XINTC B.V.
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GENERAL TERMS AND CONDITIONS XINTC B.V.

Version: R2.6

1. DEFINITIONS

1.1 Unless the context requires otherwise, the following capitalised terms have the meanings set out below, subject to the order of precedence in the applicable Purchase Agreement:

Affiliate(d)	an entity that is part of the group (within the meaning of article 2:24b DCC) of the Other Party;
Agreement	any agreement between the Parties, including, but not limited to, an agreement concerning the purchase or sale, Production, Delivery, Installation, Commissioning or Service and Maintenance of Products, and a Licence Agreement;
Commissioning or Commissioning Phase	has the meaning as described in the Agreement;
DCC	the Dutch Civil Code;
Delivery Period	the total period of the Production Phase and the Delivery Phase;
Delivery or Delivery Phase	has the meaning as described in the Agreement;
FAT	has the meaning as described in Article 9.3;
Governmental Entity	means any (a) national, federal, state, county, municipal, local, or foreign government or any entity exercising executive, legislative, judicial, regulatory, taxing, or administrative functions of or pertaining to government, (b) public international organisation, (c) agency, division, bureau, department, or other political subdivision of any government, entity or organisation described in the foregoing Clauses (a) or (b) of this definition, (d) company, business, enterprise, or other entity owned, in whole or in part, or controlled by any government, entity, organisation, or other Person described in the foregoing Clauses (a), (b) or (c) of this definition, or (e) political party;
Installation or Installation Phase	has the meaning as described in the Agreement;
Installation Manual(s)	has the meaning as described in Article 11.2;
	Law(s) means any national, local, federal, state, foreign or other statute, law, treaty, order, judgment, rule, code, regulation, decree, writ, injunction, award, ruling, ordinance or other legally binding requirement of any kind of any Governmental Entity;
Licence Agreement	has the meaning as described in Article 17.3;
Manual(s)	has the meaning as described in Article 11.2;
Offer/Offers	any offer from XINTC to enter into an Agreement;
Operation or Operation Phase	has the meaning as described in the Agreement;

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Other Party	the legal person(s) to whom XINTC makes an Offer and/or with whom XINTC enters into an Agreement;
Party/Parties	XINTC and the Other Party, or the individual parties;
Production or Production Phase	has the meaning as described in the Agreement;
all products that are offered for sale or sold and/or delivered by XINTC, including, but not limited to,	electrolyser systems;
SAT	site acceptance test;
all (additional) services and/or (technical) operations, of any kind, carried out by XINTC, in the broadest	sense, including, but not limited to and where applicable, Production, Delivery, Installation, Commissioning and Service and Maintenance;
Service and Maintenance	(i) the service and (ii) the maintenance to be provided with regard to the Product and/or end customer;
Site	the location where the Product(s) shall be Installed;
all software made available to the Other Party, whether or not based on user licence(s), as embedded	in the Product and other software-related resources, including, but not limited to, instructional documentation material and other information belonging to the Software;
Terms and Conditions	these general terms and conditions;
User and Maintenance Manual	has the meaning as described in Article 11.2;
Warranty Conditions	has the meaning as described in Article 11.1;
XINTC	XINTC B.V., a private company with limited liability, with its statutory seat and primary office 6961 EK Eerbeek at Loubergweg 22, registered in the trade register of the Chamber of Commerce under number 55958478;

1.2 Unless the Agreement or the Terms and Conditions expressly determine otherwise, the following applies to the interpretation of the Agreement and the Terms and Conditions:

a. no provision whatsoever may be interpreted to the disadvantage of a Party, due to the fact that this Party was responsible for drawing up the provision concerned;

b. the recitals and appendices to an Agreement are linked to and form part of the Agreement. A reference to the Agreement therefore also includes a reference to the recitals and the appendices;

c. the words “including”, “such as”, “in particular” and words with the same meaning and effect are not limiting and mean “including, but not limited to”;

d. a reference to a person applies as a reference to a natural person, a partnership, or a legal entity and/or, insofar as applicable, their successor(s) in title;

e. English words or terms may refer to Dutch (legal) concepts, in which case the English terminology shall be interpreted in accordance with the Dutch (legal) concept;

f. the singular is deemed to also contain the plural and vice versa, and a reference made to a masculine form is also deemed to include a reference to a feminine form and vice versa.

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2. APPLICABILITY

2.1 These Terms and Conditions apply to all Offers and Agreements.

2.2 If the Terms and Conditions have been applicable to any Agreement, they shall automatically, without the need for a separate agreement between the Parties, apply to any further Agreements made between the Parties, unless the Parties have expressly agreed otherwise in writing.

