

GENERAL TERMS AND CONDITIONS of BENGglas B.V.

GENERAL TERMS AND CONDITIONS BENGglas B.V.

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GENERAL TERMS AND CONDITIONS BENGglas B.V.

BENGglas

BENG refers to BENGglas B.V., registered at Fabriekstraat 73, 5051HN Goirle, and listed in the trade register with Chamber of Commerce number 90485610. We also operate under various trade names, including:

BENGproducts, BENGglas, BENGsolar, Sirius Solar, and Sirius Solar Consultancy.

Our Activities:

Sector 41 Wholesale I

Employees

These are the natural persons employed by BENG and/or third parties engaged by BENG, who are deployed by and under the responsibility of BENG and/or these third parties for the performance of an Agreement.

Client

The natural or legal person on whose behalf BENG or its Partners supply Goods, provide services, and/or carry out work, such as Installation. The Client is also the party who agrees to bear the costs incurred by BENG for carrying out work necessary to prepare a responsible Quotation.

Quotation

A Quotation is an offer to enter into an Agreement.

Agreement

The Agreement entered into between BENG and the Client for the supply of Goods and/or services and/or the performance of work, of any nature or designation.

Goods

Goods are all objects that can be physically controlled, such as hardware, whether or not installed solar panels, glass products, installation systems, materials, and the like. Software is not considered a Good and is governed by copyright or intellectual property law.

Items

Items include both tangible objects and property rights. The term "Items" is broader than "Goods." In these General Terms and Conditions, Items also include data, usernames, passwords, codes, documents, concepts, software, data files, drawings, designs, inventions, photographic recordings, images, films, information carriers, and the like.

Delivery

Delivery is the act by which BENG fulfills its obligation to hand over Goods. In accordance with the provisions of Article 19 regarding retention of title, and when it concerns the delivery of a personal, non-exclusive right of use that is non-transferable to third parties (such as copyright and intellectual property), delivery does not need to intend or result in a transfer of ownership.

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Partner

A third party that performs work on behalf of BENG, which is part of or results from an Agreement between BENG and the Client.

Installation

Installation refers to the placement, assembly, installation, and, if necessary, connection of Goods in such a way that the optimal result is achieved under the given circumstances.

Written

Written communication also includes digital communication, carried out by the authorized persons and in the manner and via the medium as mutually agreed upon by the parties.

Article 1. Applicability of the General Terms and Conditions

1.1.

These General Terms and Conditions apply to all Quotations and Agreements between BENG and the Client.

1.2.

Any general, purchasing, or other terms and conditions of the Client do not apply.

1.3.

Deviations from the provisions in these General Terms and Conditions or any Agreements can only be made in writing.

1.4.

If one or more provisions of these General Terms and Conditions or an Agreement are void or nullified, the remaining provisions of these General Terms and the Agreement will remain in effect. In such cases, we will consult with the Client to agree on new provisions to replace the void or nullified provisions, while attempting to preserve the original intent as much as possible.

1.5.

BENG reserves the right to amend these General Terms and Conditions at any time. Amendments will take effect one calendar month after written notification to the Client. If the Client does not agree with these changes, the Client must notify BENG in a timely manner, before the effective date. In that case, the original General Terms and Conditions will remain in force for the duration of any existing Agreements with that Client.

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1.6.

Once the applicability of these General Terms and Conditions has been agreed upon between the parties, these General Terms and Conditions shall also apply to all future Agreements with the Client. This does not affect the provisions in section 1.5.

1.7.

BENG works with separate and combined Agreements for the various services to be provided, work to be performed, and/or Goods to be supplied. This includes (combinations of) the following topics:

- Service provision
- Consultancy and (preliminary) research
- Sale of standard products/projects/solutions
- Sale of custom products/projects/solutions
- Installation work
- Duration Agreements

1.8.

If the provisions of an Agreement conflict with these General Terms and Conditions, the provisions in the relevant Agreement shall prevail. No conflict exists if these General Terms and Conditions provide a solution for a subject not addressed in the relevant Agreement.

1.9.

A shortened version of these General Terms and Conditions is available. No rights can be derived from the content of that shortened version.

Article 2. Quotations

2.1.

BENG reserves the right to charge the Client or the party who requested BENG to perform related work for the reasonable costs incurred in the preparation of Quotations, such as calculations, drawings, etc. This applies regardless of whether an Agreement is established based on a Quotation. BENG will always inform the Client of this in advance.

2.2.

All Quotations are non-binding unless otherwise agreed in writing, are as accurate as possible, and are based on the specifications provided by or on behalf of the Client during the request. The Client is responsible for the accuracy and completeness of the information provided to BENG by or on their behalf.

2.3.

Quotations are valid for a period of two calendar months, unless a different period is specified in the Quotation.

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BENG reserves the right to change its prices during this period if market conditions and/or government measures warrant such changes.

