

Beijer Automotive B.V.

# General Sales Conditions

15 February 2024

# General Sales Conditions

Beijer Automotive B.V. (hereinafter **Beijer**) is a private company with limited liability incorporated under the laws of the Netherlands, having its registered office in Schijndel, the Netherlands, its business premises at office address at Ambachtstraat 22-A in (5481 SL) Schijndel, the Netherlands and registered with the trade register of the Dutch Chamber of Commerce under number 73576433.

## Article 1 Definitions

In these general sales conditions from Beijer ("**General Sales Conditions**"), the terms below will have the meaning given to it below, unless the contrary is explicitly indicated:

**Agreement:** the Offer, including these General Sales Conditions, concluded between Beijer and the Customer as set out in the Offer (each a "**Party**" and together "**Parties**") concerning the Services to be rendered or the Goods to be purchased.

**Beijer:** has the meaning given to it in the introduction of these General Purchase Conditions.

**Customer** the person or entity to whom Beijer sells the Goods and/or Services who or which has entered into an Agreement with Beijer.

**Goods:** the goods (or any part of them) to be delivered by Beijer to the Customer under the Agreement.

**Intellectual Property Rights:** means all industrial and intellectual property rights, including:

- a) patents, utility models, supplementary protection certificates, rights in trade secrets and other confidential or undisclosed information (such as inventions (whether patentable or not) or know-how), registered designs, rights in copyright (including authors' and neighbouring or related rights), database rights, design rights, semiconductor topography rights, and trademarks;
- b) all priority rights, registrations or applications to register any of the items referred to in paragraph a); and
- c) all rights in the nature of any of the items referred to in paragraphs a) or b) including continuations, continuations in part and divisional applications, personality or image rights, trade names, business names, brand names, get-up, logos, domain names and URLs, rights in unfair competition and, without prejudice to anything set out elsewhere in this definition, rights to sue for passing off and all rights having equivalent or similar effect to, and the right to apply for any of, the rights referred to in this definition in any jurisdiction.

**Offer:** any offer, quotation, price list, order confirmation, (responses to a) purchase order, proposal, engagement letter or other written or electronic document which contains an offer from Beijer for one or more of its products and services, including details such as details of the products and services and scope, the fee basis, rates, etc.

**Services:** all services supplied or any works to be undertaken by Beijer to the Customer under the Agreement, including all results and deliverables developed or supplied as part of these services and obligations (including software, specifications, technical or supporting documentation, reports, source code and object code of computer programs and computer systems), and **Service** shall be interpreted accordingly.

## **Article 2      Applicability of these General Sales Conditions**

- 1      These General Sales Conditions will apply to every (request for an) Offer between Beijer and the Customer, in so far as these General Sales Conditions have not been expressly deviated from by the Parties in the Offer.
- 2      The applicability of general conditions or purchase conditions of Customer is hereby expressly excluded, unless the Parties have agreed otherwise in writing.
- 3      All of these General Sales Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 4      If one or more provisions in these General Sales Conditions are void or are nullified, the remaining provisions will continue to apply in full.

## **Article 3      Offers**

- 1      Any order from the Customer or any request for an Offer constitutes an offer by the Customer to purchase Goods or Services in accordance with these General Sales Conditions.
- 2      All Offers made by Beijer are non-binding and free of any obligation, unless a period for acceptance is stated in the Offer.
- 3      If the Offer between Beijer and the other Party contains a mistake of which the Customer is aware, or the Customer should have been aware, Beijer will not be bound to that mistake unless Beijer declares itself willing to deliver accordingly.
- 4      A composite Offer will not oblige Beijer to perform part of the Offer for a corresponding part of the stated price.
- 5      Terms contained in an Offers will not automatically apply to subsequent or follow-up orders.

## **Article 4      Agreements**

- 1      Agreements to which Beijer is a party will be considered to have been concluded only:
  - (a)      after an Agreement drafted for that purpose has been signed by both Parties; or
  - (b)      following receipt and approval of the written acceptance by the Customer of an Offer made by Beijer.
- 2      In the case of an oral agreement, the invoice will be considered to contain a correct and complete representation of the Agreement, unless a complaint is lodged within 14 days of the invoice date.
- 3      If the acceptance deviates from the Offer, Beijer will not be bound to that acceptance. The Agreement between the Parties will not be concluded in accordance with the deviating acceptance, unless Beijer has expressly stated in writing that it accepts the deviation.
- 4      Beijer will be entitled to refuse all or part of an order or any request for an Offer without stating the reasons.

