

Algemene voorwaarden van "BrainCross Mobile Events BV" geregistreerd bij de Kamer van Koophandel KvK nr. 70626375 in Breda

Artikel 1 | Toepasselijkheid algemene voorwaarden

1.1 Deze algemene voorwaarden zijn van toepassing op iedere aanbieding, offerte en overeenkomst tussen "BrainCross Mobile Events BV", hierna te noemen opdrachtnemer of BrainCross ME, en opdrachtgever.

1.2 Indien een bepaling van de algemene voorwaarden nietig blijkt te zijn of wordt vernietigd, laat dat de geldigheid van de overige bepalingen onverlet. Partijen zullen in dat geval voor de nietige respectievelijk vernietigde bepaling een bepaling in de plaats treden die zoveel mogelijk aansluit bij de bedoeling van partijen.

1.3 De toepasselijkheid van algemene voorwaarden van Opdrachtgever wordt uitdrukkelijk van de hand gewezen, tenzij schriftelijk anders is overeengekomen.

1.4 Deze algemene voorwaarden kunnen door een enkele mededeling van opdrachtnemer aan opdrachtgever worden gewijzigd. Bij gebreke van protest binnen 30 dagen na deze mededeling zijn de gewijzigde algemene voorwaarden van toepassing vanaf de dag van de mededeling op alle nieuwe tussen partijen te sluiten overeenkomsten en op alle tussen partijen geldende en nog lopende overeenkomsten, voor zover deze worden uitgevoerd na de dag van mededeling.

Artikel 2 | Offerte, informatie en inschakeling derden

2.1 Alle aanbiedingen, prijsopgaven, kostenbegrotingen e.d. van Opdrachtnemer zijn geheel vrijblijvend, tenzij Opdrachtnemer schriftelijk anders heeft aangegeven.

2.2 Alle door Opdrachtnemer verstrekte informatie en/of specificaties gelden steeds bij benadering, tenzij uitdrukkelijk en schriftelijk anders is aangegeven.

2.3 Opdrachtnemer is gerechtigd voor de uitvoering van de opdracht derden in te schakelen.

Artikel. 3 | Verplichtingen Opdrachtgever

3.1 Tenzij schriftelijk anders is overeengekomen, zal Opdrachtgever voor eigen rekening zorg dragen voor voldoende maatregelen om de veiligheid te waarborgen op de plek waar de opdracht wordt uitgevoerd (waaronder doch niet beperkt tot de veiligheid voor artiesten, medewerkers en bezoekers). Indien reeds afspraken zijn gemaakt over vorenbedoelde maatregelen, is Opdrachtnemer niettemin gerechtigd om op ieder gewenst moment aanvullende eisen te stellen, wanneer gewijzigde omstandigheden daartoe nopen.

3.2 Opdrachtgever is gehouden alle informatie waarvan zij weet dan wel waarvan zij behoorde te weten dat deze noodzakelijk is voor de uitvoering van de opdracht, tijdig aan Opdrachtnemer te verstrekken. Opdrachtgever staat in voor de juistheid en volledigheid van de door haar verstrekte informatie.

3.3 Opdrachtgever heeft geen aanspraak op enige vorm van schadevergoeding, indien (a) Opdrachtgever niet dan wel niet in voldoende mate aan haar verplichtingen heeft voldaan zoals opgenomen in artikel 3.1 en/of 3.2 in deze algemene voorwaarden en Opdrachtnemer de opdracht geheel of gedeeltelijk geen doorgang laat vinden (waartoe Opdrachtnemer gerechtigd is) en/of (b) Opdrachtgever niet dan wel niet in voldoende mate aan haar verplichtingen heeft voldaan zoals opgenomen in artikel 3.1 en/of 3.2 in deze algemene voorwaarden, Opdrachtnemer Opdrachtgever daarop schriftelijk heeft gewezen en Opdrachtgever desondanks de opdracht wenst te laten doorgaan.

3.4 Opdrachtgever is verantwoordelijk voor de afdracht van de vergoedingen wegens het gebruik van intellectuele eigendomsrechten van derden (waaronder doch niet beperkt tot 'Bumarechten').

3.5 Tenzij schriftelijk anders is overeengekomen, is Opdrachtgever verantwoordelijk voor de vereiste toestemming van derden en/of vergunningen, alsmede onderzoek hiernaar.

3.6 Opdrachtgever is verantwoordelijk voor het handelen en nalaten van de door haar ingeschakelde en/of uitgenodigde derden die bij de opdracht zijn betrokken, zoals (doch niet uitsluitend) deelnemers en bezoekers van een evenement.

3.7 De Opdrachtgever draagt er tijdig zorg voor dat de prestaties door BrainCross ME op een verharde locatie kunnen worden uitgevoerd.

3.8 De Opdrachtgever draagt er daarbij zorg voor dat de door BrainCross ME gebruikte transportmiddelen – en eventuele door hem ingeschakelde derden – de locatie ongehinderd, via een naar tevredenheid verharde en voldoende brede weg kunnen bereiken.

3.9 Bij het in gebruik nemen en/of opbouwen van de locatie, in het bijzonder de plaats waar de prestaties moeten worden uitgevoerd, evenals de elektrische en watervoorzieningen, moet zodanig zijn dat BrainCross ME in staat is om de prestaties uit te voeren zonder dat BrainCross ME rekening moet houden met speciale bepalingen, of om door extra werk te verrichten, en zonder dat het mogelijk is schade aan toe te brengen aan zaken die behoren tot BrainCross ME, of aan derden die door BrainCross ME worden ingeschakeld.

3.10 Alle items die door de klant op locatie worden aangeboden of door derden op verzoek van de klant, zoals de elektriciteitsvoorziening, de elektrische installatie, water, geluidsinstallatie en andere materialen en hulpmachines, zullen door BrainCross ME worden gebruikt op de kosten en het risico van de klant.

Artikel 4 | Aansprakelijkheid Opdrachtnemer

4.1 Opdrachtnemer is niet aansprakelijk voor schade, van welke aard ook, ontstaan doordat zij is uitgegaan van door of namens Opdrachtgever verstrekte onjuiste en/of onvolledige informatie.

4.2 Opdrachtnemer is slechts aansprakelijk voor schade indien deze schade valt onder de dekking van haar aansprakelijkheidsverzekering en wel tot het bedrag dat door haar verzekering wordt uitgekeerd te vermeerderen met het eigen risico dan wel indien er sprake is van opzet of grove schuld van haar of een van haar leidinggevenden.

4.3 Alle vorderingsrechten en andere bevoegdheden, uit welke hoofde dan ook, die Opdrachtgever jegens Opdrachtnemer heeft, dienen binnen 12 maanden na het moment waarop Opdrachtgever hiermee bekend werd of redelijkerwijze had kunnen zijn, schriftelijk door Opdrachtnemer te zijn ontvangen, bij gebreke waarvan deze komen te vervallen.

4.4 Opdrachtgever vrijwaart Opdrachtnemer voor aanspraken van derden (waaronder doch niet beperkt tot deelnemers en bezoekers), die in verband met de uitvoering van de opdracht schade lijden.