2.4.

Quotations do not automatically apply to future orders.

2.5.

Information, images, (technical) drawings, dimensions, weights, colors, specifications, etc., provided in documents from both BENG and third parties, as well as verbal communications regarding Quotations and characteristics of products or services provided to the Client, are presented as accurately as possible but are indicative in nature. They provide a general representation to the Client and do not bind BENG.

2.6.

Displayed materials are considered samples and may differ in quality of structure, dimensions, appearance, or color from the materials to be supplied. The mentioned dimensions are always indicative and may differ from the actual measurements. Minor deviations in color, surface, quality, structure, yield, efficiency, and functioning of systems and/or measurements cannot serve as grounds for termination and/or compensation.

2.7.

All advice, communications, and statements provided by BENG regarding the expected applications of products supplied by BENG are non-binding and are provided solely as non-binding information.

Article 3. Order Confirmations and Agreements

3.1.

The Client must provide BENG with sufficient information in advance and will, at BENG's request, supply additional information that is reasonably considered relevant for the execution of the Agreement.

3.2.

Specifications provided by the Client or by BENG are only valid if included in the order confirmation or Agreement. The Client is responsible for the accuracy of the information and (technical) drawings provided by them.

3.3.

An order confirmation or Agreement must include all information related to the order as it will be executed. The Client is required to review the order confirmation immediately and to report any inaccuracies in writing within three working days of the date of dispatch.

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If such a notification is not made within this period, the Client is no longer entitled to raise any objections later, for any reason.

3.4.

An Agreement or a modification of an Agreement is only established by:

- a) the written or digital acceptance by BENG of a written or digital order from the Client, or
- b) the legally valid signing of an order confirmation or Agreement by both parties.

3.5.

BENG has the right to perform an Agreement in parts and to invoice the Client for each partial delivery. Each partial delivery is considered a separate delivery under these General Terms and Conditions.

3.6.

If the delivery is to take place outside the Netherlands, the Client must inform BENG of any existing mandatory legal regulations in the country of delivery before entering into the Agreement. BENG accepts no liability if the Client fails to provide timely information.

3.7.

Obvious errors or mistakes in Quotations, order confirmations, and/or Agreements do not bind BENG; in such cases, BENG may always use the logically intended text or the intended numbers, values, and/or amounts.

3.8.

If it becomes apparent after the conclusion of the Agreement that it is necessary to modify or supplement the content of the assignment for proper execution, the parties shall inform each other. If this reasonably leads to a change in the agreed price and/or execution period, and such changes are not due to attributable causes to BENG, the Client must accept these changes, and BENG will confirm these changes in the manner prescribed in section 3.4.

3.9.

Communications, including commitments or (further) agreements, from one party to the other that are relevant for the execution of the Agreement bind a party only if they have been made or confirmed in writing by an authorized person.

Article 4. Duration of Agreements

4.1.

If an Agreement is a duration Agreement, it is established for the duration agreed upon by the parties. If no duration is specified, the duration shall be one year.

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4.2.

A duration Agreement is automatically extended for the duration of the original period unless one of the parties terminates the Agreement in writing, observing a notice period of one calendar month before the end of the current period.

4.3.

The rates or prices for duration Agreements that do not provide for a method of price adjustments may be revised by BENG during the term. These changes will be communicated to the Client at least one calendar month before they take effect. The Client then has the right to terminate the Agreement as of the date the increase takes effect.

4.4.

If a duration Agreement is concluded for an indefinite period, it may be terminated by either party. The termination of the Agreement must be done in writing. If no express notice period has been agreed upon between the parties, a notice period of one calendar month must be observed. In case of termination in accordance with this provision, neither party is liable for any damages.

Article 5. Pricing, Invoicing, and Payment

5.1.

All prices are always based on the factory prices, material prices, taxes, etc., applicable on the date of the quotation and are stated in Euros, excluding VAT and any other government levies.

5.2.

Price changes after the conclusion of the Agreement may only occur due to government measures and/or in the event of unforeseen and significant (market) circumstances that reasonably prevent BENG from maintaining the price. This provision also applies if BENG has engaged Partners for the execution of an Agreement, and those Partners have had to increase their prices due to the aforementioned measures and/or circumstances.

5.3.

Additional work will be reported to the Client in a timely manner, billed separately, and will only be eligible for compensation after written approval from the Client.

5.4.

Unless otherwise agreed in writing, transportation costs, transport insurance, and, if applicable, import duties and/or export duties are always the responsibility of the Client.

5.5.

All reasonably incurred direct and indirect costs of delays or hold-ups in the preparation, production, or delivery of products or projects, arising from the untimely receipt of instructions, data, or cooperation from the Client, will be borne by the Client.

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5.6.

BENG will invoice in the manner prescribed in the Agreement.

5.7.

