any quotation made by Seller in respect of the sale and delivery of Goods before or after the date of this Agreement is for information only and shall not constitute a firm offer. Orders shall only be binding when an order confirmation has been sent by Seller to Customer. Acceptance of these Terms and Conditions shall be deemed to have occurred upon the earliest of (i) executing or accepting these Terms and Conditions, (ii) executing or accepting any order confirmation of Seller, (iii) when Customer is aware that Seller has commenced performance thereunder or (iv) taking delivery of any Goods. No alteration, waiver, modification of or addition to these Terms and Conditions shall be binding on Seller unless set forth in writing signed by a duly authorized representative of Seller. No course of dealing, usage of trade or course of performance shall be relevant to supplement or explain any terms used in the Agreement.
- 2. PRICES, TAXES AND OTHER CHARGES.** Unless Seller has agreed otherwise in writing, prices under orders are subject to change when Seller’s costs increase, including without limitation due to increases in labor, materials and other manufacturing or transport costs, increases in taxes and duties, changes to the order or specifications requested by Customer, delays caused by Customer’s instructions or lack of instructions, and foreign exchange fluctuations. Quantity prices are conditioned on an initial set-up and uninterrupted production thereafter, unless otherwise agreed by Seller in writing. The amount of any present or future transfer, sales, revenue, excise, customs, value added or other duties or taxes, or any other charges imposed on or measured by any transaction between Customer and Seller shall be (or if itemized on the face of Seller’s order confirmation, have been) added to the prices quoted or invoiced and shall be paid by Customer, and Customer shall indemnify Seller and its affiliates against any such duties, taxes, or charges, unless Customer has provided Seller with a tax exemption certificate which Seller considers to be acceptable to the authorities imposing the same in respect to any such tax, duty or charge.
- 3. PAYMENT; DEFAULT.** Customer agrees to pay all invoices in the currency specified in the order within thirty (30) days of the invoice date. The time for payment shall be of the essence. In the event of Customer’s default, in addition to other remedies Seller shall have the right to charge interest before and after any judgement on overdue balances at the lesser of a rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law, and Customer shall pay all costs of collection, and attorneys’ fees, including attorneys’ fees incurred by Seller in respect to any collection proceedings. In the event of default by Customer or breach of any term of the Agreement, or in the event of Customer’s insolvency, bankruptcy, receivership or assignment for the benefit of creditors, or in the event of Customer’s admitted inability to pay its debts as due Seller may discontinue shipment and require payment for all Goods in advance or terminate the Agreement. Further, in such circumstances, Seller shall have the right, at Customer’s expense, to repossess all unpaid Goods which may be stored with Seller or are in transit for Customer’s account, without the necessity of taking any other proceedings, or after such proceedings as may be required by law; Customer acknowledges that all the merchandise so repossessed shall be the property of Seller.
- 4. SHIPMENT & TITLE.** (a) If Goods are to be shipped or delivered by Seller, prices quoted are Ex Works (EXW) (Seller’s place of business) Incoterms 2020, unless otherwise expressly specified in Seller’s order confirmation. Seller reserves the right to make delivery in installments and all such installments when separately invoiced shall be paid for when due per invoice, without regard to the date of subsequent deliveries. All Goods delivered shall be paid for regardless of any

claim relating to such delivered Goods or other delivered or undelivered Goods. Shipment of Goods in an amount within a range of ten percent (10%) more or less than the quantities set forth on the face of Seller's applicable order confirmation shall be deemed full satisfaction of delivery of quantities ordered, provided that Seller shall only invoice Customer for the quantities of Goods actually shipped. Notwithstanding the foregoing, where delivery or performance is postponed or delayed, otherwise than due to the default of Seller then:

- without prejudice to any other rights and remedies available to Seller, Customer shall pay all costs and expenses incurred by Seller as a result of such postponement or delay (including without limitation reasonable charges for storage, insurance and transportation);
- risk of loss or damage to Goods shall transfer to Customer on the date that the Goods were first made available for delivery; and
- Seller shall be entitled to resell or otherwise dispose of the Goods in any manner it determines if the Goods are not delivered to Customer within one (1) month of the Goods being ready for delivery.