## Article 5 Amendment of the Agreement

- 1 If during the performance of the Agreement it proves necessary to amend or supplement the Goods, Services or the Agreement, the Parties will amend the Agreement accordingly in good faith.
- 2 If the Parties agree that the Agreement shall be amended or supplemented, this may affect the completion time with respect to the Agreement's performance. If the amendment of or supplement to the Agreement has timing, financial and/or qualitative consequences, Beijer will inform the Customer.
- 3 Notwithstanding the foregoing provisions, Beijer reserves the right to (i) amend the specifications for Goods or Services if required by any applicable statutory or regulatory requirement; and (ii) amend these General Sales Conditions unilaterally from time to time, and Beijer shall notify the Customer in any such events.

## Article 6 Samples, models and examples

If Beijer has shown or provided a sample, model or example, such should be presumed to have been shown or provided as an indication only. The characteristics of the Goods or Services to be delivered may deviate from the sample, model or example. If the Goods or Services delivered deviate from a model, sample or example or from Goods or Services delivered by Beijer at an earlier stage, such will not entitle the Customer to refuse the Goods or Services, to terminate the Agreement or to claim compensation from Beijer.

## Article 7 Performance of the Agreement

- 1 The Goods to be delivered and the Services to be performed are described in the Offer.
- 2 The Agreement will be performed in consultation between Beijer and the Customer and the Customer shall cooperate with any reasonable requests from Beijer. However, the way in which the Agreement is performed will be determined by Beijer.
- 3 Beijer will perform the Agreement to the best of its ability. However, it can never be obliged to perform an Agreement that violates a right, is contrary to a statutory obligation or that which is contrary to generally accepted standards.
- 4 Beijer will not be liable to the Customer if the Customer has provided Beijer with inaccurate and/or incomplete data and/or information, unless Beijer is made aware of the inaccuracy or incompleteness of that data and/or information.
- 5 The Customer shall provide Beijer with such cooperation, information and materials as Beijer may reasonably require in order to supply the Goods and Services.
- 6 If Beijer's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
  - (a) without limiting or affecting any other right or remedy available to it, Beijer shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Beijer's performance of any of its obligations;
  - (b) Beijer shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Beijer's failure or delay to perform any of its obligations; and

- (c) the Customer shall reimburse Beijer on written demand for any costs or losses sustained or incurred by Beijer arising directly or indirectly from the Customer Default.

## **Article 8 Compliance with laws**

- 1 The Customer shall comply with all applicable laws, statutes, regulations and requirements from time to time in force, and all legal, regulatory and other public requirements regarding human rights and environmental standards, including but not limited to those related to safety, health, privacy (expressly including data protection), competition, child labour, environmental protection, anti-corruption and sanction laws and regulations such as UN, US and EU export control and trade regulations, and shall ensure that its suppliers also comply with these standards within the framework of its further supply chain.
- 2 The Goods to be supplied and the Services to be rendered under the Agreement are intended for civil use only and shall not be used for any other purposes without prior written permission from Beijer.
- 3 Notwithstanding any other provision of the Agreement to the contrary:
- i. each Party shall retain responsibility for its compliance with applicable export control laws and economic sanctions programs of the United States, the European Union and other applicable jurisdictions relating to its respective business, facilities, and the provision of goods or services; and
  - ii. neither Party shall be required by the terms of the Agreement to be directly or indirectly involved in the provision of goods, software, deliverables, services and/or technical data that may be prohibited by applicable export control or economic sanctions programs.
- 4 The Customer represents and warrants that (i) it is not a citizen or resident of, or located within, a comprehensively restricted territory (including at the time of the Agreement, without limitation, Cuba, Iran, North Korea, Syria and Crimea region); and (ii) it is not identified on any U.S. government restricted party lists (including, without limitation, the U.S. Treasury Department's List of Specially Designated Nationals and Blocked Persons, the U.S. Department of Commerce's Denied Party List, Entity List and Unverified List and the U.S. Department of State proliferation-related lists) or similar lists maintained within the European Union or another applicable jurisdiction.