BENG sends invoices electronically so that they can be processed electronically by the Client.

5.8.

The amounts owed by the Client must be paid in Euros according to the agreed payment terms. The Client is not entitled to suspend any payment and/or to set off amounts due. The Client is also not entitled to place a lien against itself to the detriment of BENG.

5.9.

If no payment term has been agreed upon, a payment term of thirty days after the invoice date applies.

5.10.

If the Client consists of multiple natural and/or legal persons according to the Agreement concluded between the parties, each of those persons is jointly and severally liable for the fulfillment of the Agreement.

5.11.

If the Client fails to pay the amounts owed within the agreed period, BENG will send a reminder requesting payment within eight days. If the Client still does not pay, the Client will be in default by operation of law, without any further notice of default being required. In that case, BENG has all the rights referred to in Article 18.

5.12.

In the event of default due to missing payment(s), BENG may suspend its services, work, and deliveries until all payment obligations are fulfilled. This is without prejudice to the Client's right to terminate the Agreement with immediate effect. All other claims of BENG against the Client will then also become immediately due and payable. This does not affect the other rights referred to in Article 18.

5.13.

If the Client believes that the amounts invoiced are incorrect, the Client must notify BENG of its objections in writing within two weeks of the invoice date. If the Client fails to communicate its objections in a timely and written manner, it will be deemed to have agreed to the amounts charged, and the objections will no longer be considered.

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5.14.

Objections to the amount of an invoice do not suspend the payment obligation.

Article 6. Security and Advances

6.1.

If BENG has reasonable grounds to fear that the Client will not (be able to) fulfill its obligations under the Agreement at any time, BENG is entitled to suspend the fulfillment of its obligations until the Client has provided sufficient security for the fulfillment of all its obligations under the Agreement. BENG will provide the Client with a reasonable period to provide the required security.

6.2.

Once the period set by BENG for providing security has expired, the Client will be in default by operation of law, and BENG may terminate the Agreement without judicial intervention and with immediate effect by means of a written declaration, without prejudice to other grounds for termination specified in these terms and conditions and without prejudice to BENG's right to full compensation for damages.

Article 7. Modifications or Cancellation of the Order

7.1.

Changes of any kind to the original order can only be made by or on behalf of the Client with the written consent of BENG. Any additional costs associated with such changes shall be borne by the Client.

7.2.

In the event of cancellation, the Client is obliged to reimburse all costs already incurred for the execution of the order, such as preparation costs, drawings, storage, (material) purchases, and similar costs, without prejudice to BENG's right to full compensation for damages.

7.3.

Changes to or cancellation of an order are not possible if it concerns Goods that are not part of BENG's standard inventory. Likewise, it is not possible if the Goods in question have already undergone a modification or have been shipped to the Client.

7.4.

The execution of urgent changes to a previously submitted order, given verbally and/or by phone, is entirely at the expense and risk of the Client.

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7.5.

Changing an already submitted order may result in modifications to the originally agreed delivery times and prices/tariffs, in which case the provisions of Article 10 of these terms and conditions shall apply in full.

Article 8. Outsourcing to Partners, Third-Party Products

8.1.

BENG has the right, if deemed desirable or necessary, to have certain work arising from an Agreement with the Client performed by a Partner. A Partner then fully replaces BENG for the proper execution of that part of the Agreement, including warranty responsibilities.

8.2.

In the case of products manufactured by third parties, or components of products and/or installation, BENG is only to be considered a distributor to the Client. This means that the Client can only rely on the warranties issued by the relevant third party, Partner, or manufacturer/supplier.

8.3.

At the Client's first request, BENG will provide the warranty statements from the Partners, third parties (or manufacturers/suppliers) referred to in this Article.

8.4.

In the event of a damage claim, BENG will endeavor to mediate between the Client and the Partners or third parties referred to in this Article, without being obligated to provide any compensation itself.

Article 9. Permits

9.1.

To the extent that either party requires a permit for the execution of the Agreement under any national or international regulations, that party is responsible for obtaining and maintaining such a permit.

9.2.

The parties shall immediately notify each other of anything that, in their opinion, violates or may violate such a permit.

Article 10. Delivery

If a delivery time has been agreed upon, this period starts running from the moment all of the

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following conditions have been fully met:

- a) BENG has sent the signed order confirmation in accordance with Article 3;
- b) All necessary data for the execution from the Client has been received by BENG;
- c) All required formalities have been fulfilled by the Client; and
- d) If agreed, BENG has received the initial payment.

10.2.

The delivery times indicated by BENG are always non-binding and are only approximate; they are never considered as fatal deadlines as referred to in the law. Exceeding the delivery time, for any reason, does not entitle the Client to compensation, cancellation of the Agreement, or non-fulfillment of any obligation arising from the Agreement, unless there is intent or gross negligence on the part of BENG; errors by employees or third parties engaged by BENG are not included in this.