2.3 XINTC expressly rejects the applicability to any Agreement of any general or specific terms used by the Other Party, unless XINTC has expressly declared those terms applicable to an Agreement in writing. Any such acceptance shall under no circumstances lead to the tacit applicability of those terms to any Agreement entered into afterwards.

2.4 The nullity or annulment of one or more provisions of these Terms and Conditions shall not affect the validity of the remaining provisions. The Parties shall consult each other in order to replace any null or nullified provisions of these Terms and Conditions with provisions that are not null or void and which correspond as closely as possible with the purpose and purport of the null or nullified provisions.

Where an Agreement deviates from one or more provisions of the Terms and Conditions, the provisions of the Agreement shall prevail. In any such case, the remaining provisions of the Terms and Conditions shall remain applicable to the Agreement.

3. OFFERS

3.1 An Offer is without obligation, subject to change with regard to price, quantity, delivery time and delivery possibility, and valid for the period stated in the Offer, unless expressly stated otherwise. If the Offer does not state a time limit for confirmation, the Offer expires fourteen (14) days after the date of the Offer.

3.2 Any Offer that has been accepted by the Other Party within the time limit for confirmation may be revoked by XINTC within five (5) days of receiving the confirmation. In any such case, XINTC shall not be obliged to compensate the Other Party for any damage caused.

3.3 An order, originating from the Other Party, can be confirmed by XINTC through the means of an order confirmation. If the Other Party does not raise any objections against this order confirmation within fourteen (14) days, the order will qualify as accepted as described in the order confirmation.

3.4 The Other Party warrants that all information provided by it is correct, complete and not misleading. XINTC may rely upon all information provided. XINTC has no obligation whatsoever to verify the correctness and/or completeness of documents, drawings, calculations or other information received, and has no obligation to provide any warning or notice that any such information is incorrect or incomplete.

3.5 XINTC is not liable, on whatever basis, if the information provided proves to be incorrect, incomplete or misleading.

3.6 Information and/or representations from XINTC (such as, but not limited to, weights, dimensions, utility values, load capacity, tolerances, technical data, drawings and illustrations) are only approximate, unless otherwise expressly specified in the applicable specification sheet or unless usability for the contractually intended purpose requires exact conformity and this has been explicitly agreed upon in writing between the Parties.

3.7 XINTC is entitled to make adjustments to any information, products and/or drawings received (including execution and performance in accordance with such adjustment) from the Other Party if such adjustments do not impair the usability for the contractually intended purpose.

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4. FORMATION OF AGREEMENTS

4.1 Subject to the other provisions of the Terms and Conditions, an Agreement is only formed:

a. through acceptance of an Offer by the Other Party;

b. through a written order confirmation of an order issued (orally or in writing) by the Other Party other than on the basis of an Offer; or

c. as soon as XINTC actually carries out an order of the Other Party.

4.2 The Agreement replaces and sets aside all previous offers, correspondence, agreements or any other communications that have been made or have taken place between the Parties before entering into the Agreement, irrespective of how much they deviate from or conflict with the Agreement.

4.3 Amendments and/or supplements to the Agreement will apply only after acceptance by XINTC in writing. XINTC is not obliged to accept any amendments and/or supplements to an Agreement and is entitled to require that a separate Agreement is entered into. XINTC is authorised to charge the Other Party for any costs resulting from the amendments and/or supplements to the Agreement.

4.4 Promises by and arrangements with subordinates or representatives of XINTC shall only bind XINTC with respect to the Other Party if and to the extent that these promises and/or arrangements have been ratified or confirmed to the Other Party in writing.

4.5 XINTC is authorised to engage third parties for the performance of the Agreement. The costs thereof shall be borne by the Other Party.

5. PRICES AND PAYMENT

5.1 The prices stated in an Offer or Agreement are in euros and are exclusive of packaging, any applicable Tax, customs duties in the case of export deliveries, and fees and other public charges, unless expressly stated otherwise in writing.

5.2 If the Other Party places an order with XINTC without an explicit price being agreed, then the order will be fulfilled at the current price at the time, regardless of any earlier Offers or prices charged earlier.

5.3 If the prices are agreed, the prices shall be charged for the scope of services and deliveries specified in the Offer and/or the Agreement. Additional or special deliveries shall be charged separately.

5.4 Based on its assessment of the Other Party's solvency, XINTC is always authorised to request security or full or partial advance payment for the execution of due and non-due payment obligations. If and as long as the Other Party fails to provide the requested security or full or partial advance payment, XINTC is authorised to suspend its Delivery obligation.

