

GENERAL CONDITIONS OF SALE OF Idtool international B.V.

a private company with limited liability, incorporated under the laws of the Netherlands, with its corporate seat at: Electronicaweg 15, NL2628XG, Delft, the Netherlands

Article 1 – Applicability, Offer, Confirmation, Agreement

- 1.1 These terms and conditions of commercial sale (the “Terms and Conditions”) apply to and form an integral part of:
- (a) all quotations and offers (hereinafter both referred to as “Offer”) of **Idtool international B.V.** to Buyer;
 - (b) all acceptances, acknowledgements or confirmations by **Idtool international B.V.** (hereinafter all referred to as “Confirmation”) of any order of Buyer, including without limitation orders of Buyer resulting from any pricing- or other framework agreement between any Buyer and **Idtool international B.V.**, unless explicitly agreed otherwise in writing between **Idtool international B.V.** and Buyer;
 - (c) any agreement resulting from such Offer or Confirmation; and
 - (d) any agreement incorporating these Terms and Condition by reference (both types of agreements referred to under (c) and (d) shall hereinafter be referred to as an “Agreement”) regarding the sale by **Idtool international B.V.** and purchase by Buyer of goods (“Products”), unless **Idtool international B.V.** explicitly agrees in writing to the exclusion hereof.
- 1.2 These Terms and Conditions shall constitute all of the terms and conditions applicable to any Offer, Confirmation and Agreement between **Idtool international B.V.** and Buyer, relating to the sale by **Idtool international B.V.** and purchase by Buyer of Products. Any terms and conditions set forth on any document or documents issued by Buyer either before or after issuance of any document by **Idtool international B.V.** , setting forth or referring to these Terms and Conditions are hereby explicitly rejected and disregarded by **Idtool international B.V.**, and any such document shall be wholly inapplicable to any sale made by **Idtool international B.V.** and shall not be binding in any way on **Idtool international B.V.** No Offer, Confirmation or Agreement constitutes an acceptance by **Idtool international B.V.** of any other terms and conditions and **Idtool international B.V.** does not intend to enter into an Agreement other than under these Terms and Conditions
- 1.3 Any Offer is expressly made conditional on Buyer’s assent to all of the terms contained in the Offer without deviation. Acceptance by Buyer of an Offer may be evidenced by (i) Buyer’s written or verbal assent or the written or verbal assent of any representative of Buyer, (ii) Buyer’s acceptance of delivery of the Products, or any such acceptance by any representative of Buyer, or (iii) other conduct by Buyer or any representative of Buyer consistent with acceptance of the Offer.

- 1.4 **Idtool international B.V.** Offers are open for acceptance within the period stated by **Idtool international B.V.** in the Offer or, when no period is stated, within thirty (30) days from the date of the Offer, but any Offer may be withdrawn or revoked by **Idtool international B.V.** at any time prior to the receipt by **Idtool international B.V.** of Buyer's acceptance related thereto.
- 1.5 If **Idtool international B.V.** receives an order from Buyer for the sale by **Idtool international B.V.** and purchase by Buyer of Products and such order is not a response to an Offer by **Idtool international B.V.**, or if **Idtool international B.V.** receives an order or acceptance by Buyer which deviates from **Idtool international B.V.** Offer, such order or acceptance, respectively, shall be deemed to be a request for an Offer only.
- 1.6 An acceptance by Buyer of any Offer made by an order gatherer, liaison officer, agent or sales representative for **Idtool international B.V.** shall first constitute an Agreement between **Idtool international B.V.** and Buyer upon explicit Confirmation by **Idtool international B.V.** itself. In this connection all employees, exclusive of the Board of Directors of **Idtool international B.V.** ("the Board") and the employees who have been authorised in writing by the Board according to the extract of the Commercial Register of the competent Chamber of Commerce and Industry, are to be considered as unauthorised personnel. Only **Idtool international B.V.** can invoke the provisions in this paragraph. **Idtool international B.V.** may assume that orders are only issued by duly authorised employees of the Buyer.
- 1.7 The provisions in this paragraph also apply to any amendments, additions or varying terms to orders already placed. Therefore, an amended order placed by Buyer does not bind **Idtool international B.V.**, unless such amended order itself has been confirmed in writing by **Idtool international B.V.**
- 1.8 For orders where, because of their nature or size, no Offer or Confirmation is sent, the Agreement is concluded at the moment **Idtool international B.V.** actually begins to carry it out; in such cases the invoice will be considered as the Confirmation and at the same time is deemed to correctly and completely represent the Agreement.

