

dertec[®]

Designed to Perform

General Terms & Conditions of Sale & Delivery

ENG

English Version

Algemene Verkoop- en Leveringsvoorwaarden van DERTEC
(hierna ook "Algemene Verkoop- en Leveringsvoorwaarden")
(d.d. 09 mei 2016)

Article I General / Applicability of Terms and Conditions

1. DERTEC B.V., DERTEC Europa B.V., DERTEC International B.V. and DERTEC Logistics & Services B.V. are private limited companies established under Netherlands law or private limited companies in formation. DERTEC BV is registered with the Chamber of Commerce under number 58047026. DERTEC Logistics & Services B.V. is registered with the Chamber of Commerce under number 28095039.
2. These general terms and conditions are applicable to all legal relationships entered into by DERTEC B.V., DERTEC Europa B.V., DERTEC International B.V. and DERTEC Logistics & Services B.V. (separately and jointly hereinafter also referred to as "DERTEC"), with a counterparty acting in the performance of a profession or business, hereinafter also referred to as "counterparty" or "client". Departure from these General Terms and Conditions of Sale and Delivery is possible in mutual consultation, but is only valid if agreement in the matter is set down in advance in writing.
3. The term 'legal relationships' under these General Terms and Conditions of Sale and Delivery will in any event refer to all transactions between DERTEC and the counterparty/client, including all offers, sales and deliveries, services and assembly and other work, and agreements pertaining to sales by and the performance of deliveries and/or services by DERTEC, except in cases in which the parties have explicitly departed from this in advance in writing, and in which respect the divergent terms and conditions stated therein are applicable as the specific terms and conditions for that transaction, offer, sale, delivery and/or service. Each other term or condition which is not explicitly accepted in advance in writing by DERTEC shall have no effect.
4. Each offer/agreement pertaining to transactions (including the performance of deliveries, sales and/or services) entered into by DERTEC is based on these General Terms and Conditions of Sale and Delivery, and these General Terms and Conditions of Sale and Delivery are applicable as of the moment the offer is made, or the agreement has come into effect, and from the moment the counterparty places an order and/or enters an order for sale or delivery, and they will remain in effect as long as the commercial or other relationship continues, irrespective of whether or not future correspondence continues to make reference to these terms and conditions, for example in the context of new/follow-up orders/offers/agreements.
5. A reference by the counterparty/client to its own general or other terms and conditions, such as its own terms and conditions of purchasing, tendering or other terms and conditions, is explicitly not accepted by DERTEC and these other general or other terms and conditions explicitly will not bind DERTEC, except if and inasmuch as these have explicitly been accepted in writing by DERTEC.
6. Commercial terms used in quotations, order confirmations or otherwise must be interpreted in accordance with the ICC Rules for the Use of National and International Commercial Terms of the International Chamber of Commerce, known as the ICC Incoterms 2000, applicable on the date of the offer, all inasmuch as these are not in conflict with these General Terms and Conditions of Sale and Delivery.
7. The following terms are defined as follows in these General Terms and Conditions of Sale and Delivery:
 - DERTEC: the DERTEC corporation which refers in its offer and/or order confirmation to these General Terms and Conditions of Sale and Delivery;
 - service: the acceptance of work by DERTEC in the context of standard applications, including services, such as maintenance, advice and inspection;
 - client: the counterparty of DERTEC;
 - supplier: DERTEC;
 - agreement: consensus between DERTEC and the counterparty/client which is focused on the formation or amendment of an obligation and which at all times is set down in writing or confirmed in writing by DERTEC;
 - product : (standard) DERTEC goods;
 - legal relationship: legal relationship between DERTEC and the counterparty/client;
 - in writing: by means of a document signed by both parties and demonstrated by a party by letter, fax or email message or every other technical method agreed between the parties;
 - Transaction: all offers, sales and deliveries, services and assembly and other work and agreements pertaining to the performance of deliveries, sales and/or services by DERTEC;
 - counterparty: the party acting in the performance of a profession or business and to which/whom DERTEC has addressed an offer and/or order confirmation.

Article II Offer.

1. Each outgoing offer made by DERTEC is free of obligation and is open to acceptance for a period of 6 weeks, unless otherwise indicated by DERTEC.
2. The prices stated in an offer are in euros and are exclusive of BTW (Dutch VAT), unless otherwise indicated.
3. Each offer of DERTEC is based on performance of the agreement by DERTEC under normal circumstances and during normal working hours.