## **Article 9 INCAR-instructions**

- 1 The provisions of this article relate solely to the INCAR-instructions offered by Beijer and serve to supplement the other provisions in these General Sales Conditions.
- 2 The information in the INCAR-instructions is intended solely for persons with technical knowledge of cars and its use is entirely at the risk of the Customer.
- 3 The INCAR-instructions merely indicate for all standard European left-hand drive cars and light commercial vehicles (GVW<3500KG) where connection points can be found in the car in question. When connecting equipment or systems in the car, the Customer must adhere to the guidelines of the car manufacturer in question.
- 4 Beijer will not be liable for any damage and/or loss that may result from inaccuracies in the INCAR-instructions or from changes introduced by a vehicle manufacturer or another party in the supply chain (e.g. changes in a vehicle's CAN bus which may impact the proper functioning of any Goods or Services).

- 5 Beijer will not be liable for any damage and/or loss that may result from inaccurate information from third parties and/or Beijer.
- 6 The Customer acknowledges that the INCAR-instructions are protected by means of copyright. Beijer only grants a personal right of use to the Customer. Nothing from the database of Beijer or any associated additions may be reproduced and/or made public by means of printing, photocopying, photo, e-mail, Internet, microfilm or in any other way, without the prior written permission of Beijer. Beijer may report any illegal use or misuse.
- 7 Any subscription set out in an Offer which allows the Customer to use the INCAR-instructions shall continue for the term as set out in the Offer and will thereafter be extended for similar subsequent terms. A subscription may be terminated by either Party upon 3 months' notice written notice prior to the end of the then-current term as set out in the Offer (or if no term is included therein, upon 3 months' notice).
- 8 Beijer may suspend or terminate access to INCAR-instructions at any time if it has reason to believe that the Customer breaches this Agreement or applicable laws.
- 9 An INCAR-instruction can a.o. be purchased in a Bundle. A Bundle and an INCAR-instruction have a period of validity as mentioned on the relevant website.

## **Article 10 (Technical) Requirements**

- 1 Unless set out otherwise in an Offer, Beijer shall be responsible that the Goods and Services comply with laws applicable to Beijer, the Goods and the Services in the Netherlands in general. The Customer shall be responsible for its use of the Goods and the Services in compliance with laws, regulations and guidelines applicable to Customer and the market in which it operates.
- 2 Subject to article 10.1 above, if the Customer requires Beijer to implement any technical requirements to the Goods or Services on the request of the Customer and which deviate from the standard applicable requirements for the Netherlands, Beijer shall only be required to implement those requirements on a best-efforts basis (*inspanningsverplichting*) and the Customer must ensure that these are expressly stated in the Offer.

## **Article 11 Delivery**

- 1 Unless agreed otherwise, delivery will be made ex-works (Incoterms) of Beijer's address in Schijndel. If one of the Incoterms has been agreed in an Offer, the Incoterms will apply that are included at the time the Agreement is concluded.
- 2 The Customer will be obliged to take possession of the purchased Goods at the time of delivery or the time at which the Goods are made available to the Customer in accordance with the Agreement. The Goods delivered will be for the expense and risk of the Customer from the time of delivery.
- 3 If the Customer refuses to take possession or fails to provide information or instructions that are necessary for the delivery, the Goods will be stored at the expense and risk of the Customer. In that case, the Customer will owe all additional costs, including, in any event, storage costs.
- 4 If Beijer has stated a delivery period for Goods or Services, this period will be indicative only. A stated delivery time will never be binding.

- 5 Beijer will be entitled to deliver the Goods or Services in instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## **Article 12 Defective Goods**

- 1 The Customer shall examine any Goods upon delivery or at least within 24 hours. In so doing, the Customer must check whether the Goods delivered correspond to the Agreement, namely:
- (a) whether the correct Goods have been delivered;
  - (b) whether the Goods delivered correspond to agreed quantity (e.g. the amount and the number);
  - (c) whether the delivered Goods correspond to the quality norms set out in the Agreement.
- 2 If visible defects or shortfalls are discovered, the Customer must report such to Beijer within three days of delivery. This report must contain a detailed description of the defect or shortfall discovered.
- 3 Latent defects must be reported in writing to Beijer within three days of discovery, but no later than three months following delivery. This report must contain a detailed description of the defect discovered.
- 4 If the Customer gives timely notice in writing to Beijer about a defective Good, the Customer shall store such Good and Beijer shall be given a reasonable opportunity of examining such Goods.