4.5 Eventuele door opdrachtnemer verstrekte adviezen zijn altijd vrijblijvend en opvolging daarvan komt voor rekening en risico van Opdrachtgever.

4.6 Opdrachtnemer is niet verantwoordelijk noch aansprakelijk voor de opkomst van de deelnemers aan of bezoekers van het betreffende evenement.

4.7 Opdrachtnemer is niet aansprakelijk voor schade aan goederen (waaronder doch niet beperkt tot alle type voertuigen) die door Opdrachtgever aan haar ter beschikking zijn gesteld. Voor risico's die verbonden zijn aan de prestaties van opdrachtnemer is de opdrachtgever aansprakelijk. Opdrachtgever zal voor een deugdelijke verzekering zorgdragen.

4.8 Opdrachtgever is aansprakelijk voor alle schade veroorzaakt door beschadiging, vernietiging of verlies van zaken, alsmede het letsel of de dood van personen die direct of indirect optreden tijdens en/of vanwege de prestaties van opdrachtnemer op locatie.

Artikel 5 | Overmacht

Omstandigheden welke niet aan opdrachtnemer te wijten zijn, welke van dien aard zijn dat naleving van de overeenkomst redelijkerwijze niet meer of niet meer in volle omvang gevergd kan worden (zoals doch niet beperkt tot ziekte van opdrachtnemer, ernstige familieomstandigheden, extreem weer, voorschriften en/of verboden door de Nederlandse en/of buitenlandse autoriteiten, onvoorziene en onvoorspelbare verkeersbelemmeringen, ongeval met transport- of vervoermiddel, intrekking van één of meerdere vergunningen en nationale rouw) geeft haar het recht de opdracht geheel of gedeeltelijk te ontbinden en/of de uitvoering daarvan op te schorten zonder enige verplichting tot schadevergoeding. Opdrachtnemer behoudt in dat geval haar recht op vergoeding (waaronder doch niet beperkt tot kosten voor door haar ingeschakelde derden). Opdrachtnemer adviseert Opdrachtgever zich tegen deze risico's te verzekeren.

Artikel 6 | Overeenkomst, prijs, betaling, annulering, ontbinding

6.1 De opdrachtgever zal een schriftelijke opdrachtbevestiging of een schriftelijke vastlegging van de overeenkomst ontvangen van opdrachtnemer. Opdrachtgever moet binnen 7 dagen na ontvangst de schriftelijke bevestiging van de bestelling of de schriftelijke registratie van de overeenkomst, ondertekend als goedgekeurd aan opdrachtnemer retourneren.

6.2 De overeengekomen prijs (opdrachtsom) is exclusief BTW en eventuele andere heffingen van overheidswege, tenzij schriftelijk anders overeengekomen.

6.3 Opdrachtgever is op ieder moment op eerste verzoek van Opdrachtnemer verplicht zekerheid te stellen voor de voldoening van al hetgeen door haar is verschuldigd.

6.4 Tenzij uitdrukkelijk schriftelijk anders overeengekomen, dient betaling te geschieden binnen de betalingstermijn, 14 dagen, zoals ook vermeld op de factuur. De betalingstermijn is een fatale termijn. Opdrachtgever is niet gerechtigd enige betaling op te schorten dan wel te verrekenen.

6.5 Indien binnen de betalingstermijn geen betaling heeft plaatsgevonden, is opdrachtgever van rechtswege in verzuim. Zij is dan de wettelijke handelsrente verschuldigd (waarbij geldt dat een gedeelte van de maand als een hele maand wordt aangemerkt) alsmede buitengerechtelijke incassokosten conform de 'Wet Normering Buitengerechtelijke Incassokosten' of een hiervoor in de plaats tredende regeling.

6.6 Opdrachtgever is gerechtigd de opdracht enkel schriftelijk te annuleren.

Opdrachtgever dient dan de navolgende kosten aan Opdrachtnemer te voldoen, in geval van annulering:

a) in de periode liggend tussen 12 en 9 maanden voor het aanvangsmoment, 10% van de volledige opdrachtsom (zoals die op het moment van annuleren geldt)

b) in de periode liggend tussen 9 en 6 maanden voor het aanvangsmoment, 25% van de volledige opdrachtsom (zoals die op het moment van annuleren geldt)

c) in de periode liggend tussen 6 en 3 maanden voor het aanvangsmoment, 50% van de volledige opdrachtsom (zoals die op het moment van annuleren geldt)

d) in de periode liggend tussen 3 en 2 maanden voor het aanvangsmoment, 75% van de volledige opdrachtsom (zoals die op het moment van annuleren geldt)

e) in de periode liggend tussen 2 en 1 maanden voor het aanvangsmoment, 85% van de volledige opdrachtsom (zoals die op het moment van annuleren geldt)

f) in de periode liggend tussen 1 maand voor het aanvangsmoment en het aanvangsmoment zelf, 100% van de volledige opdrachtsom (zoals die op het moment van annuleren geldt). De opdrachtsom bedraagt de in de overeenkomst opgenomen opdrachtsom vermeerderd met daarna overeengekomen mutaties.

6.7 Indien op het moment van annulering de schade van Opdrachtnemer hoger is dan de annuleringsvergoeding zoals opgenomen in artikel 7.5 in deze algemene voorwaarden, dan dient Opdrachtgever dit hogere bedrag aan Opdrachtnemer te vergoeden.

6.8 Indien opdrachtgever niet, niet redelijk of niet op tijd voldoet aan enige verplichting die op hem van toepassing is en voortvloeit uit de overeenkomst tot stand gekomen met opdrachtnemer c.q. de wet, dan is de opdrachtnemer gerechtigd om de uitvoering van de overeenkomst op te schorten en/of om die overeenkomst en direct daarmee samenhangende overeenkomsten geheel of gedeeltelijk te ontbinden, zonder dat opdrachtnemer aansprakelijk kan worden gesteld voor schadeclaims en zonder afbreuk te doen aan de verdere aanspraken van opdrachtnemer op schadevergoeding en/of betaling voor de door opdrachtnemer uitgevoerde prestaties.

6.9 In geval van (voorlopige) surseance van betaling, faillissement van opdrachtgever, staking of liquidatie van het bedrijf van opdrachtgever, alsmede – indien de opdrachtgever een natuurlijk persoon is – het onder curatele plaatsen van de opdrachtgever, zijn alle overeenkomsten met de opdrachtnemer van rechtswege ontbonden, tenzij opdrachtnemer de opdrachtgever binnen een redelijke termijn mededeelt dat opdrachtnemer nakoming van (een deel van) de overeenkomst (en) vereist, in welk geval opdrachtnemer gerechtigd is, zonder kennisgeving, de uitvoering van de overeenkomst op te schorten. uitvoering van de overeenkomst (en) totdat de betaling voldoende is beveiligd, zonder afbreuk te doen aan de verdere verschuldigde rechten van opdrachtnemer.

