

**General terms and conditions of purchase – Intermarc B.V.**

**1. APPLICATION**

These terms and conditions of purchase apply exclusively and are part of all the orders, contracts and agreements for the purpose of purchase of goods in which Intermarc B.V. (hereinafter: "Intermarc") acts as the buyer. Any and all other terms and conditions shall be deemed rejected and set aside. Terms and conditions of the counterpart of Intermarc (hereinafter: "the Supplier") cannot be deemed accepted by or binding for Intermarc, unless this has been agreed between the parties in writing and any contradictory conditions of Intermarc are expressly excluded. Departures from, amendments to or modifications of these general terms and conditions are only valid if Intermarc has specifically accepted such departures, amendments or modifications in writing. Should any article of these general terms and conditions become not applicable or invalid for any reason whatsoever, all other articles of the same general conditions and terms will remain in force. A valid provision that will, in so far as possible, have a similar effect will replace the article that has become not applicable or invalid. These terms and conditions of purchase shall also apply in the event that, being aware of contradictory provisions of the Supplier, Intermarc issues a purchase order and a contract is concluded with the Supplier without reservations. Absence of Intermarc's purchase order does not imply acceptance of the Suppliers terms and conditions.

**2. OFFERS / ORDERS**

All the offers of sale made by the Supplier are considered non-binding and without any obligations for Intermarc. Only a written purchase order from Intermarc will result into a binding contract. Intermarc's purchase order is always leading and will override the sales conformation issued by the Supplier. Amendments or modifications to the offers and / or orders are only valid if Intermarc has accepted the amendments or modifications in writing.

Once the contract is concluded Intermarc has the right to withdraw or cancel ("*ontbinden*") the contract, request an amendment or modification of the delivery date(s) or shipment schedule, the place of delivery, specifications, requirements (also on packaging), instructions and quantities ordered. The Supplier is under no circumstances allowed to withdraw or cancel ("*ontbinden*") the contract.

**3. PRICES**

Unless agreed otherwise, all the prices include all the expenses necessary to fulfill the contract and packaging, but excluding VAT. The prices mentioned in Intermarc's purchase order are binding. The Supplier may not (under no circumstances) unilaterally increase the price(s).

**4. DELIVERY**

- All deliveries will be affected according to the Incoterms in their latest version as specified in Intermarc's purchase order, unless otherwise agreed.

- Delivery dates mentioned in Intermarc's purchase order are binding. The Supplier acknowledges that the agreed date(s) of delivery of the goods shall be of the essence and undertakes to adhere to deliver the goods within the delivery time frame(s) or on the delivery date(s) mentioned in Intermarc's purchase order. In case of delay in the delivery of the goods the Supplier is obliged to immediately inform Intermarc of the cause of the delay and expected duration of the delay, in which case Intermarc has the right to either refuse the late delivery, to request replacement of the goods, to renegotiate the contract or to cancel ("*ontbinden*") the contract, without prejudice to its to indemnification and the right to exercise statutory suspension rights.

- Unless agreed otherwise between the parties in writing, delivery in parts / instalments is not allowed.

**5. PACKAGING – LABELLING – TRANSPORT**

- The delivery and shipment (including but not limited to loading, transportation, unloading, storage, marking, packaging, etc.) implemented by the Supplier, its staff, auxiliary persons or subcontractors, shall comply with (a) Intermarc's instructions and requirements set out in the purchase order, (b) the (regulatory) EU- and international regulations, standards and requirements and (c) the nature of and safety requirements for the goods. The Supplier shall further adhere to any applicable laws regarding taxes and social security contributions and warrants that all such taxes and contributions are always paid in full.

- The Supplier guarantees and upon Intermarc's request provides evidence of the fact that the goods are packed and labeled correctly and in accordance with Intermarc's dispatch instructions specified in the purchase order, always in accordance with best practice standards and the (regulatory) EU- and international regulations, standards and requirements.

