

Prolyse BV General Conditions of Delivery 2010

Issued by the Prolyse BV. The Prolyse BV General Conditions of Delivery 2010 are filed with the Chamber of Commerce of ZuidWest Nederland under number 20164664

Part A. Agreements about sale and delivery

1 Definitions

The following definitions apply to these Conditions:

- Tender or Offer: any offer issued or made by or on behalf of the Supplier to the Other Party, also termed proposal;
- Supplier: member of a branch organisation affiliated to the Prolyse BV by whom or on whose behalf the Conditions have been declared applicable to an agreement, their representatives, proxies and legal successors;
- Written/in writing: correspondence by fax or by regular post between the parties;
- Producer: the producer or manufacturer of the goods offered by Supplier to the Other Party;
- Vereniging: Prolyse BV, entered in the Commercial Register of the Chamber of Commerce of ZuidWest Nederland under the number 20164664
- Conditions: the PROLYSE BV General Conditions of Delivery 2010 in question and its Elements B and C;
- Other Party: each natural person, partnership, legal body or other entity that enters into or has entered into an agreement with a Supplier, or to whom an Offer or proposal is or has been made by or on behalf of a Supplier, or to whom or by whose order a delivery is or has been made by or on behalf of a Supplier, or by order of or for the benefit of whom one or more services is or has been performed by or on behalf of a Supplier.

2 Applicability of the Conditions, titles and language

- 2.1 These Conditions apply to all offers, legal relationships and agreements whereby the Supplier delivers goods and/or services of whatever nature to the Other Party. Departures from these Conditions will only be effective if expressly agreed in writing.
- 2.2 If one or more provisions in the Conditions is or becomes at any time fully or partly void or invalid, this shall not affect the remaining provisions in the Conditions.
- 2.3 The Supplier may during the existence of the legal relationship make requirements for communications between the parties or for legal transactions to take place via digital media.
- 2.4 The titles and the articles of these Conditions serve solely to simplify their comprehension and have no other significance. The titles may not in particular be used for the interpretation of these Conditions.
- 2.5 The Conditions written in the Dutch language have precedence over the Conditions translated into English or another language.

3 The Offer and realisation of the agreement

- 3.1 Any Offer is without obligation unless a date for acceptance is given in the Tender.
- 3.2 The agreement is realised by a Written offer and a Written acceptance of this offer.
- 3.3 Any sources supplied by or on behalf of the Supplier such as price lists, brochures, catalogues, folders, websites and other data shall only be binding on the Supplier insofar as explicit reference is made in the proposal to data from these sources.
- 3.4 Insofar as the scope of the acceptance test – likewise the order – of the Other Party varies in any point from the offer made by the Supplier to the Other Party, the order shall only be realised at the time that the Supplier confirms the realisation and the content of the agreement in writing and thereby describes precisely the commitments of both parties arising from the agreement.
- 3.5 In the case of work or orders, for which in view of their nature and scope the Supplier does not or has not sent a Tender or proposal or confirmation of order, the agreement shall only be deemed to be realised from the time that the Supplier actually commences implementation of the agreement or commissions third parties to do so. In this case the invoice shall be deemed to be confirmation of order, which shall also be deemed to report the agreement correctly and fully.

- 3.6 The Supplier shall send one free copy of standard documentation such as industrial plans, descriptions, instructions and test certificates. The Other Party shall owe reasonable reimbursement to the Supplier for additional copies of such documentation.
- 3.7 The Other Party shall at the first request from the Supplier provide securities for the punctual satisfaction of his commitments from the agreement to the Supplier.
- 3.8 The Supplier is authorised to engage third parties for the implementation of the agreement and to charge the Other Party for the costs of this in accordance with the rates given in the Tender.
- 3.9 If no agreement is realised, the Other Party shall pay the Supplier any reasonable costs invoiced by the Supplier and necessary for making a proposal.
- 3.10 All information provided in connection with an offer to the Other Party including but not limited to in the form of brochures, catalogues, price lists, folders, correspondence and digital storage media and all data therein or thereby provided including in the form of designs, drawings/illustrations, plans, concepts, models, samples, tables, schemes, databases or calculations shall expressly and exclusively remain the industrial or intellectual property of the Supplier.

4 Secrecy

- 4.1 The Other Party is forbidden to copy any information as defined above either wholly or partially and/or to make it known to third parties in whatever way and/or to allow it to be used by third parties and/or to sell it or place it at anybody's disposal.
- 4.2 The Other Party is only permitted to use the data and information insofar necessary for the fulfilment of the agreement. At the first request of the Supplier, and if the agreement is not realised or is cancelled, the Other Party must return all the materials, designs, calculations, information, data, etc., indicated here to the Supplier immediately.

5 Amendments to the agreement

- 5.1 Any entire or partial amendment or cancellation of the agreement may only be made with prior Written agreement from the Supplier.
- 5.2 If the Supplier consents to such amendment or cancellation, the Other Party is obliged in each case to pay the Supplier for the costs of work already undertaken by the Supplier.
- 5.3 In the event of such amendment or cancellation the Supplier is permitted to invoice the Other Party for the related costs and to reestablish the delivery and lead times in relation to his commitments under the agreement.

6 Prices

- 6.1 If an offer is without obligation, the price details and rates contained therein shall also be without obligation.
- 6.2 Prices are in euros and:
 - based on purchase prices, wage rates, wage costs, social security and government costs, transport costs, insurance premiums and other costs prevailing on the date of Offer or (if no Offer or quotation is made) the date of the order;
 - based on delivery ex Producer's works (in accordance with Incoterms);
 - exclusive of VAT, import duties and other taxes, levies and duties;
 - exclusive of the costs of packaging, loading and unloading, charges for removal, transport and insurance;
 - exclusive of the costs of assembly, installation, composition, adjustment, calibration, and commissioning.
- 6.3 For offers that are without obligation and also if this proviso is included in a binding offer, the Supplier is entitled to adjust prices if the official currency rate at the time of delivery differs by more than 2% from the currency rate on the date on which the Tender or proposal is made, whereby the latter rate is set at 100.

6.4 For offers that are without obligation and also if this proviso is included in a binding offer, the Supplier is entitled to adjust prices if there is an increase in one or more of the factors that determine the cost price. The Supplier is obliged to take due account of existing applicable legal requirements, on the understanding that any future price increases of which the Supplier is aware on the date of the order confirmation should be specified in this order confirmation.