## **Article 13 Service Level and Guarantee**

- 1 Beijer shall deliver the Services in accordance with the service levels set out in an Offer. If no service levels are set out in an Offer, Beijer shall deliver the Services in accordance with generally accepted industry practices.
- 2 Beijer guarantees that new Goods to be supplied will be free of design, material and manufacturing defects for a period of three months following delivery, unless agreed otherwise in writing. The guarantee will not apply to repaired, replaced, second-hand, refurbished or used Goods.
- 3 Beijer shall not be liable for the Goods' failure to comply with the guarantee in article 13.2 if:
- (a) the Customer makes any further use of such Goods (for example by integrating or processing such Goods into other products);
  - (b) the defect arises because the Customer failed to follow Beijer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) generally accepted industry practices regarding the same;
  - (c) the defect arises as a result of Beijer following any drawing, design or specification supplied by the Customer;
  - (d) the Customer alters or repairs such Goods without the written consent of Beijer.

- 4 If Beijer concludes that a Good is defective, Beijer shall, at its option and as a sole remedy for a defective Good, repair or replace the defective Goods, or refund the price of the defective Goods in full. Without prejudice to the foregoing, Beijer shall not be liable for any other costs, including but not limited to costs of installing, de-installing, travel, transport, etc. Any such costs made by Beijer shall be paid by the Customer.
- 5 If the guarantee relates to a Good that has been manufactured in whole or in part by a third party manufacturer, the guarantee will be limited to the guarantee provided for that Good or part thereof by the manufacturer in question.
- 6 The Customer bears the burden of proof that the Good has a defect within the guarantee period for which this guarantee applies. The guarantee will lapse if the type or serial number of a product has been removed or changed.

## **Article 14 Termination of the Agreement**

- 1 An Agreement will have the duration as set out in the Offer.
- 2 An Agreement between Beijer and the Customer may be terminated ("*ontbonden of opgezegd*") by either Party with immediate effect – without judicial intervention or notice of default being required – in the following cases:
  - (a) the other party commits a material breach of any term of the Agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 calendar days after being notified in writing to do so;
  - (b) if the other Party is liquidated, is declared bankrupt or files for bankruptcy, or if its enterprise is transferred or discontinued, attachment is levied against it or it is granted a suspension of payments – provisional or otherwise.
- 3 In addition, an Agreement between Beijer and the Customer may be terminated ("*ontbonden of opgezegd*") by Beijer with immediate effect – without judicial intervention or notice of default being required – in the following cases:
  - (a) if, following the conclusion of the Agreement, Beijer becomes aware of circumstances that provide reasonable grounds to believe that the Customer will not fulfil its obligations;
  - (b) if Beijer asked the Customer to provide security for the fulfilment of its obligations when the Agreement was concluded, and fails to provide adequate security within a period of 20 calendar days after being notified in writing to do so.
- 4 If the Agreement is terminated, Beijer's claims against the Customer will be become immediately due and payable.
- 5 Any provision of the Agreement that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect, including articles 18, 20, 22 and 23.

## **Article 15 Retention of title**

- 1 All Goods delivered by Beijer will remain the property of Beijer until the Customer has fulfilled all the obligations arising from the Agreement concluded with Beijer.



- 2 Goods delivered by Beijer that are subject to retention of title by virtue of paragraph 1, may only be resold in the ordinary course of business, provided that if the Customer resells the Goods before that time:
  - (a) it does so as principal and not as Beijer's agent; and
  - (b) title to the Goods shall pass from Beijer to the Customer immediately before the time at which resale by the Customer occurs.
- 3 The Customer will not be entitled to pledge, to lease or encumber in any other way the Goods covered by the retention of title.
- 4 In all cases in which Beijer wishes to exercise its proprietary rights, the Customer hereby grants its unconditional and irrevocable permission to Beijer to enter all those places where Beijer's Goods are located and to recover those Goods.
- 5 If third parties levy an attachment on the delivered Goods covered by the retention of title or wish to create or enforce rights thereon, the Customer will be obliged to inform Beijer thereof as soon as possible and to inform the third party of the fact that Beijer retains title to the Goods in question.
- 6 The Customer shall maintain the Goods in satisfactory condition and insure and keep insured the Goods supplied under retention of title, in any event against fire, explosion and water damage and against theft, and the Customer shall allow inspection of this insurance policy on first request.