- The Supplier guarantees and upon Intermarc's request provides evidence of the fact that all the necessary permits and adherence to (international) safety-, health, and environmental regulations with regard to its staff, auxiliary persons and / or subcontractors involved are in place during the execution of the contract and the delivery of the goods.

- Without prejudice to any of Intermarc's other rights, the Supplier shall indemnify, keep indemnified and hold Intermarc harmless against all actions or claims, liability and direct / indirect loss, costs, legal fees (including lawyer fees), expenses and / or damages, whether foreseeable or not, with respect to the aforementioned requirements and (regulatory) EU- and international regulations and standards. The Supplier shall at its own expenses, if so requested by Intermarc, defend Intermarc against all such claims, proceedings and suits.

- If the Supplier has arranged the transportation and concluded the contract of carriage with the carrier, the Supplier shall indemnify, keep indemnified and hold Intermarc harmless against all actions or claims, liability and direct / indirect loss, costs, legal fees (including lawyer fees), expenses and / or damages, whether foreseeable or not, of the carrier for the loss of, damage to, or delay (including demurrage) of the containers, tank containers, drums, vans, trailers, pallets, vehicles, packaged units of any description and / or other articles supplied by or on

behalf of the carrier for the purpose of carriage of the goods or otherwise. The Supplier shall at its own expenses, if so requested by Intermarc, defend Intermarc against all such claims, proceedings and suits.

- In case the goods are delivered in a condition which makes them unsuitable for normal storage, loading and / or discharge, Intermarc shall be entitled, at its sole and absolute discretion, to refuse to store, to load and / or discharge all or any part of the goods so delivered, to refuse to accept delivery of any part of such goods which are yet to be delivered, and / or to repack the goods at the Suppliers expense, without prejudice to any other legal or contractual rights.

#### **6. DISCHARGE – UNLOADING**

- The Supplier will adhere that upon arrival at the place of delivery appointed by Intermarc the goods are and / or can be discharged / unloaded without any delay and in accordance with the unloading time in the contract, or in the absence thereof in such time that is considered reasonable and in accordance with general practice. The Supplier will reimburse Intermarc for all the costs that might arise out of a delayed discharge / unloading.

- If the purchase order does not contain provisions regarding demurrage, the demurrage charged must be reasonable and in accordance with general practice.

- Absence of provisions concerning the unloading time and/or demurrage does not imply Intermarc's acceptance of the Supplier's conditions in this regard.

#### **7. QUALITY – QUANTITY – INSPECTION**

- The Supplier guarantees that the goods, including their packaging, shall be in conformity with Intermarc's specifications and requirements set out in the purchase order, as well as EU- and international regulations, standards and requirements. The Supplier furthermore guarantees that the goods will keep their quality for a length of time that is considered usual for the goods in question.

- If the quantity of the delivered goods exceeds the ordered quantity, Intermarc has the right, at its sole and absolute discretion, to refuse acceptance of the excess or (if already delivered) to return the excess to the Supplier at the Suppliers expense, without prejudice to its to indemnification and the right to exercise statutory suspension rights..

- In case of negative weight differences, Intermarc has the right, at its sole and absolute discretion, to accept or reject the goods, to request the Supplier to supply the additional goods / weight, to require a reduction of price or to cancel ("*ontbinden*") the contract, without prejudice to its to indemnification and the right to exercise statutory suspension rights.

- Intermarc shall always be entitled to perform an inspection on the goods to verify that the goods are in conformity with the specifications and requirements set out in the purchase order and in conformity with the EU- and international regulations, standards and requirements, at any time of intermarc's choosing. Intermarc will inform the Supplier of such inspection. The results of the inspections are final and binding for all parties and there shall be no further inspections performed.