10.3.

Any delay in the execution of the Agreement, for any reason—including causes related to BENG's personnel or suppliers—automatically leads to an extension of the indicated delivery time by as many days as the delay has lasted.

10.4.

Postponement of delivery at the request of the Client can only occur with the written consent of BENG. Any costs and losses incurred by BENG as a result of a postponement will be borne by the Client.

10.5.

The place of delivery is the location specified in the Agreement. Transport to this location is always carried out by or on behalf of BENG, using BENG's own transport means and/or those of third parties, unless otherwise agreed in writing. The risk transfers to the Client from the moment of delivery at the location.

10.6.

If no place of delivery is specified, deliveries will be made 'ex-warehouse,' meaning from the location from which BENG delivers on behalf of itself. The risk for the products transfers to the Client as soon as they are loaded onto the vehicle provided by or on behalf of the Client.

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10.7.

In case of delivery on call, the risk transfers to the Client as soon as the goods are stored for the Client. The Client is required to accurately provide delivery times and quantities in consultation with BENG in writing within fourteen days after the conclusion of the Agreement. If such a submission for the total quantity is not made, BENG is entitled to invoice all products, which will be stored at the Client's expense. In this case, BENG is not liable to the Client for any damage or other losses.

10.8.

For orders to be delivered outside the Netherlands, the 'ex-works' clause, as defined in Incoterms 2000, applies. This means that the products will be ready for collection by the Client at a specified time, unless a different arrangement for transportation has been made in writing.

10.9.

The Client must notify BENG in writing at least ten working days before a planned delivery date of any changes to the place/location of delivery. Any additional costs incurred due to the change of delivery location will be borne by the Client.

Article 11. Installation

11.1.

If assembly by BENG has been agreed upon, it will typically be carried out by a Partner of BENG.

11.2.

Before the commencement of work, the Client must ensure the proper and timely realization of the arrangements, facilities, and/or conditions necessary to begin the assembly work.

11.3.

Without prejudice to the above, the Client shall, at its own expense and risk, ensure that:

- The Partners and/or their personnel have access to the installation site upon arrival and can commence and continue work during normal working hours, and furthermore, if BENG or its Partner deems it necessary, outside normal working hours, provided that this is communicated to the Client in advance.
- The access routes to the installation site are suitable for the required transport.
- The designated installation site is suitable for storage and assembly

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- All necessary safety and precautionary measures in accordance with applicable (government) regulations are taken and maintained.
- A declaration is provided to BENG in advance by the Client stating that there is no asbestos present at the location where the assembly work is to be carried out.
- The Partners and/or their personnel have access to the connection for the energy required for the installation work at the location.
- Adequate hygienic toilet facilities are provided and maintained.

11.4.

The Client must ensure that any work and/or deliveries performed by others, which do not fall within the assembly/installation activities of BENG or its Partners, are carried out in such a way and at such times that the execution of the work by or on behalf of BENG is not delayed. If any delay occurs as defined in this section, the Client shall timely inform BENG and its Partners about it.

11.5.

Any damage and costs arising from failure to comply with the conditions set out in this Article, whether not timely or not correctly fulfilled, shall always be borne by the Client.

11.6.

In addition to the other provisions in these General Terms and Conditions, the Client assumes the risk for damage caused by:

- Defects in the (immovable) property where the work is being performed.
- Unsuitability of the (immovable) property for the intended installation and/or assembly, for example, due to insufficient load-bearing capacity or unsuitability of the roof, facade, or roofing.

Article 12. Transfer of Risk

12.1.

The risk of loss, theft, misappropriation, or damage to Goods that are manufactured, delivered, or used under the Agreement shall, without prejudice to the provisions in Articles 10 and 11, transfer to the Client at the moment these Goods are brought into the actual control of the Client or a person or location designated by the Client.

12.2.

The Client is liable for loss, theft, and any other damage to the items, tools, etc., that BENG and/or its Partners use, install, or store during the execution of work at the Client's premises. This includes damage caused by imperfections, deficiencies, etc., at the work site.

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Article 13. Packaging and Packaging Materials

13.1.

The packaging of the products to be delivered is designed for shipment under normal conditions. Extra costs incurred due to higher or different packaging requirements from the Client will be borne by the Client.

13.2.

Pallets and containers remain the property of BENG at all times. The Client must report these as empty within four weeks after delivery, after which they will be collected by BENG. If the empty report is not made in time, a rental fee of €10 per item per week will apply after four weeks. In case of loss or disappearance, the then-applicable cost price will be charged to the Client.

Article 14. Acceptance of Installation

14.1.

The Client must inspect all completed assembly work within a reasonable period appropriate for the delivered items, but in any case within fourteen days.

14.2.