5.5 The term of payment for an invoice is included in the Offer or Agreement. If the Parties have not agreed on a term of payment, payment of invoices must be made within fourteen (14) days of the invoice date. Payment shall be made by transfer into bank or giro accounts specified by XINTC. The moment in which XINTC receives confirmation from its bank of the payment concerned determines the moment of payment.

5.6 If the payment of an invoice has not been made within the stipulated period, the Other Party is in default by operation of law, without further notice of default being required, and from the day after the due date of the invoice, the Other Party owes XINTC an interest sum on the outstanding amount of 2% per month (unless the statutory commercial interest rate is higher, in which case that interest shall apply), a part of a month being treated as a full month for the purpose of calculating interest. In addition, all extrajudicial collection costs shall be borne by the Other Party. The extrajudicial collection costs amount

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to at least 15% of the outstanding amount, with a minimum of EUR 150, without prejudice to the right of XINTC to claim the actual extrajudicial costs, if these are higher.

5.7 If the Other Party is in default with the payment of any invoice as referred to in Article 5.6, all other outstanding invoices shall immediately become due and payable, without further notice of default being required.

5.8 Payments made by the Other Party shall be applied first to cover all costs and interest owed, and subsequently to cover all due invoices, oldest first, even if the Other Party specifies a different allocation.

5.9 Without prejudice to mandatory legislative provisions, the Other Party is not authorised to suspend its payment obligations to XINTC and/or set off any payment obligations that XINTC may have to the Other Party against its payment obligations to XINTC.

5.10 XINTC is entitled to set off any amounts the Other Party owes it against any debt that XINTC may have to the Other Party or to (legal) persons Affiliated with the Other Party.

6. PRICE CHANGE AND ADDITIONAL WORK

6.1 If four (4) months have passed since the date on which the Agreement was entered into and its performance has not yet been completed by XINTC, an increase in price determinants may be passed on to the Other Party (at XINTC's discretion). Payment of the price increase shall take place together with the principal sum or the last instalment.

6.2 Changes to the work shall in any case qualify as additional work if:

a. there is a change in the design or the Specifications; or

b. the information provided by the Other Party does not correspond with reality or proves to be incorrect, incomplete or misleading.

6.3 Additional work shall be calculated on the basis of the price-determining factors applicable at the time the additional work is performed. Omitted work shall be settled on the basis of the price-determining factors applicable at the time the Agreement was concluded.

6.4 The Other Party is obliged to pay the price of the additional work at XINTC's discretion at one of the following times:

a. when the additional work occurs;

b. simultaneously with payment of the principal sum; or

c. at the next agreed payment deadline.

7. DELIVERY PERIOD

7.1 The Delivery Period specified by XINTC in the context of an Agreement is always an indication and shall therefore never be regarded as a strict deadline (fatale termijn), unless the Parties have agreed otherwise in writing. The Parties take into account, among other things, that circumstances beyond XINTC's control may cause a longer Delivery Period. Exceeding the agreed Delivery Period shall under no circumstances give rise to a right to compensation.

7.2 The Delivery Period specified by XINTC commences when agreement has been reached on all technical details, all necessary data and information are in the possession of XINTC, and all necessary conditions for the execution of the Agreement have been fulfilled.

7.3 In fixing the Delivery Period, XINTC assumes that it can execute the order under the circumstances as

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they were at the time of entering into the Agreement.

7.4 If circumstances occur other than those known to XINTC at the time of entering into the Agreement, XINTC may extend the Delivery Period by the time necessary to execute the order under the changed circumstances. If, as a consequence, the work cannot be fitted into XINTC's planning schedule, it shall be completed as soon as XINTC's planning schedule allows this.

7.5 If there is a suspension of obligations by XINTC after breach by the Other Party, the Delivery Period shall be extended for the duration of the suspension. If, as a consequence, the work cannot be fitted into XINTC's planning schedule, it shall be completed as soon as XINTC's planning schedule allows this.

7.6 If the Delivery Period that has been extended in accordance with Articles 7.4 and 7.5 of these Terms and Conditions is exceeded, XINTC is, in respect of Products, only in default if it has received a notice of default from the Other Party, in which it is given a period of at least two (2) months to remedy the delay and such compliance is not forthcoming within this period. XINTC's liability for damages shall be limited in accordance with these Terms and Conditions.

8. TRANSPORTATION, RISK AND DELIVERY OF PRODUCTS

8.1 The Products shall be delivered Ex Works (EXW, Incoterms 2020), unless expressly agreed otherwise in the Agreement. All Products are always transported at the risk of the Other Party. Unless the Other Party requests XINTC in good time to insure the Products during transportation at the expense of the Other Party, Products transported by or on behalf of XINTC shall not be insured for transportation, unless otherwise specified in the Agreement.