(b) Subject to paragraphs 12 and 13, all Goods are sold with full title guarantee save that title will remain with the Seller until:

- the Goods have been paid for in full; or
- the Customer resells those Goods in the ordinary course of business, in which case title in the Goods shall pass immediately before the resale occurs.

5 TOOLING. Goods are generally manufactured by Seller from molds or tools ("Tooling"). Tooling may be furnished by Customer to Seller, furnished by Customer and modified by or for Seller, or purchased by Customer from Seller. Subject to payment for purchase or modification of Tooling, Tooling shall be the property of Customer and shall be used solely for the manufacture of Goods for Customer, unless otherwise agreed. While Tooling is in the possession of Seller, Seller shall maintain the same in good condition throughout its useful life and shall repair any physical damage. Customer shall be responsible for and shall insure Tooling against loss by fire, theft and other insurable risks. Seller shall deliver Tooling to Customer at Customer's written request, so long as Customer is the owner thereof and has paid all amounts due to Seller in full, including amounts invoiced to Customer after Customer's request for return of Tooling. Otherwise, Tooling may be converted or scrapped by Seller one year after receipt of Customer's last order for Goods made with the Tooling.

6 RANDOM INSPECTION; SUITABILITY OF GOODS. Goods sold to Customer may be subject to random inspection for compliance with specifications. Customer acknowledges the random nature of such inspection. Any such inspection results provided to Customer do not constitute a guarantee as to the suitability of the Goods for any particular use. Customer acknowledges and agrees that it is solely responsible for the specifications of the Goods and the suitability of the application and use of the Goods by Customer or any other party.

7 SELLER'S WARRANTIES AND CLAIMS; DISCLAIMER OF WARRANTIES. (a) Seller warrants that it has good title to the Goods. Seller further warrants that the Goods shall be free from defects in material and workmanship and shall materially conform at the time of delivery to (i) any description of the Goods contained on the face of Seller's order confirmation, (ii) any samples of the Goods provided by Seller to Customer, and (iii) any written specifications of Seller or specifications supplied by Customer and expressly agreed to by Seller in writing; which warranty shall continue in effect only for a period of ninety (90) days after shipment by Seller.

(b) ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE, OR OTHERWISE, ARE DISCLAIMED AND EXCLUDED; ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE ARE DISCLAIMED AND EXCLUDED; AND ALL IMPLIED WARRANTIES AGAINST INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE NAME OR SIMILAR COMMON OR CIVIL LAW ARE DISCLAIMED AND EXCLUDED.

(c) Any claim for breach of warranty of conformity must be submitted to Seller prior to acceptance of Goods as set forth in paragraph 10 hereof or it shall be waived; and any claim of defect in material or workmanship must be made in writing as set forth in paragraph 10 hereof within the warranty period or it shall be waived.

(d) IN THE EVENT OF A BREACH BY SELLER OF THE ABOVE EXPRESS WARRANTIES, THE LIABILITY OF SELLER FOR SUCH BREACH SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF THE DEFECTIVE GOODS OR, AT SELLER'S ELECTION, THE ISSUANCE OF A CREDIT TO CUSTOMER FOR THE PRICE OF THE DEFECTIVE GOODS. SELLER SHALL HAVE NO OTHER OBLIGATION OR LIABILITY OF ANY KIND, AND IT IS FURTHER AGREED AND UNDERSTOOD THAT THE PRICE STATED FOR THE GOODS IS CONSIDERATION FOR THE LIMITATION OF SELLER'S LIABILITY FOR A BREACH OF THE ABOVE DESCRIBED EXPRESS WARRANTIES.

(e) In the case of Goods which are manufactured to specifications of Customer, Seller's warranties as set forth above shall not be expanded nor shall Seller's liability, as provided in paragraph 8 below, be other than as so provided due to the fact that Seller has participated in any way in the determination of the specifications for the Goods; and, in any event, Seller's awareness of the use to which any Goods are to be put shall not affect its liability as limited herein; as in the cases of third party specifications, utilization of Goods for any particular purpose or as components of other Goods, IT IS THE RESPONSIBILITY OF CUSTOMER to test the Goods for each application. Any legal action for breach of warranty must be commenced within twelve (12) months following delivery of the Goods.

