

# General terms & Conditions

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## 1. DEFINITION

These General Terms and Conditions are defined words and expressions which have the following meaning:

**Offer/Offers:** Every offer by Guillaume Janssen to conclude an Agreement

**Guillaume Janssen:** The private limited company Guillaume Janssen Nederland B.V. (Chamber of Commerce file number 05061620), with its registered office in Zwolle, being the user of the Terms and Conditions

**Services:** All (additional) services and/or work, technical or otherwise, of any nature whatsoever, performed by Guillaume Janssen, in the broadest sense

**Agreement:** All Agreements between the Parties concerning the sale/purchase and delivery of Goods by Guillaume Janssen to the Other Party and/or the provision of services by Guillaume Janssen to the Other Party

**Party/Parties:** Guillaume Janssen and the Other Party jointly or each of them individually;  
The general conditions applies to all our transactions which we deposited on the 10th of May 1995 at the chamber of commerce in Zwolle Netherlands ( 05045576 ) under number 2130. V.A.T. code: NL 008914072 B02.

**Goods:** All items of a tangible nature offered for sale or sold and delivered by Guillaume Janssen

**Terms and Conditions:** These General Terms and Conditions of sale and delivery of Guillaume Janssen

**Other party:** The natural and/or legal person or persons to whom Guillaume Janssen makes an Offer and/or with whom Guillaume Janssen concludes an Agreement.

## 2. APPLICABILITY

**2.1** These Terms and Conditions are applicable to all Offers and Agreements.

**2.2** If the Terms and Conditions have applied to any Agreement, they will automatically apply to any future agreement concluded between the Parties, without any separate agreement to this effect between the Parties being required, unless the Parties have expressly agreed otherwise in writing with respect to the relevant agreement.

**2.3** The applicability to any Agreement of any general or specific terms and conditions applied by the Other Party is expressly rejected by Guillaume Janssen, unless and after Guillaume Janssen has expressly declared in writing that the relevant terms and conditions apply to an Agreement. Under no circumstances does acceptance of the applicability of the Other Party's general terms and conditions to an Agreement result in the tacit applicability of these terms and conditions to any future Agreements.

**2.4** In case of invalidity or annulment by the Other Party of one or more provisions of the Terms and Conditions, the remaining provisions of the Terms and Conditions will continue to apply in full to the Agreement. The Parties will consult each other on replacing the invalid or voided provision of the Terms and Conditions by a provision which is valid and not voidable and which approaches the content and purport of the invalid or voided provision as much as possible.

**2.5** In so far as an Agreement deviates from one or more provisions of the Terms and Conditions, the provisions of the Agreement will prevail. The remaining provisions of the Terms and Conditions will in that case continue to apply to the Agreement.



### 3. OFFERS

**3.1** Unless expressly stated otherwise, an Offer is without obligation and is valid during the term stated in the Offer. If the Offer does not state a term for acceptance, the Offer will in any case lapse fourteen (14) days after the date stated in the Offer.

**3.2** An Offer accepted by the Other Party within the term of validity may be withdrawn by Guillaume Janssen within five (5) working days of the date of receipt of the acceptance by Guillaume Janssen, without this resulting in any obligation on the part of Guillaume Janssen to compensate the Other Party for any loss incurred by the latter as a result.

**3.3** Guillaume Janssen will confirm an assignment given by the Other Party by means of an order confirmation. If the Other Party does not object within fourteen (14) days of receipt of the order confirmation, the assignment as described in the order confirmation will be deemed accepted.

**3.4** If the Other Party provides Guillaume Janssen with information, drawings and suchlike for the purpose of making an Offer, Guillaume Janssen may assume that these are accurate and base its Offer on these documents. The Other Party indemnifies Guillaume Janssen against any third-party claims relating to the use of drawings and suchlike provided by or on behalf of the Other Party.

**3.5** If an Offer is made at the request of the Other Party and this Offer is not accepted, Guillaume Janssen will be entitled to charge the Other Party for all expenses incurred in connection with the Offer.

### 4. FORMATION OF AGREEMENTS

**4.1** With due observance of the other provisions contained in the Terms and Conditions, an Agreement will only be effected:

(a) by acceptance of the Offer by the Other Party;

(b) by a written order confirmation of an assignment given by the Other Party, either orally or in writing, other than on the basis of an Offer;

(c) by the actual performance by Guillaume Janssen of the Agreement.