Article III Agreement

1. An agreement is first formed when:
 - a. a written or other offer made by DERTEC is accepted by the counterparty/client within the period set for this;
 - b. an order placed by the counterparty/client or an offer made by DERTEC is accepted in writing.
2. If the agreement is entered into in writing, it will be formed on the day on which the agreement is signed by the counterparty/supplier, or on the day on which the written order confirmation is sent by DERTEC.
3. The object of and the obligations and arrangements set down in the written agreement entered into between the parties replaces all verbal and written agreements entered into previously, and can apply equally to the delivery of goods and the performance of services.
4. If DERTEC products are ordered verbally (including by telephone) from one of the employees of DERTEC, the order will only be valid once it has been accepted explicitly in writing by DERTEC, or if DERTEC has not notified the counterparty/client within 2 days that it will not accept the order.
5. Additional work is deemed to be all that which is agreed between the counterparty/client and DERTEC, whether or not in writing, during the performance of the agreement regarding deliveries made in excess of the quantities explicitly set down in the agreement or order confirmation or services performed by DERTEC over and above the work explicitly set down in the agreement or order confirmation.
6. All supplements to, amendments to and further arrangements under the agreement will only be applicable if they have been agreed in writing, including by email, and written confirmation has been sent by the other party.
7. DERTEC is not liable for imperfections in the advice and information provided by DERTEC. The counterparty/client cannot derive any rights from advice and information obtained from DERTEC if these do not pertain to the agreement/order and/or this advice is provided by DERTEC on an unsolicited basis.
8. If the counterparty/client wants the transaction (goods and services) to meet certain requirements/specifications, the counterparty/client must notify DERTEC to this effect clearly in writing before formation of the agreement. DERTEC will not be responsible or liable for noncompliance of the goods to be delivered or services to be performed with the technical requirements or standards set by laws and/or provisions of the country in which the goods must be used and/or services purchased. The counterparty/client will be responsible for the drawings and calculations made by it or on its behalf and for the functional or otherwise efficient suitability of the materials stipulated by or on behalf of the counterparty/client.
9. DERTEC cannot be held liable for errors in images, drawings measurements, weights, qualities and/or prices/pricelists, whether or not these are made known by means of printed matter or not.
10. Verbal undertakings and agreements with subordinates of DERTEC do not bind DERTEC until such a time and inasmuch as they have been confirmed by DERTEC in writing.

Art. IV price

1. The prices indicated by DERTEC are exclusive of turnover tax and other government duties to which sale and delivery are subject, and are based on delivery ex-works according to the Incoterms applicable on the date of offer, except inasmuch as otherwise stipulated in these terms and conditions. The term 'works' is deemed in these General Terms and Conditions of Sale and Delivery to include the grounds and building of DERTEC.
2. The packaging is not included in the price and will be charged separately. Packaging is not taken back.
3. DERTEC is entitled to increase prices if circumstances – including unforeseen circumstances – occur after the agreement is formed which lead to a price increase, including, but not limited to, increases to the prices of raw materials, currency exchange rate fluctuations, increases to taxes/premiums, collective wage increases and/or other objective circumstances. Such a price increase does not give the counterparty/client the right to terminate the agreement.
4. DERTEC is at all times entitled – if the financial situation of the counterparty/client gives cause, in the opinion of DERTEC – to require advance payment, collateral or other guarantee for satisfactory payment, and to suspend realisation of the agreement in whole or in part while awaiting such. If such advance payment is not made or such collateral or guarantee is not provided to the reasonable satisfaction of DERTEC, DERTEC will be entitled to terminate the agreement by a mere written declaration and without judicial intervention, without prejudice to the right of DERTEC to full compensation, and without the counterparty/client being entitled to any compensation.
5. The agreement includes authorisation for DERTEC to charge separately for additional work performed by DERTEC as soon the amount to be charged is known to DERTEC.

Art. V Product information, drawings, calculations, descriptions, models, tools, etc.