(f) THESE REMEDIES CONSTITUTE CUSTOMER'S EXCLUSIVE REMEDIES AGAINST SELLER FOR BREACH OF WARRANTY OR ANY OTHER CLAIM WITH RESPECT TO THE GOODS.

8 LIMITATIONS OF LIABILITY. (a) IN NO CASE SHALL SELLER BE LIABLE (WHETHER BASED UPON BREACH OF ANY WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR ANY OTHER LEGAL THEORY) FOR (I) THE VALUE OR COST OF ANY PROPERTY INCLUDING, WITHOUT LIMITATION, ANY PROPERTY OR MERCHANDISE INTO WHICH THE GOODS ARE INCORPORATED OR INSTALLED, (II) ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY OTHER INDIRECT DAMAGES OR LOSSES, OR (II) ANY LOSS OF PROFIT, LOSS OF ANTICIPATED PROFIT, LOSS OF SAVING OR REVENUE, LOSS OF BUSINESS, LOSS OF CONTRACT, LOSS OF USE OF GOODS, OVERHEAD RECOVERY, COST OF CAPITAL, LOSS OF DATA, LOSS OF PRODUCTION, COST OF SUBSTITUTE GOODS, DEPLETION OF GOODWILL OR PRODUCT RECALL.

(b) IN ALL CASES SELLER'S MAXIMUM AGGREGATE LIABILITY TO CUSTOMER FOR DAMAGES ARISING UNDER OR IN CONNECTION WITH THE AGREEMENT, WHETHER BASED UPON BREACH OF ANY WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY SHALL NOT EXCEED THE PRICE OF THE GOODS TO WHICH ANY CLAIM OR CLAIMS RELATE.

(c) Notwithstanding the foregoing, nothing in these Terms and Conditions shall limit or exclude the Seller's liability for or be taken to require the Customer to indemnify the Seller against (i) death or personal injury caused by the Seller's negligence, or the negligence of its employees, agents or subcontractors (as applicable); (ii) fraud or fraudulent misrepresentation by the Seller; or (iii) for any matter in respect of which it is not permitted at law for the Seller to exclude or restrict liability or in seek an indemnity from the Customer.

9 DELAYS AND LIMITATIONS. All sales and shipments to be made are subject to Seller's ability to obtain any necessary materials, chemicals, components, machinery or parts and/or the Goods to be sold; Seller's current production schedules; governmental actions, priorities, and other governmental laws, regulations, orders, ordinances and restrictions that may be in effect from time to time; strikes, lockouts and shortage of labor; fires, strikes, pandemics, epidemics, any global, national, or local public health emergency or disease outbreak; acts of God and the elements; war, riot, delays in transportation, federal, state, or local government declared states of emergency, restrictions or embargoes; and any other causes of delay in production and/or shipment or delivery beyond Seller's control. Any completion or shipment dates are approximate only. Seller shall attempt to meet any completion and/or shipment date specified, but in no event shall Seller otherwise be responsible or liable for failure to produce, ship or deliver by such date, and time shall not be of the essence in respect thereto; nor shall Seller be liable to Customer or any third party for damages due to delays in the production, completion, shipment or delivery of Goods whether or not due to causes within Seller's control. Delivery schedules (even under blanket orders) shall be subject to reasonable production scheduling by Seller; delivery schedules shall be prorated reasonably over the applicable period of time; Goods not called out for delivery within the period shall be invoiced to and paid for by Customer at the end of the period; and in no event shall Seller be obligated to maintain prices if Customer fails in any way to meet the requirements of these Terms and Conditions or the Agreement.

10 INSPECTION, RETURNS. Customer agrees that it has five (5) days from the date of receipt of the Goods to inspect same for nonconformities and that such period is a reasonable amount of time to conduct such inspection. If Customer does not notify Seller of any such nonconformities within such five (5) day period, then the Goods shall be deemed to have been accepted by Customer and Seller shall be deemed to have performed all of its obligations hereunder. Goods may not be returned for any reason other than breach of the express warranties stated above, and, if so returnable, may be returned only under the conditions set forth herein. Prior to returning any Goods, Customer shall obtain written authorization by submitting to Seller a written request for authorization, a detailed statement of its claim and a sample of the Goods which Customer claims do not conform to the express warranties hereunder. If return is authorized, Customer shall receive written authorization or a return label; Goods returned without a written authorization or a return label will be refused. All costs of returning Goods must be prepaid by Customer; Seller shall refuse Goods shipped collect and reserves the right to charge back and set off all transportation costs. Authorization for return does not imply acceptance for credit of all or