If the goods are not in conformity with the specifications, requirements and EU- and international regulations, standards and requirements Intermarc will inform the Supplier thereof. Intermarc will inform the Supplier of any clear defects / obvious defects within a reasonable time, but in any case within eight weeks from the date of delivery. Hidden defects will be reported at the time the defects emerge or, in case the goods were put to use, ultimately within two years after the date of delivery.

- In case the goods are, for whatever reason, not in conformity with the specifications or requirements, the Supplier shall be in default without the need for Intermarc to issue a notice of default. In such a case Intermarc shall be entitled, at its sole and absolute discretion, to require replacement of the goods, to reject the goods and if necessary dispose of the goods, to require a reduction of price or to cancel ("*ontbinden*") the contract whole or in part without prejudice to Intermarc's other legal and contractual rights pursuant to the contract, these terms and conditions of purchase and the applicable law provisions (including but not limited to Intermarc's right to immediately ("*ontbinden*") cancel the contract with respect to all or any undelivered part of the goods). The Supplier shall be liable in full for the loss, costs (including the costs of the inspection), price differences, third-party claims and damages incurred by Intermarc due to such non-conformity of the goods, irrespective of the insured coverage under the Suppliers insurance policy.

- In case Intermarc's customer(s) under our contracts with them find that the goods are not in conformity with the specifications and requirements, Intermarc shall have the right to impose to the Supplier the decisions Intermarc agreed upon with its own customer(s). The Supplier shall comply with such decisions at its own costs.

- Any alleged delay in (i) inspecting the goods, (ii) notifying the Supplier of non-conformity, defects or damage, (iii) Intermarc's rejection of the goods, or (iv) Intermarc's decision to return the goods to the Supplier, shall not be deemed an acceptance of such goods or be deemed a waiver of Intermarc's rights to inspect, claim, reject or return such goods or cancel ("*ontbinden*") the contract as provided in these terms and conditions.

- Without prejudice to any of Intermarc's other rights, the Supplier shall indemnify, keep indemnified and hold Intermarc harmless against all actions or claims, including actions and claims of third-parties, liability and direct / indirect loss, costs, incurred legal fees (including lawyer fees), expenses and damages, whether foreseeable or not, with respect to the aforementioned quality of the goods. The Supplier shall at its own expenses, if so requested by Intermarc, defend Intermarc against all quality related claims, proceedings and suits. The Supplier is furthermore obliged to reimburse Intermarc for the direct / indirect loss, costs, incurred legal fees (including lawyer fees), expenses and damages caused by any recall conducted by Intermarc. Intermarc will inform the Supplier of the content of such recall measures as soon as possible.

#### **8. LIABILITY**

• Intermarc undertakes to use reasonable endeavours to comply with its obligations under this contract, but if it nonetheless fails to perform Intermarc is not liable for any direct / indirect loss, costs and / or damages, unless the Supplier proves that the loss has been caused by intent or gross negligence on the part of Intermarc, in the sense of: the legal entity itself or of directors as per the by-laws (or persons that can be identified by such directors). Intermarc is never liable for faults, including gross negligence, of its staff or auxiliary persons or subcontractors involved during the execution of the contract. Intermarc's liability will furthermore never exceed the invoice value of the goods, calculated as per the specific contract related to the incident concerned. Liability of Intermarc for indirect loss, delay, damage or consequential losses is excluded in all circumstances, which shall include loss as a result of delay or suspension of performance and demurrage. Intermarc will furthermore not be liable for loss which is covered, should or could have been covered by insurance of the Supplier. The Supplier warrants that such insurance has been taken out in such a way that recourse by insurers against Intermarc is not possible and unconditionally excluded.

• If the Supplier for whatever reason, including events or circumstances that fall under force majeure, fails to comply with any of its obligations under the contract, including these terms and conditions or pursuant to the law of any kind in any way (including due to any alterations in its commercial, industrial or financial resources), it will be liable towards Intermarc for the direct / indirect loss (consequential losses included), costs, incurred legal fees (including lawyer fees), expenses and damages, whether foreseeable or not, caused by such a breach of contract, irrespective of the insured coverage under the Seller's insurance policy.