**4.2** The Agreement replaces all previous proposals, correspondence, arrangements and other communication between the Parties that took place before concluding the Agreement, however much these may differ from or be in conflict with the Agreement.

**4.3** Alterations and/or additions to the Agreement will only be valid after they have been accepted by Guillaume Janssen in writing. Guillaume Janssen will not be obliged to accept any alterations and/or additions to an Agreement and is entitled to demand that a separate Agreement be concluded in this respect. Guillaume Janssen is authorized to charge any expenses incurred in connection with the alterations and/or additions to the Other Party.

**4.4** Undertakings by and agreements with employees or representatives of Guillaume Janssen are only binding on Guillaume Janssen vis-à-vis the Other Party in so far as Guillaume Janssen has acknowledged or confirmed these undertakings and/or agreements in writing to the Other Party.

**4.5** Guillaume Janssen is entitled to have the Agreement performed by third parties or to engage third parties for the delivery of specific Goods or the provision of specific Services



## 5. PRICES AND PAYMENT

**5.1** Prices stated in an Offer or Agreement are in euros and, unless explicitly stated otherwise, are exclusive of packaging, transport and delivery costs in the broadest sense and exclusive of turnover tax and/or any other government-imposed levies, of any nature whatsoever.

**5.2** If the Other Party places an Order with Guillaume Janssen without explicit agreement on a price, the Order will, irrespective of any Offers made or prices charged earlier, be carried out at the price applicable at the time of the performance of the Agreement.

**5.3** Guillaume Janssen will be entitled at all times, based on its assessment of the creditworthiness of the Other Party, to demand security or full or partial advance payment to ensure compliance with all payment obligations, whether due and payable or not. If and as long as the Other Party fails to provide security or to make a full or partial advance payment, Guillaume Janssen will be authorized to suspend its obligation to deliver.

**5.4** Payment must be made within thirty (30) days of the invoice date, unless agreed otherwise in writing. Payment must be made into the bank or giro accounts designated by Guillaume Janssen. The moment of payment will be deemed to be the moment at which Guillaume Janssen receives confirmation from its bank that the amount concerned has been credited to the account.

**5.5** If payment of an invoice has not been made in full within the stipulated period of time, the Other Party will immediately be in default by operation of law, without any further notice of default being required, and from the due date of the invoice concerned will be liable to pay interest of 2% per month, or the statutory commercial interest if this is higher, part of a month being counted as a full month. In addition, all extrajudicial collection costs will be payable by the Other Party, which costs are hereby set in advance by the Parties at a minimum of 15% of the outstanding claim, with a minimum of EUR 150, without prejudice to Guillaume Janssen's right to claim the actual extrajudicial collection costs if these are higher.

**5.6** If the Other Party is in default of payment of any invoice as referred to in Article 5.5, all other outstanding invoices will be immediately due and payable without notice of default being required.

**5.7** Payments made by the Other Party will be used first to settle costs and interest due, and then to settle the outstanding invoices which have remained unpaid the longest, even if the Other Party states that a particular payment is to settle a different invoice.

**5.8** Without prejudice to mandatory provisions, the Other Party does not have the right to suspend its payment obligations to Guillaume Janssen or set them off against payment obligations of Guillaume Janssen to the Other Party.

**5.9** Guillaume Janssen is entitled to set off all claims against the Other Party against any amounts owed by Guillaume Janssen to the Other Party or to natural persons or legal persons affiliated to the Other Party.

**5.10** All Guillaume Janssen's claims against the Other Party become due and payable immediately in the following cases:

- (a) if after the conclusion of the Agreement circumstances have come to Guillaume Janssen's attention that give it good reason to fear that the Other Party will not fulfil its obligations, which is entirely at Guillaume Janssen's discretion;
- (b) if on conclusion of the Agreement Guillaume Janssen asked the Other Party to provide security for the fulfilment as referred to in Article 5.3 and this security is not forthcoming or is insufficient;
- (c) in the event of the Other Party's liquidation or insolvency or if a moratorium is applied for or, in so far as the Other Party is a natural person, if the Debt Rescheduling (Natural Persons) Act is declared applicable.