Article 2 – Prices

- 2.1 Prices in any Offer, Confirmation or Agreement are in euros, based on delivery Ex Works **Idtool international B.V.** premises at Electronicaweg 15 NL 2628XG Delft, the Netherlands, unless agreed otherwise in writing between Buyer and **Idtool international B.V.** Delivery terms shall be interpreted in accordance with the Incoterms latest published by the International Chamber of Commerce, as at the date of the Agreement.
- 2.2 Prices do not include any taxes, duties or similar levies, now or hereafter enacted, applicable to the Products. **Idtool international B.V.** will add taxes, duties and similar levies to the price where **Idtool international B.V.** is required by law to pay or collect

them and these will be paid by Buyer together with the price.

- 2.3 The prices shall be without engagement in respect of any repeat orders and/or follow-up orders.
- 2.4 Company reserves the right to change prices or discounts applicable to the Products each month. Such new prices and/or discounts shall apply as per the first day of the coming calendar month and shall be announced prior to such date through the price list available on **Idtool international B.V.** website or otherwise. The price in effect prior to Buyer's receipt of notice of such price change shall remain applicable to all orders received and accepted by **Idtool international B.V.** prior to the effective date of the price change, unless otherwise provided in this Article 2.
- 2.5 All price-increases occurring after the conclusion of the Agreement as a result of an increase in costs of (ancillary or raw) materials, parts and components, freight rates, wages, social security contributions, customs, import or export expenses, taxes, and also price-increases as a result of currency price changes or change in the interest rate, or any change of the currency of the prices, may be passed to Buyer with a maximum of five (5) per cent per six months.
- 2.6 Price adjustments which may become necessary as a result of extraordinary circumstances, shall be announced one month before they come into effect and shall not be limited by the maximum of five (5) per cent.
- 2.7 **Idtool international B.V.** is entitled to raise the agreed price by price-increases occurring in the meantime, if more than six (6) months have elapsed between the conclusion of the Agreement and the delivery of the Product(s) and shall then not be limited by the maximum of five (5) per cent.
- 2.8 If **Idtool international B.V.** adjusts the prices in accordance with the foregoing provisions Buyer is not entitled to cancel the order or relevant parts thereof.
- 2.9 Unless agreed otherwise in writing, **Idtool international B.V.** shall, if necessary and at **Idtool international B.V.** sole discretion, provide the Products with its standard packing. Packing materials are not taken back by **Idtool international B.V.**

Article 3 – Payment

- 3.1 Unless agreed otherwise between **Idtool international B.V.** and Buyer in writing, payment shall be effected in advance (i.e. prior to delivery) or with an irrevocable letter of credit issued or confirmed by a leading Dutch bank which has its office in the Netherlands. If payment is (with permission of **Idtool International B.V.**) not effected in advance or with an irrevocable letter of credit, payment is in any case to be made within 30 days after the date of invoice. **Idtool international B.V.** may invoice Buyer for

the price of the Products delivered upon delivery of the Products in accordance with the applicable Incoterm. All payments shall be made solely to the designated **Idtool international B.V.** address.

- 3.2 Buyer is in default by operation of law if it has allowed the agreed payment term to expire. Interest will accrue on all late payments, at the rate of one and a half (1.5) per cent per month or the applicable statutory rate according to article 6:119a of the Dutch Civil Code in conjunction with 6:120 paragraph 2 of said Code, whichever is higher and to the extent permitted by law, from the due date until payment in full. The date on **Idtool international B.V.** bank statement when payment is recorded as received applies as the date on which payment has occurred.
- 3.3 If **Idtool international B.V.** deems it necessary to institute measures to recover sums due, Buyer shall be obliged to reimburse any internal administration costs incurred. Internal administration costs shall be set at five (5) per cent of the invoice amount. It shall be assumed that **Idtool international B.V.** is obliged to institute collecting measures when payment by Buyer is outstanding a greater number of days than agreed upon.
- 3.4 If Buyer shall default in payment or timely payment, obliging **Idtool international B.V.** to commence extrajudicial, legal or arbitration proceedings against Buyer, Buyer shall bear all expenses of any extrajudicial collection or of any litigation, including court costs and all attorney's fees incurred by **Idtool international B.V.**
- 3.5 All deliveries and performance of work agreed to by **Idtool international B.V.** shall at all times be subject to credit approval of **Idtool international B.V.** If, in **Idtool international B.V.** judgment, Buyer's financial condition at any time does not justify production, performance of work or delivery on the above payment terms, **Idtool international B.V.** may require full or partial payment in advance or other payment terms as condition for delivery, and **Idtool international B.V.** may suspend, delay or cancel any credit, delivery or any other performance by **Idtool international B.V.**
- 3.6 Buyer shall not offset, withhold or reduce any payment(s) due by it to **Idtool international B.V.** The payment of fees and charges is a covenant of Buyer that is independent of the other covenants made by the parties hereunder.
- 3.7 If **Idtool international B.V.** incurs exchange rate losses due to Buyer's failure to pay when payments are due, **Idtool international B.V.** shall be entitled to equivalent compensation from Buyer for such losses.
- 3.8 In the event of any default by Buyer in the payment of any amount due, or any other default by Buyer, **Idtool international B.V.** shall have the right to refuse performance of any work and delivery of any Product until payments are brought current and **Idtool international B.V.** may suspend, delay or cancel any credit, delivery or any other