6.10 Opdrachtnemer heeft het recht de overeenkomst te ontbinden indien er sprake is van blijvende overmacht aan de kant van de opdrachtgever. De opdrachtgever zal in dat geval opdrachtnemer compenseren voor alle kosten die opdrachtnemer heeft gemaakt.

Artikel 7 | Intellectuele eigendomsrechten

7.1 Opdrachtgever garandeert intellectueel eigendomsrechten van derden te respecteren. Indien Opdrachtnemer door handelen en/of nalaten van Opdrachtgever inbreuk maakt op intellectuele eigendomsrechten van derden, zal Opdrachtgever Opdrachtnemer, de werknemers van Opdrachtnemer en/of door Opdrachtnemer ingeschakelde derden op het eerste verzoek vrijwaren.

7.2 Door het in het kader van de opdracht aan Opdrachtnemer ter beschikking stellen van materialen of werken, van welke aard dan ook, geeft Opdrachtgever onvoorwaardelijke toestemming aan Opdrachtnemer deze materialen en werken op welke wijze dan ook te gebruiken, voor zover dit voor een behoorlijke uitvoering van de opdracht redelijkerwijs vereist is.

Artikel 8 | Toepasselijk recht en bevoegde rechter

Op alle rechtsverhoudingen tussen Opdrachtnemer en Opdrachtgever is uitsluitend Nederlands recht van toepassing. Uitsluitend de rechtbank van het arrondissement waarbinnen (de statutaire zetel van) Opdrachtnemer zich bevindt, is bevoegd om kennis te nemen van geschillen tussen partijen, voor zover bepalingen van dwingend recht zich daartegen niet verzetten.

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BrainCross Mobile Events BV = BCM
SPECIFIC CONDITIONS FOR LEASING
ARTICLE 1 – GENERAL

1.1 These specific conditions are additionally applicable to the provisions of the general part of these conditions.

1.2 In case of conflict between conditions from the general part of these conditions and these specific conditions for work, the present specific conditions prevail.

1.3 BCM has the right to transfer its rights and obligations pursuant to the Agreement to a third party and/or to sell the products to a third party. Client hereby grants his unconditional and irrevocable assistance beforehand for the transfer of contract.

1.4 BCM has the right to encumber or to cede the products and the rights resulting from the Agreement.

ARTICLE 2 – STATE OF PRODUCTS

2.1 The products are delivered upon the start of the lease and accepted by Client in the state they are in at that moment. Client can also opt upon the start of the Agreement for the wet cleaning of the products carried out by BCM at the expense of Client. The state upon the start of the Agreement is recorded by or on behalf of BCM in a delivery report to be attached to the Agreement as an appendix, which delivery report is a part of the Agreement. In the event no delivery report was drawn up upon the start of the Agreement, then the products are considered to have been delivered in the state which Client may expect of a well-maintained matter of the kind which the Agreement is in regard to and without any defects.

2.2 At the end of the Agreement, Client is bound to deliver the products in the state described in the delivery report made at the start of the Agreement, barring normal wear and aging. In the event no delivery report was drawn up at the start of the Agreement, the products are delivered back by Client at the end of the Agreement or at the end of the use to BCM in the state which BCM may expect of a well-maintained matter of the kind which the Agreement is in regard to, without any defects and barring normal wear and aging, unless established otherwise in writing. Furthermore, the products are delivered entirely evacuated, free from use and user rights, properly cleaned, and by handing over the keys to BCM. The matters not removed by Client can be removed at the expense of Client by or on behalf of BCM. All matters which Client has apparently renounced by relinquishing them in the products at the end of the Agreement, can be removed by BCM, at its own discretion, without any liability on its part, at the expense of Client. BCM has the right to have these matters destroyed at its own discretion or otherwise to appropriate these matters and sell them in the manner desired and to keep the proceeds thereof.

2.3 In case of discussion regarding the state of the products at the start of the Agreement, Client is considered to have received the products in proper state and without any defects.

2.4 Before the end of the Agreement, the products must be inspected by parties jointly. Of this inspection, a delivery report is drawn up by parties, in which the findings regarding the state of the products are recorded. It is also recorded in this delivery report what activities must still be carried out regarding repairs which have proven necessary upon inspection and overdue maintenance at the expense of Client still, but carried out by BCM, as well as the manner in which such will take place and the costs which will be billed for this by BCM to Client.

2.5 If Client, after having been properly enabled to that effect, does not cooperate within a reasonable term with the inspection and/or the recording of the findings and arrangements in the delivery report, BCM is authorised to conduct the inspection in the absence of Client and to stipulate the delivery report bindingly for both parties. BCM will forthwith present a copy of this delivery report to Client.

2.6 BCM will carry out and/or let carry out the activities intended in the delivery report as intended in article 2.4 of these specific conditions to the satisfaction of BCM, but at the expense of Client at the end of the Agreement. And all matters with the exception of the alterations and or additions which must be undone by Client himself. These will be undone by Client himself before the end of the Agreement. If Client, after having been properly enabled, remains negligent with the carrying out of these activities, BCM has the right to have these activities conducted himself and to claim the costs involved from Client.

2.7 If Client at the start of the Agreement has opted for wet cleaning by BCM, BCM will at the end of the Agreement also take care of this wet cleaning at the expense of Client.

2.8 Regarding the time involved in restoral, counted from the date of the end of the Agreement, Client owes BCM an amount, calculated against the rental price applicable most recently, without prejudice to the entitlement of BCM to compensation of further damage and costs.

ARTICLE 3 – END-USE AND PROHIBITION CLAUSE

3.1 The products will be exclusively intended by or on behalf of Client for the use as indicated in the Agreement. Client is obliged to thoroughly inspect the products upon adoption of the Agreement to control whether they are fit or can be rendered fit by Client for the use which Client must dedicate them. BCM has not investigated the fitness of the products and is only bound to keep Client informed of the defects known to BCM of which it is aware that they impair their suitability. BCM is not liable for the consequences of defects which it did not know and was not supposed to know.

3.2 It is not permitted to Client without the prior written consent of BCM with the products to:

- given them another end-use than what is intended in the Agreement;
- repair or dismantle them completely or partially;
- apply modifications in, on, or to the products and to add matters to them and/or attach those, all matters in accordance with what is stipulated in article 4.2 and 4.3 of these specific conditions;
- have them brought outside the User location;
- concede them to third parties for rent, in sub-let or for use, or to transfer completely or partially the leasing rights to third parties or to introduce them into a cooperative, a partnership or a company or legal person;
- to sell them, transfer them or to encumber them with a limited right.

3.3 If Client acts in violation of what is stipulated in article 3.2 of these specific conditions, then Client forfeits to Client an immediately payable fine in the amount of € 12,500 per day, without prejudice to the right of BCM to compliance, rescission, and compensation of damages.

ARTICLE 4 - ALTERATIONS AND/OR ADDITIONS

4.1 Client will inform BCM at all times beforehand in writing about any alteration and/or addition which Client wishes to apply to, in, or on the products. By alterations and/or additions is intended amongst other things the attaching of name indications, advertising,

boards, announcements, publications, carpentry, displays, illumination, sun shields, shutters, antennae with accessories, flagpoles, and holes in Products.