## 6. PRICE CHANGE

**6.1** In the event that four (4) months have passed after the date on which the Agreement was concluded and Guillaume Janssen has not completed performance of the Agreement, an increase in one or more price determining factors may be charged to the Other Party, at the discretion of Guillaume Janssen. The price increase must be paid at the same time that the principal sum or last payment term is paid.

**6.2** If, however, the increased price which Guillaume Janssen wishes to charge as referred to in Article 6.1 has risen by more than ten per cent (10%) compared to the original price, the Other Party will be entitled to cancel the Agreement within seven (7) days of the notification of the price change, with the proviso that under no circumstances will Guillaume Janssen be obliged in that case to compensate the Other Party for any loss incurred as a result.

## 7. DELIVERY TIME

**7.1** The delivery time stated by Guillaume Janssen within the framework of an Agreement is always an indication and may therefore never be considered a strict deadline, unless explicitly agreed otherwise in writing between the Parties. Under no circumstances does exceeding an agreed delivery time give entitlement to compensation.

**7.2** The delivery time stated by Guillaume Janssen commences as soon as agreement has been reached on all details, including technical details, all necessary information and suchlike is in the possession of Guillaume Janssen and all conditions necessary for the performance of the Agreement have been met.

**7.3** When determining the delivery time Guillaume Janssen assumes that it will be able to perform the assignment in the circumstances existing at the time of concluding the Agreement.

**7.4** In the event of different circumstances to those known to Guillaume Janssen at the time of concluding the Agreement, Guillaume Janssen may extend the delivery time by the amount of time required to perform the Agreement in the changed circumstances. If, as a result of the above, any work cannot be fitted into Guillaume Janssen's schedule, it will be carried out or completed as soon as Guillaume Janssen's schedule permits.

**7.5** In case of a suspension of obligations by Guillaume Janssen on account of a shortcoming by the Other Party, the delivery time will be extended by the duration of the suspension. If, as a result of the above, any work cannot be fitted into Guillaume Janssen's schedule, it will be carried out or completed as soon as Guillaume Janssen's schedule permits.

**7.6** If an agreed delivery period for the Goods, or a delivery period that has been extended based on Articles 7.4 or 7.5 of these Terms and Conditions, has been exceeded, Guillaume Janssen will only be in default if it has received a written notice of default from the Other Party giving it one (1) month to deliver and still fails to comply within this period of time. In the event of termination, the Other Party will not be entitled to compensation unless such exceeding of this period of time is the result of intent or gross negligence on the part of the management of Guillaume Janssen and/or its managing employees.



## 8. TRANSPORT, RISK AND DELIVERY OF GOODS

**8.1** The risk of the Goods to be delivered to the Other Party will pass to it ex Guillaume Janssen's warehouse or the warehouse of any third party engaged by Guillaume Janssen (i.e. Ex Works, as included in the most recent version of ICC Incoterms). All Goods will at all times be transported at the risk of the Other Party. Unless the Other Party requests of Guillaume Janssen in good time that the Goods be insured during transport at the expense of the Other Party, the Goods will be transported uninsured by or on behalf of Guillaume Janssen.

**8.2** Unless the Parties have expressly agreed otherwise in writing, export and import duties, clearance charges, taxes and any other government levies relating to the transport and delivery of the Goods by Guillaume Janssen, of whatever nature, will be charged to the Other Party

**8.3** Guillaume Janssen has fulfilled its obligation to deliver by making the Goods available to the Other Party on the agreed date at its warehouse or at the warehouse of a third party engaged by Guillaume Janssen. The delivery document signed by or on behalf of the Other Party and/or the relevant appendices of the carrier will constitute conclusive proof of correct and undamaged delivery by Guillaume Janssen of the Goods stated in the delivery document and/or the relevant appendices.

**8.4** An offer for delivery by Guillaume Janssen to the Other Party of the Goods ordered will be considered equivalent to the delivery of these goods. If the Other Party refuses to accept the Goods offered for delivery, Guillaume Janssen will store the Goods concerned at a location to be decided by Guillaume Janssen for fifteen (15) working days from the date of offering. After the expiry of this period Guillaume Janssen will no longer be obliged to keep the goods available for the Other Party and will be entitled to sell the goods to a third party or to dispose of them in any other way. The Other Party will, however, remain obliged to comply with the Agreement by taking possession at Guillaume Janssen's request at the agreed price and is also obliged to compensate Guillaume Janssen for the loss arising from the Other Party's initial refusal to accept the Goods concerned, including storage and transport costs.