1. All information and data contained in general product information and documentation and the pricelists is/are only binding inasmuch as it/they has/have explicitly been included in the offers or agreements by means of reference.
2. The parties are aware that the products and services of DERTEC are standard products and standard applications.
3. Data contained in catalogues, images, drawings, measurements and weights, etc., are only binding if and inasmuch as they are explicitly included in an agreement signed by the parties or an order confirmation signed by DERTEC.
4. The commercial and technical drawings accompanying products of DERTEC and transactions (such as offers) made by DERTEC will not be provided by DERTEC unless DERTEC decides otherwise. The counterparty/client has no right whatsoever to demand the commercial and technical drawings of DERTEC.
5. All information and data included in general product information and documentation and the price lists, along with all industrial and intellectual property rights to the DERTEC information and data, including all commercial and technical drawings, calculations, software, descriptions, models, tools created by or on behalf of DERTEC, which may or may not form the basis of the manufacturing and construction methods, for DERTEC products and offers and services, whether or not these are recognisable by the DERTEC brand or logo and, as appropriate, identity numbers to be specified, will remain exclusively reserved for DERTEC, even if costs are charged for these.
6. The counterparty/client is not permitted to use, reproduce, make public or make known, show to third parties or commercialise such DERTEC information and data, except in the performance of the agreement, unless this is with the explicit prior written permission of DERTEC.

Art. VI Delivery period

1. The delivery period will commence at the following moments:
 - a. the day on which the agreement is formed;
 - b. the day of receipt by the supplier of the documents, data, permits, etc., necessary for the realisation of the order;
 - c. the day on which the necessary formalities are completed for the commencement of the work;
 - d. the day of receipt by the supplier of that which must be paid in advance before commencement of the work in accordance with the agreement. If a delivery date or week has been agreed, the delivery period will be formed by the period between the date on which the agreement is formed and the delivery date or week.
2. Any agreed delivery period and any delivery period included in the offer will at all times be deemed approximations and are based on the work circumstances applicable at the time the agreement was formed and on prompt delivery of the materials ordered by DERTEC for the performance of the work, and are not binding on DERTEC. In the event that a delay occurs, for which DERTEC is not to blame, as a result of a change to these work circumstances or because the materials ordered in good time for the performance of the work have not been delivered on time, the delivery period will be extended as necessary.
3. With regard to the delivery period, if inspection at the premises of DERTEC has been agreed, the product will be deemed delivered when it is ready for inspection, and in other cases when it is ready for shipment, after the counterparty/client has been notified in writing to this effect and without prejudice to the requirement on DERTEC to comply with any assembly/installation obligations to which it is subject.
4. Without prejudice to that stipulated elsewhere in these General Terms and Conditions of Sale and Delivery with regard to the delivery period, the delivery period will be extended by the duration of any delay which occurs on the part of DERTEC as a result of noncompliance by the client with any obligation arising from the agreement or which it is required to provide in the context of realisation of the agreement.
5. Any overrun of the delivery period as a result of force majeure on the part of DERTEC does not entitle the counterparty/client to fully or partially terminate the agreement.
6. Any overrun of the delivery period does not entitle the counterparty/client to fully or partially terminate the agreement, unless such an overrun exceeds 16 weeks or will exceed 16 weeks according to notification by DERTEC.
7. In the event of such an overrun, the counterparty/client can terminate the agreement by giving written notice to DERTEC, and will be entitled – as applicable – to reimbursement of the price (or part thereof) already paid for the product or service. Unless the client makes use of its right to terminate referred to above, any overrun of the delivery period – by any cause whatsoever – does not entitle the counterparty/client to perform or have performed work in the realisation of the agreement without court authorisation.

Art. VII Performance of work

1. DERTEC performs work in the context of an agreement only in its own workplace, in principle.
2. In the event that work is performed by DERTEC not in its own workplace, the counterparty/client guarantees that all resources and facilities will be present at the location at which the agreement will be realised in order to enable DERTEC to perform its work without interruption or hindrance and at the agreed time, solely in the opinion of DERTEC.
3. The counterparty/client will be liable for all damage or loss resulting from loss, theft, fire or damage of tools, materials and other goods of DERTEC which are located at the location at which the work is being performed.
4. If the counterparty/client does not comply with the obligation as set down in this article, and as a result of this delays occur in the performance of the work, the work will be performed as soon as the scheduling of DERTEC permits it. In the event of delays, the counterparty/client will reimburse DERTEC for all additional costs it incurs as a result of this, including, but not limited to, all waiting hours and (additional) inspection costs. Over and above this, the counterparty/client will be liable for all loss arising from this for DERTEC, but will not be entitled to claim any compensation as a result of any delay to work as a result of the circumstances described in this article.
5. The counterparty/client must not recruit or approach any personnel of DERTEC involved in the realisation of the agreement to perform work for the counterparty/client, whether or not on an employment basis, and whether or not on a temporary basis, directly or indirectly, for a period of 12 months after delivery/completion.