7 Risk

7.1 Where the Supplier delivers the goods from stock, the risk of the goods to be delivered by the Supplier to the Other Party transfers to the Other Party from the moment that they are set apart on behalf of the Other Party from the other stock articles in his warehouse.

7.2 Where the goods are shipped directly by the Producer or a third party on behalf of the Supplier, the risk of the goods to be delivered by the Supplier to the Other Party transfers to the Other Party, from the moment that they are loaded for transport to the agreed place of delivery.

7.3 Notwithstanding the parties' arrangements about the moment on which the risk transfers to the Other Party, loading and offloading, horizontal and vertical transport, and the assembly, installation, composition, adjustment, calibration and commissioning of the goods, shall likewise be for the risk of the Other Party even if it takes place before the risk transfers to the Other Party as indicated in the first half of this sentence.

8 Delivery and delivery time

8.1 For orders or deliveries that do not exceed a specified amount and insofar as the Supplier calls on the Other Party, the Other Party shall owe the Supplier a reasonable amount for administration costs to be determined by the Supplier.

8.2 Irrespective of the moment at which the risk transfers to the Other Party, the moment of delivery shall be deemed to be the same as the moment on which the goods are offloaded or landed at the agreed place (actual transfer); this also holds good if the Supplier must assemble, install and/or commission the goods.

8.3 The Other Party must report any shortages, defects and damage in writing directly to the Supplier within 5 working days of the delivery and if nothing is reported then the goods will be regarded as having reached the Other Party in good condition, complete and without damage.

8.4 The Supplier is entitled to deliver in instalments (part-deliveries) and to invoice these instalments separately. The Other Party is obliged to settle the separate invoices in accordance with the provisions in Article 18 of these Conditions.

8.5 The Supplier is not obliged to be able to supply spare parts after a good is delivered to Other Party, unless this is expressly agreed between the parties and insofar as these parts are still available.

8.6 Lead times and delivery dates given in the Tender/proposal for commitments of the Supplier are not absolute deadlines. Delay shall therefore not arise until the Supplier has declared the Other Party in default and granted him a grace period to fulfil his commitments under the agreement.

8.7 The Supplier is obliged to observe the specified delivery time or delivery period as much as possible, yet shall never be liable if they are exceeded. When they are exceeded the Supplier is not obliged to provide any compensation for damages of whatsoever nature. Exceeding a delivery time or delivery period does not give the Other Party the right to terminate or to dissolve the agreement or to refuse to purchase goods. In cases where a delivery time or period is exceeded excessively the parties must consult with each other.

8.8 If goods are not purchased by the Other Party within the delivery time or period, or if the Other Party does not observe an agreed call period then the Supplier is entitled to invoice the Other Party for the goods in question and, furthermore, the Supplier is entitled to store these goods at its own discretion but wholly at the cost and risk of the Other Party. In the event the Other Party does not purchase or call within the agreed period, the Supplier may at his discretion demand fulfilment by the Other Party or dissolve the agreement, without prejudice to the right of the Supplier in either case to claim damages.

9 Transport and packing

9.1 The Supplier shall based on his experience determine the method of packaging, transport, shipment, etc., of goods, notwithstanding the provisions concerning the risk in Article 7.3 of these Conditions.

9.2 If the Other Party has specific wishes and insofar as the Supplier agrees to these wishes in relation to packaging and/or transport, also including relocation within the business or company site, the Other Party is obliged to settle the costs invoiced for this by the Supplier.

10 Force majeure (non-liaible failing)

10.1 None of the parties is obliged to fulfil any obligations, including any guarantee undertakings agreed between the parties, if he is prevented from doing so as a result of force majeure. Force majeure shall also be deemed to denote: (i) force majeure of subcontractors of the Supplier, (ii) failure to properly fulfil obligations by subcontractors that are stipulated by the Other Party, (iii) deficiency of items, equipment, software or materials from third parties whereby said use is stipulated by the Other Party, (iv) governmental actions, (v) electricity failure, (vi) failure of the Internet, service providers, computer network or telecommunication facilities, (vii) war, (viii) occupation, (ix) strike, (x) general transport problems and (xi) the unavailability of one or more members of staff, (xii) terrorist attacks or hostage taking, (xiii), epidemics and pandemics, (xiv) financial crisis, (xv) the non-functioning of the payment network of the banks concerned.

10.2 If a situation of force majeure endures for longer than ninety days, each of the parties shall have the right to dissolve the agreement in writing. Any work already carried out on the basis of the agreement shall in that case be settled pro rata, without the parties owing anything further to one another. The parties shall immediately make payment in connection with this settlement.

10.3 If the Supplier wishes to plead force majeure, he shall inform the Other Party of this as soon as practically possible. The consequences of force majeure shall come into effect from the moment that the eventuating circumstance, cause or incident has occurred.

10.4 If the Supplier is prevented by force majeure from fulfilling any commitments, on whatsoever legal basis, towards the Other Party and the force majeure is in the opinion of the Supplier temporary or provisional in nature, the Supplier is entitled to postpone implementation of the agreement until the circumstance that causes or caused the force majeure no longer applies.

10.5 If the Supplier, as a result of force majeure, is prevented from fulfilling his obligations with regard to one or more of his customers or buyers but not his obligations with respect to all his customers or buyers then the Supplier is entitled to decide himself which of the obligations will be fulfilled and for which customers or buyers as well as the order in which they will be fulfilled.

11 Guarantee/Service

11.1 With due observance to the provisions specified elsewhere in these Conditions the Supplier guarantees the quality of the materials used and their promised characteristics as well as the correct working of the goods provided by the Supplier in accordance with the accompanying product specifications.

11.2 This guarantee is valid only for new products for a period of twelve (12) months after delivery (including any "viewing period") to the Other Party. A guarantee for goods purchased by the Supplier from third parties is only given if and insofar as it is guaranteed by this third party.

11.3 Faults in any goods supplied which fall under the guarantee will, exclusively at the discretion of the Supplier, be rectified or the goods will be replaced if the faults, in the opinion of the Supplier and/or producer, are attributable to construction faults or faults/failings of the materials used as a result of which the goods are unusable by the Other Party for the purpose for which they can reasonably be thought of as intended.