The Client must inform BENG within the term mentioned in section 14.1 whether the delivered work is accepted or in accordance with the agreed intended result. This can be an explicit communication intended for that purpose, and if necessary due to the nature and composition of the delivered work, accompanied by a test report.

14.3.

Acceptance also includes the acceptance of the agreed accompanying documentation.

14.4.

If the Client is unable to inform BENG within the acceptance period specified in section 14.1, they must notify BENG before the acceptance period expires, stating the reasons and the reasonable additional period within which they will still inform BENG whether the delivered work is accepted.

14.5.

In the absence of any communication as referred to in section 14.2, or if the additional acceptance period mentioned in section 14.4 expires without further notification from the Client, the delivered work will be deemed accepted by the Client.

14.6.

In the event that the Client identifies one or more defects, they must inform BENG precisely and in detail about these defects.

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BENG will rectify these defects within a reasonable period that depends on the nature of the defects. Following the completion of the rectifications, the provisions outlined in sections 14.1 to 14.5 will apply again.

14.7.

Defects as referred to in section 14.6 that occur after acceptance shall be considered and treated as warranty claims in accordance with the provisions of Article 15.

14.8.

This acceptance procedure shall never suspend the agreed payment terms.

Article 15. Complaints, Warranties and Returns

15.1.

The Client shall immediately inspect the delivered Goods, which are finished products, upon receipt for the quantity, quality (dimensions, sizes, colors, quality, etc.), and visible defects. This inspection shall be based on the Agreement or the order confirmation provided by BENG. The delivery note or receipt shall be deemed to accurately represent the delivery unless proven otherwise by the Client. With respect to dimensions and weights, BENG shall adhere to customary tolerances.

15.2.

Any complaint as referred to in this Article must contain a clear description of the issue.

15.3.

Complaints regarding visible defects, quantities, sizes, colors, and finishes must be reported to BENG both verbally and in writing within three working days of delivery. For all other complaints, they must be reported within eight working days of discovery, also verbally and in writing to BENG.

15.4.

Complaints reported later than six calendar months after the (delivery) date concerning a finished product or assembly work performed by BENG or its Partners shall be considered warranty claims (if and to the extent applicable) and shall be treated as such.

15.5.

Warranty claims shall only be addressed if and as long as a demonstrable warranty has been agreed upon and in accordance with the applicable warranty conditions, namely those of BENG, its suppliers, or its Partners.

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15.6.

BENG shall not be obliged to honor complaints related to defects or errors arising from designs, construction methods, or similar prescribed by or on behalf of the Client.

15.7.

BENG warrants the soundness of the products it manufactures, the materials it uses, and ensures proper quality—considering industry standards—during a period of up to six calendar months after delivery, unless otherwise agreed. For products that BENG does not manufacture, assemble, or install, no additional warranty shall be provided beyond that received from its suppliers. If desired, BENG will inform the Client about the content of these warranties.

15.8.

The products supplied by BENG comply with the statutory (safety) requirements applicable in the Netherlands. Any additional requirements imposed by the Client's country are the responsibility and risk of the Client.

15.9.

If the products delivered by BENG are deemed defective or of insufficient quality during the periods mentioned in section 15.3, BENG shall be entitled to request a reassessment by a certification/research institute designated by BENG, in consultation with the Client, to which the Client must cooperate. If the products are found to be of insufficient quality, BENG's maximum liability shall be to replace these products with other equivalent products upon return of the products to be replaced or, at BENG's discretion, to refund the invoice amount for the products to be replaced, also against the return of these products.

15.10.

Notwithstanding the provisions regarding liability in these General Terms and Conditions, BENG shall never be liable for the repair or compensation of any form of indirect or consequential damage caused by the products made, delivered, or replaced by BENG.

15.11.

The Client shall only be entitled to warranty under these General Terms and Conditions if and when the Client has fulfilled all its payment obligations to BENG, provided the products have not been processed by the Client, and if the products have been processed in accordance with the Agreement by BENG and/or its Partners.

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15.12.

BENG cannot be held liable for any warranty obligation if there is evidence of improper use of the products supplied by BENG, or if the products delivered by BENG have subsequently been altered, repaired, or otherwise modified by third parties on behalf of or for the Client.

15.13.

Products that have been delivered and accepted by the Client in accordance with this provision shall never be returned.

15.14.

Only standard products that have not yet been accepted in accordance with this Article may be returned to BENG within three working days after delivery, provided they are undamaged and in their original packaging. Products that have been specially ordered, modified, or customized for the Client can never be returned.

15.15.

The Client who does not file a complaint within the aforementioned mandatory timeframes is deemed to have unconditionally accepted the delivery.

15.16.

Complaints do not give the Client the right to suspend payment of the invoice for the delivery of the products to which the complaints relate, or the payment of any other invoices.

Article 16. Confidentiality and Employee Non-Solicitation

16.1.