Art. VIII Delivery and transfer of title and risk

1. Delivery takes place ex-works in accordance with the Incoterms applicable on the date of the offer. The goods to be delivered by DERTEC / the supplier in the case of a delivery ex-works will be at the expense and risk of counterparty/client as of the moment that the products are made available to the counterparty/client in/at the building of DERTEC either as of the moment the goods are loaded onto the vehicle or as of the moment the products otherwise leave the building of DERTEC, at which moment the delivery of the products will be deemed to be completed, irrespective of whether the counterparty/client has signed any document for this. The documents are therefore deemed to have been delivered by DERTEC to the counterparty/client as soon as they leave the building of DERTEC.
2. Unless explicitly otherwise agreed in writing, the packaging and transport costs are always at the expense of by the counterparty/client.
3. After the product has been delivered, DERTEC transfers the risk to the counterparty/client for all direct and indirect damage or loss which may occur to this product or as a result of this product, except in and inasmuch as the loss or damage is the result of intent or deliberate recklessness on the part of employees of the company management of DERTEC. If, after being given notice of default, the counterparty/client remains in default with regard to the purchase of the product, DERTEC will be entitled to charge the costs arising from this to the counterparty/client. Compliance with national regulations and laws on the export of a product will be at the expense and risk of the counterparty/client and will not form a valid reason for remaining in default with regard to purchase.
4. After delivery of a product for the performance of the service, DERTEC will remain the owner of the products delivered or the service performed for as long as the counterparty/client:
 - a. fails or will fail in compliance with its obligations, including payment of the price (including turnover tax) and including all interest and all costs, in the agreement with DERTEC, and in these General Terms and Conditions of Sale and Delivery which are applicable to these agreements;
 - b. has not paid or will not pay for services and work performed or still to be performed under agreements;
 - c. has not settled claims arising from noncompliance with the above-mentioned agreements, such as damage/loss, penalties, interest and costs.
5. As long as a retention of title rests on delivered goods, the counterparty/client is not permitted to encumber or alienate these outside its normal business operations, except with the prior written permission of DERTEC.
6. After DERTEC commences recovery action, or otherwise invokes its retention of title, DERTEC will be entitled to repossess the delivered goods. The counterparty/client will permit DERTEC unhindered entry to the location in which these products are located. The counterparty/client will grant DERTEC all cooperation in order to give DERTEC the opportunity to exercise this retention of title by means of repossession of the goods, including any dismantling which may be required in this context.
7. Without prejudice to that stated in the previous paragraph, the counterparty/client enters into the obligation to grant its cooperation, at the first request of DERTEC, to the establishment of a nonpossessory pledge on products for which title has been transferred from the counterparty/client due to payment, or on products in which delivered products have been processed and/or of which they have become a component.
8. DERTEC will have a right of retention on all products held by DERTEC of or on behalf of the counterparty/client for as long as the counterparty/client has not met all its obligations to DERTEC.

Article IX Inspection

1. The counterparty/client must inspect the product within 48 hours of delivery as referred to in these General Terms and Conditions of Sale and Delivery or, if assembly/installation is been agreed, within 14 days of the assembly/installation. If this period has passed without written and specified notification of well-founded complaints, or if the product is used for commercial production before this, the product will be deemed to have been accepted.
2. The counterparty/client must assess a service within 48 hours of completion of the work as referred to in these General Terms and Conditions of Sale and Delivery. If this period has passed without written and specified notification of well-founded complaints, or if the product is used for commercial production before this, the product will be deemed to have been accepted.
3. The products can only be returned to DERTEC with the prior written permission of DERTEC. With the exception of faults observed by the counterparty/client, the goods must be delivered properly to the premises of DERTEC in the event of a return shipment. DERTEC explicitly reserves the right to inspect the products, or have them inspected, at the location at which they are located.
4. In the event of insignificant shortcomings, in particular those which do not affect or barely affect the intended use of the product, the product will be deemed to have been accepted despite these shortcomings. DERTEC will remedy such shortcomings as quickly as possible, as far as it is reasonably possible, in consultation with the counterparty/client.
5. Without prejudice to DERTEC's requirement to comply with its guarantee obligations, acceptance according to the provisions on inspection and testing at the time of transfer precludes any claim by the counterparty/client in the context of a shortcoming in the performance of DERTEC.