## 9. RETENTION OF TITLE AND RIGHT ON PLEDGE

**9.1** All Goods delivered will remain the exclusive property of Guillaume Janssen until such time as the Other Party has complied with all of its obligations arising from or in connection with the Agreement or Agreements, including claims relating to penalties, interest and costs.

**9.2** In the event that Goods are delivered to the Other Party in the territory of Germany, supplementary to the retention of title under Dutch law as referred to in Article 9.1, the following retention of title under German law (and in the German language) will also apply to the Goods concerned, if and in so far as they are located in German territory, with the proviso that for the remainder the Agreement is exclusively governed by Dutch law as referred to in Article 18:

- 1) Bis zur vollständigen Bezahlung aller unserer gegenwärtigen und künftigen Forderungen aus dem Kaufvertrag und einer laufenden Geschäftsbeziehung (gesicherte Forderungen) behalten wir uns das Eigentum an den verkauften Waren vor.
- 2) Die unter Eigentumsvorbehalt stehenden Waren dürfen vor vollständiger Bezahlung der gesicherten Forderungen weder an Dritte verpfändet, noch zur Sicherheit übereignet werden. Der Käufer hat uns unverzüglich schriftlich zu benachrichtigen, wenn und soweit Zugriffe Dritter auf die uns gehörenden Waren erfolgen.
- 3) Bei vertragswidrigem Verhalten des Käufers, insbesondere bei Nichtzahlung des fälligen Kaufpreises, sind wir berechtigt, nach den gesetzlichen Vorschriften vom Vertrag zurückzutreten oder/und die Ware auf Grund des Eigentumsvorbehalts heraus zu verlangen. Das Herausgabeverlangen beinhaltet nicht zugleich die Erklärung des Rücktritts; wir sind vielmehr berechtigt, lediglich die Ware heraus zu verlangen und uns den Rücktritt vorzubehalten. Zahlt der Käufer den fälligen Kaufpreis nicht, dürfen wir diese Rechte nur geltend machen, wenn wir dem Käufer zuvor erfolglos eine angemessene Frist zur Zahlung gesetzt haben oder eine derartige Fristsetzung nach den gesetzlichen Vorschriften entbehrlich ist.



4) Der Käufer ist befugt, die unter Eigentumsvorbehalt stehenden Waren im ordnungsgemäßen Geschäftsgang weiter zu veräußern und/oder zu verarbeiten. In diesem Fall gelten ergänzend die nachfolgenden Bestimmungen:

I. Der Eigentumsvorbehalt erstreckt sich auf die durch Verarbeitung, Vermischung oder Verbindung unserer Waren entstehenden Erzeugnisse zu deren vollem Wert, wobei wir als Hersteller gelten. Bleibt bei einer Verarbeitung, Vermischung oder Verbindung mit Waren Dritter deren Eigentumsrecht bestehen, so erwerben wir Miteigentum im Verhältnis der Rechnungswerte der verarbeiteten, vermischten oder verbundenen Waren. Im Übrigen gilt für das entstehende Erzeugnis das Gleiche wie für die unter Eigentumsvorbehalt gelieferte Ware.

II. Die aus dem Weiterverkauf der Ware oder des Erzeugnisses entstehenden Forderungen gegen Dritte tritt der Käufer schon jetzt insgesamt bzw. in Höhe unseres etwaigen Miteigentumsanteils gemäß vorstehendem Absatz zur Sicherheit an uns ab. Wir nehmen die Abtretung an. Die in Abs2 genannten Pflichten des Käufers gelten auch in Ansehung der abgetretenen Forderungen.

III. Zur Einziehung der Forderung bleibt der Käufer neben uns ermächtigt. Wir verpflichten uns, die Forderung nicht einzuziehen, solange der Käufer seinen Zahlungsverpflichtungen uns gegenüber nachkommt, nicht in Zahlungsverzug gerät, kein Antrag auf Eröffnung eines Insolvenzverfahrens gestellt ist und kein sonstiger Mangel seiner Leistungsfähigkeit vorliegt. Ist dies aber der Fall, so können wir verlangen, dass der Käufer uns die abgetretenen Forderungen und deren Schuldner bekannt gibt, alle zum Einzug erforderlichen Angaben macht, die dazugehörigen Unterlagen aushändigt und den Schuldner (Dritten) die Abtretung mitteilt.