11.4 In principle, guarantee work will be performed within the business of the Supplier (for example, by his service department) and during normal working hours. Activities associated with guarantees will only be performed outside normal working hours if a separate service contract has been entered into and only when and insofar as this is specified in this service contract.

11.5 The Supplier is entitled to allow guarantee activities to be performed outside his own business if this, in the opinion of the Supplier, is in the best interest of these activities or if the performance of such activities within the business of the Supplier is not reasonably possible or desirable.

11.6 The Other Party must send goods for guarantee work to the Supplier franco. If the guarantee work is to be performed outside his own company then the Supplier is entitled to pass on the connected travel costs and expenses to the Other Party as well as any (special) costs of transport, packing and insurance and the costs of any testing equipment and materials used.

11.7 If it appears that the goods offered to the Supplier for rectification or repair exhibit no faults then the Other Party is obliged to settle all costs incurred by the Supplier.

11.8 All guarantee agreements lapse if the Other Party himself makes changes and/or repairs to the product supplied or allows them to be made, or if the good supplied has not been or is not being used or treated exactly according to the supplied or applicable (manufacturer's) directives or the user instructions, or is being used or treated injudiciously in any other way, or if a software change has been made in or with regard to the product by a party other than the Supplier, or if the good

supplied has been or is being used or applied for purposes other than for which it is intended, or if the good supplied has been or is being used in a way which the Supplier could not reasonably have expected.

11.9 No guarantee is provided for consumables.

11.10 If the Other Party fails to fulfil one or more of his obligations then the Supplier is released from his guarantee obligations.

11.11 Satisfying the guarantee obligation shall be deemed to be the only and complete compensation.

12 Right of retention and formation of an item

12.1 If and for so long as the Other Party has not satisfied his obligations towards the Supplier then the Supplier has the right to retain all goods in his possession which have come from the Other Party or have come on behalf of the Other Party, no matter the origin or reason.

12.2 In the event the Supplier exercises his right of retention in relation to certain goods, the Other Party has no right to any reimbursement in the event of full or partial destruction or loss of the goods and/or damage to the goods beyond the liable fault of the Supplier.

12.3 The risk for the goods remains with the Other Party throughout the period that the Supplier exercises his right of retention.

12.4 If the Other Party forms a new item from part-items delivered by the Supplier, the Other Party forms the new item for the Supplier until the Other Party has settled all sums owed on grounds of the agreement; in that case the Supplier has all rights as owner of the item thus formed until the Other Party settles in full.

13 Ownership reservation

13.1 Without prejudice to the provisions in Article 7 of these Conditions regarding the risk and the transfer thereof, all the goods supplied by or on behalf of the Supplier remain the property of the Supplier until the moment that the debt owed by the Other Party to the Supplier has been settled in full, this debt likewise including the amount that the Other Party has owed the Supplier since the realisation of the agreement inclusive of all interest and costs. For so long as the ownership of the goods supplied by or on behalf of the Supplier remains with the Supplier according to the provisions in this Article, the Other Party is obliged to hold these goods separately from other goods in such a way that they can easily and clearly be identified as the goods of the Supplier.

13.2 In the case of non-payment by the Other Party of any amount due to the Supplier and furthermore when the agreement is ended, the Supplier will be entitled to demand the return of any goods for which ownership reservation applies and to take the measures associated with this, taking into account any payments already made for the goods, without prejudice to the right of the Supplier to demand compensation for possible loss or damage. In the case of non-payment or termination of an agreement each claim which the Supplier has against the Other Party becomes immediately due.

13.3 At the first request from Supplier the Other Party must authorise the immediate return of the goods which have not yet been fully paid for, wherever these may be.

13.4 The Other Party is entitled to sell or to use goods on which there is an ownership reservation in favour of the Supplier within the framework of normal business operations; however, no right of security can be bestowed on these goods, while, with regard to these goods, the Other Party must not perform any actions or allow any actions to be performed which result in these goods becoming a part or element of one or more other goods. When goods with an ownership reservation still in favour of the Supplier are sold on, the Other Party is obliged to reserve ownership for himself and at the first request from the Supplier to cede to the Supplier all demands against the debtor of the Other Party, up to the amount that the Other Party owes.

14 Liability of the Supplier

14.1 The total liability of the Supplier on account of a liable failing in the fulfilment of the agreement or for any other reason, including any failing in the fulfilment of a guarantee undertaking agreed between the parties, is limited to reimbursement of direct losses to a maximum sum of the price (excl. VAT) stipulated in the agreement.

If the agreement is primarily a term agreement with a term of more than one year, the price stipulated in the agreement shall be deemed to be the total reimbursements (excl. VAT) for one year.

In no case shall the total liability of the Supplier for direct losses, for whatsoever reason, amount to more than € 500,000.00 (five hundred thousand euros).

14.2 The liability of the Supplier for losses for death, physical injury or material damage to items shall in total never amount to more than € 500,000.00 (five hundred thousand euros).

14.3 Notwithstanding the provisions in the preceding clause, the liability of the Supplier is limited to the amount paid out or covered by the insurance.

14.4 The liability of the Supplier is excluded for:

- consequential or indirect losses;
- lost profits, lost economies, loss of goodwill, losses due to business stagnation;
- losses as a result of liability to customers of the Other Party;
- losses in relation to the use of items stipulated by the Other Party, including but not limited to installations, tools, machines, materials or data, information or software of third parties;
- losses in relation to the engagement of subcontractors stipulated by the Other Party.

Likewise excluded is the liability of the Supplier for the mutilation, destruction or loss of data or documentation.

14.5 The exclusions and restrictions of the liability of the Supplier, as described in the preceding clauses of this Article, shall not affect the other exclusions and restrictions of liability of the Supplier on the grounds of these Conditions.

14.6 The exclusions and restrictions indicated in Articles 14.1 to 14.5 lapse if and insofar as the losses are the consequence of intentional or deliberate recklessness of the Supplier's management.

14.7 Unless fulfilment by the Supplier is permanently impossible, the liability of the Supplier for liable failing in the fulfilment of an agreement shall only arise if the Other Party declares the Supplier in default in writing without delay, granting a grace period for the rectification of the failing, and the Supplier has still failed to meet his obligations after the period. Declaration of default must contain as full and detailed a description as possible of the failure so that the Supplier may respond adequately.

14.8 A condition for any right to compensation arising is always that the Other Party notifies the loss to the Supplier in writing as quickly as possible after it arises.