4.2 Client will not apply nor allow any alterations and/or additions in, to, or on the products unless it regards alterations and/or additions which can be removed at the end of the Agreement without damage to the products and which can be undone without significant costs and with due regard for what is stipulated in article 4.1 of these specific conditions.

4.3 BCM has the right to stipulate requirements with regard to the alterations and/or additions desired by Client, such as concerning the implementation, place, dimensions, and choice of material.

4.4 The application of alterations and/or additions which cannot be removed at the end of the Agreement without damage to the products and which cannot be undone without significant costs, may only be carried out by BCM itself or by third parties approved by BCM, unless BCM has granted Client written permission to apply those alterations and/or additions himself and/or to have them applied. Alterations and/or additions which at the end of the Agreement can be undone without damage to the products and without significant costs, can be applied by Client himself, with due regard for what is stipulated in article 4.1 of these specific conditions.

4.5 The responsibility and the costs for (the application of) alterations and/or additions are borne by Client under all circumstances.

4.6 Applied alterations and/or additions are not a part of the products, and such regardless of whether BCM has granted permission for (having) applies those alterations and/or additions. BCM is not liable in any manner for the applied alterations and/or additions.

4.7 If applied alterations and/or additions must be removed in connection with maintenance and/or repair activities on the products, the costs of removal, the possible storage, and the renewed application will be, in conformity with this article, at the expense and risk of Client, and such regardless of whether BCM has granted permission to (let) apply those alterations and/or additions.

4.8 BCM or a third party approved by it will make available the alterations and/or additions applied by or on behalf of Client which at the end of the Agreement cannot be undone without damage to the products and which cannot be undone without significant costs, both in the event as intended in article 4.7 of these specific conditions and at the end of the Agreement will undo them prior to making available the products to BCM again, at the expense of Client, unless parties have established otherwise in writing. The alterations and/or additions which at the end of the Agreement can be made undone without damage to the products and without significant costs, will be undone by Client himself.

4.9 Client waives any possible rights and obligations pursuant to illegitimate enrichment in connection with alterations and/or additions applied by or on behalf of him which have not been made undone at the end of the lease.

4.10 Client is bound to forthwith report to BCM the presence of graffiti, racist slogans and/or other imprints on the products, after which BCM will (let) remove these at the expense of Client.

ARTICLE 5 – MAINTENANCE

5.1 Client is supposed to have received the products in a proper state and good condition of repair. Client will diligently use the products in correspondence with their end-use and keep the products in a proper state and good condition of repair at his expense, barring normal

wear and aging. All costs for legally mandatory, preventive, corrective, and usage-dependent maintenance to the products are borne by Client.

5.2 Client is recommended to deploy BCM at the expense of Client for the carrying out of the activities on the products intended in article 5.1 of these specific conditions, and all matters on the basis of a maintenance contract to be concluded between BCM and Client. This maintenance contract will never regard applied alterations and/or additions which at the end of the Agreement can be made undone without damage to the products and without any significant costs. Client will at all times takes care of this at own expense and risk.

5.3 If Client concludes a maintenance contract as intended in article 5.2 of these specific conditions with BCM, that maintenance contract is effective for the duration of the Agreement, also including extensions. If Client does not conclude a maintenance contract with BCM, he is held to carry out and/or let carry out the activities on the products intended in article 5.1 of these specific conditions himself and at his own expense. In that context, Client is obligated to annually and for the first time upon adoption of the maintenance contract to present a maintenance plan for approval to BCM. BCM has the right to impose conditions for its eventual approval of this maintenance plan. Client safeguards BCM against claims by third parties in the matter of the maintenance conducted by himself or a third party. Client is liable for all damage which BCM incurs due to not, not timely, or not correctly conducted maintenance on the products.

5.4 Client is bound to inform BCM forthwith of maintenance which has become necessary for the products. If Client fails to timely report to BCM that maintenance is necessary, then Client is obligated to compensate BCM for the damage which has occurred due to this negligence.

5.5 For maintenance to be carried out by BCM, barring such activities which do not permit postponement, BCM will consult with Client beforehand on the manner in which his interests can be best taken into account thereby. If these activities take place outside normal working hours upon the wish of Client, or outside the Netherlands, then the additional costs will be borne by Client.

5.6 Client will forthwith inform BCM in writing of defects to the products. In that notification, Client grants BCM a reasonable term, amounting to at least six weeks, barring calamities, to make a start with the resolution of a defect which comes at the expense of BCM.

5.7 Client is responsible for the daily control of the (collective) drinking water system. If and to the extent required by legislation or regulations, BCM will upon Delivery of the products to Client provide a "risk analysis" regarding this system and subsequently propose a control plan. For the benefit of the risk analysis, Client must provide BCM with the necessary information regarding the usage of the system. The cost of the risk analysis and the control plan are borne by Client. Parties agree that (mandatory) inspections, maintenance and/or other measures which must be taken on grounds of a government order and/or an injunction from a utilities company and which regard (the use of) the water systems which are present in the products, in the widest sense of the term, will be carried out by BCM but will be borne by Client. This also applies in case BCM is responsible for the implementation of these measures pursuant to rules established by government. Also intended by these measures are the periodic analyses and other obligations which result from the decree on drinking water systems 'Waterleidingbesluit'. BCM is not liable for the consequences of legionella contamination and/or other bacteria and/or contaminations which could be present in the

drinking water system of the products. Client safeguards BCM against claims by third parties in the matter.

ARTICLE 6 – DAMAGE AND LIABILITY

6.1 From the moment of delivery or from the moment that acceptance has been refused or is considered to have been refused in the sense of article 8.2 of the general part of these conditions, also if the products are effectively entirely or partially under the control of BCM or a third party, until the moment of return of the products to the warehouse of BCM or of third parties indicated by BCM, the products are entirely at the risk of Client.

6.2 Client is liable for all damage to or in connection with (the use of) the products, regardless of how it is caused or called, and regardless of whether such damage has occurred through the fault of Client or third parties or by any defect, whether or not hidden, to the products, barring the event that BCM is liable on grounds of provisions of mandatory law regarding (product) liability.

6.3 Client indemnifies BCM or third parties deployed on behalf of BCM and safeguards BCM or third parties deployed on behalf of BCM against all damage which they may incur due to (entirely or partially) the use of or damage to the products, death or injury or damage to property of BCM or third parties as a consequence of (entirely or partially) the use of the state of the products, during the period that Client bears responsibility for this as indicated in the preceding section, regardless of its cause, barring the event that BCM bears responsibility for this pursuant to the Agreement.

6.4 Upon use of the products, Client must take all necessary safety and diligence measures necessary, to avoid the risk of damage or injury to himself or third parties.

6.5 Client timely takes appropriate measures to prevent and limit damage to the products, such as damage as a consequence of short circuit, fire, leakage, storm, frost, snow or any other weather condition. Client will inform BCM forthwith if such damages or events occur or threaten to occur. Damage to the products as a consequence of the circumstances mentioned above are borne by Client. Client must inform BCM immediately if damages or events as in article 6.9 of these specific conditions occur or threaten to occur.