• The Supplier shall be fully liable towards Intermarc for the direct / indirect loss (consequential losses included), costs, incurred legal fees (including lawyer fees), expenses and damages, whether foreseeable or not, caused by or incurred due to any and all issues relating to the goods, including but not limited to (i) their physical, chemical or other characteristics, (ii) their declared origin, (iii) their weighing and moisture, when applicable, (iii) their compliance with specifications, samples, requirements fixed in the purchase order and other documents forming part of the contract, as well as (regulatory) standards and requirement, (iv) their origin/traceability, (v) their stable quality and (vi) the sustainability of their production required to comply with Intermarc's contractual requirements for the duration of the contract, (vii) their lack of apparent or non-latent defects, (viii) their storage and transportation in accordance with their nature, (ix) the contract between Intermarc and the Supplier, and (x) the EU- and international regulations, standards and requirements.

#### **9. CONTINGENCIES**

In case of force majeure, being any event, occurrence or circumstances reasonably beyond the control of Intermarc, including without prejudice to the generality of the foregoing, failure or delay caused by or resulting from acts of god, strikes, fires, floods, wars (whether declared or undeclared) riots, destruction of the goods, delays of carriers due to breakdown or adverse weather, perils of the sea, embargoes, accidents, restrictions imposed by any governmental authority (including allocations, priorities, requisitions, quotes and price controls), lack of raw materials, production stops and any other condition which Intermarc or the Supplier could not have foreseen and cannot influence, Intermarc always has the option to withdraw or cancel ("*ontbinden*") the contract, without prejudice to its rights to indemnification and the right to exercise statutory suspension rights..

#### **10. PAYMENT**

All payments are to be made according to the terms of payments mentioned in Intermarc's purchase order, or, in absence of any such term, after 30 days from the invoice date.

#### **11. RETENTION OF TITLE**

Any retention of title, lien or right of retention by the Supplier will be deemed invalid.

#### **12. JURISDICTION**

All contracts shall exclusively be governed by Dutch Law. Applicability of the Convention on the International Sale of Goods of the United Nations is excluded.

The Court of Rotterdam shall have exclusive jurisdiction to hear disputes and claims of, and against Intermarc without recourse to arbitration.

#### **13. OTHER CONDITIONS**

• If the Supplier requests to withdraw or cancel ("*ontbinden*") the contract Intermarc has the right to reject and / or claim from the Supplier all direct / indirect loss, costs and / or damages resulting from this withdrawal or cancellation.

• Claims against Intermarc are not transferable without permission from Intermarc; such transfer shall be null and void vis-à-vis Intermarc. The Supplier waives the right to take over any claims against Intermarc from third parties.

• All amendments and additions to a contract are valid only if they are made in writing and signed by both parties.

• Without the written approval of Intermarc, the Supplier may not appoint a third party to fulfil or assign its obligations under the contract.

• Intermarc has the right to suspend any payments under each pending contract or to cancel ("*ontbinden*") each pending contract if the economical situation of the Supplier either changes or deteriorates to such a degree that Intermarc considers these to jeopardize the execution of the contract. This can be assumed particularly when the Supplier is in default in respect of any of its obligations under any contract with Intermarc (these conditions included), an arrest is made against the Supplier or the goods have been arrested by other parties, the Supplier is or has become insolvent, when the Supplier is being granted (provisionally or definitively) a suspension of payments, when a petition in bankruptcy is being filed by or against the Supplier either for payment of creditors or collateral security or otherwise, when a interim injunction is being effected or the judicial compensation procedure is being applied for or opened, when the Supplier makes a dissolution order or is dissolved by law, or when the Supplier is discontinuing its factual business.