Both the Client and BENG shall ensure that any data received from each other, which they know or reasonably should know to be confidential, remains secret. The party receiving confidential data shall use it solely for the purpose for which it was provided.

16.2.

Both parties shall require their employees and any third parties engaged by them to comply with the confidentiality obligations set forth in section 16.1.

16.3.

The Client acknowledges that documentation/information carriers/programs received from BENG, in the broadest sense, are always of a confidential nature and contain trade secrets of BENG and/or its suppliers.

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16.4.

During the term of the Agreement and for one year after its termination, neither party shall, without the express consent of the other party, directly or indirectly employ each other's employees.

Article 17. Working Conditions

17.1.

To the extent that work is performed at the Client's location, the Client shall ensure an adequate and safe workplace or work site.

17.2.

BENG shall ensure that its employees are timely informed of the regulations applicable at the Client's premises regarding working conditions and shall immediately notify the Client if there are circumstances that may infringe upon those regulations.

Article 18. Suspension, Termination, and Dissolution of the Agreement

18.1.1.

Either party may suspend the performance of the Agreement in whole or in part without prior notice, or terminate the Agreement with immediate effect in whole or in part if:

- The other party is granted a suspension of payments;
- Bankruptcy is filed for the other party;
- Legal debt restructuring has been declared or requested for the other party;
- The other party is placed under guardianship or supervision;
- The business of the other party is liquidated or terminated, other than for the purpose of restructuring or merging with another business.

18.1.2.

BENG may also terminate the Agreement without prior notice with immediate effect, in whole or in part, if the decisive control over the Client's business changes directly or indirectly, or if the business operated by the other party is transferred in whole or in part to one or more third parties.

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18.1.3.

Furthermore, BENG is authorized to dissolve the Agreement if circumstances arise that make the performance of the Agreement impossible, or if other circumstances occur that render the continued enforcement of the Agreement unreasonable for BENG.

18.1.4.

BENG shall never be obliged to refund any amounts received or to pay any compensation or costs incurred in any way due to the termination as referred to in Articles 18.1.1 to 18.1.3.

18.2.

Additional work shall never be a reason for the Client to terminate or dissolve the Agreement.

18.3.

In the event that the Client is irrevocably declared bankrupt, the Client's right to use provided drawings, designs, models, documentation, analyses, inventions, programs, photographs, videos, preparatory materials, etc., shall terminate, along with the Client's right to access and/or use the services of BENG, without the need for a termination notice from BENG.

18.4.

A party may only dissolve the Agreement due to an attributable shortcoming by the other party after sending the other party a detailed written notice of default, which includes—besides the description of the shortcoming regarding a substantial obligation—a demand for the other party to remedy the shortcoming within a reasonable period. If the other party fails to perform within this stipulated period, the dissolution may take place. Payment obligations of the Client and all obligations for cooperation and/or provision of information by the Client or a third party engaged by the Client are always considered substantial obligations under the Agreement.

18.5.

The failure of either party to demand performance of any provision of the Agreement within a specified period shall not affect the right to demand such performance later, unless the relevant party has expressly and in writing agreed to the non-performance.

18.6.

If the Client has received any performance under the Agreement at the time of dissolution as referred to in this Article, these performances and the associated payment obligations shall not be subject to reversal, unless BENG is in default concerning the substantial part of the performances. Amounts invoiced by BENG prior to the dissolution for the execution of the Agreement shall remain due and payable immediately upon dissolution.

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18.7.

If the dissolution is attributable to one party, that party is obliged to compensate the other party for any direct damages and costs incurred as a result of the dissolution.

18.8.

Agreements entered into for an indefinite period that do not terminate upon achieving a result or completion may be terminated by either party in writing. If no notice period has been agreed upon between the parties, a notice period of one calendar month shall be observed. In this case, neither party shall be liable for damages due to the termination.

18.9.

In addition to the obligations arising from these General Terms and the concluded Agreements, the Client shall also owe BENG all extrajudicial and judicial costs incurred to enforce compliance, dissolution, or compensation related to the concluded Agreements, whether or not legally pursued.

18.10.

Extrajudicial costs are owed by the Client in any case where BENG has sought legal assistance, including the collection of amounts owed to BENG, from a third party.

18.11.

Without prejudice to any further rights and claims, the extrajudicial costs shall amount to at least 15% of the principal amount due, or the amount for which BENG addresses the Client, or the Client addresses BENG, with a minimum of €250.00, excluding VAT.

Article 19. Retention of Title

19.1.

All delivered products shall not become the property of the Client until the Client has fully complied with all obligations arising from the Agreement.

19.2.

If the Client fails to meet these obligations, BENG has the right to immediately reclaim the Goods for which ownership is retained and over which the Client still has control.

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19.3.

The Client undertakes to insure and keep insured the Goods delivered under retention of title against fire, explosion, and water damage, as well as against theft, as long as the Client has control over these Goods.