6.6 Client is liable towards BCM for all damage and losses to the products, whatever they are called and however they have occurred, unless Client proves that no blame concerning can be attributed to him, the persons Client has admitted to the products, his staff and the persons for whom Client is liable, or that they cannot be blamed for negligence in the matter.

6.7 Client safeguards BCM against fines which are imposed on BCM due to conduct or negligence on the part of Client.

6.8 BCM is not liable for the consequences of defects which it was not aware of or was not supposed to know upon the start of the Agreement.

6.9 BCM is not liable for damage caused to the person or goods of Client and Client is not entitled to a reduction of the rental price, nor to set-offs or suspension of any payment obligation or to rescission of the Agreement in case of the reduction of the enjoyment of the lease as a result of defects, including those as a consequence of visible and invisible defects to the products, weather conditions, stagnation in the accessibility of the leased object, vacancy elsewhere, stagnation in the supply of gas, water, electricity, heat, ventilation, or air conditioning, malfunction of the systems and devices, in- and outflow of gases or liquids, fire, explosion, shortcomings in deliveries and Services.

6.10 Client is liable for damage which is the consequence of alterations and/or additions applied by or on behalf of him. Client safeguards BCM against third-party claims caused by alterations and/or additions applied by Client.

6.11 BCM is not liable for business damage of Client or for damage as a consequence of the activities of third parties or of impediments caused by third parties to the use of the products, nor for defects which have occurred because Client has not fulfilled his obligations.

6.12 BCM is authorised to periodically control the products. In case BCM holds that the products are used in an incorrect manner or are neglected, BCM has the right to retake possession of the products and/or to (let) bring them in a proper state and condition of repair, all matters at the expense of Client.

6.13 In connection with the use, maintenance, and storage of the products by Client, Client must comply with all legal requirements, including license requirements or instructions of the competent authorities. If use is made with the products of the public road, Client is bound to make sure that the necessary authorisations, exemptions or permits from the competent authorities are in place.

6.14 Client will not have any (environmentally) hazardous substances, nor use or store them in the products or in the direct surroundings of the products, barring if and to the extent having, using, or storing the substances in the products is necessary for operations of Client. Having, using, or storing (environmentally) hazardous substances takes place exclusively at the expense and risk of Client and after the prior written consent of BCM.

6.15 The obligations based on the underlying article will remain effective after termination of the lease. The safeguard obligation applies regardless of whether the relevant damage has occurred prior to or after the returning of the products by Client to BCM or third parties.

6.16 The aforementioned obligations are effective without prejudice to what is stipulated in article 16 of the general part of these conditions.

ARTICLE 7 – RENTAL TERM

7.1 Unless established otherwise in writing, the rental term commences on the day of delivery of the products or alternatively on the moment acceptance has been refused or is considered to have been refused in the sense of article 8.2 of the general part of these conditions, to Client and the Agreement is effective for the established duration.

7.2 After expiry of the period mentioned in article 7.1 of these specific conditions, this Agreement is continued, barring termination through cancellation by BCM or Client, for the fixed duration intended in the Agreement, unless established otherwise between parties in writing.

7.3 Termination of the Agreement takes place through cancellation by one of the Parties against the end of the current rental period or, in case of an agreement for an unlimited time against any moment and with due regard for a notice period of at least three months.

7.4 Cancellation must take place by way of registered mail or by writ served by a court officer.

7.5 If the products at the end of the Agreement have not been delivered in conformity with what is stipulated in article 2.2 of these specific conditions to BCM, a new agreement is considered to have been entered into for the same term and under the same conditions as the original Agreement, under the proviso that the rental price applicable in the marketplace at such time will be charged, unless BCM notifies Client within 2 weeks after the end of the Agreement otherwise. The market-based rental price is the rental price for which BCM has

rented out comparable Products, not long before a new agreement is considered to have been adopted. If the market-based rental price is lower than the rental price applicable most recently pursuant to the Agreement, then the most recent rental price applicable pursuant to the Agreement will remain effective.

ARTICLE 8 – PERMITS

8.1 Client must take care himself of the obtaining of the required permits, certificates, licenses and/or exemptions for the use of the products. The associated costs are borne by Client. Refusal or withdrawal thereof will not constitute grounds for the termination of the Agreement, nor for any other actions against BCM.

ARTICLE 9 – INSURANCE AND CONCOMITANT COSTS

9.1 Client is obligated to adequately insure and keep insured the products, from the moment of Delivery of the products, through the insurance company of BCM (SURE) against all insurable damage for the entire duration of the Agreement, and all matters in conformity with an agreement to be concluded between BCM and Client.

9.2 Concomitant costs such as levies, charges, taxes, and compensations levied in connection with (the use of) the products are borne by the Client from the moment of Delivery of the products, also in case BCM is billed for this.

ARTICLE 10 - PAYMENTS AND INDEXATION

10.1 The rental price and everything else which Client furthermore owes to BCM pursuant to the Agreement (such as the costs of transport, delivery, and Delivery), will (unless established otherwise in the Agreement in writing) be settled no later than on the first day of every month in a Netherlands-approved currency – without any suspension, discount, deduction, or set-offs against claims which Client has or believes to have on BCM – by way of direct debit. Upon the start of the Agreement, Client will undersign an authorisation for this direct debit. Lessee will make sure that sufficient funds are available on the account.

10.2 Compensation for the dismantling and returning of the products must be paid within 14 days after the end of the lease, also without any suspension, discount, deduction, or set-offs against a claim which Client has or believes to have on BCM.

10.3 BCM is at liberty, by way of written statement to Client, to apply changes to the place or manner of payment. BCM has the right to determine from what outstanding claim from the Agreement a received payment is deducted, unless Client emphatically indicates otherwise upon payment. In the latter case, what is established in article 6:50 BW is not applicable.

10.4 Each time an amount owed by Client pursuant to the Agreement has not been immediately settled on the expiry date, Client legally forfeits to BCM per calendar month from the expiry date for that amount an immediately payable fine in the amount of 2% of what is owed per calendar month, whereby each commenced month is counted as an entire months, with a minimum of € 500 per month.

10.5 The rental price and other compensation as stated in the Agreement will be reviewed per 1 January of each year on the basis of the Consumer Price Index (CPI) as established by the Netherlands statistics institute CBS, series all households (the CPI of October, preceding the start of the Agreement = 100). The modified rental price is calculated according to the formula: the modified rental price is equal to the applicable rental price on the date of modification, multiplied by the index rate of the calendar month which lies four calendar months prior to the calendar month in which the rental price is modified, divided by the index rate of the calendar month which lies sixteen calendar months prior to the calendar month in which the rental price is modified.

10.6 The rental price and other compensations are not altered if the indexation thereof leads to a lower rental price and compensations than the ones applicable most recently. That rental price and compensations applicable most recently remain unaltered in such case, until a next indexation base on the index rates.

10.7 The indexed rental price and other compensations are duly exigible, even if no separate notification is made of the modification to Client.