8.2 In case of transportation by ship, the Products are transported above deck.

8.3 Unless expressly agreed otherwise between the Parties, Taxes of any kind whatsoever with regard to transportation and/or Delivery by XINTC are for the account of the Other Party. Those costs are not included in the Agreement, unless specifically defined or agreed in writing.

8.4 In the event that XINTC would be responsible for Delivery (partly or entirely), XINTC's placing the Products ordered at the disposal of the Other Party shall be considered equivalent to Delivery of these Products. If the Other Party refuses to collect the Products placed at its disposal, XINTC shall store the Products concerned at a location of its choice for seven (7) calendar days after the Delivery date. Upon that period expiring, XINTC shall no longer be required to keep the Products ordered by the Other Party at the disposal of the Other Party and is entitled to sell the Products to a third party or dispose of them as it wishes. The Other Party will nevertheless be required to comply with the Agreement by taking the Products concerned at the price agreed, at XINTC's first request. Meanwhile, the Other Party shall also be required to compensate XINTC for any damages consequential to a previous refusal to collect the Products concerned, including, but not limited to, transportation and storage costs.

8.5 Replaced gas modules shall be delivered (back) to XINTC.

9. PRODUCT AND ACCEPTANCE TEST

9.1 The Products shall conform to the Specifications of the Products expressly agreed in the Agreement. The Other Party cannot rely upon any statement, verbally or in writing, regarding conformity of the Product, other than as described in the Agreement.

9.2 XINTC is entitled to use other materials and products than specified in the Agreement, unless such amendment reasonably decreases the performance or functionality of the Product(s).

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9.3 The Products shall be tested by XINTC before Delivery by means of a factory acceptance test (FAT). The Other Party is entitled to attend the FAT. At first request of the Other Party, XINTC shall provide the results of the FAT via e-mail.

9.4 If the Other Party has received the FAT report, the Other Party shall provide XINTC with any remarks, questions or complaints within seven (7) calendar days after receipt of the FAT report. All rights relating to defects (or other shortcomings) of the Products that could have been deduced from the FAT lapse after the expiry of the aforementioned period, unless the Other Party has notified XINTC of any substantiated complaints with regard to such defect or shortcoming within that period.

9.5 Upon arrival of the Products at the Site, the Other Party shall inspect the Products to verify their completeness and to identify any visible damage or defects. The delivery documentation, signed by or on behalf of the Other Party and/or the carrier, including any corresponding attachments, shall serve as evidence of the Products received at the Site. For the avoidance of doubt, Delivery by XINTC shall be deemed to have taken place in accordance with the agreed Ex Works (EXW, Incoterms® 2020) delivery terms, irrespective of the date of arrival or inspection at the Site.

9.6 If the Other Party has not notified XINTC in writing of any defects, shortcomings or complaints with regard to the Products within seven (7) calendar days after their arrival at the Site, the received Products shall be deemed to have been accepted by the Other Party and to comply with the Specifications, requirements and obligations set out in the Agreement. After the expiry of the aforementioned period, all rights of the Other Party with regard to the received Products shall lapse, unless the Other Party has notified XINTC of any substantiated complaints with regard to such defect or shortcoming.

9.7 Defective Products can only be returned with the express consent of XINTC.

9.8 If XINTC is responsible for Installation and Commissioning, XINTC shall perform a SAT and shall, at the first request of the Other Party, provide the SAT report to the Other Party by e-mail.

9.9 In the event that Commissioning is performed partly or entirely by a third party, the Other Party shall perform a SAT within seven (7) calendar days after Commissioning has been completed. The Other Party shall provide the SAT report to XINTC within seven (7) calendar days after the SAT is performed. Before performing the SAT the Other Party shall perform all actions as described in the checklist, as provided by XINTC at first request of the Other Party, and shall fill in the checklist. The Other Party shall not start the SAT before it has met the obligations arising from the previous sentence.

9.10 If the Other Party has not notified XINTC in writing of any defects, shortcomings or complaints concerning the Products, Installation or Commissioning within seven (7) calendar days after receipt of the SAT report, the Products and Services supplied shall be deemed to have been accepted by the Other Party and to comply with the Specifications, requirements and obligations set out in the Agreement. After the expiry of the aforementioned period, all rights of the Other Party with regard to the Products and Services supplied shall lapse, unless the Other Party has notified XINTC of any substantiated complaints with regard to such defect or shortcoming.