## **Article 16 Payment**

- 1 The price for Goods:
  - (a) shall be the price set out in the Offer; and
  - (b) shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.
- 2 The charges for Services shall be calculated on a time and materials basis:
  - (a) the charges shall be calculated in accordance with Beijer's daily fee rates, as set out in the Offer;
  - (b) Beijer's daily fee rates for each individual person are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on business days;
  - (c) Beijer shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Beijer engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Beijer for the performance of the Services, and for the cost of any materials.
- 3 Beijer reserves the right to:
  - (a) increase the charges for the Services on an annual basis with effect from each anniversary of the commencement date in line with the percentage increase in the Consumer Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the commencement date and shall be based on the latest available figure for the percentage increase in the Consumer Prices Index;

- (b) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Beijer that is due to:
- (i) any factor beyond the control of the Beijer (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the specification; or
  - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Beijer adequate or accurate information or instructions in respect of the Goods.
- 4 All amounts payable by the Customer under the Agreement are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Agreement by Beijer to the Customer, the Customer shall, on receipt of a valid VAT invoice from Beijer, pay to Beijer such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 5 Unless set out otherwise in an Offer: (i) in respect of Goods, Beijer shall invoice the Customer on or at any time after completion of delivery; and (ii) in respect of Services, Beijer shall invoice the Customer monthly in arrears.
- 6 Payment must be made within 30 days of the invoice date in a manner to be designated by Beijer in the currency in which the invoice is drawn up. Beijer may send invoices by regular mail, e-mail or through other electronic means as designated by Beijer.
- 7 If the Customer fails to make a payment due to Beijer under the Agreement by the due date, then, without limiting Beijer's remedies, the Customer shall pay interest on the overdue sum on the higher of (i) 1% per month, or (ii) the statutory interest rate.
- 8 Complaints regarding invoices must be submitted in writing and within 14 days of the date of the invoice date.
- 9 All amounts due under the Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 10 The payments made by the Customer will be used first to reduce any interest and costs due and then to settle the longest outstanding invoices payable, even if the Customer states that the payment relates to a more recent invoice.
- 11 If the Customer fails to fulfil its obligations arising from the Agreement or if Beijer has good reasons for fearing that the Customer will not fulfil those obligations, Beijer will be entitled to suspend its corresponding obligations, as well as the obligations arising from the same legal relationship or from business transactions that the Parties have regularly conducted with one another, without prejudice to Beijer's rights pursuant to law or the General Sales Conditions. Beijer will also have the right to suspend its obligations arising from other agreements with the Customer until the Customer has met all its obligations with respect to Beijer. The agreed price will be exigible forthwith, after deduction of instalments already paid and the costs saved by Beijer as a result of the suspension. Beijer will also be entitled to have the Goods reserved and held by Beijer for the performance of the Agreement stored at the expense and risk of the Customer.
- 12 Beijer will be entitled at all times, even if execution of an Offer has already commenced, to request security from the Customer prior to delivery for its payment obligations.

- 13 The Customer shall pay any extrajudicial collection costs in accordance with Dutch law.

### **Article 17 Packaging**

- 1 The Customer will be obliged to return packaging within 14 days, empty, clean and in good condition. If the Customer fails to meet its obligations relating to packaging, all resulting costs will be borne by the Customer. Such costs will include the costs arising from late return and the costs of replacement, repair or cleaning.