part of the returned Goods, but rather indicates Seller's willingness to inspect the Goods in question. Upon authorized return, Seller will conduct such inspection and determine disposition of returned Goods along with any defective Goods still being held by Customer. Seller reserves the right to either issue credit, limited to the invoice price, or to repair or replace the nonconforming Goods. Returned Goods found by Seller not to involve a breach of the above express warranties may be subject to reasonable handling charges. All transportation costs for the reshipment of returned Goods to Customer and for the shipment of replacement Goods, if any, shall be the responsibility of Customer. Risk of loss for all Goods returned to Seller shall at all times be upon Customer, and if any replacement Goods are shipped to Customer they shall be insured, if at all, solely at Customer's expense, and, unless otherwise requested in writing by Customer, Seller shall, in its sole discretion, determine whether, under what terms, and for what amounts, such shipments shall be insured, and shall make arrangements accordingly. Seller shall not be liable for, and Customer shall indemnify, defend, and hold harmless Seller and its affiliates against, losses, liabilities, costs, claims, demands, expenses and fees (including, but without limitation, any costs of defense, attorneys' fees, inspectors' fees and/or costs of testing for which Seller becomes responsible or which is borne by Seller incident to any claims subject to indemnification), actions, proceedings, judgments awarded and damages (collectively, "Losses"), suffered or incurred by Seller arising out of or in connection with use of the Goods after Customer becomes aware of a defect or after circumstances have occurred which should reasonably have indicated to Customer the existence of a defect.

- 11 **ASSUMPTION OF RISK.** These Terms and Conditions are for only the sale of the Goods and no bailment of any kind is intended or created, either express or implied in respect to any property delivered to Seller. Therefore, any such property left by Customer or any other party with Seller or delivered to Seller by Customer or any other party is at the sole risk of Customer and/or the owner thereof; and Seller, its agents, servants and employees, will not be liable for any loss of or damage to said property under any circumstances including, but not limited to fire, theft or vandalism, and any negligence, gross negligence or omissions of Seller and notwithstanding any asserted or actual breach of such counter-offer by Seller. Customer shall indemnify, defend and hold Seller and its affiliates harmless from and against any and all Losses suffered or incurred by Seller arising out of or in connection with any such loss of or damage to said property.
- 12 **TECHNICAL DATA.** Technical data, including but not limited to specifications, formulae, know-how, techniques, drawings, estimates, tests and test results, quotations, illustrations, bulletins, literature and other papers and documents, if any, hereinafter the "Technical Data," shall remain Seller's property. Seller reserves all proprietary and authorship rights in the Technical Data, which may not be copied, reproduced, transmitted or communicated to any third party without Seller's written consent except to Customer's employees who are required to use the Technical Data as part of their duties.
- 13 **INTELLECTUAL PROPERTY RIGHTS.** The ownership of and sole rights to obtain the ownership of all patents, trademarks, service marks, registered designs, database rights, applications for any of the foregoing, copyright, unregistered design rights, know how, trade secrets and any other similar protected rights anywhere in the world ("Intellectual Property Rights") relating to the Goods (including without limitation all customizations and modifications for Customer) ("Seller IP") shall at all times be vested in Seller and Seller shall be responsible for the registration and other protection of the Seller IP as Seller deems fit. Customer does hereby assign any and all rights it may have in any such Seller IP. When necessary or reasonably requested by Seller, Customer will execute such further assignments and documents and take such further actions to effect the assignment or procure the assignment of all such rights. Customer shall not use Seller's name, logo or any other identification marks for the purpose of advertising or publicity without the prior written consent of Seller. If Seller manufactures Goods to Customer's specifications or design; or if Customer incorporates Seller's Goods in any merchandise or other Goods; or if Seller's Goods have been modified or altered in any way by any party; or if Customer has misused, misapplied, damaged or been guilty of negligence in relation to the Goods or if Customer provides any artwork or other materials ("Customer Materials"); to the fullest extent permitted by applicable law, Customer shall indemnify, defend, and hold harmless Seller and its affiliates from and against any and all Losses suffered or incurred by Seller arising out of or in connection with any actual or alleged infringement of any Intellectual Property Rights resulting from or incident to the Goods or Customer Materials. Seller must be notified immediately of all claims for alleged infringement of Intellectual Property Rights received by Customer relating to the Goods. If requested by Seller, Seller shall be entitled to have conduct of any proceedings relating to any such claim and Customer will provide to Seller such reasonable assistance as Seller may request. The cost of any such proceedings will be borne by Seller.
- 14 **INDEMNIFICATION.** Subject always to paragraph 8(c), (a) Customer shall indemnify, defend and hold harmless Seller and its affiliates from and against any Losses suffered or incurred by Seller and its affiliates arising out of or in connection with or on account of:

- (i) any damage to property or injury or death of persons caused by or arising out of or relating to Customer's (and/or any of Customer's employee's, agent's, affiliate's or customer's) distribution, storage, handling, use, or disposal of Goods, whether direct or indirect, actual or alleged, consequential or otherwise (other than so far as relates to death or personal injury caused by the Seller's negligence);
 - (ii) any recall, inspection, testing, replacement or correction of the Goods, whether required by governmental authority or otherwise, except to the extent due to the direct negligence of Seller;
 - (iii) the violation of any law, regulation, rule, order or restriction of any governmental authority resulting from or incident to the Goods, except to the extent due to the direct negligence of Seller;
 - (iv) any breach of the Agreement by Customer or any other breach of contract by Customer;
 - (v) any negligence or tortious acts or omissions of Customer (and/or any of Customer's employees, agents, affiliates and customers);
 - (vi) sales or other supplies made by Customer to third parties, or any use (whether by Customer or any other person) of the Goods; or
 - (vii) any modification or alteration of the Goods by Customer.
- (b) The provisions of paragraph 14(a) shall apply notwithstanding any actual or alleged defect or hazard inherent in the Goods or negligence of Seller, its agents, employees, vendors or subcontractors.
- 15 CONFIDENTIAL INFORMATION. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, employees, customers, clients or suppliers of the other party or of any affiliate of the other party except as permitted herein. Each party may disclose the other party's confidential information: (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement; and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. No party shall use any other party's confidential information for any purpose other than to perform its obligations under the Agreement.
- 16 DATA PROTECTION. (a) In the context of the sale of Goods, including quotations, offers, tenders and other pre-sale and post-sale activities, Seller will access and otherwise Process, as a Controller, Personal Data of certain Data Subjects (as each such capitalized term is defined in the General Data Protection Regulation (Regulation (EU) 2016/679)("GDPR")), namely the categories of Personal Data of the Data Subjects mentioned in the Privacy Notice set out at <http://www.nelipak.com/wp-content/uploads/2022/04/Nelipak-Netherlands-Privacy-Notice.pdf>, for Seller's own purposes there described.
- (b) Customer acknowledges that Seller may share the Personal Data with its affiliates, with suppliers that provide goods or services on Seller's behalf or help Seller provide the Goods to Customer as well as with other third parties as mentioned in the said Privacy Notice. Some of these recipients may be located outside the European Union, including in countries which do not provide an adequate level of protection for Personal Data within the meaning of the GDPR.
 - (c) Customer shall provide copy of the said Privacy Notice to the relevant Data Subjects on Seller's behalf and, to the extent advised by Seller, obtain all the necessary consents and authorizations for Seller to Process such Personal Data for the said purposes.
 - (d) Customer may receive Personal Data of Seller's employees in the context of a sale of Goods, including quotations, offers, tenders and other pre-sale and post-sale activities. Customer acknowledges that it is a Controller of that Personal Data within the meaning of the GDPR and warrants that it will comply with applicable data protection and privacy laws, including (without limitation) transparency requirements and be fully responsible and liable for any non-compliance.
- 17 DISTRIBUTORS; THIRD PARTY PURCHASERS. In the event Customer is a distributor of Seller's products or otherwise shall sell or deliver the Goods to any other party (a "Third Party Customer"), then Customer shall (a) deliver to such Third Party Customer these Terms and Conditions and all written specifications and inspection results which Seller shall have provided to Customer in respect to the Goods hereunder, including all disclaimers and limitations of liability, all of which shall govern any liability which Seller may have to such Third Party Customer; (b) not alter in any way Seller's specifications, inspection results, disclaimers and limitations of liability; and (c) indemnify, defend and hold Seller and its affiliates harmless from and against any Losses suffered or incurred by Seller arising out of or in connection with Customer's failure to comply with this paragraph 17, including attorneys' fees incurred by Seller. Notwithstanding anything herein to the contrary, (i) this paragraph 17 shall not create, or constitute Seller's acknowledgment of, any liability of Seller to any Third Party Customer, contractually or otherwise; and (ii) in the event that Customer and Seller