9.11 In case of any defects or shortcomings of XINTC, the Other Party shall provide one or more videos and photos showing the defect and/or of the relevant elements of the Product(s) possibly relating to the defect of the Product(s). In addition, XINTC must have access to all data, software and systems in relation to the Product and the Other Party shall provide all information reasonably requested by XINTC in relation to the defect or shortcoming. In case the Other Party does not meet its obligations arising from this Article 9.11, XINTC is not liable for any defect or shortcoming.

9.12 XINTC shall measure the quality, performance, specifications and quantity of the Product. All measurements by XINTC shall qualify as conclusive evidence (*dwingend bewijs*) between the Parties.

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10. OBLIGATIONS OF THE OTHER PARTY

10.1 The Other Party is responsible for and warrants the following:

a. persons designated by XINTC have access to a free work area and the Services can commence and continue to be performed during normal working hours;

b. access roads to the Site are suitable for the necessary transportation, Installation, Commissioning and operational use of the Products;

c. the necessary permits, approvals and/or clearances in the broadest sense of the word are in place so that XINTC is legally entitled to perform its obligations arising from the Agreement under reasonable circumstances, including, but not limited to, the use of telescopic handlers, elevators, aerial work platforms and/or cranes;

d. the construction of the real estate to which XINTC places its Products and the Site are adequately maintained, in good condition and have sufficient bearing capacity for the Products and the Services that will be provided;

e. XINTC and/or third parties can safely reach the Other Party's location or the location where the Products are to be delivered and/or assembled and the Site;

f. the power supply (including the mains connection) is of sufficient capacity to enable (i) all Services to be performed and (ii) the Products to be used for their intended purpose;

g. free and unfettered access to WiFi is available at the location where the Services are performed by or on behalf of XINTC and the Products can be connected to it free and unfettered;

h. XINTC and/or third parties can safely Install and Commission the Products;

i. the Other Party has a working telephone number and e-mail address on which it shall be available for any questions twenty-four (24) hours per day and seven (7) days per week;

j. the Other Party is authorised to enter into the Agreement;

k. the Site is suitable for storage, assembly, Installation and Commissioning;

l. the persons designated by XINTC can park their vehicles on (or within limited distance of) the Site freely and free of charge, whereby the Other Party – if applicable – shall provide the necessary consents and/or permits for this purpose;

m. all reasonable and necessary safety and precautionary measures have been taken and are maintained so that the performance of the Services can be carried out safely and in accordance with all applicable Laws.

10.2 The Other Party warrants that the Site is fit for the purpose of the use of the Products.

10.3 If the Other Party fails to meet the requirements set out in Article 10.1, XINTC is:

a. not obliged to perform the Installation (or other Services), with all costs incurred by XINTC or any other party being at the Other Party's expense and risk;

b. not liable on any basis whatsoever if XINTC executes the Agreement;

10.4 Damage to the Other Party which is reasonably foreseeable, or for which there is a real probability that such damage will materialise during the performance of Services, shall be at the expense and risk of the Other Party. XINTC shall not be liable for such damages.

10.5 The Other Party shall ensure that services to be performed by third parties for which XINTC is not responsible are performed on time, without any defects or shortcomings, in accordance with XINTC's instructions and in a proper manner. If any delay within the meaning of this Article nevertheless occurs, the Other Party shall notify XINTC in a timely manner.

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10.6 Damage caused by delays in the work due to violation of Laws, which are for the account and/or risk of the Other Party, or on account of any failure under the Agreement and/or the Terms and Conditions, shall be entirely for the account and risk of the Other Party.

10.7 When the Other Party contacts XINTC for maintenance, service or with respect to any defect and XINTC investigates at the Other Party's premises the cause of the reported problem, the Other Party shall be liable for reasonable compensation for all costs incurred, unless the cause of the defect is attributable to XINTC and XINTC is liable for such a defect pursuant to the Agreement.

11. WARRANTY CONDITIONS AND MANUALS

11.1 The warranty conditions of XINTC (the Warranty Conditions) apply to the Agreement.

11.2 XINTC has drawn up manuals, inter alia for the use and maintenance of the Products (the User and Maintenance Manuals) and the installation and assembly of the Products (the Installation Manuals, together with the User and Maintenance Manuals referred to as the Manuals). The Manuals can differ per Product.

11.3 XINTC has the right to unilaterally amend the Manuals, provided that such amendments relate to operational, technical or safety instructions and do not reduce or otherwise affect the agreed scope of supply, warranty period, included service and maintenance, or other commercial rights under the Agreement. The Warranty Conditions applicable to an Agreement shall remain those identified in that Agreement, unless both Parties agree otherwise in writing. XINTC shall notify the Other Party of any amendments to the Manuals, provide the revised version and identify the relevant changes. Within seven (7) calendar days of notification, unless XINTC specifies a different implementation period taking into account any urgent safety requirements, the Other Party shall implement the revised instructions and ensure that only the updated version is used and shared with third parties.