### **Article 18 Limitation of liability**

- 1 The liability of Beijer, whether arising out of this Agreement, tort or otherwise shall be limited to the maximum amount covered by Beijer's liability insurance and only to the amount that Beijer's liability insurer actually pays to Beijer.
- 2 Subject to clause 18.1, the liability of Beijer, whether arising out of this Agreement, tort or otherwise shall not exceed EUR 2,000,000 per Agreement.
- 3 Beijer will not be liable for indirect damage and costs, consequential damage, loss of turnover, loss of profit, loss of business or customers, missed savings, loss of data, loss of goodwill or reputational damages.
- 4 Beijer will not be liable for damage caused by its suppliers or third parties engaged by Beijer during the provision of Services or delivery of Goods.
- 5 If and in so far as the Agreement is a continuing performance contract, the damages resulting from an attributable failure will in no event exceed the price (exclusive of Dutch VAT) stipulated in the case of the Agreement in question for the performances of Beijer in the three-month period prior to the attributable failure of Beijer.
- 6 Beijer will not be liable for damage caused by incorrect and/or incomplete information and/or data supplied by the Customer and/or a third party engaged by the Customer to Beijer and/or customers.
- 7 The Customer will indemnify or compensate Beijer for all compensation claims of third parties who suffer damage in connection with the performance of the Agreement and which damage is attributable to the Customer. To the extent that the Goods are to be manufactured or Services are to be delivered in accordance with specifications or instructions supplied by the Customer, the Customer shall indemnify Beijer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Beijer arising out of or in connection with any claim made against Beijer.
- 8 Beijer will not be liable for any damage and/or loss that may result from inaccuracies in the Goods or Services (including INCAR instructions) resulting from changes introduced by a vehicle manufacturer or another party in the supply chain (e.g. changes in a vehicle's CAN bus which may impact the proper functioning of any Goods, Services or INCAR instructions).
- 9 Beijer will not be liable for any damage to items of third parties that are located on its business site.
- 10 Beijer will never be liable for damage ensuing from any advice given. Advice will always be given on the basis of the facts and circumstances known to Beijer and in mutual consultations, in which respect Beijer will always use the Customer's intention as a guideline and starting point.

- 11 Beijer will not be liable for damage that has resulted from the installation of Goods or deliverables by inadequately trained specialists with no proper knowledge of cars, as well as from product installation that fails to take account of the most recent quality requirements of the automotive industry and local applicable legislation.
- 12 The limitations in this article shall not apply to the extent the damages is caused by Beijer's wilful intent (*opzet*) or deliberate recklessness (*bewuste roekeloosheid*).

### **Article 19 Force majeure**

- 1 A Party will not be obliged to fulfil any of its obligations to the extent it is prevented from doing so due to Force Majeure.
- 2 In these General Sales Conditions, the term '**Force Majeure**' will be understood to mean – in addition to its meaning under Dutch law – all causes, foreseen or unforeseen, which are outside Beijer's control, including strikes, war, operational failure, lockouts, import, export or transit bans, failures by suppliers, failures in internet connectivity, failures in third party products or services, failures by the Customer, a lack of energy, raw materials, auxiliary materials or packing materials, or cybersecurity related events.
- 3 A Party may suspend its obligations ensuing from the Agreement during the period that the Force Majeure continues. If this period continues for more than two months, either Party will be entitled to terminate the Agreement without being obliged to pay damages.
- 4 If Beijer has already fulfilled part of its obligations when the Force Majeure commences or is only able to fulfil part of its obligations, it will be entitled to invoice the fulfilled part or the part that can still be fulfilled separately and the Customer will be obliged to pay this invoice as if it related to a separate agreement.

### **Article 20 Intellectual property**

- 1 All Intellectual Property Rights, which include improvements and derivatives of these Intellectual Property Rights, and in any case all Intellectual Property Rights in INCAR instructions provided by Beijer, software, firmware, binaries, brochures, catalogues, price-lists, documents and other (electronic) files will remain the property of Beijer or its licensors and nothing in the Agreement or these General Sales Conditions will be construed as a transfer of these Intellectual Property Rights. If the Customer still acquires any Intellectual Property Rights in derogation of this Article, the Customer shall at the first request of Beijer perform all acts required for the transfer of these Intellectual Property Rights to Beijer in the manner prescribed by law.
- 2 The Customer shall do nothing and refrain from doing anything that might affect the validity or the scope of protection of the Intellectual Property Rights.
- 3 The Customer is hereby granted the non-exclusive, non-transferable and royalty-free right to use the Intellectual Property Rights of Beijer or its licensors for the duration of the Agreement, insofar as required for the use of the Goods and Services provided by Beijer in accordance with the Agreement or these General Sales Conditions, and only for the intended purpose.
- 4 Nothing in the Agreement or in these General Sales Conditions may be construed thus that, expressly, impliedly or otherwise, licence rights are granted to the Customer relating to products and/or services provided by Beijer or Intellectual Property Rights, unless this has expressly been agreed upon in the Agreement or these General Sales Conditions.
- 5 Beijer is at all times allowed to take (further) (technical) measures to protect or secure its products and services. The Customer is not allowed to refuse, circumvent, reverse or

otherwise avoid such measures. Also, the Customer shall, insofar as permitted by law, not decompile, reverse-engineer or otherwise reconstruct any of the Goods and Services provided by Beijer, or make any attempt to reconstruct, identify or discover source codes, underlying ideas, techniques or algorithms.