19.4.

Except as provided in Article 19.7, the Client is not entitled to pledge or otherwise encumber the Goods subject to the retention of title, nor to place them in the control of third parties.

19.5.

If third parties impose a lien on the Goods delivered under retention of title that the Client still controls, or seek to establish or assert rights to them, the Client is obliged to immediately inform BENG.

19.6.

BENG may retain the Goods received under the Agreement, including data, documents, software, and/or databases, despite any existing obligation to deliver or transfer them, until the Client has settled all amounts owed to BENG.

19.7.

Notwithstanding the provisions of Article 19.1, a Client acting as a reseller may sell and deliver all Goods subject to BENG's retention of title insofar as this is customary in the normal operation of their business.

Article 20. Intellectual Property, Copyright

20.1.1.

All intellectual property rights to any drawings, designs, models, schematics, documentation, analyses, inventions, programs, photographs, images, videos, preparatory materials, and other documentation developed under an Agreement or made available to the Client are exclusively owned by BENG, its licensors, or its suppliers.

20.1.2.

The Client only obtains the usage rights expressly granted in these General Terms, the Agreement, and the law. The Client's right to use is personal, non-exclusive, non-transferable, not subject to pledge, and may not be sublicensed to third parties.

20.2.

BENG shall always remain the rights holder of any copyright that may arise from the works created by it in the performance of the Agreement.

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Article 21. Force Majeure

21.1.

Neither party shall be obliged to fulfill any obligation, including any statutory and/or agreed (warranty) obligation, if that party is prevented from doing so due to force majeure.

21.2.

Force majeure is present when the failure to comply with the Agreement is not attributable to the fault of a party and does not fall under its responsibility according to the law, according to a legal act, or according to prevailing opinions in social traffic.

21.3.

Failures that are deemed not attributable include failures in the performance of the Agreement due to:

- Force majeure of both domestic and foreign suppliers of BENG
- Failure to properly comply with obligations by those suppliers prescribed to BENG by the Client
- Deficiencies in Goods, equipment, software, or materials from third parties as prescribed for use by BENG by the Client
- Government measures
- Electricity outages, stagnation, or limitation or cessation of supply by public utilities; lack of means for energy production
- War, mobilization, civil unrest
- Flooding or other natural influences that significantly disrupt the business
- Transportation issues, such as closed shipping lanes, or other transportation disruptions
- Internet disruptions, telecommunications infrastructure failures of any provider, and network failures
- Fire, machine breakdowns, and other accidents
- Strikes, lockouts, actions by trade unions
- Non-delivery of necessary materials and semi-finished products by third parties
- Accidents
- Intent or gross negligence of assistants and other similar circumstances
- Any other cause insofar as it reasonably lies beyond the control of the defaulting party

None of these circumstances give the other party an immediate right to terminate the Agreement or to seek compensation.

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21.4.

The party that is prevented from fulfilling any obligation towards the other party due to force majeure, as referred to in this Article, shall immediately notify the other party and keep them informed.

21.5.

The party that is hindered by force majeure may suspend its obligations under the Agreement for the duration of the force majeure. If this period lasts longer than four calendar months, either party is entitled to terminate the Agreement without being obliged to compensate the other party for damages.

21.6.

If BENG has already partially fulfilled its obligations under the Agreement at the time of the occurrence of force majeure or if it can fulfill them and the fulfilled part or the part still to be fulfilled has independent value, BENG is entitled to deliver and/or invoice this separately. This is without either party being otherwise indebted to the other.

Article 22. Liability

22.1.

If a party fails to comply with an agreed obligation, the other party may put the defaulting party in default, granting the negligent party a reasonable period to fulfill the obligation. If compliance is still not forthcoming, the negligent party is in default.

22.2.

A formal notice of default is not required if it can be inferred from a communication or the attitude of the other party that they will fail to fulfill their obligation. The party that is at fault in failing to fulfill its obligations is liable to the other party for the direct damages suffered and/or to be suffered by the other party.

22.3.

With respect to product liability, only the rules of mandatory law apply.

22.4.

The total liability of BENG for an attributable failure in fulfilling the Agreement or based on any legal grounds whatsoever, including any failure in fulfilling a warranty obligation agreed with the Client, is limited to compensation for direct damages up to a maximum amount equal to the price agreed for that Agreement (Ex. VAT) or the agreed price of the part of the Agreement to which the liability relates. If the Agreement is primarily a long-term Agreement with a duration of more than one year, the price agreed for that Agreement shall be deemed to be the total of the fees (Ex. VAT) for one year. However, in no case shall the total liability of BENG, on any legal grounds whatsoever, exceed €1,250,000 per event. Related events will be considered as one event.

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22.5.

Parties are not liable for any indirect damage in the broadest sense.