Article X Payment

1. Unless otherwise agreed, payment of the agreed price, in the currency stated on the invoice, must take place within 30 days of the invoice date.
2. Payment for additional work must take place as soon as this has been charged by DERTEC to the counterparty/client.
3. All payments must be made at the offices of DERTEC or by transfer to an account to be indicated by DERTEC, without any deduction or setting off. At no time will the counterparty/client be entitled to suspend its obligations.
4. DERTEC reserves the right to make partial deliveries of orders and to invoice these partial deliveries.
5. If, at any moment, DERTEC has good cause to doubt the creditworthiness of the counterparty/client, DERTEC will be entitled to request, before further performance, that the counterparty/client make an advance payment of the total or partial invoice amount or that it provides collateral to the satisfaction of DERTEC, up to the amount which DERTEC may be owed by the counterparty/client under the agreement in question at that moment or in the future. The counterparty/client shall be required to comply with this request.
6. If the counterparty/client does not pay within the agreed periods, the counterparty/client will be deemed to be in default ipso jure and DERTEC will be entitled, without any prior notice of default and without prior judicial intervention, to charge the counterparty/client interest at a percentage of 3 points above the statutory interest rate for commercial transactions applicable in the Netherlands on the basis of article 6:119 a and article 6:120(2) of the Dutch Civil Code, and to charge all judicial and extrajudicial costs reasonably incurred in the collection of its claim.
7. Payments are allocated first to the costs, then to the interest and finally to settlement of the principal amount.

Article XI Guarantee

1. Without prejudice to the restrictions set in these General Terms and Conditions of Sale and Delivery, DERTEC guarantees the sound condition of the product (not being a service) delivered by DERTEC and for the quality of the material used and/or delivered for this, inas much as this pertains to faults in the delivered product which could not be discovered during inspection or transfer tests, respectively, in respect of which the counterparty/client demonstrates that they occurred within 12 months of the delivery in accordance with these General Terms and Conditions of Sale and Delivery. The guarantee period of 12 months is based on use for no more than 8 hours per day, for 5 days per week, and based on correct use in accordance with the guidelines of DERTEC. If the level of daily use of the product is higher than agreed, this period will be reduced accordingly. In the event of an incorrect use of the product by the counterparty/client, in the opinion of DERTEC, no guarantee shall exist.
2. Defects covered by the guarantee will be removed by DERTEC
 - (a) in the Netherlands: by repair or replacement of the defective part, including at the premises of the counterparty/supplier if applicable, or by shipment of a part to the counterparty/client as replacement, all at the sole choice of the supplier, and
 - (b) outside the Netherlands: by shipment of a part to the counterparty/client as replacement.
 DERTEC will bear the shipping costs, in which respect DERTEC will have sole choice of the shipping method. All other costs, including travel and accommodation expenses and costs for dismantling and assembly/installation will be borne by the counterparty/client. Repaired or replaced parts will be subject to a new guarantee period of 6 months, on the understanding that each guarantee will lapse as soon as 12 months have passed after the delivery of the product in accordance with these General Terms and Conditions of Sale and Delivery.
3. No guarantee is provided for inspections, advice and similar services carried out by the counterparty/supplier or by a third party on behalf of the counterparty/client.
4. The guarantee does not cover faults which occur in or which are or could be wholly or partially the consequence of:
 - a. nonobservance of the operating and maintenance instructions or use other than the envisaged normal use;
 - b. incorrect use by the counterparty/client;
 - c. normal wear and tear;
 - d. assembly/installation, modification or repair by the client or by third parties;
 - e. the application of any government regulation pertaining to the nature or quality of the materials used;
 - f. materials or goods used in consultation with the client;
 - g. materials or goods provided by the client to the supplier for processing;
 - h. materials, goods, working methods and constructions, inasmuch as these are used at the explicit instructions of the client, and materials and goods supplied by or on behalf of the client;
 - i. parts obtained by the supplier from third parties, inasmuch as the third party has not provided a guarantee to the supplier or the guarantee provided by the third party has lapsed;
 - j. connecting the products delivered to the power supply, which does not comply with the standards set by the supplier;
 - k. the use of unsuitable and/or contaminated soil types/lubricants, the use of contaminated and wet compressed air, dirt in the product, or use in an aggressive or otherwise unsuitable environment.