performance by **Idtool international B.V.** Such right shall be in addition to, and not in lieu of, any other rights and remedies available under the Agreement or the law.

- 3.9 Any credit entries can only be made by **Idtool international B.V.** Board of Directors or authorised personnel as mentioned in article 1.6. Rights can only be derived from a credit entry if the credit note is provided with a signature of one of them.
- 3.10 If the invoice by way of exception is in foreign currencies **Idtool international B.V.** shall nevertheless have the right to claim payment in euros, and this according to the price of the day on which the Agreement came about or, at **Idtool international B.V.** choice, according to that of the invoice date.
- 3.11 Complaints and questions regarding invoices must be notified to **Idtool international B.V.** in writing and with the statement of the reasons and must be received by **Idtool international B.V.** within 14 days of the invoice date, failing which Buyer shall be deemed to have approved the invoice.

Article 4 – Delivery, quantities

- 4.1 Products shall be delivered Ex Works **Idtool international B.V.** premises in Delft, the Netherlands, unless otherwise agreed in writing between **Idtool international B.V.** and Buyer. Delivery terms shall be interpreted in accordance with the Incoterms latest published by the International Chamber of Commerce, as at the date of the Agreement.
- 4.2 Delivery dates communicated or acknowledged by **Idtool international B.V.** are approximate only. **Idtool international B.V.** agrees to use commercially reasonable efforts to meet the delivery dates communicated or acknowledged by it. Failure to meet delivery dates shall not constitute grounds for a claim for compensation or damages, non-payment of previous orders, or cancellation of the affected order or previous or after order(s).
- 4.3 The delivery time is extended with the time during which the Buyer remains negligent to observe any obligation of payment or any other obligation resulting from the order or from any previous or after order, including but not limited to the obligation to provide to **Idtool international B.V.** all necessary order and delivery information sufficiently prior to the agreed delivery date.
- 4.4 In case other circumstances arise than those known to **Idtool international B.V.** at the moment **Idtool international B.V.** determined the time of delivery, **Idtool international B.V.** is entitled to extend the delivery period needed to deliver the Products under these circumstances.
- 4.5 In the event Buyer contests delivery, Buyer must request a proof of delivery from **Idtool international B.V.** within thirty (30) days of the date of **Idtool international B.V.**' invoice,

otherwise delivery shall be deemed completed.

- 4.6 Buyer will give **Idtool international B.V.** written notice of failure to deliver and thirty (30) days within which to cure. If **Idtool international B.V.** does not cure within thirty (30) days, Buyer's sole and exclusive remedy is to cancel the affected and undelivered portions of the Agreement.
- 4.7 Risk of loss in the Products shall pass to Buyer upon **Idtool international B.V.** delivery in accordance with the applicable Incoterm, without prejudice to any retention of title as provided for in article 5 of these Terms and Conditions.
- 4.8 If Buyer fails to take delivery, then **Idtool international B.V.** may deliver the Products in consignment at Buyer's costs, expenses and risk.
- 4.9 In the event of shortages **Idtool international B.V.** may allocate its available production and Products, in its sole discretion, among its Buyers and as a result may sell and deliver to Buyer fewer Products than specified in **Idtool international B.V.** Offer, Confirmation or Agreement, as the case may be.
- 4.10 No order, Agreement or any part thereof may be rescheduled or cancelled without **Idtool international B.V.** prior written consent.