IV. Übersteigt der realisierbare Wert der Sicherheiten unsere Forderungen um mehr als 10%, werden wir auf Verlangen des Käufers Sicherheiten nach unserer Wahl freigeben.

**9.3** Goods delivered by Guillaume Janssen that are subject to retention of title on the basis of Article 9.1 or Article 9.2 may only be sold on or processed as part of the ordinary business operations of the Other Party, under the condition, however, that the Other Party pays the price due for the Goods concerned to Guillaume Janssen in advance. The Other Party is furthermore not permitted to pledge or establish any other restricted right on Goods subject to retention of title.

**9.4** After Guillaume Janssen has invoked its retention of title, it will be entitled to recover the Goods delivered. The Other party must allow Guillaume Janssen to access the premises where the Goods are stored.

**9.5** The Other Party undertakes:

(a) to insure the Goods delivered subject to retention of title and to keep them insured against damage caused by fire, explosion or water, and against theft until they become the property of the Other Party, and to make the insurance policy and the premium receipts available for inspection;

(b) to pledge all claims of the Other Party against the insurer with respect to the Goods subject to retention of title to Guillaume Janssen in the manner prescribed in Section 239 of Book 3 of the Dutch Civil Code, or in an equivalent provision under the laws of Germany as referred to in Article 9.2;

(c) to mark the Goods delivered subject to retention of title as the property of Guillaume Janssen;

(d) to cooperate in other ways in taking all reasonable measures that Guillaume Janssen wishes to take in order to protect its proprietary rights to the Goods and that do not unreasonably interfere with the Other Party's normal business operations.

**9.6** If Guillaume Janssen cannot invoke its retention of title because the Goods delivered have been mixed, deformed or become a constituent element of other goods, the Other Party will be obliged to pledge the resulting new goods to Guillaume Janssen or mortgage them.





## 10. GUARANTEE

**10.1** Guillaume Janssen will guarantee the soundness of the operating systems delivered by it for a period of one year and the soundness of the other Goods delivered by it for a period of two years.

**10.2** If the Other Party makes a claim under the guarantee within the term stated in Article 10.1, Guillaume Janssen will have the choice to either repair or replace the Goods delivered. At the request of Guillaume Janssen the Other Party will be obliged to return the faulty Goods carriage paid to Guillaume Janssen. These General Conditions will be applicable to all work to be carried out by Guillaume Janssen under the guarantee.

**10.3** The guarantee on Goods does not apply to normal wear and tear, improper use, incorrect maintenance or external causes, at the discretion of Guillaume Janssen. Guarantee on screen fabric will only be given on the basis of the manufacture. Discolouring, waviness (10.4) and creases, fold lines and rubbing marks (10.4) are explicitly excluded. Furthermore, Goods advertised using the term 'blackout' never fully black out the light and Guillaume Janssen provides no guarantee for such statements, nor does it accept any claims concerning non-conformity on this basis.

**10.4** Creases, fold lines and rubbing marks and Waviness, as referred to in Article 10.3 are defined by Guillaume Janssen as follows.

-Creases, fold lines and rubbing marks occur during manufacture, assembly, installation of the screen fabric or during use afterwards. In places where the fabric is folded or creased dark lines may become visible, resembling pencil lines (particularly visible in the case of light colours) or light-coloured lines resembling chalk lines (particularly visible in the case of dark colours).  
-Waviness may occur in the seams or edges, or in the centre of the fabric. The double thickness on the seams results in different diameters when rolling up the fabric. The tension created by the awning arms, the weight, the drooping of the roller tube or the width of the fabric may increase this effect even further. This effect may also occur during heavy rainfall, when water pooling occurs in the fabric due to the weight of the water.

**10.5** The Other Party cannot make a claim under the guarantee referred to in this article if it has carried out repairs or other work to the Goods delivered without the permission of Guillaume Janssen.

**10.6** Guillaume Janssen is entitled to charge costs for repair works if during the work it becomes apparent that the work is not covered by the guarantee.

**10.7** The Other Party is only entitled to make a claim under the guarantee if it has fulfilled all its obligations, financial or otherwise, towards Guillaume Janssen.