5. In the event that the counterparty/client does not comply with any obligation arising from the agreement entered into with DERTEC or any related agreement, or does not comply properly or promptly, DERTEC will not be bound by any guarantee – however referred to – relating to these agreements. If the counterparty/client realises or commissions dismantling, repair, modifications or other work relating to the product without the prior written approval of DERTEC, any claim under the guarantee will be invalid.
6. Claims pertaining to faults must be submitted to DERTEC in writing as quickly as possible after they are discovered, and always within the guarantee period. In the event of the discovery of faults after the end of the guarantee period, each and every claim against DERTEC for such faults will be invalid.
7. In the event that DERTEC replaces parts/products in compliance with its guarantee obligations, the parts/products will be the property of the counterparty/client.
8. Each claim against DERTEC lapses by the mere passing of 12 months after delivery of the products.

Article XII Liability

1. The liability of DERTEC is limited to compliance with the guarantee obligations described in these General Terms and Conditions of Sale and Delivery. In the event that DERTEC does not comply with its obligations arising from the guarantee obligations within a reasonable period, the counterparty/client must set a final, suitable deadline for compliance by DERTEC with these obligations in a written notice. In the event that DERTEC does not comply with its obligations before this final deadline, the counterparty/client can perform the necessary remedying work itself or have it carried out by a third party, at DERTEC's expense. In the event that remedying work is performed successfully by the counterparty/client or by a third party, DERTEC will, by payment of the reasonable costs incurred by the counterparty/client, be released from all liability for the fault in question, on the understanding that these costs must not exceed 15% of the price agreed for the delivered product.
2. If the remedying work is carried out successfully as stated in paragraph 1, the counterparty/client will notify DERTEC to this effect immediately by registered letter. After this notice has been sent:
 - a. the counterparty/client will be entitled to discount on the price agreed for the product delivered in proportion to the value reduction of the product, on the understanding that such discount cannot exceed 15% of the price agreed for the product delivered, or
 - b. the counterparty/client can terminate the agreement by written notification to DERTEC, the fault is so serious that it removes the benefit of the agreement to a significant extent from the counterparty/client. The counterparty/client will then be entitled to reimbursement of the price paid for the product delivered. The counterparty/client must lay claim to the rights referred to in paragraph 2 a and b within 12 months of submitting a timely complaint, on penalty of lapse of rights.
3. Except in the case of intent or deliberate recklessness on the part of the employees of DERTEC who are part of the company management and without prejudice to the provisions in these General Terms and Conditions of Sale and Delivery, all liability of DERTEC is excluded for faults in the product delivered and in the context of the delivery, such as for loss resulting from an overrun of the delivery period and for non delivery, for loss resulting from liability to third parties, for loss of profits, consequential loss and indirect loss, and for loss resulting from any unlawful acts or omissions on the part of DERTEC or its employees.
4. DERTEC therefore also cannot be held liable for:
 - a. infringements of patents, licences or other rights of third parties;
 - b. damage or loss, with any cause whatsoever, to raw materials, semi manufactured products, models, tools and other goods made available by the client.
5. In the event that DERTEC provides assistance and support – of any kind whatsoever – in the assembly/installation, without having received an order for the assembly/installation, this takes place at the risk of the counterparty/client.
6. The counterparty/client is and will remain liable with regard to all direct/indirect claims by third parties for reimbursement of loss suffered by said third party in the context of the formation of an agreement with DERTEC.
7. The counterparty/client fully indemnifies DERTEC or will fully compensate DERTEC, respectively, with regard to all direct/indirect claims by third parties for reimbursement of loss suffered by said third party in the context of the formation of an agreement with DERTEC.

Article XIII: Force Majeure

1. The term force majeure under these General Terms and Conditions of Delivery is deemed to mean each circumstance independent of the will of DERTEC – even if this circumstance was already foreseeable at the time the agreement was formed - which temporarily or permanently impedes compliance with the agreement, and, inasmuch as is not already included in this, war, risk of war, terrorism, civil war, riots, labour strikes, worker lockouts, transport problems, fire and other serious disruptions of the business of the supplier or the supplier's suppliers.

Article XIV Suspension and dissolution.