10.8 If CBS ceases publication of the price index rate referred to or if the grounds for its calculation change, an index rate which is adjustable or comparable to it as much as possible will be applied.

10.9 If prices and/or rates of price-determining factors, such as, for example, wages, materials, currency fluctuations, import duties, and insurance rates undergo an increase, for whatever reason, BCM has the right to adjust the rental price in correspondence with the market value.

ARTICLE 11 – SECURITY

11.1 Without prejudice to his rights on grounds of the general conditions (see, e.g. art. 6), Client is obligated upon first request to provide a bank guarantee or security deposit as a security for the correct fulfilment by Client of his obligations pursuant to the Agreement. The bank guarantee and/or security deposit must also apply to the extensions of the Agreement and the new rental agreement as intended in article 7.2 of these specific conditions, including modifications thereof and must remain effective until at least six months after the date on which the Agreement has ended. Furthermore, the bank guarantee and/or the security deposit must apply to the legal successor(s) of BCM. Over the security deposit, no interest is compensated by BCM.

11.2 In case the security has been drawn from by BCM, Client will upon first request of BCM provide for the replenishment of the security deposit or bank guarantee.

11.3 Client is obligated after the upward adjustment of the price upon first request of BCM to immediately replenish the security deposit or bank guarantee.

11.4 Client is not entitled to the set-off of any amount against this security deposit or bank guarantee.

11.5 If Client does not comply with the obligations described in the preceding regarding security, Client forfeits per violation to BCM an immediately payable fine of € 250 per calendar day that Client remains in default after such has been pointed out to Client by way of registered mail and a reasonable term has been set for him to resolve the default, without prejudice to the right of BCM to compliance, rescission, and compensation of damages.

ARTICLE 12 – DEFECT

12.1 A defect to the products can be said to pertain if they, considering the state or a characteristic of another circumstance which cannot be attributed to Client, cannot provide the enjoyment which Client is allowed to expect of it upon conclusion of the Agreement.

ARTICLE 13 – SUBSTITUTION

13.1 During the lease, BCM has the right to replace the products by other Products of a similar type. Client will give his unconditional collaboration for this. And all matters without entitlement by Client to reduction of the rental price, reduction of another payment obligation, total or partial rescission of the rental agreement and/or compensation for damages.

ARTICLE 14 – RETURNING OF PRODUCTS

14.1 Barring the prior written consent of BCM, the products may not be returned by Client before the end of the established rental term, and all matters on pain of forfeiture of a fine of € 12,500 per day, without prejudice to the right of BCM to full compensation (for damages).

14.2 The costs of return shipping are borne by Client.

14.3 If Client, after BCM has granted him written permission, has returned the products before the end of the rental term to BCM, Client is bound to pay BCM the amounts based on the Agreement, starting from the established rental term, as well as the additional (storage) costs as a consequence of the early returning of the products.

ARTICLE 15 - REQUESTS/PERMISSION

15.1 If BCM or Client wish(es) a deviation from and/or addition to any provision of the Agreement, Client must submit his request for this deviation and/or addition in writing.

15.2 If and to the extent the consent of BCM is required in any provision of the Agreement, it is only considered granted if provided in writing.

15.3 A permission granted by BCM is one-off and does not apply to other or subsequent cases. BCM has the right to subject its consent to conditions.

ARTICLE 16 - COSTS, DEFAULT

16.1 In all cases in which BCM has issued an injunction, a default notice, or a legal writ to Client, or in case of proceedings against Client, Client is obligated to settle all costs incurred to that effect, both judicially and extrajudicially, with BCM.

16.2 The costs incurred are set by parties beforehand at an amount which is not lower than the customary rate applied by bailiffs.

16.3 Client is in default through the simple expiry of a certain term.

ARTICLE 17 – LEASING OF MOVABLE PROPERTY, APPLICABLE REGIME, SURFACE RIGHT

17.1 This Agreement regards the leasing of movable property. In that context, only the general provisions of the articles 7:201 through 231 BW (Volume 7, Title 4, Department 4) are applicable. Upon request and at the expense of Client BCM will deliver the products at the User location as intended in the general part of these conditions and (let) install and/or construct and if applicable dismantle these Products. The delivery, (letting) install and/or construct and possibly dismantle the products by BCM does not cause any changes to the applicable rules as intended in the preceding.

17.2 Through the delivery and (letting) install and/or construct the products on the User location, Client (in case he is owner of the User location) or otherwise the owner of the User location may contend there is a situation of accession. Only in this connection will Client, if he is the owner of the User location, upon first request of BCM and prior to (letting) install and/or construct the products for the benefit of BCM and at the charge of the immovable property on which the products will be installed and/or constructed, establish an (independent) surface right. All matters without BCM being held to pay retribution and/or other compensation or costs for this. The effective time of this surface right must be equal to the effective time of the Agreement, in that sense that the end of the Agreement also leads to the end of the surface right. The surface right will be established at the expense of Client, and all matters before one of the notaries associated with Taylor Wessing in Eindhoven or Amsterdam.

17.3 If a third party is the owner of the immovable property on which the products are installed and/or constructed, Client will enter into a (main) rental agreement with this third party for the lease of the immovable property for the benefit of (letting) install and/or

construct the products for the duration of the (main) rental agreement. Client will also stipulate from the third party the unconditional and irrevocable permission to be able to sub-let the immovable property entirely or partially to BCM for the benefit of (letting) install and/or construct the products. Client will furthermore get this third party to collaborate, upon first request by BCM and prior to (letting) install and/or construct the products for the benefit of BCM and at the charge of the immovable property on which the products will be installed and/or constructed, with the establishment of a (lease-dependent) surface right on the immovable property. And all matters without BCM being bound to pay any retribution and/or other compensation or costs for this. The surface right will be established at the expense of Client, and all matters before one of the notaries associated with Taylor Wessing in Eindhoven or Amsterdam.

17.4 If Client or the third party as intended in article 17.3 of these specific conditions for leasing does not wish to collaborate with the establishment of the surface right as stipulated in this article, BCM has the right to immediately terminate this Agreement completely or partially, without any default notice or judicial intervention and without prejudice to BCM's other rights, such as rights regarding fines which have already expired, interest, and the right to compensation for damages. BCM is not bound to pay any compensation for damage to Client in case of the termination of the Agreement pursuant to what is stipulated in this article.

17.5 Client safeguards BCM against all damage and costs (including any damage, cost, loss, fine, as well as reasonable costs to legally assure its rights) which BCM incurs or will incur as a consequence of an action or failure to act in violation of this article on the part of Client.

SPECIFIC PROVISIONS FOR SALE

ARTICLE 1 – GENERAL

1.1 These specific conditions are additionally applicable to the provisions of the general part of these conditions.

1.2 In case of conflict between conditions from the general part of these conditions and these specific conditions for work, the present specific conditions prevail.

1.3 Parties exclude the effect of title 1 of Volume 7 BW (Netherlands Civil Code).

ARTICLE 2 – RETENTION OF PROPERTY

2.1. All Products remain the property of BCM until the moment of full settlement by Client of everything he owes to BCM. See art. 10 of the General conditions.