- 6 If the Customer receives knowledge of an infringement of the Intellectual Property Right, it must immediately inform Beijer of this. The Customer is not allowed to put up a defence on behalf of Beijer in respect of a claim for infringement, nor acknowledge any liability on behalf of Beijer or effect a settlement. If Beijer, in connection with this, takes action in any form, the Customer has the obligation to give its full cooperation.

## **Article 21 Privacy**

- 1 To be able to offer its Goods and Services, Beijer may collect personal data of the Customer's business representatives, such as names, email addresses and (business) phone numbers.
- 2 Beijer is the data controller in respect of these personal data and shall process the personal data solely with a view to being able to offer its Goods and Services and concluding the Agreement. Beijer will process the personal data in accordance with applicable data protection laws, including the European General Data Protection ("GDPR").
- 3 Although the Goods include functionalities which allow the processing of personal data, the Goods shall be provided on a stand-alone basis without any connection or linkage to the systems of Beijer. In the course of offering the Goods and Services, Beijer shall not collect, store, have access or otherwise process any personal data within the meaning of the GDPR, such as of end-users of the Goods, including employees or end-consumers of the Customer.
- 4 To the extent any personal data is processed by the use of the Goods, Parties acknowledge that Customer shall be the sole data controller in respect of such personal data and shall be responsible for ensuring compliance with applicable data protection laws, including the GDPR.
- 5 To the extent any specific Services would require Beijer to process personal data other than as described in this article 21, either as a data controller or data processor, the Parties shall enter into additional data protection arrangements as required by applicable laws.

## **Article 22 Confidentiality**

- 1 The Customer will be obliged to observe secrecy with respect to all confidential information that it obtains in the context of the Agreement with Beijer or from any other source. All information will be considered confidential, unless Beijer informs the Customer in writing that the information in question is not confidential.
- 2 The Customer may not use Beijer's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.
- 3 If the provisions of paragraph 1 of this article are violated, the Customer will owe Beijer an immediately payable and due fine not subject to discount or set-off of € 10,000, without prejudice to Beijer's right to claim full damages.

## **Article 23 General**

- 1 Beijer may at any time assign, mortgage, charge, subcontract, delegate, or deal in any other manner with all or any of its rights and obligations under the Agreement.

- 2 The Customer shall not assign, transfer, mortgage, charge, delegate, or deal in any other manner with any of its rights and obligations under the Agreement without the prior written consent of Beijer.
- 3 Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute either Party the agent of the other, or authorise either Party to make or enter into any commitments for or on behalf of the other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.
- 4 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 5 The Agreement constitutes the entire agreement between the Parties. Each Party acknowledges that in entering into the Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.

#### **Article 24 Hierarchy**

If there is any conflict or ambiguity between the terms of the documents listed in this article, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

- i. The Offer; and
- ii. These General Sales Conditions.

#### **Article 25 Disputes**

Any and all disputes between the Parties arising from or in connection with the Agreement and/or any agreement, arrangement or undertaking arising from the Agreement shall be submitted to the exclusive jurisdiction of the competent court in 's-Hertogenbosch, the Netherlands.

#### **Article 26 Applicable law**

All Agreements between Beijer and the Customer will be governed by Dutch law. The Vienna Sales Convention and the Uniform Law on the International Sale of Goods, as well as the Uniform Law on the Formation of Contracts for the International Sale of Goods, will not apply and are hereby expressly excluded.

#### **Article 27 Amendment and location of the General Sales Conditions**

These General Sales Conditions have been filed at the office of the Chamber of Commerce and Industry in 's-Hertogenbosch, the Netherlands. In each case, the version which was filed most recently or the version that applied at the time of the Agreement's conclusion between the Parties will apply.