- Intermarc has the right of pledge and lien or right of retention (established by the mere handing over to, or putting in the disposal of Intermarc) in respect of all goods, documents and monies which it holds or will obtain on whatever basis and for whatever purpose, in security of all claims which it has or may have in the future against the Supplier. Intermarc also has these rights in respect for what is or may become due in respect of earlier instructions to or from the Supplier. These rights do not stand in the way of the suspension rights provided by law. Intermarc is entitled to regard the person who brings the goods into Intermarc's control as having control authority to dispose of the goods, or at least as the representative of the Supplier, or the owner or party otherwise entitled to the goods. Intermarc has the right to give notice of the existence of its pledge on the basis of this article to whom and at any time it deems fit.
- The failure of Intermarc to exercise any right it has against the Supplier cannot be deemed to be a waiver thereof, nor can it have any influence on other rights of Intermarc under any agreement (which will include rights flowing from these terms and conditions)
- Any claim, right and / or right of action of the Supplier against Intermarc will expire/ lapse/ become time-barred / become forfeited/ be lost (*"verval van vorderingsrecht"*) by the mere passing of six (6) months from the arising of the claim. This period of prescription cannot be interrupted and any such claim, right and / or right of action can only be protected by filing suit before the six (6) months period elapses, unless an extension of that term has been agreed in writing by Intermarc.

**General terms and conditions of sale and delivery - Intermarc B.V.**

**1. APPLICATION**

These terms and conditions of sale and delivery apply exclusively and are part of all the offers, contracts, sales and deliveries in which Intermarc B.V. (hereinafter: "Intermarc") acts as the seller. Any and all other terms and conditions shall be deemed rejected and set aside. Terms and conditions of the counterpart of Intermarc (hereinafter: "the Buyer") cannot be deemed accepted by or binding for Intermarc, unless this has been agreed between the parties in writing and any contradictory conditions of Intermarc are expressly excluded. Departures from, amendments to or modifications of these general terms and conditions are only valid if Intermarc has specifically accepted such departures, amendments or modifications in writing. Should any article of these general terms and conditions become not applicable or invalid for any reason whatsoever, all other articles of the same general conditions and terms will remain in force. A valid provision that will, in so far as possible, have a similar effect will replace the article that has become not applicable or invalid.

**2. OFFERS**

All the offers of sale made by Intermarc are non-binding and without any obligations. Purchase orders (whether made verbally or in writing) can only be accepted / confirmed by means of a written sales confirmation from Intermarc. Only such a written sales confirmation results into a binding contract. The written sales confirmation on the agreed terms (including specifications) is always leading.

Once the contract is concluded Intermarc always has the right to withdraw or cancel ("ontbinden") the contract, request an amendment or modification of the delivery date(s) or shipment schedule, the place of delivery, specifications, requirements (also on packaging), instructions and quantities ordered. The Buyer is under no circumstances allowed to withdraw or cancel ("ontbinden") the contract.

**3. PRICES**

Unless agreed otherwise, all the prices are nett prices, excluding VAT and packaging. All the prices are directly and indirectly subject to foreign exchanges, import duties, taxes, purchase prices and other costs. Should any of these cost factors, which are outside of Intermarc's control, change after the conclusion of a contract, but prior to delivery, Intermarc has the right to adapt its price accordingly.

**4. DELIVERY**

- All deliveries will be effected according to the Incoterms in their latest version as specified in the sales confirmation, unless otherwise agreed.

- Delivery dates as mentioned in the sales confirmation are indicative. Intermarc will use reasonable endeavours to adhere to the delivery dates as stated in the sales confirmation, however Intermarc will not be liable for any direct / indirect loss, costs and / or damages as a result of a delayed delivery. A delayed delivery as such is no valid reason for the Buyer to cancel ("ontbinden") the contract.

- If the Buyer requests for a delivery to be delayed Intermarc has the right to pass on to the Buyer all the costs which are related to such a delayed delivery or the right to cancel ("ontbinden") the contract, without prejudice to its rights to indemnification and the right to exercise statutory suspension rights.