14.9 Any claim that the Other Party has on the Supplier shall lapse by the simple elapsing of twelve months from the date on which the claim arises, and in any case after the elapsing of three years from the delivery by the Supplier, irrespective of the legal grounds of the claim.

14.10 The Other Party exempts the Supplier from all losses arising from the liability of third parties owing to product liability as a result of a fault in a product, installation or system that is delivered by the Other Party to a third party and that partly consists of equipment, software or other materials delivered by the Supplier, unless and insofar as the Other Party proves that the loss is caused by the equipment, software or other materials.

14.11 The provisions in this Article and all other restrictions and exclusions of liability given in the Conditions shall also apply in favour of all (legal) persons on whom the Supplier calls in the implementation of the agreement and in favour of the concern of which he/she or they form(s) part.

14.12 With regard to goods and services which the Supplier has obtained from a third party, the (contractual and/or guarantee) provisions applicable to the agreement in question shall also apply to the agreement between the Supplier and the Other Party, if and insofar as the Supplier invokes this.

15 Claims

15.1 Notwithstanding the provisions in Article 8.3 the Supplier shall only accept claims for processing if it receives them from the Other Party in Written form within eight (8) days of delivery. For hidden faults, claims are only possible within the guarantee period.

15.2 Contrary to the provisions in Article 15.1 any claims with regard to goods for which a test or inspection takes place must be made immediately on the date of testing or inspection and at the place where this testing or inspection occurs and then confirmed at once to the Supplier in writing.

15.3 Claims can only be handled when the nature and grounds for the complaints are stated precisely.

15.4 Claims regarding invoices must be lodged in writing with the Supplier within eight (8) days of the date of the invoice.

15.5 If the Other Party does not claim within the applicable period or does not do so in the required way, the delivery shall be deemed to comply fully with the agreement and to be irrevocably accepted and approved by the Other Party; an invoice against

which no claim has been lodged in the required manner within the period of eight (8) days specified in Article 15.4 will be regarded as having been unconditionally accepted and approved by the Other Party.

- 15.6 If the Supplier regards a claim with regard to goods supplied to be legitimate, then the Supplier is only obliged to replace or repair the unsound goods, the Other Party having no right to any compensation.
- 15.7 Lodging a claim never discharges the Other Party from his payment obligations towards the Supplier.
- 15.8 Return of the delivery or any part thereof to the Supplier, for whatever reason, may only take place with express prior Written consent and shipment instructions from the Supplier to the Other Party.

16 Permits

- 16.1 The Other party is responsible for ensuring that all permits, concessions, licences, consents and so forth that might be necessary for the Supplier to deliver the goods sold or for the Supplier to fulfil his obligations, are obtained on time and in the correct form; the costs associated with obtaining such permits, concessions, licences, consents and so forth are to be borne by the Other Party.
- 16.2 The absence of any permits, concessions, licences, consents and so forth as indicated in Article 16.1 shall be considered as a liable failing (failure) on the part of the Other Party and shall not exempt the Other Party from any of his commitments towards the Supplier, nor can it be a reason for the postponement of the fulfilment of any obligation the Other Party has towards the Supplier.
- 16.3 The Other Party is liable for all losses which directly or indirectly may be caused by the absence of any permits, concessions, licences, consents and so forth as indicated in Article 16.1 and the Other Party indemnifies the Supplier against claims and demands connected with such losses.

17 Intellectual or industrial property rights

- 17.1 All right of intellectual and industrial ownership to the software, databases, diagrams, equipment, installations, solutions, analyses, designs, documentation, reports, proposals, and preparatory materials for the same developed or made available by the Supplier for the Other Party, remains exclusively with the Supplier, his licensors or his subcontractors. The Other Party only receives the usage rights that are expressly assigned in the Conditions and the law. These usage rights are non-exclusive and non-transferable to third parties. Any other or further right of the Other Party is excluded.
- 17.2 If, contrary to expectation, a good sold by the Supplier to the Other Party in The Netherlands infringes an industrial or intellectual ownership right of a third party and the Other Party is held liable, then the Other Party is obliged at once to inform the Supplier in writing of the situation. In this case the Supplier has at his discretion either to supply the right to use that good to the Other Party, or to modify the good in such a way that there is no further infringement, or to deliver a replacement good that does not infringe the right, or once he receives the good back to repay to the Other Party the purchase price less a reasonable payment for the period that the Other Party had the good at his disposal. With regard to infringements of industrial and intellectual property rights outside The Netherlands the Other Party can make no claim or demand whatsoever against the Supplier.
- 17.3 The Supplier is not liable for the infringement of any right of industrial or intellectual ownership or of any other exclusive right which is the consequence of:
- any change of or to a good sold or delivered by or on behalf of the Supplier;
 - any use of such a good;
 - any application of such a good other than that recommended by the Supplier or expected or assumed by the Supplier;
 - integration with or use or application in combination with goods not sold and delivered by or on behalf of the Supplier;
 - a software modification which is not carried out by or on behalf of the Supplier.

18 Payment and default

- 18.1 The Other Party shall pay invoices in accordance with the terms of payment given in the invoice. If no specific conditions are stated in the invoice, the Other Party shall pay within thirty days of the given date of invoice. The Other Party is not entitled to offset or delay payment. The date on the Supplier's bank or giro statement when the payment is recorded as received applies as the date on which the payment has occurred.
- 18.2 Any payment by the Other Party shall – if applicable – go in the first place towards settlement of any interest he owes and towards any costs of collection

and administrative costs owed to the Supplier, and then towards settlement of the outstanding claims in order of age, therefore commencing with the oldest outstanding claim.

- 18.3 If the Other Party does not settle sums owed to the Supplier punctually, the Other Party shall without a warning or declaration of default being necessary also owe the outstanding amount of statutory interest. If following reminder to pay, warning or declaration of default the Other Party still fails to fulfil his payment obligations within a reasonable period he shall by rights be in default. From that moment the Supplier may pass the claim on for collection. Once the claim is passed on the Other Party is obliged besides the rightfully established costs to reimburse the Supplier for the actual legal costs of the Supplier and the actual extra-judicial costs including the costs charged by external experts.