ARTICLE 3 - WARRANTY

3.1. BCM guarantees for a period of six months following delivery:
that the products are compliant with the specifications mentioned by BCM;
the soundness of the delivered construction and the used material, on condition BCM was free in its choice thereof.

3.2. If it turns out that the delivered construction and/or the used material was not sound, BCM will restore or replace these as further stipulated in the Agreement and/or the general conditions.

3.3. Client can only appeal to the warranty after he has already fulfilled all his obligations towards BCM.

3.4. No warranty applies in case the defects are the result of:
normal wear or aging;
inexpert use;

lack of or incorrectly conducted maintenance;

installation, assembly, modification or repair by Client or by third parties.

3.5. No warranty is granted for delivered products which were not new at the moment of delivery, nor for matters which are prescribed by Client or supplied by or on behalf of him.

3.6. The warranty stipulated in these sales conditions and this article is limited by the provisions of the general conditions, including the limitations to liability, expiry terms, and complaints.

3.7. The warranty as contained in the present article 3 is the sole warranty which BCM grants to Client. With regard to the products, BCM emphatically does not grant Client any safeguards, implicit guarantees or guarantees which can be deducted from the Agreement but are not explicitly stipulated as a guarantee in this article 3.

3.8. In case in the Agreement with Client deviating warranty provisions are included, these prevail over the warranty provisions mentioned in this article.

ARTICLE 4 – INFORMATION DUTY

4.1 For as long as the products are still covered by the retention of property of BCM, Client will forthwith keep BCM informed telephonically and in writing in case damage to or cause by the products and he will provide to BCM as soon as possible any possible testimonies and/or other documentation which regard the event.

4.2 Client will in such cases which are indicated for this (e.g. break-in, vandalism, set-up) forthwith have drawn up a police report of the events, as intended in the preceding section and send it to BCM.

ARTICLE 5 – USE

5.1 For as long as a retention of property or a Buy-back option of BCM applies to the products, the rules below for maintenance and use of the products are effective.

5.2 Client is considered to have received the products in a proper state and maintenance condition. Client will diligently use the products in correspondence with their end-use and keep the products, at his own expense, in a proper state and state of maintenance, barring normal wear and aging. All costs for maintenance on the products are borne by Client.

5.3 Without the prior written consent of BCM, Client will not apply or allow any modifications to the products, nor apply material to the products.

5.4 The application of modifications and/or the conducting of repairs may only be carried out by BCM, unless written consent has been granted to Client to (let) conduct those activities himself.

5.5 Client is bound to deploy BCM at the expense of Client for the implementation of the activities on the products intended in article 5.1 of these specific conditions, and all matters based on a maintenance contract to be concluded between BCM and Client. This maintenance contract will never regard applied alterations and/or additions which at the end of the Agreement can be made undone without damage to the products and without significant costs. Client will at all times bear the expense and risk for this himself.

5.6 Client is obligated to forthwith inform BCM of maintenance which has become necessary for the products. If Client fails to timely report to BCM that maintenance is necessary, Client is obligated to compensate the damage resulting from this negligence to BCM.

5.7 In case of maintenance to be conducted by BCM, barring the activities which do not allow for delays, BCM will consult with Client beforehand about the manner in which the latter's interests can be taken into account as much as possible. If these activities take

place, at the request of Client, outside normal working hours, then the extra charges of it will be borne by Client.

5.8 Client will forthwith inform BCM in writing of defects to the products. In that notification, Client gives BCM a reasonable term which, barring in the event of calamities, amounts to a minimum of six weeks to make a start with the resolving of a defect which is borne by BCM.

5.9 BCM has the right to control the products from time to time. In case BCM holds that the products are used in an improper way or are treated with neglect, BCM has the right to re-take possession of the products and/or to (let) bring them in a proper state and good maintenance condition again, and all matters at the expense of Client.

5.10 The products are delivered under retention of property or Buy-back option and accepted by Client in the state in which they are at that time.

The state upon the start of the Agreement is recorded by or on behalf of BCM in a delivery report to be attached to the Agreement and initialled by parties, which delivery report is a part of the Agreement. In the event no delivery report was prepared at the start of the Agreement, the products are considered to have been delivered in the state which Client may expect of a well-maintained matter of the kind which the Agreement is in regard of and without defects.

5.11 Upon invoking the retention of property or the Buy-back option, Client is bound to deliver the products in the state which is described in the delivery report at the start of the Agreement, barring normal wear and aging. In case upon the start of the Agreement no delivery report was drawn up, the products are delivered by Client upon the appeal to the retention of property or the Buy-back option to BCM in the state which BCM may expect from a well-maintained matter of the kind which the Agreement is in regard to, without any defects and barring normal wear and aging, unless established otherwise in writing. In addition, the products are delivered completely evacuated, free from use and user rights, adequately cleaned, and under the hand-over of the keys to BCM. The matters not removed by Client can be removed at the expense of Client by or on behalf of BCM. All matters which Client has apparently relinquished by leaving them behind in the products upon invoking the retention of property or the Buy-back option can be removed by BCM, at its own discretion and without any liability on its part, at the expense of Client. BCM has the right to have these matters immediately destroyed at its own discretion and at the expense of Client or to appropriate these matters and to sell them as it sees fit and to keep the proceeds thereof.

5.12 In case of discussion on the state of the products at the start of the Agreement, Client is supposed to have received the products in a good state and without any defects.

5.13 Before invoking the retention of property or the Buy-back option, the products must be inspected by parties jointly. Of this inspection, a delivery report is drawn up in which the findings regarding the state of the products is recorded. In this delivery report is also recorded what activities regarding the repairs demonstrated necessary upon the inspection as well as the overdue maintenance to be borne by Client must still be conducted at the expense of Client though by BCM, as well as the manner in which this will take place and the costs which will be billed for this by BCM to Client.

5.14 If Client, after having been adequately enabled to do so, does not collaborate within a reasonable term with the inspection and/or the recording of findings and arrangements in the delivery report, BCM is authorised to conduct the inspection in the absence of Client and to establish the delivery report bindingly for parties. BCM will forthwith provide Client with a copy of this delivery report.

5.15 BCM will carry out and/or have carried out the activities intended in the delivery report to the satisfaction of BCM but at the expense of Client after appealing to the retention of property or Buy-back option. And all matters exempting the alterations and/or additions which must be made undone by Client himself. These will be made undone by Client himself before the end of the Agreement. If Client, after having been adequately enabled, remains negligent in carrying out these activities, BCM has the right to have these activities carried out itself and to claim the costs involved from Client.

5.16 In connection with the use, maintenance, and storage of the products by Client, Client must be compliant with all legal requirements, including requirements for permits or instructions of the competent authorities. Client will not use or store any hazardous substances in the products, barring if and to the extent customary for business operations. The use or storage of hazardous substances takes place exclusively at the expense and risk of Client.

5.17 Client will not sell, transfer or (sub-)let the products, nor encumber them with a limited right or give them otherwise for use to a third party in a manner which this Agreement does not provide for.