11.4 The Other Party ensures that it has the most recent version of the Warranty Conditions and the Manuals of the relevant Products available. XINTC will upon first request make the Warranty Conditions and Manuals available.

11.5 The Other Party shall comply with all instructions given verbally or in writing by XINTC, including, but not limited to, the instructions included in the most recent version of the Warranty Conditions and Manuals.

11.6 The Other Party will provide the Warranty Conditions and Manuals by e-mail to the relevant parties, including, but not limited to, parties interested in a Product and parties involved in the sale, service, maintenance and installation of a Product, before an agreement between XINTC and such third party is concluded. At first request of XINTC, the Other Party shall provide that e-mail to XINTC.

11.7 The Other Party will demonstrably hand over the Warranty Conditions and Manuals to this third party prior to making a commitment and will make the Warranty Conditions and the relevant Manuals applicable to all commitments with third parties whereby a Product is involved.

11.8 The Other Party shall agree with every third party in writing that XINTC has the right to rely directly against that third party on its obligations ensuing from or related to the Warranty Conditions and the Manuals. This provision qualifies as a third-party clause (derdenbeding) within the meaning of article 6:253 DCC. The third-party clause is irrevocable for all parties involved.

11.9 If the third party as referred to in this Article 11 is not the end customer or end user of the Product, or if a third party engages other third parties for the execution of its work, the Other Party will ensure that every other third party (also parties that are not a direct contracting party) will also be bound by the Warranty Conditions and the Manuals. Articles 11.7 and 11.8 also apply to these third parties.

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11.10 In the event of any conflict or inconsistency between the Agreement, the Warranty Conditions and a Manual, the order of precedence set out in the Agreement applies. If the Agreement does not contain an order of precedence, the Agreement prevails over the Warranty Conditions and the Manuals, and the Warranty Conditions prevail over the Manuals. The Manuals govern operational instructions only and do not amend the agreed commercial terms.

12. RETENFORCE TION OF TITLE AND LIEN

12.1 All Products remain the exclusive property of XINTC until the Other Party has fulfilled all obligations resulting from or related to (an) Agreement(s), including claims regarding fines, interest, and costs. Until that point in time, the Other Party is required to store the Products delivered by XINTC separately from other goods, clearly identified as property of XINTC, and properly insured and kept insured.

12.2 In the event of Delivery to an Other Party in a territory other than the Netherlands, or if the Site is outside the Netherlands, the Products concerned shall – if and as soon as they are in the territory of the country concerned – be subject not only to the retention of title under Dutch law referred to in Article 12.1, but also to a retention of title under the law of the country concerned, on the understanding that Dutch law applies exclusively to the remainder of the Agreement, as referred to in Article 21.1.

12.3 As long as retention of title applies to delivered Products, the Other Party may not encumber or alienate these Products outside its normal course of business.

12.4 After XINTC has invoked its retention of title, it shall be entitled to repossess all delivered Products. The Other Party shall allow XINTC to enter the location where the Products are.

12.5 If XINTC cannot invoke its retention of title because the Products have been mingled, deformed or acquired by accession, the Other Party shall be obliged to pledge or mortgage the newly formed goods to XINTC.

13. PERIOD OF LIMITATION

13.1 The Other Party's (legal) rights vis-à-vis XINTC related to the Products and/or Services supplied, on any basis whatsoever, shall expire after twelve (12) months from the date on which the Other Party became aware or could reasonably have been expected to become aware of the existence of these (legal) rights, unless XINTC has been notified of a claim in writing before the expiry of this period.

13.2 In the event that the Other Party has notified XINTC of a claim related to Products and/or Services supplied in writing, within the period as described in Article 13.1, any legal proceedings in that regard shall also expire if no legal proceedings have been instituted against XINTC before the competent court having jurisdiction pursuant to Article 21.1 of these Terms and Conditions, within a period of four (4) months after providing the written claim concerned.