19 Ending an agreement

- 19.1 In the event a party is in default, this entitles the counterparty to dissolve all of part of the agreement notwithstanding the entitlement to claim for fulfilment.
- 19.2 The Supplier is in the event of dissolution not obliged to pay any compensation.
- 19.3 The Supplier may without declaration of default dissolve the agreement with immediate effect in the event the other party is declared bankrupt, cedes property, is granted (temporary or definitive) surseance of payment, in the event that all or part of the assets of the counterparty are seized or in the event that the counterparty's enterprise is liquidated or wound up.
- 19.4 If a party terminates or dissolves an agreement in accordance with the provisions of this Article then the amount that the Other Party owes to the Supplier at the moment of termination or dissolution remains as the full debt and the Other Party will be liable to pay interest and costs according to the provisions of these Conditions, without prejudice to the right of the Supplier to demand damages, to make use of the rights arising from ownership retention, to take other (legal) measures and other rights due to the Supplier.

20 Cancellation by Other Party

- 20.1 If the Other Party wishes to cancel an order he has issued and Supplier consents to this, the Other Party shall owe the Supplier for the costs of cancellation. The costs of cancellation are expressed as a percentage of the amount connected with the agreement and depend on work meanwhile undertaken by the Supplier to implement the agreement, the nature or type of services and goods to which the order relates, and the costs that he has incurred up to the moment of cancellation.
- 20.2 In the event of cancellation as indicated in this Article the Supplier is never obliged to reimburse any losses of the Other Party.

21 Applicable law and disputes

- 21.1 Dutch law shall apply to all Offers and agreements entered into by or on behalf of the Supplier. The United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention 1980) is barred from application.
- 21.2 Disputes arising from an agreement concluded between the Supplier and the Other Party shall be presented to the authorised judge of the district in which the Supplier is located as judge of first instance, with the proviso that if a particular judge is mandatorily appointed as competent judge then the dispute will be decided in the first instance by the judge so appointed, in either case without prejudice to the right of the Supplier to seizure or to take other provisional measures at the place(s) and before the legal bodies that the Supplier wishes.
- 21.3 The provisions of Article 21.2 leave intact the right of the Supplier to bring the dispute before a judge qualified according to the normal competency rules or to obtain a settlement by means of arbitration or binding advice.

22 Validity

- 22.1 If any provision in these Conditions is not completely valid or only partially valid and/or not enforceable as a result of any legal directive, judicial judgement or any directive, decision, recommendation or measure from any local, regional, national or supranational authority or body or otherwise then this will have no effect on the validity of the other provisions in these Conditions. If a provision in these Conditions happens not to be valid for one or other reason indicated in the previous sentence but would be valid if it had a more limited range or scope then this provision will be automatically valid with the most far-reaching or extensive range or scope with which or within which it is valid.

Part B. Work on fitting, installation, adjustment, calibration or commissioning, etc.

23 Definitions

- Supplier: supplementary to the definition given in Part A of the Conditions this also denotes the third party engaged on assembly or installation work and undertaking the Work on behalf of the original Supplier.
- Activities: all activities undertaken by the Supplier to complete the Work or otherwise in executing the agreement. This may insofar as explicitly agreed include amongst other things: assembly, disassembly, installation, uninstallation, construction, adjustment, calibration, configuration, commissioning, testing, gauging, inspection, tuning and set up activities;
- Work: the equipment, machine, installation or other item which results from the Activities to be undertaken by the Supplier or which has to be made serviceable by the Supplier or on which the Supplier should undertake Activities. Work also denotes parts or elements thereof.

24 Applicability

- 24.1 The provisions in Part B of the PROLYSE BV General Conditions of Delivery 2010 supplement Part A of the PROLYSE BV General Conditions of Delivery 2010 unless expressly departed from.

25 Delivery

- 25.1 The delivery periods for the Work are recorded exclusively in the Supplier's order confirmation. These delivery periods shall in no case commence before:
- the agreement to deliver the relevant Work has been realised and
 - the Other Party has provided all necessary data and items to the Supplier in a usable form, and
 - the Supplier has received any advance payment(s) agreed upon, and
 - where relevant, the Supplier has received the properly approved drawings, designs, etc., from the Other Party.
- 25.2 If the Other Party does not meet these obligations punctually or fully, the delivery period shall be extended by the period that these obligations are not met.
- 25.3 The Work is duly delivered and accepted on the earliest of the following:
- once the Other Party has, following inspection, approved the Work and found no essential liable failing;
 - eight (8) days after the Supplier has informed the Other Party in writing that the Activities are completed or the Work is finished and the Other Party has not inspected the Work within the intervening period of time or has not tested it or allowed it to be tested;
 - eight (8) days after the Supplier has informed the Other Party in writing that the Work is finished or the Activities are completed and the Other Party has not informed the Supplier about essential liable failings in the Delivery;
 - once the Other Party has actually put into use the Work or the installation of which the Work forms an essential part.
- 25.4 Small, non-essential faults shall be rectified or resolved as quickly as possible by the Supplier and do not form a reason for the Other Party not to accept a Work or to dissolve the agreement for the delivery of Work entirely or partially.
- 25.5 Advice, data and suggestions from the Supplier regarding positioning and/or use of the Work and/or parts thereof are given to the best of Supplier's knowledge but with no guarantee of a specific result.

26 Scope of the Activities

- 26.1 The Activities to be undertaken shall have the scope described in the order confirmation for the Activities to be delivered by the Supplier and also include, if and insofar as expressly agreed, support/instructions for use and operation of the Work for the staff assigned by the Other Party. This will be further worked out in discussions between Supplier and Other Party although the Supplier cannot guarantee that the support or instruction will produce a specific result.
- 26.2 Except when and insofar as explicitly agreed otherwise, the following Activities, deliveries and provisions do not form a part of the obligations of the Supplier and the Other Party is obliged to ensure that they are performed or executed

promptly so that they result in no delay to the Activities performed by or on behalf of the Supplier:

- ground, paving, pile-driving, demolition, foundation, concrete laying, carpentry and upholstery work or other additional work of whatever nature; the Other Party will ensure, at all times, that there is a good and constant access to the place(s) where the Activities must be carried out;
 - any help required for the placement or replacement of items which in all reasonableness cannot be handled by two people, as well as any necessary hoisting and/or lifting tackle or similar equipment;
 - the supply, setting up and (after completion of the Supplier's Activities) removal of staging, scaffolding and ladders;
 - the supply of fuels, energy and resources such as compressed air, gas, water, electricity, diesel oil and petrol, and supply and drainage cables and pipes together with the required connection points which are necessary for the execution of the Activities and for any testing and commissioning. The provision of connection and safety equipment and cabling for the electric motors supplied or used and/or other electrical equipment with the exception of starting and control resistors that form a part of the electrical equipment;
 - for the duration of the Activities and in the immediate vicinity of the place(s) where these Activities must be executed, the provision of a dry, heated, adequately lighted and separate lockable space of sufficient size to be used as a shelter for the workmen involved and for the storage of the materials and tools to be processed/ used and of the personal possessions of the workmen;
 - activities required to restore to a good and usable state any parts that become dirty or damaged or which are out of order or which no longer function, unless the contamination or damage is caused by the subordinates of the Supplier;
 - putting the Work into use and/or maintaining it in use for the convenience of the Other Party or his client;
 - providing sufficient lighting and, where necessary, providing and maintaining the required or desired temperature and humidity for the place(s) where the Activities are to be performed by the Supplier so that the assembly/installation work can be carried out without difficulty;
- 26.3 The Other Party, moreover, is responsible for requesting power supplies, connections, municipal dues, nuisance permits, permits with respect to environmental laws and other regulations relating to the environment, building permits and such like and for ensuring that the costs involved are settled on time.
- 26.4 Replacement, derived or removed materials become the property of the Supplier.

27 Extra/less work

- 27.1 The Supplier is entitled without special prior consent from the Other Party to undertake extra work or arrange for it to be undertaken and to pass on the costs provided they are no more than ten per cent (10%) of the originally agreed amount.
- 27.2 Changes in an assignment originating from the Other Party or brought about or made necessary by a change of circumstances on the part of the Other Party as a result of which the original agreement cannot (completely) remain unchanged shall as far as reasonable be performed and charged as extra work.
- 27.3 Any extra work or less work which results in the workload deviating by more than ten per cent (10%) from what the parties originally agreed must be discussed between the parties. In the case of cancellation by the Other Party the Supplier will be entitled to invoice the Other Party for the costs incurred and the goods supplied up until that point and the Other Party is obliged to pay this.

28 Guarantee

- 28.1 The guarantee provisions specified in Article 11 of these Conditions are also applicable to Activities insofar as they can be applied in view of the specific character of this Work or these Activities. Furthermore the following provisions apply.
- 28.2 The Supplier guarantees that he will carry out the Activities and the Work in such a way that they meet the agreed specifications and any reasonable demands that can be attached to them.
- 28.3 The Supplier explicitly gives no guarantee on goods assembled, installed, adjusted, calibrated, tested, inspected, set up and/or commissioned, etc., by or on behalf of the Supplier, but which are not or have not been supplied by or on behalf of the Supplier himself.

29 Liability

- 29.1 Notwithstanding the provisions in Article 14 the following provisions apply.
- 29.2 The Supplier is not liable for losses arising as a consequence of:
- Activities undertaken on or in connection with goods delivered by third parties;
 - commissioning or decommissioning of a Work of which goods delivered by third parties form part or in which such goods are assembled or installed, or Activities undertaken in order to do so;
 - Activities undertaken where this does not take place by or on behalf of the Supplier.
- 29.3 The Supplier is not liable for faults in the Work that are caused by third party products that are used to undertake Activities.
- 29.4 The Supplier is moreover not liable for losses arising as a consequence of:
- the design of the Work and the parts and components thereof and all other data and information not originating from the Supplier;
 - the effects on and the consequences for the Work or any part thereof or on goods supplied by and/or assembled by and/or installed by or on behalf of the Supplier, as a result of the application or use of material and/or equipment and/or software and/or other products not supplied to the Other Party by the Supplier or by the use or application of user and operating instructions that are not provided by the Supplier;
 - inaccurate observation of the user or service instructions and the results of such inaccuracy;
 - normal wear and tear, and damage and/or wear and tear resulting from injudicious use, overloading or from the influence of abnormal or unforeseen circumstances;
 - the application of legal or official regulations with regard to safety and/or environmental standards and the result of their application.
- 29.5 If a case as described in Article 29.4 arises then the Supplier's obligation to provide a guarantee lapses.

30 Claims

- 30.1 With regard to claims relating to capacity, the Other Party is obliged to lodge these in writing directly with the Supplier within thirty (30) days of the delivery of the Work and/or of the Activities being undertaken. For other claims the provisions in Article 15 of these Conditions regarding claims are applicable.

31 Payment

- 31.1 In addition to the provisions in these Conditions regarding payment, in the case of Activities the Supplier is also entitled to demand payment in instalments as follows:
- one third of the agreed price when entering into the agreement;
 - one third of the agreed price at the testing or inspection or sending of the finished goods or the most important parts thereof;
 - one third within thirty (30) days of the day on which the second instalment of one third has been paid.

Part C. Software and Advice

32 Definitions

- Advice: the provision of advice with regard to automation and/or organisation, the performance of feasibility studies, the performance of consultancy, the performance of system analyses, the selection of equipment, the provision of support with the development of Software, the giving of tuition, courses or training, and/or the organisation of courses or training.
- Supplier: supplementary to the definition given in the Conditions this also denotes the third party engaged on behalf of the original Supplier for the development of Software, or for the development of a Standard Package, or for the provision of Advice.
- Bespoke software: Software specially developed by the Supplier for the Other Party.
- Software: computer program(s) recorded on a computer-readable carrier, as well as websites and related documentation, irrespective of the form of this documentation, whereby a computer shall also denote any apparatus that is able to process series of instructions such as PLCs, controls, routers, etc.
- Standard Package: Software that is generally available on the market and not specially developed for the Other Party, nor adapted, modified or expanded for the Other Party.
- Activities: supplementary to the definition given in the Conditions whereby Activities are related to the delivery of a Work, this shall likewise denote other activities described in the agreement that the Supplier shall undertake on behalf of the Other Party.

33 Applicability

- 33.1 The provisions in Part C of the Prolyse BV General Conditions of Delivery 2010 supplement Part A and Part B of the PROLYSE BV General Conditions of Delivery 2010 Unless expressly departed from.