**5. INSPECTION - DISCHARGE - UNLOADING**

- Bulk deliveries:

Prior to discharge / unloading at the Buyer's chosen / appointed facility, the Buyer will do all the necessary inspections and / or tests to verify that the goods are as per the specifications as laid down in the contract. Intermarc shall not be liable for any direct / indirect loss, costs and / or damages resulting from the Buyer's failure to perform such tests prior to unloading. If the goods are not in conformity with the specifications as laid down in the contract, the Buyer will immediately inform Intermarc thereof. Once discharged / unloaded, the Buyer is deemed to have accepted the goods.

The Buyer will ensure that upon arrival at the facility the goods are discharged/unloaded without any delay, or in such a time that is considered reasonable and in accordance with general practice. The Buyer will reimburse Intermarc for all the costs that might arise out of a delayed discharge / unloading.

- Deliveries of packed goods:

Prior to usage but within 5 working days after discharge / unloading of the delivered goods at the Buyer's chosen / appointed facility, the Buyer will do all the necessary inspections and / or tests to verify that the goods are as per the specifications as laid down in the contract. Intermarc shall not be liable for any direct / indirect loss, costs and / or damages resulting from the Buyer's failure to perform such tests. If the goods are not in conformity with the specifications as laid down in the contract, the Buyer will immediately inform Intermarc thereof.

The Buyer's failure to inspect the goods before usage or within 5 working days after discharge and / or the Buyer's failure to report potential non-conformities immediately after inspection, results in acceptance of the goods. Once the Buyer uses the goods, the Buyer is deemed to have accepted the goods.

The Buyer will ensure that upon arrival at the facility the goods are discharged/unloaded without any delay, or in such a time that is considered reasonable and in accordance with general practice. The Buyer will reimburse Intermarc for all the costs that might arise out of a delayed discharge / unloading.

**6. LIABILITY**

Intermarc undertakes to use reasonable endeavours to comply with its obligations under the contract and to make sure that at the time of delivery the goods shall meet the specifications as mentioned in Intermarc's sale confirmation. Intermarc never guarantees application possibilities and / or fitness for particular / specific use, merchantability or otherwise of its products. In case of off specification goods or non-



conformities, Intermarc shall always be granted the option to replace the goods within a reasonable amount of time, whereby Intermarc always has the option to repossess the goods originally delivered. In no event Intermarc shall be liable for goods that have meanwhile been fully or partially consumed, changed from their original form, commingled by the Buyer and / or resold by the Buyer.

Intermarc shall not be liable for any direct / indirect loss, costs and / or damages as a result from work undertaken by Intermarc during the execution of the contract, unless the Buyer proves that the direct / indirect loss, costs and / or damages have been caused by the intent or gross negligence on the part of Intermarc, in the sense of: the legal entity itself or of directors as per the by-laws (or persons that can be identified by such directors). Intermarc is never liable for faults, including gross negligence, of its staff or auxiliary persons or subcontractors involved during the execution of the contract.

Intermarc's liability will never exceed the invoice value of the delivered goods, calculated as per the specific contract related to the incident concerned. Liability for indirect loss, delay, damage or consequential losses is excluded in all circumstances, which shall include loss as a result of delay or suspension of performance and demurrage. Intermarc will furthermore not be liable for loss which is covered, should or could have been covered by insurance of the Buyer. The Buyer warrants that such insurance has been taken out in such a way that recourse by insurers against Intermarc is not possible and unconditionally excluded.