1. In the event that realisation of the agreement is impeded as a result of force majeure, DERTEC is entitled, without judicial intervention, either to suspend realisation of the agreement for a maximum of six months, or to wholly or partially terminate the agreement, without DERTEC being required to pay any compensation. During the suspension, DERTEC will be entitled to opt for - and at the end of the suspension, DERTEC will be required to opt for - realisation, if possible, or for full or partial termination of the agreement.
2. Both in the event of suspension and termination pursuant to article 1, DERTEC will be entitled to require immediate payment for the raw materials, materials, parts and other matters purchased, reserved, processed and manufactured in the context of the realisation of the agreement by DERTEC, at the value which must reasonably be attributed to them. In the event of termination pursuant to article 1, the counterparty/client will be required, after payment of the amount owed in the previous sentence, to take possession of the goods covered by the payment. If the counterparty client does not do so, DERTEC will be authorised to store these goods at the expense and risk of the counterparty/client, or to sell or destroy them at the expense of the counterparty/client.
3. If there are good grounds for concerns that the counterparty/client will not be able or prepared to meet its contractual obligations to DERTEC, and in the case of bankruptcy, moratorium, suspension of business, liquidation or full or partial transfer of the business of the counterparty/client, DERTEC will be entitled to require suitable collateral for all contractual obligations of the counterparty/client – whether or not due and payable – and to suspend realisation of the agreement until such collateral has been provided. If no collateral is provided within a reasonable period to be set by DERTEC, DERTEC will be entitled to fully or partially terminate the agreement. DERTEC has these authorisations in addition to its other rights on the grounds of the law, the agreement and these terms and conditions.
4. In the event that the counterparty/client does not comply with any obligation arising from the agreement entered into with DERTEC or any related agreement, or does not comply properly or promptly, DERTEC will be equally entitled to suspend realisation of the agreement and/or to terminate the agreement.
5. In the event of suspension pursuant to articles 3 or 4, DERTEC will be entitled to arrange storage, at the expense and risk of the counterparty/client, of the raw materials, materials, parts and other matters purchased, reserved, processed and manufactured which DERTEC has purchased. In the event of termination on the grounds of paragraph 3 or 4, the previous sentence will apply by analogy, on the understanding that DERTEC can also opt for sale or destruction at the expense of the counterparty/client rather than storage. In the event of suspension or termination on the grounds of paragraph 3 or 4, DERTEC will be entitled to full compensation for loss, but will itself not be required to pay any compensation.

Article XV Pledging as collateral

1. Each claim which DERTEC has or will obtain in the future against a counterparty/supplier in the context of an agreement, offer, sale, delivery and/or service will hereby be deemed to have been transferred and ceded to DERTEC Logistics & Services B.V.
2. This cession takes place as collateral for payment in full of the debt which DERTEC has to DERTEC Logistics & Services B.V in the context of the sales and deliveries made by it, and as collateral for payment in full of all that which DERTEC Logistics & Services B.V. may be owed by DERTEC in the future, in any context whatsoever.
3. DERTEC grants to DERTEC Logistics & Services B.V. the authorisation to serve all claims which DERTEC has or will obtain in the future against a counterparty/supplier in the context of an offer, sale, delivery and/or service to the counterparty/supplier, to collect them, to grant discharge for them and, if necessary, to take legal measures against the counterparty/supplier.
4. When the counterparty/supplier pays DERTEC, this will be deemed to be a payment indemnifying Dertec Logistics & Services BV inasmuch as and as long as DERTEC has not formally served the claims to the counterparty/supplier.

Article XVI Disputes

1. All disputes which may occur in the context of an agreement, to which these General Terms and Conditions of Sale and Delivery apply fully or partially, or in the context of other agreements which arise from it, will be put before the competent Dutch court in The Hague, on the understanding that DERTEC is entitled to bring claims – including simultaneously – against the counterparty/client in the town/city of residence or establishment of the counterparty/client, or in any other court at the choice of DERTEC. If the law does not provide for competence of a Dutch court, the competent court in The Hague will be competent.

Article XVII Applicable law

1. All agreements to which these General Terms and Conditions of Sale and Delivery wholly or partly apply will be subject to Netherlands law applicable to the Kingdom in Europe. The applicability of the Vienna Sales Convention is excluded.

Article XVIII Applicable language

1. These General Terms and Conditions of Sale and Delivery are available in the Dutch, German and English languages. In the event of a dispute regarding the content or tenor of these General Terms and Conditions of Sale and Delivery, the Dutch text and the interpretation thereof within the jurisdiction of the Netherlands will be binding.

These General Terms and Conditions of Sale and Delivery were filed on 13-06.2016 at the Chamber of Commerce, under number 28095039. This revokes all previous General Terms and Conditions of Sale and Delivery.



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