Article 5 – Retention of title

- 5.1 After delivery of a specific order, the Products shall remain the property of **Idtool international B.V.** until such time **Idtool international B.V.** has received full payment: (a) for the Products supplied concerning this specific order, or previous or after orders, and (b) of claims arising from the non-performance by Buyer of any orders, such as damages, penalties, interest and costs.
- 5.2 The mere fact that **Idtool international B.V.** does not have, or does not have anymore, any claim to Buyer at a certain date, shall not bar the validity of the continuation of **Idtool international B.V.**'s retention of title if **Idtool international B.V.** will have a claim against Buyer at a later date.
- 5.3 In case of any amounts due and payable, the Buyer shall enable **Idtool international B.V.** forthwith to regain possession of the Products supplied by **Idtool international B.V.**, without any prior notice of default or judicial intervention being required for that purpose. In anticipation of the event that Buyer should fail to fulfil any of its obligations (of payment or otherwise) to **Idtool international B.V.**, and without prejudice of any of **Idtool international B.V.** rights, **Idtool international B.V.** is hereby given irrevocable authorisation by Buyer to recover possession of the Products forthwith upon **Idtool international B.V.** demand, without any prior notice or judicial intervention being required for that purpose.

- 5.4 Prior to the date of acquiring the property of the Products, Buyer shall not be entitled to dispose of the Products or to use the same as collateral for any loan or to pledge the same as security for any debt or mortgage the same or otherwise to transfer or assign the same to any third party. However, the Products may be used by Buyer in the normal course of its business.
- 5.5 Buyer is obliged to immediately inform **Idtool international B.V.** in writing in the event that third parties (may) enforce any claims upon any of the Products which are subject to **Idtool international B.V.** retention of title.
- 5.6 Every payment **Idtool international B.V.** receives from Buyer shall be applied first of all towards the discharge of the debts owed to **Idtool international B.V.** by Buyer in respect of which no reservation of ownership in the terms of this article 5 is in force.
- 5.7 Buyer shall inform **Idtool international B.V.** regarding any additional local requirement applicable in the region where the Products bought from **Idtool international B.V.** are stored, so as to establish and exercise a valid and enforceable retention of title. Buyer shall cooperate to fill in, sign and file any additional forms, if necessary to establish and/or exercise a valid and enforceable retention of title.

Article 6 – Force majeure

- 6.1 **Idtool international B.V.** shall not be liable for any failure or delay in performance if (i) such failure or delay results from the fact that **Idtool international B.V.** volume of the Products concerned is lower than anticipated due to interruptions in the manufacturing and/or delivery process; or (ii) such failure or delay does not result from its fault; or (iii) such failure or delay is caused by Force Majeure as defined below or by law. In case of such a non-attributable failure, the performance of the relevant part(s) of the Agreement will be suspended for the period such non-attributable failure continues, without **Idtool international B.V.** being responsible or liable to Buyer for any damage resulting there from.
- 6.2 The expression "Force Majeure" shall mean and include any circumstances or occurrences beyond **Idtool international B.V.** reasonable control – whether or not foreseeable at the time of the Offer, Confirmation or Agreement – as a result of which **Idtool international B.V.** cannot reasonably be required to execute its obligations. Such circumstances or occurrences include but are not restricted to: acts of God, war, civil war, insurrections, strikes, fires, floods, earthquakes, labour disputes, epidemics, governmental regulations and/or similar acts, freight embargoes, non-availability of any permits, licenses and/or authorizations required, defaults or delays of suppliers or subcontractors and/or inability or impracticability to secure transportation, facilities, fuel, energy, labour, materials or components.

- 6.3 In the event that the Force Majeure extends for a period of three (3) consecutive months (or in the event that the delay is reasonably expected by **Idtool international B.V.** to extend for a period of three (3) consecutive months), **Idtool international B.V.** shall be entitled to cancel all or any part of the Agreement without any liability of **Idtool international B.V.** towards Buyer. In the event **Idtool international B.V.** stock of Products is curtailed, for any reason, **Idtool international B.V.** shall have the right to allocate its available stock of Products, in its sole discretion, among its various customers and as a result may sell and deliver to Buyer fewer Products than specified in **Idtool international B.V.** Offer, Confirmation or Agreement, as the case may be.