14. TERMINATION

14.1 In addition to XINTC's rights pursuant to applicable Law, the Other Party shall be in default in the following cases and XINTC shall be entitled, without further notice of default (*ingebrekestelling*) and without judicial intervention, to dissolve (*ontbinden*) or terminate (*opzeggen*) the Agreement wholly or partly, and/or to suspend its obligations under the Agreement:

a. the Other Party does not fulfil, or only partially fulfils, one of its obligations under the Agreement;

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b. the Other Party is declared bankrupt or a petition for its bankruptcy has been filed;
c. the Other Party has adopted a resolution to liquidate or dissolve its enterprise;
d. the Other Party has applied for its own bankruptcy (*faillissement*) or moratorium (*surseance van betaling*), or has taken a decision for this purpose;
e. the Other Party ceases its enterprise (*staken van de onderneming*);
f. the enterprise of the Other Party is shut down (*stilgelegd*);
g. the Other Party has offered a composition to one or more of its creditors to reach an arrangement for the payment of one or more accounts receivable;
h. any of the situations referred to in Article 15.4(c) to (i) has occurred;
i. the direct or indirect predominant control of the Other Party changes, or a comparable change occurs in respect of the enterprise of the Other Party;
j. due to delay, not being caused by XINTC, it can no longer be required from XINTC that it will perform the Agreement under the originally agreed arrangements and terms and conditions;
k. attachment is levied against the Other Party and this attachment has not been lifted within thirty (30) days; or
l. the Other Party can no longer be considered to be in full or partial compliance with its obligations under the Agreement, now or in the future.

14.2 If the Agreement is dissolved (*ontbonden*) or terminated (*opgezegd*) on one or more of the grounds referred to in Article 14.1, XINTC is entitled to compensation from the Other Party for the financial loss suffered. In such a situation, the Other Party is not entitled to any compensation.

14.3 In the event that there is a shortcoming (*tekortkoming*) in relation to a Service provided by XINTC, the Other Party shall not be entitled to terminate the entire Agreement, but only for the part to which the shortcoming relates. In particular, if there is a shortcoming (*tekortkoming*) in relation to the Licence Agreement, the Other Party shall not be entitled to terminate the entire Agreement but only be entitled to terminate (that part of) the Licence Agreement. In the event of a shortcoming in relation to Service and Maintenance provided by XINTC, the Other Party shall not be entitled to terminate the entire Agreement, but only for the part relating to such Service and Maintenance.

14.4 If an event as stipulated in Article 14.1 applies, all claims that XINTC may have or may obtain on the Other Party shall immediately become due and payable.

14.5 If the Agreement is dissolved (*ontbonden*) or terminated (*opgezegd*), all orders accepted but not yet delivered by XINTC shall be executed and paid for by the Other Party, unless XINTC has reasonable grounds to believe that the Other Party will not meet its obligations in full. In such a case, XINTC is entitled to dissolve (*ontbinden*) or terminate (*opzeggen*), at its sole discretion, all or part of those orders.

14.6 Except as agreed otherwise in writing, the Agreement cannot be terminated prematurely.

15. LIABILITY AND COMPENSATION

15.1 XINTC is only liable in the event that a Product does not meet the Specifications.

15.2 XINTC is only liable for the Other Party's damages (*schade*) that are a direct result of a shortcoming (*tekortkoming*) on the part of XINTC.

15.3 XINTC shall only be liable for losses for which XINTC is insured. At the first request of the Other Party, XINTC shall provide its insurance policy by e-mail. XINTC's total liability with respect to the entire Agreement, on whatever ground, is limited to the amount actually paid out by the insurer.

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15.4 XINTC is not liable, on whatever ground:

a. for indirect damage such as, but not limited to, the Other Party's trading losses, consequential damage, loss of revenue or profit, or damage due to delay (including, but not limited to, malfunction);
b. if the Other Party does not meet one or more of its obligations, including, but not limited to, the obligations as described in Article
c. in the event the Other Party or a third party acted in conflict with the instructions or Manuals provided by XINTC;
d. for damage to the Product(s) caused by any act or omission of the Other Party or third parties;
e. in the event of incompetent or improper use of the Product by the Other Party or a third party;
f. if the Product is maintained incorrectly;
g. if the Other Party or a third party has made or attempted to make changes to the Product without XINTC's prior written permission;
h. if other items have been attached to the Product or if an attempt to do so has been made;
i. if a Product has been modified.

15.5 If and to the extent that the insurer does not cover or pay out any damage, on whatever ground, or XINTC is not insured and XINTC is held liable by a competent court, contrary to the exclusion of its liability in such case pursuant to Article 15.3, XINTC's total liability under the Agreement is under whatever ground limited to the paid and received amounts excluding VAT of (i) the defective Product, in case the damage relates to a Product and/or (ii) the Services carried out in the twelve (12) months before the damaging event occurred, in case the damage relates to a Service. A series of related damage events shall for the purposes of this Article be considered as one event/incident.

15.6 The exclusions and limitations of liability contained in these Terms and Conditions and/or the Agreement also apply to XINTC's staff and to the auxiliary persons engaged by XINTC in the performance of an Agreement.