are now or hereafter parties to a written agreement concerning the distribution or resale of Seller's products and there is a conflict between these Terms and Conditions and such agreement, then such agreement shall be controlling as to the conflicting terms.

- 18 CANCELLATION, SUSPENSION OR MODIFICATION. The Agreement can be cancelled, suspended or modified only with Seller's written consent, and upon terms that will indemnify Seller and its affiliates against any Loss arising from such cancellation, suspension or modification.
- 19 EXPORTS. Customer agrees and acknowledges that the Goods are sold in accordance with U.S. Export Administration Regulations and all other applicable export laws and regulations. Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the destination country and in particular Customer shall be solely responsible for obtaining all import authorizations and paying any import duty. Customer agrees to ascertain and comply with all applicable export and re-export obligations and restrictions, including without limitation, U.S. and all other applicable export and re-export controls and economic sanctions regulations. U.S. and other applicable economic sanctions laws and regulations prohibit virtually all exports and re-exports of products to, and transactions with, certain countries, including without limitation, Cuba, North Korea, Iran, Sudan and Syria. Diversion of Goods contrary to U.S. law or any other applicable law is strictly prohibited. In addition, Customer will review and comply with any applicable national export compliance laws and regulations in Customer's home country that may impact the export or re-export of the Goods.
- 20 CUMULATIVE RIGHTS AND REMEDIES. Customer shall not be entitled to assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement without the prior written consent of Seller. The foregoing sentences excludes the transferability by Customer without Seller's consent within the meaning of article 3:83 (2) of the Dutch Civil Code (*sluiten de overdraagbaarheid uit*). Seller may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement. These Terms and Conditions shall be binding upon and inure to the benefit, as appropriate, of Seller and Customer as well as their respective successors and assigns. All rights of and remedies available to Seller hereunder shall be cumulative and in addition to all rights and remedies available to Seller under all applicable laws. No waiver of any right or remedy available to Seller in any instance shall constitute a waiver of any right or remedy subsequently.
- 21 ARBITRATION; APPLICABLE LAW. (a) Seller and Customer each agree that the Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of the Netherlands (excluding its conflict of law rules).
- (b) Each party irrevocably agrees that, subject to the provisions of paragraph 21(c), the courts of Amsterdam, the Netherlands shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement, its subject matter or formation, including non-contractual disputes or claims, or any question regarding its existence, validity or termination ("Dispute").
- (c) Notwithstanding paragraph 21(b) above, the parties agree that either party may, at its sole option (and regardless of whether such party is claimant or respondent), refer a Dispute, for final resolution, to arbitration administered by the Netherlands Arbitration Institute ("NAI") under its NAI Arbitration Rules 2015, which rules are deemed to be incorporated by reference into this paragraph. The number of arbitrators will be three. The seat, or legal place, of arbitration will be Amsterdam, the Netherlands and the language of the arbitral proceedings will be English. The governing law of this arbitration agreement will be the substantive law of the Netherlands. Nothing in this paragraph will affect any right either party may have to seek interim relief in a court of competent jurisdiction in the Netherlands. For the avoidance of doubt, the United Nations Convention on the International Sale of Goods shall not apply to the Agreement.
- 22 EXCLUSIVE TERMS. These Terms and Conditions and the Agreement, upon acceptance by Customer as aforesaid, constitute the final, complete and exclusive agreement between the Parties.
- 23 SEVERABILITY. (a) If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Agreement.
- (b) If any provision or part-provision of the Agreement is deemed deleted under paragraph 23(a), the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.