Article 7 – Warranty

- 7.1 **Idtool international B.V.** warrants that under normal use the Products shall, at the time of delivery to Buyer and for a period of twelve (12) months from the date of delivery (or such other period as may be agreed-upon in writing by the parties), be free from defects in material or workmanship and shall substantially conform to **Idtool international B.V.** specifications for such Product, or such other specifications as **Idtool international B.V.** has agreed to in writing, as applicable. There are no warranties on loose parts and components
- 7.2 Any warranty claims may be rejected if: (i) **Idtool international B.V.** has not been notified in writing by Buyer about the inferiority of the delivered Products within eight (8) days after establishing this fact; (ii) the Products have been used in a way contrary to the directions for using the Products; (iii) the Products have been repaired or there has been an attempt to repair the Products by anyone other than **Idtool international BV** or one of its authorised representatives; (iv) the damage or defect is the result of an extraneous cause or has been caused by the fact that the Products are subject to obvious normal wear and tear; and/or (v) the total price for any Products has not been paid by due date for payment.
- 7.3 In furtherance, and not in limitation, of the foregoing, **Idtool international BV** makes no warranty that the Product is merchantable or fit for any particular purpose, or with respect to freedom from infringement of any patent and/or copyright resulting from Buyer's use of Products.
- 7.4 **Idtool international B.V.** sole and exclusive obligation, and Buyer's sole and exclusive right, with respect to claims under this warranty shall be limited, at **Idtool international B.V.** option, either to the replacement or repair of a defective or non-conforming Product or to an appropriate credit for the purchase price thereof. **Idtool international B.V.** will have a reasonable time to repair, replace or credit. The non-conforming or defective Products shall become **Idtool international B.V.** property as soon as they have been replaced or credited for.

- 7.5 When a warranty claim is justified, to be determined at **Idtool international B.V.** sole discretion, **Idtool international B.V.** will pay the freight expenses with regard to the transport of the replacement or repaired Product from **Idtool international B.V.** to Buyer and, furthermore, **Idtool international B.V.** may temporarily provide Buyer with a replacement Product if, at **Idtool international B.V.** sole opinion, repair and/or replacement will take unreasonably long. Buyer shall pay all freight expenses for returned Products that are not found to be defective or non-conforming together with the freight, testing and handling costs associated therewith.
- 7.6 Notwithstanding the foregoing, **Idtool international B.V.** shall have no obligations for breach of warranty if the alleged defect or non-conformance is found to have occurred as a result of environmental or stress testing, misuse, neglect, improper installation, or accident, or as a result of improper repair, alteration, modification, storage, transportation or improper handling.
- 7.7 The express warranty granted above shall extend directly to Buyer and not to Buyer's customers, agents or representatives.
- 7.8 Except for warranty of title, the express warranty granted above is in lieu of all other warranties, whether express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, or non-infringement of intellectual property rights. All other warranties are hereby specifically disclaimed by **Idtool international B.V.**
- 7.9 Subject to the exclusions and limitations set forth in Article 8 of these Terms and Conditions, the foregoing states the entire liability of by **Idtool international B.V.** in connection with defective or non-conforming Products supplied hereunder.

Article 8 – Limitation of liability

- 8.1 shall not be liable to Buyer for any lost profits or lost savings, indirect, incidental, punitive, special or consequential damages whether or not such damages are based on tort, warranty, contract or any other legal theory – even if **Idtool international B.V.** or Buyer has been advised, or is aware, of the possibility of such damages. In no event shall **Idtool international B.V.** be liable for any damage, costs or expenses associated with warranty, or intellectual property infringement, claims whether for the replacement or repair of Products, including labour, installation, excess procurement costs, rework charges or other costs incurred by Buyer, except as otherwise provided in the Terms and Conditions.
- 8.2 Without limiting the other provisions of this Article 8, **Idtool international B.V.** aggregate and cumulative liability towards Buyer under any agreements regarding sale by **Idtool international B.V.** and purchase by Buyer between **Idtool international B.V.** and Buyer and resulting from any event(s) occurring during a calendar year and for any series of events triggered by the same cause started during a calendar year, shall not

exceed the lesser of (a) the amount actually received by **Idtool international B.V.** for the specific Product(s) giving rise to the alleged liability in the twelve (12) months immediately preceding the event, or series of events, as the case may be, giving rise to any liability for the Products causing any liability and (b) the amount that is paid to **Idtool international B.V.** by its insurance company with regard to the event(s) concerned. In case of liability for delay or non-delivery of Products, liability shall not exceed the purchase price of the delayed or non delivered Products concerned.