22.6.

A party is not liable for any damage, of any kind, arising from relying on, or having relied on, incorrect or incomplete information, Goods, materials, etc., provided by or on behalf of the other party, or information that violates the exclusive rights of third parties.

22.7.

The Client is required to handle the products supplied by BENG as an expert and to use them correctly, and in any case not to use them imprudently or for a purpose other than that for which they are objectively suited.

22.8.

BENG is not liable for damage to the Client if it is the result of imprudent or inconsistent use of Goods supplied or made available by BENG in violation of the Agreement and/or General Terms and Conditions.

22.9.

The liability limitations set out in this Article do not apply if the damage is due to intent or gross negligence by the other party or by persons or companies engaged by that other party.

22.10.

BENG is never liable to the Client, who is not a consumer, for the reimbursement of costs, damages, and interest due to personal accidents, unless the Client demonstrates that the damage is attributable to intent or gross negligence on the part of BENG, excluding its employees.

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22.11.

BENG is never liable to the Client for any damage suffered by the Client as a result of claims from third parties, including its own employees, arising from any damage caused by products supplied (or provided) by BENG to the Client.

22.12.

At the request or on behalf of the Client, BENG is willing to advise the Client specifically regarding a particular use, provided that the Client informs BENG extensively and fully regarding the intended use. Following these recommendations is always fully under the responsibility of the Client. Therefore, BENG excludes any liability for damage as a direct or indirect consequence of advice provided by BENG.

22.13.

The Client indemnifies BENG against all claims from third parties— including claims regarding product liability, service liability, infringement of patent rights, copyrights, etc.—that arise because BENG has used data, drawings, instructions, manuals, products, processes, etc. provided by or on behalf of the Client.

22.14.

In all cases where the Client is obligated to compensate BENG under the provisions of Article 22.13, the Client is also required, at first request, to comply with a request to indemnify BENG in a legal proceeding.

22.15.

To the extent that BENG is addressed by third parties as referred to in Article 22.13, the Client fully reimburses BENG for all costs of legal and other assistance that BENG must incur as a result of these damage claims, such as defense, negotiations, etc. These costs are deemed to be at least 15% of the claimed amount of damages, without prejudice to BENG's right to recover the actual legal costs incurred by BENG from the Client.

22.16.

Notwithstanding the above provisions, BENG is never liable to the Client for an amount greater than the total price agreed upon in the Agreement with the Client for the products that caused any damage.

22.17.

In the event of resale by the Client of the products involved from BENG, the Client is obliged to at least agree with its client(s)/customers to the provisions regarding liability as laid down in this Article.

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Article 23. Insurance

23.1.

Parties shall insure themselves in a manner appropriate to traffic standards and customary practices against statutory liability and against risks appropriate to the nature of the Agreement.

23.2.

BENG's insurance against statutory liability provides coverage of at least €1,250,000 per claim, and at least 200% of this amount on an annual basis.

23.3.

BENG will provide proof of correct and timely premium payment to the Client upon request.

23.4.

All Goods made available by the Client, including those referred to in Article 12, Paragraph 2, are not insured by BENG or its Partners. The Client is obliged to adequately insure these Goods and maintain such insurance for the duration that they are used or held by BENG and/or its Partners. The Client is liable for any damage arising from or during the use of these Goods.

Article 24. Intellectual Property Rights

24.1.

By placing the order, the Client unconditionally agrees that all intellectual property rights arising from the models, drawings, and descriptions made or used by BENG in the execution of the Agreement, as well as on the products to be delivered by BENG, remain with BENG or will come to rest with BENG, irrespective of any contributions to the creation of such works by or on behalf of the Client. If such works are handed over to the Client, the Client is obliged to keep them confidential and is not entitled to provide these works to third parties and/or reproduce them without BENG's written consent.

24.2.

Clients who resell BENG products in their own name are entitled to provide the aforementioned documents to their buyers, subject to the provisions in Paragraph 24.1.

24.3.

The Client is prohibited from removing and/or altering any indications regarding intellectual property rights from or of the products delivered by BENG.

24.4.

The Client indemnifies BENG against infringements of third-party intellectual property rights related to models, drawings, descriptions, and/or products delivered by BENG on behalf of the Client.

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Article 25. Continuing Obligations

25.1.

Termination of the Agreement does not relieve the parties from obligations that by their nature continue. These obligations include at least: indemnification for infringement of intellectual property rights, copyrights, warranties, liability, confidentiality, disputes, and applicable law.

Article 26. Disputes and Applicable Law

26.1.

Dutch law exclusively applies to all Offers, order confirmations, and Agreements.

26.2.

All disputes relating to or arising from Agreements concluded with BENG, Offers issued, and order confirmations will be submitted to the competent court in the district where BENG is established.

26.3.

The applicability of the Vienna Sales Convention 1980 is excluded.