15.7 The Other Party indemnifies and holds harmless XINTC of all claims by third parties due to damage caused by or in connection with Products delivered by XINTC and Services or work performed by XINTC, insofar as XINTC would not be liable to the Other Party for such damage either.

16. FORCE MAJEURE

16.1 Force Majeure means any failure to comply with the Agreement for reasons beyond the control of XINTC.

16.2 In addition to those situations qualifying as Force Majeure under applicable Law, Force Majeure, as referred to in Article 16.1, shall include, but is not limited to, a failure resulting from (a) problems at and/or serious disruptions of the production process at suppliers, including, but not limited to, utility companies, (b) non-delivery of necessary materials by third parties, (c) gross negligence or intent by auxiliary persons, (d) strikes, (e) significant sickness or absenteeism of employees, (f) fire, (g) exceptional weather events (such as, but not limited to, floods), (h) measures of a Governmental Entity (both on a national or international level), including, but not limited to, restrictions and prohibitions on import and export, (i) war, mobilisation, riots, revolt, state of emergency, (j) sabotage, (k) traffic congestion, or interruptions, failures or disturbances of the electricity grid, including curtailment or congestion measures imposed by the grid operator, (l) machine breakdown, (m) a hack or other software disturbance due to unlawful action of a third party and/or (n) delay in transportation.

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16.3 In the event of Force Majeure, XINTC is entitled, at its discretion, either to suspend the execution of the Agreement until the situation of Force Majeure has ceased, or to dissolve (*ontbinden*) or terminate (*opzeggen*) the Agreement fully or partially, irrespective of whether XINTC had initially opted for suspension. In either case, the Other Party is not entitled to any compensation. If the period during which XINTC is not able to comply with its obligations is longer than thirty (30) days, the Other Party is entitled to dissolve (*ontbinden*) or terminate (*opzeggen*) the Agreement fully or partially.

16.4 If XINTC has already partially fulfilled its obligations or can only partly fulfil its obligations when Force Majeure occurs, it is entitled to invoice that part separately, as if it concerned a separate agreement (to which the provisions of the Terms and Conditions and the Agreement apply).

17. INTELLECTUAL PROPERTY RIGHTS

17.1 All (intellectual and industrial) property rights including, but not limited to, copyright and database rights, to all Products, the Software and/or the results of Services including, but not limited to, models, drawings, designs, documentation, photographic recordings, films, data carriers, equipment and software (in object and source code), data and data files, moulds and dies, which are the subject of and/or ensue from and/or are used or obtained during the fulfilment of the obligations under an Agreement are vested in XINTC.

17.2 If the rights as referred to in Article 17.1 are not vested in XINTC, the Other Party shall transfer these rights to XINTC upon first request. The Other Party shall cooperate fully in the transfer of the rights concerned to XINTC.

17.3 With the sale of a Product, XINTC grants a licence for the use of the Software in accordance with a Licence Agreement. XINTC grants the Other Party the right to use the Software as described in the Licence Agreement. The Other Party will not use the Software for any purpose other than as described in the Licence Agreement and will comply with the terms in the Licence Agreement.

17.4 The Other Party waives any personality rights (*persoonlijkheidsrechten*) with regard to the Products and/or the results of Services, insofar as possible by law.

17.5 In the event of infringement of the (trademark) rights and/or intellectual property rights concerned, the Other Party will promptly inform XINTC of such infringement in writing.

18. CONFIDENTIALITY

The Other Party shall not disclose, copy or distribute any information that is confidential by its nature or has been declared confidential by a Party. The Other Party shall not use such confidential information other than in connection with the Agreement.

19. TRANSFER

19.1 The Other Party cannot transfer the rights and obligations ensuing from or related to the Agreement to a third party. Transfer within the meaning of article 3:83(2) DCC is excluded. This provision has effect under property law (*goederenrechtelijke werking*).

19.2 XINTC is entitled to transfer its rights and obligations wholly or partly to a third party with which it forms a group within the meaning of article 2:24b DCC.

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20. THIRD PARTIES

The Other Party is not permitted to involve a third party in the performance of agreements with purchasers and end customers, unless XINTC has provided its approval in writing in relation thereto. XINTC will not refuse its approval on unreasonable grounds.

21. APPLICABLE LAW AND COMPETENT COURTS

21.1 Dutch law is exclusively applicable to all Offers made, all Agreements entered into by XINTC and the choice-of-forum clause in Article 21.2. The United Nations Convention on Contracts for the International Sale of Goods (CISG; *Weens Koopverdrag*) does not apply to the Terms and Conditions and the Agreement.

21.2 All disputes between the Parties based on an Agreement shall be adjudicated exclusively by the Rechtbank Overijssel, located in Zwolle, the Netherlands.