34 Development and usage rights

- 34.1 The Supplier shall develop the Software with due care on the basis of the data, information and specifications provided by the Other Party.
- 34.2 Insofar as the Supplier has not presented the Other Party with the specifications at the start of the order, the parties shall record them in writing in mutual consultation during the development of the Software.
- 34.3 Development of Bespoke software shall only take place on the basis of the written specifications for the Bespoke software referred to in 34.2 (where it shall also be established by what means the development shall take place), and furthermore on the basis of the data and information provided by the Other Party to the Supplier for the development. The Other Party is responsible for the correctness, completeness, relevance and reliability of this data and information. The Other Party shall supply the necessary data in the format required by the Supplier for his Activities and on the data carriers requested by the Supplier. The Supplier is not obliged to implement data conversions.
- 34.4 The Supplier is permitted to test the correctness, completeness and consistency of the data, information and specifications referred to in 34.3. If in the opinion of the Supplier they contain flaws, he is entitled to postpone his Activities until the Other Party remedies these flaws. In such a case the Other Party, without prejudice to the rights of the Supplier with regard to compensation for damages, will be liable to the Supplier for the costs of work already carried out in pursuance of the execution of the agreement and, moreover, the Supplier is entitled to pass on any extra costs incurred, in accordance with his standard rates. The Other Party cannot derive any right to reimbursement from such postponement by the Supplier, irrespective of the legal grounds.
- 34.5 The Other Party is entitled to repair faults in Software provided to him if this is necessary for the intended use of the Software. Where mention is made in the Conditions of "faults", this shall denote the substantial non-compliance with the functional or technical specifications notified in writing by the Supplier, and, in the case of Bespoke software and websites, with the functional or technical specifications expressly agreed in writing or provided between the parties. A fault shall only be deemed to be present if the Other Party can demonstrate it and it is reproducible. The Other Party must notify it to the Supplier without delay.
- 34.6 Except when and insofar as may be agreed otherwise, and on condition that the Other Party has complied with his obligations towards the Supplier, the Other Party shall only receive usage rights to the Software and Bespoke Software for use within his own company. Only if the source code is delivered to the Other Party by

arrangement is the Other Party permitted to make adjustments. If the Supplier is legally obliged to provide the source code to the Other Party the Other Party must pay a reasonable reimbursement for this.

34.7 The Supplier himself is at all times entitled to use, apply and develop the Software and Bespoke Software that he has developed or which has been developed on his behalf or which he has commissioned, and to allow others to do so.

35 Delivery, tests and acceptance

35.1 If an agreement has been made to develop the Software and Bespoke Software in steps or in phases then the Supplier is entitled to delay or postpone all or a part of the Activities of the following step until such time as the Other Party has approved, in writing, the results of the previous step(s) or phase(s).

35.2 The parties can agree to change and/or extend the Activities or Work previously agreed. If a fixed price has been previously agreed then the Supplier will inform the Other Party of the extra costs involved for the required change(s) or extension(s). In the case of changes or extensions the delivery time or the point in time when the Activities or Work are planned for completion will be extended or postponed as appropriate.

35.3 If, in the opinion of the Supplier during the execution of the agreed Activities, it appears that a change and/or extension is necessary or desirable and it has been agreed that the Software is to be developed on a fixed price basis, then the Supplier will inform the Other Party of the additional costs resulting from the change or extension. If the Other Party does not agree to the suggested change(s) and/or extension(s) and the associated price increase in writing within fourteen days then the Supplier is entitled to delay or postpone the execution of the Activities. In this case the Other Party shall be obliged to reimburse any Activities already carried out by the Supplier on the basis of Supplier's applicable rates, notwithstanding the right of the Supplier to claim compensation. If the Supplier informs the Other Party about a necessary or desirable change or extension then the delivery time or time of completion of the Activities will be extended or pushed out by at least three weeks, moreover if a change or extension of the Activities occurs then the delivery time or time of completion of the Activities will be extended further or postponed accordingly.

35.4 The Supplier will deliver the Software developed according to the specification referred to in Article 34.1 ready for use. After delivery ready for use the Software will be deemed to have been accepted by the Other Party. If an acceptance test has been agreed then the Software will be deemed as accepted by the Other Party after it has actually been accepted by the Other Party or fourteen days after the delivery of the Software in usable form if the Other Party has not informed the Supplier in writing of any faults. Otherwise the Software shall be deemed to be fully accepted if the Other Party makes any use of it for operational or production purposes prior to express acceptance.

35.5 Acceptance of the Software may not be refused for minor faults, i.e. faults that are not substantial as specified in 34.5, and acceptance may also not be refused for aspects that can only be assessed subjectively.

35.6 The Other Party is entitled to test the Software or allow the Software to be tested for a period of fourteen days from the date of delivery of the ready to use Software if and insofar as this has been agreed in writing between the parties. This test will consist of the execution of a collection of test cases provided by the Other Party to the Supplier for the tests well before delivery of the ready to use Software in the form of a comprehensible and usable test protocol. Elements, aspects or characteristics of the Software that are not described in the specifications notified by the Supplier at time of order shall not form part of the acceptance tests.

35.7 If, during the execution of the test referred to in Article 35.6, it appears that the progress of the test is being impeded by faults in the Software then the Other Party will provide the Supplier with the most detailed possible written information; in this case the test period of fourteen days will be suspended until such time as the faults have been rectified.

35.8 If, during the execution of the test referred to in Article 35.6, it appears that there are faults in the Software and that it does not conform to the written specifications previously agreed then the Other Party is obliged to provide the Supplier with the most detailed possible written information immediately after the completion of the test period. The Supplier shall then rectify the stated faults within a reasonable period; such rectification may only be free of charge when a fixed price has been agreed for the development of the Software; in other cases the Other Party is obliged to settle the costs charged for this by the Supplier.

35.9 Contrary to what is specified in Article 11.2 of these Conditions the guarantee period in the case of Software development is three months from the date of acceptance; during this period the Supplier will do his best to rectify any faults resulting from the failure of the Software to conform with the previously written specifications presented by the Other Party to the Supplier. Such rectification shall be free of charge if a fixed price has been agreed for the development of the Software unless the faults are caused by or relate to usage faults on the part of the

Other Party or other reasons not attributable to the Supplier, or where the faults could have been identified in the execution of the test referred to in Article 35.6.

35.10 If no fixed price is agreed the Supplier may always charge the costs of rectification to the Other Party. The guarantee does not cover the recovery of any lost data. Furthermore the guarantee lapses if the Software is amended or changed by anyone other than the Supplier or is used injudiciously. The Supplier does not guarantee that the Software is flawless or will function without interruption or without faults, or that all faults shall be rectified or corrected.