5.18 Client is bound to take care of the application and maintaining of demarcations on location if such is required with an eye on the situation there and/or the police regulations applicable there or other regulations of the competent authorities.

5.19 Client will not (let) transport or move the products without the prior written consent of van BCM.

5.20 Client safeguards BCM against all damage and costs (including any damage, costs, losses, fines, as well as reasonable costs to legally assure its rights) which BCM incurs or will incur as a consequence of an action or failure to act of Client in violation of this article.

ARTICLE 6 – SURFACE RIGHT

6.1 For as long as the products still fall under the retention of property of BCM, Client will, if he is the proprietor of the User location, upon the first request of BCM and prior to (having) installed and/or constructed the products for the benefit of BCM and at the charge of the immovable product on which the products will be installed and/or constructed, establish an (independent) surface right. And all matters without BCM having to pay retribution and/or another compensation and/or costs for this. The effective time of this surface right must be equal to the effective time of the Agreement, in that sense that the end of the Agreement also leads to the end of the surface right. The surface right will be established at the expense of Client, all matters before one of the notaries associated with Taylor Wessing in Eindhoven or Amsterdam.

6.2 If, in derogation to what is stipulated in the preceding section, not Client but a third party is owner of the immovable good on which the products are installed and/or constructed, Client will enter into a (main) rental agreement with this third party for the lease of the immovable properties for the benefit of (letting) install and/or construct the products for the duration of the (main) rental agreement. Client will also stipulate vis-a-vis the third party the unconditional and irrevocable permission to be able to sub-let the immovable property to BCM for the benefit of (letting) install and/or construct the products for the benefit of BCM and at the charge of the immovable property on which the products will be installed and/or constructed to collaborate with the establishment of a (lease-dependent) surface right to the immovable property. All matters without BCM having to pay retribution and/or other compensation and/or costs for this. The surface right will be established at the expense of

Client, and all matters before one of the notaries associated with Taylor Wessing in Eindhoven or Amsterdam.

6.3 If Client or the third party does not wish to collaborate with the granting of the surface right as established in this article, BCM has the right to immediately terminate completely or partially the Agreement without any default notice or judicial intervention and without prejudice to BCM's other rights, such as rights regarding fines which have lapsed already, interest, and the right to compensation of damage. BCM is not bound to pay any compensation of damages to Client in case of the termination of the Agreement, in conformity with what is stipulated in this article.

6.4 Client safeguards BCM against all damage and costs (including any damage, costs, losses, fines, as well as reasonable costs to assure its rights legally) which BCM incurs or will incur as a consequence of an action or failure to act on the part of Client in violation of this article.

SPECIFIC PROVISIONS FOR BUY-BACK

ARTICLE 1 – GENERAL

1.1 These provisions are additionally applicable to the provisions of the general part of these conditions.

1.2 To the extent there is conflict between the general part of these general conditions and the specific provisions for buy-back, these specific conditions prevail.

1.3 The terms starting with a capital letter in the specific provisions for buy-back bear the meaning which is attributed to them in these specific provisions for buy-back expressly, or the same meaning as in the Agreement, unless these are deviated explicitly from in specific cases in these specific provisions for buy-back.

ARTICLE 2 – BUY-BACK

2.1 Under the conditions as comprised in these specific provisions for buy-back and the Agreement, BCM grants Client the option ("Buy-back option") to resell the products, manufactured and delivered by BCM to Client under this Agreement, after expiry of a certain term back to BCM (the "Buy-back").

2.2 The Buy-back option for a Product can be exercised by Client after expiry of the term established in the Agreement (the "Buy-back date").

2.3 To exercise the Buy-back option, Client will notify BCM in writing of:

the fact that he exercises the Buy-back option;

the details of the relevant products, including the number, type, the individual specifications, location, condition, and all other data required by BCM to determine what Products it regards; and

all other information which is reasonably required by BCM to evaluate the Buy-back option on its merits; this written notification (the "Option Notification").

2.4 The Buy-back option expires for Client no later than six months before the Buy-back date elapses. After expiry of that term, Client no longer has the right to exercise the Buy-back option and he no longer is entitled to the right to sell back to BCM.

2.5 After receipt of the Option Notification by BCM, Client sells and delivers the relevant products to BCM, which will purchase and accept these Products under the conditions as comprised in these specific provisions for buy-back from Client.

ARTICLE 3 - PRODUCTS

3.1 The Buy-back option only applies to Products which:

are manufactured and delivered by BCM to Client pursuant to this Agreement;

are in their original and functional state;
have been serviced pursuant to a maintenance agreement concluded to that effect with BCM;
do not show any damage or traces of anything but regular use; and
are the full property of Client, have been the unreserved property of Client from the moment of delivery by BCM and have exclusively been used by Client.

ARTICLE 4 - PRICE

4.1 The purchase price for the products when exercising the Buy-back option is established in the Agreement (the "Buy-back price").

4.2 From the Buy-back price, all costs are deducted:

which (must) be sustained to restore damage to the products;

which (must) be incurred in connection with dismantling and transport.

4.3 A higher value of the products as a result of any possible provisions attached by Client are not compensated to Client. A reduction of value of the products as a result of any possible provisions as may have been attached by Client, will be deducted from the Buy-back price.

4.4 If as a result of government measures or other circumstances outside of the reasonable sphere of control of BCM, the value of the Products to be taken back has dropped, BCM is only bound to compensate this lower value. Client has the right in such cases to have determined the value by external experts, with due regard for what is stipulated in the Agreement.

4.5 In case of buy-back, VAT cannot be invoiced by institutions which are VAT-exempt.

4.6 The Buy-back price will be paid by BCM to Client after delivery and receipt of the products by BCM and after deduction of all costs.

ARTICLE 5 – WARRANTY AND DELIVERY

5.1 Client guarantees that the products which are sold by Client under the Buy-back option to BCM are:

free from any encumbrance, restrictive right, securities or lateral rights or other limitation which can obstruct the free use and property of BCM;

in good conditions and suitable for (re-)use for the intended purpose, free from defects and damages and are compliant with the specifications;

can and may be sold by Client as the unlimited, 100% owner of the products and that no other than Client can exercise or claim any right regarding the products;

Client guarantees in addition, that he will be able to deliver back all Products which are sold by BCM under a Buy-back option to Client, after expiry of the Buy-back date.

5.2 In case of a situation in which one or more of the guarantees as intended in article 5.1 of this appendix turn out to be not correct, not complete and/or misleading, Client is liable towards BCM for and safeguards it against all damage which BCM incurs in connection with or as a result of the relevant violation of the warranty.

5.3 The products are delivered to BCM with the cost of shipping included.

ARTICLE 6 – PURCHASE OBLIGATION

6.1 BCM is bound to purchase and accept the products which are offered by Client under the Buy-back option to BCM, if and to the extent:

the products are compliant with what is stipulated in article 3.1 and 5.1 of this appendix;

Client fully and completely complies with the provisions of this Appendix;

The value of a Product is not such – whether or not as a result of the costs to be incurred for restoral or dismantling – that purchase by BCM cannot be demanded from a reasonable commercial perspective; and
No Force Majeure pertains.