## 11. COMPLAINT PERIOD

**11.1** The other party is obliged to check by Guillaume Janssen Products and / or Services performed immediately after (in) delivery for visible defects. When visible defects should the other party to do so within a period of eight (8) days after the date of delivery in writing and motivated them to Guillaume Janssen notice, failing which it shall be deemed delivered to be accepted.

**11.2** Other defects Products and / or Services to within eight (8) days of discovery Be it after they were reasonably explore, be notified in writing and motivated to Guillaume Janssen, failing which it shall be deemed delivered to be accepted.

**11.3** If parties cannot agree on whether there is a defect, an independent expert will be engaged. The expert will be appointed in consultation with the other party by Guillaume Janssen. These costs are borne by the (largely), the unsuccessful party, unless otherwise agreed.

**11.4** Complaints of any nature whatsoever relating to the performance of the Agreement by Guillaume Janssen do not suspend the Other Party's payment obligation and may only be communicated to Guillaume Janssen in writing.

**11.5** No obligation whatsoever rests on Guillaume Janssen concerning a complaint submitted if the Other Party has not fulfilled all its obligations towards Guillaume Janssen (both financial and otherwise) in time and in full.

**11.6** A complaint concerning the Goods delivered and/or Services provided by Guillaume Janssen cannot affect Goods delivered and/or Services provided earlier or yet to be delivered and/or provided, even if these have been or will be delivered and/or provided in the performance of the same Agreement.

## 12. EXPIRY PERIOD

**12.1** Legal actions and other powers of the Other Party, for whatever reason, with respect to Guillaume Janssen in connection with the Goods delivered and Services provided will lapse after twelve (12) months following the date on which the Other Party became aware or could reasonably be aware of the existence of these rights and powers, but has not lodged a written claim with Guillaume Janssen on this basis before the expiry of this period.

**12.2** If within the period stated in Article 11.1 a written claim has been lodged by the Other Party with Guillaume Janssen in connection with Goods delivered and/or Services provided by Guillaume Janssen, any legal action of the Other Party in this respect will also lapse if no lawsuit has been brought against Guillaume Janssen before the competent court pursuant to Article 18 of the Terms and Conditions within a term of four (4) months after receiving the relevant written claim.

## 13. TERMINATION

**13.1** Guillaume Janssen has the right to terminate all or part of the Agreement without being obliged to pay compensation to the Other Party if:

Guillaume Janssen has declared the Other Party to be in default and has given it a term of at least five (5) days in the event that:

(a) the Other Party does not fulfil one of the obligations under the Agreement, or does not fulfil it promptly or properly; In all other cases without a notice of default on the part of Guillaume Janssen being required, including if: (b) The Other Party is granted a moratorium or has applied for a moratorium; (c) the Other Party has been declared insolvent, or a winding-up petition is filed against or by the Other Party; (d) in so far as the Other Party is a natural person, the Debt Rescheduling (Natural Persons) Act has been declared applicable to the Other Party or a request to that effect has been submitted; (e) a third party levies a prejudgment attachment or attachment in execution on the Other Party's assets; (f) the Other Party is a legal person and the legal person is dissolved or, if the Other Party is a natural person, the Other Party dies or is no longer able to operate his business; (g) other circumstances arise which endanger Guillaume Janssen's recovery options, entirely at Guillaume Janssen's discretion.

**13.2** If the Agreement is dissolved on one or more of the grounds referred to above in Article 13.1, Guillaume Janssen will be entitled to compensation from the Other Party for any financial loss incurred by it.



## 14. LIABILITY AND COMPENSATION

**14.1** Guillaume Janssen will only be liable towards the Other Party for loss incurred by it as a direct consequence (i.e. direct loss) of gross negligence or intent on the part of Guillaume Janssen.

**14.2** Guillaume Janssen is under no circumstances liable for:

- (a) indirect loss, including but not limited to trading loss, consequential loss or loss due to delays incurred by the Other Party (including business disruption, loss of income etc.), through whatever cause. The Other Party is required to take out insurance if necessary to cover such loss;
- (b) loss arising through the actions or omissions of the Other Party or third parties in breach of the instructions given by Guillaume Janssen or in contravention of the Agreement and the Terms and Conditions;
- (c) loss of any nature, incurred because or after the Other Party has put the goods delivered into use, processed them, delivered them to third parties or arranged for them to be used, processed or delivered to third parties;
- (d) loss caused by actions and/or omissions of third parties, including auxiliary persons engaged by Guillaume Janssen.