35.11 When a maintenance agreement for the Software has been made with the Supplier then the Other Party is obliged to notify the Supplier immediately and clearly in writing about any faults detected in the Software. After receipt of this notification the Supplier will do his best to rectify the faults if the Software does not conform to the specifications referred to in Article 34.1. Recovery of lost data is not covered by the maintenance agreement. If the faults are caused by or relate to usage faults on the part of the Other Party or other reasons not attributable to the Supplier then the Supplier is entitled to pass on the rectification costs to the Other Party and the Other Party is obliged to settle these costs. If the faults are caused by or related to changes or amendments in the Software made by anyone other than the Supplier or by injudicious use, then the Supplier is entitled to refuse rectification or, if rectification is undertaken, to charge all rectification costs to the Other Party.

36 Standard Package

36.1 If the Supplier grants the Other Party the right to use a Standard Package developed by the Supplier then this comprises only the non-exclusive right to use the Standard Package in the way described below.

36.2 The Standard Package may be used by the Other Party exclusively on one processing unit, with the understanding that the Software of the Standard Package may be used on another processing unit if there is a temporary failure of the first processing unit and only for so long as the failure lasts.

36.3 When and insofar as no other conditions have been set by the Supplier, the Other Party is entitled, for security reasons, to make a maximum of two back-up copies of the Standard package; these copies may only be used for the replacement of original material which has been rendered unusable. The copies must have the same labels and markings as the original material.

36.4 The right to use the Standard Package may not be transferred to third parties without the prior written permission of the Supplier. Furthermore, the Other Party is not permitted to sell, rent or transfer a Standard Package or a copy thereof or to give it or to make it available to third parties or to use it or allow it to be used for the benefit of third parties or to use it as security.

36.5 The source code of the Software contained in a Standard Package will not be made available to the Other Party.

36.6 The ownership of the Standard Package and the rights relating to industrial and intellectual ownership with respect to the Standard Package remain with the Supplier and will be respected by the Other Party. Markings relating to rights of industrial or intellectual ownership such as author's right markings will not be removed or made unreadable or unrecognisable by the Other Party.

36.7 By entering into an agreement concerning or relating to a Standard Package developed by the Supplier, the Other party declares that he knows that the Standard Package contains confidential information and business secrets of the Supplier. The Other Party is obliged to keep the Standard Package secret and not to make it known or allow it to be made known to third parties.

36.8 Contrary to the period specified in Article 11.2 of these Conditions the guarantee period in the case of a Standard Package is three months from the date of delivery; during this period the Supplier will do his best to rectify any faults resulting from the failure of the Software of the Standard Package to conform to the user-manual of the Standard Package. Such rectification will only be free of charge if a maintenance contract has been signed or when a usage fee has been agreed which includes maintenance and unless the faults are caused by or related to usage faults on the part of the Other Party or other reasons not attributable to the Supplier. In other cases the costs of rectification shall always be (able to be) charged to the Other Party. The guarantee does not cover the recovery of any lost data. The guarantee lapses if the Standard Package is amended or changed by anyone other than the Supplier. Furthermore, the guarantee does not apply with regard to faults resulting from or connected with the Millennium Bug. The Supplier does not guarantee that the Standard Package will function without interruption or without faults, or that all faults shall be rectified or corrected.

36.9 When a maintenance agreement for the Standard Package has been made with the Supplier or when a usage fee has been agreed which includes maintenance then the Other Party is obliged to notify the Supplier immediately and clearly in writing about any faults detected in the Software of the Standard Package. After receipt of this notification the Supplier will do his best to rectify the faults if the Software of the Standard Package does conform to the user-manual of the Standard Package.

Recovery of lost data is not covered by the maintenance agreement. If the faults are caused by or relate to usage faults on the part of the Other Party or other reasons not attributable to the Supplier then the Supplier is entitled to charge the rectification costs to the Other Party. If the faults are caused by or related to changes or amendments in the Software of the Standard Package made by anyone other than the Supplier, then the Supplier is entitled to refuse rectification or, if rectification is undertaken, to charge all rectification costs to the Other Party.

- 36.10 When a maintenance agreement has been made with regard to a Standard Package developed by the Supplier and an improved version of the Standard Package becomes available for the market the Supplier will then make this version available for the Other Party. Without prejudice to the provisions in Article 36.8 and three months after the release of the new version, the Supplier will no longer be obliged to rectify faults in older versions. If a new version of the Standard Package offers more possibilities and/or functionality than older versions then the Supplier is entitled to charge a fee for making the new version available.
- 36.11 When the Supplier provides only the right to use a Standard Package from a third party in accordance with the conditions of use or licensing agreement of or with the third party or if maintenance with regard to a Standard Package is performed on the basis of the conditions of an agreement between the Supplier and a third party, then the provisions of Articles 36.1 to 36.10 of these Conditions do not apply and they are replaced by the provisions of the relevant agreement(s) that the Supplier has with the third party or parties. The Supplier, at the request of the Other Party, will provide information about the provisions that are applicable.

37 Advice

- 37.1 If it has been agreed that Advice will be provided in steps or phases then the Supplier is entitled to postpone or defer the Activities involved in a following step or phase or a part of these Activities until such time as the Other Party has approved in writing the results of the previous step(s) or phases(s).
- 37.2 The parties can agree to change and/or extend the Activities previously agreed. If a fixed price has been agreed then the Supplier will inform the Other Party of the price increase involved as a result of the desired or agreed change(s) or extension(s). In the case of changes or extensions the completion dates for the Activities shall be extended accordingly.
- 37.3 If the Supplier during the execution of the agreed Activities feels that a change and/or extension to them is necessary or desirable then the Supplier shall inform the Other Party about this and, where a fixed price has been agreed for the Advice, the Supplier shall also inform the Other Party of the price increase required for the change or extension. If the Other Party does not agree to the proposed change(s) and/or extension(s) in writing within fourteen days, the Supplier shall be entitled to postpone or delay the execution of the Activities in which case the Other Party is obliged to pay the costs of the already performed Activities in accordance with the Supplier's rates irrespective of whether a fixed price has been agreed and without prejudice to the right of the Supplier to demand compensation. If the Supplier informs the Other Party about a necessary or desirable change or extension then the date on which the Advice is to be completed will be extended by at least three weeks, and, furthermore, if a change or extension of the Activities actually takes place, this completion date will be extended correspondingly.