#### **7. CONTINGENCIES**

Intermarc shall not be liable for any direct / indirect loss, costs, damages or otherwise for any failure or delay in performance of any obligation hereunder, where such failure or delay is caused by force majeure, being any event, occurrence or circumstances reasonably beyond the control of Intermarc, including without prejudice to the generality of the foregoing, failure or delay caused by or resulting from acts of god, strikes, fires, floods, wars (whether declared or undeclared) riots, destruction of the goods, delays of carriers due to breakdown or adverse weather, perils of the sea, embargoes, accidents, restrictions imposed by any governmental authority (including allocations, priorities, requisitions, quotes and price controls), lack of raw materials, production stops, partial or complete breach of contract of Intermarc's suppliers whose goods and / or services must be used to execute the contract and any other condition which Intermarc could not have foreseen and which Intermarc cannot influence. In such event Intermarc shall notify the Buyer hereto, indicating the nature of such cause and, to the extent possible, inform the Buyer of the expected duration of the force majeure event. In such event Intermarc always has the option to cancel ("ontbinden") the contract without any legal consequences.

#### **8. CLAIMS**

Claims can only be considered by Intermarc if the Buyer notifies Intermarc in writing within 6 working days after discharge / unloading, under penalty of expiration/ lapse/ forfeiture of any and all claims, rights and / or rights of action ("verval van vorderingsrecht"). In the event of a claim the Buyer will enable Intermarc to inspect the goods before they are used and / or processed and / or discharged (bulk deliveries). If possible, such an inspection will be executed by an independent inspection and survey company acceptable to both parties, in which case the results of such inspection are to be final and binding for both parties.

Any claim, right and / or right of action against Intermarc will expire/ lapse/ become time-barred / become forfeited/ be lost ("verval van vorderingsrecht") by the mere passing of six (6) months from the arising of the claim, unless another term follows from provisions of law or international conventions, which apply compulsorily. This period of prescription cannot be interrupted and any such claim, right and / or right of action can only be protected by filing suit before the six (6) months period elapses, unless an extension of that term has been agreed in writing by Intermarc.

Any claim against Intermarc will become time-barred by the mere passing of nine months from the arising of the claim, unless another term follows from provisions of law or international conventions, which apply compulsorily. The time bar can only be protected by filing suit before the relevant term elapses, unless an extension of that term has been agreed in writing by Intermarc.

#### **9. PAYMENT**

All payments to be received according to the payments terms of Intermarc's sales confirmation and as stated on Intermarc's invoice, or, in the absence of any such term, within a term of 15 days from the invoice date. Intermarc may at any time request the Buyer to provide an acceptable payment security. The Buyer may under no circumstances suspend or withhold any payment, and the right of deduction or offset, on whatever ground, against any payment under any agreement with Intermarc, is excluded. In cases where on the basis of any mandatory legal provision or judicial decision there would be a right of suspension, the Buyer will forthwith provide security in the form of a guarantee of a first class Dutch Bank, to cover the suspended obligations. Without prejudice to Intermarc's other rights and remedies, the Buyer shall pay to Intermarc the Dutch statutory 'trade' interest rate on all overdue sums, which will be running from the day on which payment should have been made until the day of payment in full. In case of non-payment all legal and extra-judicial costs for collection (including costs of legal assistance) are for the account of the Buyer. In case of legal proceedings the Buyer will compensate Intermarc in full for all related costs effectively spent (even if these exceed the costs reimbursement allowed by the Court in the proceedings) in the event that Intermarc is found right in whole or in part.

If the Buyer defaults on payment of any receivable on the due date, Intermarc has the right to postpone deliveries under each pending contract or to cancel ("ontbinden") each pending contract. All the direct / indirect loss, costs and / or damages related to such postponement or cancellation will be for the Buyer's account.

In case of default on payment of any receivable on the due date, the Buyer must return forthwith to Intermarc all unpaid merchandise. Notwithstanding the foregoing, the consequence of such a default shall also be that all other claims against the Buyer shall become

immediately due and payable, and all terms previously granted for payment of other claims, invoices or receivables or other credit arrangements are cancelled automatically and with immediate effect.