**14.3** If and in so far as Guillaume Janssen should be liable for loss incurred by the Other Party, this liability will always be limited to 50% of the invoice amount excluding VAT with respect to the Goods delivered and/or Services provided as acknowledged and paid out by the insurer of Guillaume Janssen under a liability insurance policy based on a loss report, increased by any excess of Guillaume Janssen under this insurance policy. For the purposes of this article, a series of connected loss-causing events will count as one event/claim.

**14.4** If at the time of the loss Guillaume Janssen does not have liability insurance as referred to in Article 14.3 or no payment is made under any liability insurance policy for whatever reason, Guillaume Janssen's liability will always be limited to 50% of the invoice amount excluding VAT with respect to the Goods delivered and/or Services provided to which Guillaume Janssen's liability relates.

**14.5** The restrictions and/or exclusions of liability included in Articles 14.1 to 14.4 also apply to personnel of Guillaume Janssen and the auxiliary persons engaged by Guillaume Janssen in the performance of the Agreement.

## 15. FORCE MAJEURE

**15.1** Force majeure means a shortcoming in the performance of an Agreement which cannot be attributed to Guillaume Janssen.

**15.2** Force majeure as referred to in Article 15.1 includes in any case – therefore not exclusively – shortcomings as a result of: (a) failures of and/or serious disruptions to the production process at suppliers of Guillaume Janssen, including utility companies; (b) failure by third parties to deliver the necessary materials; (c) wilful misconduct or gross negligence of auxiliary persons; (d) strikes; (e) excessive sickness absence of Guillaume Janssen's personnel; (f) fire; (g) special weather conditions (such as floods); (h) government measures (both national and at European level), including import and export prohibitions and impediments; (i) war, mobilization, disturbances, riots, state of siege; (j) sabotage; (k) traffic congestion; (l) machinery breakdown.

**15.3** In the case of force majeure, Guillaume Janssen has the choice of either suspending the performance of the Agreement until the situation of force majeure has ceased to exist or, whether or not having originally chosen to suspend performance, to terminate the Agreement in full or in part. In either case the Other Party will not be entitled to any compensation. If the period in which Guillaume Janssen is unable to comply with its obligations for reasons of force majeure is longer than thirty (30) days, the Other Party will also be entitled to terminate part of the Agreement (with respect to the future), with the proviso that Guillaume Janssen, in accordance with Article 15.4, will be entitled to send an invoice for the work already performed. In case of partial termination there will be no obligation to compensate for loss, if any.

**15.4** If Guillaume Janssen has met its obligations in part at the time the force majeure occurs or can only partially comply with its obligations, it will be entitled to invoice that part separately. The Other Party will be required to pay this invoice as if it were a separate Agreement.

## 16. CONFIDENTIALITY

**16.1** Both Parties are bound not to disclose any confidential information they have acquired from each other or from some other source within the context of their Agreement. Information is to be regarded as confidential if a party has stated that it is confidential or if it is obvious from the nature of the information that it is confidential.

**16.2** If Guillaume Janssen is obliged, by virtue of a statutory provision or a judicial ruling, to disclose confidential information to third parties designated by the law or a competent court and Guillaume Janssen is unable to claim a right of non-disclosure recognized or granted by the competent court in such a case, then Guillaume Janssen will not be obliged to pay any damages or compensation and the Other Party will not be entitled to terminate the Agreement.

## 17. INTELLECTUAL PROPERTY RIGHTS

**17.1** Unless agreed otherwise, Guillaume Janssen will retain all copyrights and all industrial property rights to the offers made by it, or to the images, drawings, models, trial models, software and suchlike provided.

**17.2** The rights to the items referred to in Article 17.1 will remain Guillaume Janssen's property, regardless of whether costs were charged to the Other Party for the manufacturing. The Other Party is not permitted to copy, use or show these items to

## 18. APPLICABLE LAW AND COMPETENT COURT

**18.1** All Agreements concluded by Guillaume Janssen are exclusively governed by Dutch law. The Vienna Sales Convention (CISG) is explicitly not applicable.

**18.2** Any disputes between the Parties will exclusively be settled by the District Court of Overijssel, Zwolle location.





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