#### **10. RETENTION OF TITLE**

The goods are to remain property of Intermarc until all receivables, including but not limited to receivables of all goods whatsoever supplied, receivables for all services rendered, incidental receivables and receivables for damages have been paid in full. The Buyer shall thereto permit Intermarc or its servants or agents to enter the Buyer's premises and repossess the goods at any time. As long as payment has not been effected the Buyer cannot sell, pledge or offer goods as guarantee or collateral security to any party. Should the goods (or any of them) be converted into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions, the conversion shall be deemed to have been effected on behalf of Intermarc and Intermarc shall have the full and legal and beneficial ownership of the new products, but without accepting any liability whatsoever in respect of such converted goods in relation to any third party, and the Buyer hereby indemnifies Intermarc in relation thereto. Towards anyone who demands delivery or release thereof, Intermarc has a right of pledge and a lien/right of retention in respect of all goods, documents or monies which it holds or will obtain on whatever basis and for whatever purpose, in security of all claims which it has or may have in the future against the Buyer and/or the owner or party otherwise entitled. Intermarc can also exercise these rights in respect of what is or may become due to it from the Buyer in respect of earlier instructions.

#### **11. JURISDICTION**

All contracts shall exclusively be governed by Dutch Law. Applicability of the Convention on the International Sale of Goods of the United Nations is excluded.

The Court of Rotterdam shall have exclusive jurisdiction to hear disputes and claims of, and against Intermarc without recourse to arbitration.

#### **12. OTHER CONDITIONS**

- If the Buyer requests to withdraw or cancel ("ontbinden") the contract Intermarc has the right to reject and / or claim from the Buyer all direct / indirect loss, costs and / or damages resulting from this withdrawal or cancellation.
- Rights and / or obligations of the Buyer under the contract and / or claims against Intermarc are not transferable without written permission from Intermarc; such transfer shall be null and void vis-à-vis Intermarc. The Buyer waives the right to take over any claims against Intermarc from third parties.
- Amendments and additions to a contract are only valid if they are made in writing and signed by both parties.
- Intermarc has the right to postpone deliveries under each pending contract or to cancel ("ontbinden") each pending contract if the economical situation of the Buyer or the securities which the Buyer has given either change or deteriorate to such a degree that Intermarc considers these to jeopardize the payment of any receivable. This can be assumed particularly when the Buyer refuses to pay, is in default in respect of any of its obligations under any agreement with Intermarc (these conditions included), is insolvent, when the Buyer is being granted (provisionally or definitively) a suspension of payments, when a petition in bankruptcy is being filed by or against the Buyer either for payment of creditors or collateral security or otherwise, when a interim injunction is being effected or the judicial compensation procedure is being applied for or opened, when the Buyer makes a dissolution order or is dissolved by law, when the Buyer is discontinuing its factual business or an arrest is made against the Buyer.
- The failure of Intermarc to exercise any right it has against the Buyer cannot be deemed to be a waiver thereof, nor can it have any influence on other rights of Intermarc under any agreement (which will include rights flowing from these terms and conditions).
- If the Buyer as a result of circumstances not attributable to it fails to comply with any obligation, Intermarc is entitled to, but not bound to, cancel ("ontbinden") the contract in whole or in part, without prejudice to its rights to indemnification.
- If the Buyer has arranged the transportation and concluded the contract of carriage with the carrier, the Buyer shall indemnify, keep indemnified and hold Intermarc harmless against all actions or claims, liability and direct / indirect loss, costs, legal fees (including lawyer fees), expenses and / or damages, whether foreseeable or not, of the carrier for the loss of, damage to, or delay (including demurrage) of the containers, tank containers, drums, vans, trailers, pallets, vehicles, packaged units of any description and / or other articles supplied by or on behalf of the carrier for the purpose of carriage of the goods or otherwise. The Buyer shall at its own expenses, if so requested by Intermarc, defend Intermarc against all such claims, proceedings and suits.