- 8.3 Without limiting the other provisions of this Article 8, **Idtool international B.V.** shall not be liable for any loss, damages and/or expenses that occur as a direct or indirect result of negligence (including fraud, gross negligence and malicious intent) of personnel and third parties that **Idtool international BV** makes or made use of.
- 8.4 Without limiting the other provisions of this Article 8, **Idtool international B.V.** shall not be liable for a defect in the Products supplied, if, on the basis of the scientific and technical knowledge at the moment upon which **Idtool international B.V.** released the products, it was not reasonably possible to discover the existence of the defect.
- 8.5 Any claim of Buyer for damages must be brought by Buyer within thirty (30) days of the date of the event giving rise to any such claim, and any lawsuit relative to any such claim must be filed within one (1) year of the date of the claim. Any claims that have been brought or filed in conflict with the preceding sentence are null and void.
- 8.6 The limitations and exclusions set forth above in this Article 8 shall only apply to the extent permitted by applicable mandatory law.

Article 9 – Intellectual property rights

- 9.1 Buyer acknowledges that **Idtool international B.V.** and/or its supplier/manufacturer is the sole owner of the respective patents, know-how, copyrights, trade names, domain names, slogans, labels affixed to the Products, trademarks, service marks, neighbouring rights, logos, word marks and design marks and other intellectual property rights that **Idtool international B.V.** uses in connection with its business, Products and services or that **Idtool international B.V.** otherwise claims (“**Idtool international B.V. IPR**”).
- 9.2 Buyer acknowledges that **Idtool international B.V.** shall retain the sole ownership of the **Idtool international B.V. IPR** throughout the world and that **Idtool international B.V.** is authorised to enforce these **Idtool international B.V. IPR** in and outside the region where Buyer uses the Product. Buyer shall refrain from anything inconsistent with such ownership, in particular, but without limitation:
- a) Buyer shall not attack the validity of any of the **Idtool international B.V. IPR** or the ownership rights of **Idtool international B.V.** in and to the **Idtool international B.V. IPR**; and

- b) Buyer shall not use the **Idtool international B.V.** IPR or any variation thereof, in connection with any product which has not been supplied by **Idtool international B.V.** to Buyer; and
- c) Buyer shall not be permitted to issue sub-licences or to allow unlicensed manufacture of **Idtool international B.V.** Products; and
- d) Buyer shall not use, under whatever circumstance, any of the **Idtool international B.V.** IPR as part of its business name and is not allowed to remove or to change any brand name or symbol of **Idtool international B.V.** on the Products;
- e) Buyer shall neither register, nor have registered, any of the **Idtool international B.V.** IPR (or which IPR are similar to those of **Idtool international B.V.** or which creates the danger of association), in the region where it uses the Product or elsewhere; and
- f) Buyer shall not be permitted to alter or modify the Product, its packaging and the instructions how to use the Products; and
- g) Buyer shall not remove, cover, change, or add to the labels affixed by **Idtool international B.V.** to the products; and
- h) Buyer shall not use drawings, technical documents or other technical information for any other purpose than for the use of the Products by Buyer itself; they may not be otherwise used or copied, reproduced, transmitted and/or passed to a third party; they have to be returned immediately at **Idtool international B.V.** request; **Idtool international B.V.** shall retain sole ownership of all drawings and technical and commercial documents relating to the Product, their manufacture or their use which have been passed by **Idtool international B.V.** to Buyer, including all **Idtool international B.V.** IPR related to it.

9.3 **Idtool international B.V.** shall decide alone whether to object to possible infringements of **Idtool international B.V.** IPR. Expenses borne in connection with such objection and any steps taken to protect the **Idtool international B.V.** IPR shall be borne by **Idtool international B.V.** and any sums recovered shall correspondingly be due to **Idtool international B.V.** However, Buyer shall be obliged, in cooperation with **Idtool international B.V.** and following **Idtool international B.V.** instruction, to object to the infringement by the third party and/or to take steps to protect the **Idtool international B.V.** IPR, and to render all assistance in connection herewith.

9.4 Subject to the provisions set forth herein, the sale by **Idtool international B.V.** of a Product implies the non-exclusive and non-transferable license to Buyer under any **Idtool international B.V.** IPR to use the Products as sold by **Idtool international B.V.** to Buyer.

9.5 To the extent that software and/or documentation is embedded in a Product, the sale of such Product shall not constitute the transfer of ownership rights or title in such software and/or documentation to Buyer, but, subject to the provisions set forth herein, shall only imply a non-exclusive and non-transferable license to Buyer under **Idtool international B.V.** IPR to use such software and/or documentation in conjunction with and as embedded in the Products as supplied by **Idtool international B.V.**

- 9.6 If **Idtool international B.V.** in connection with the sale of Products would supply any software and/or documentation to Buyer that is not embedded in the Product but that is intended for use in or in conjunction with such Product, and such software and/or documentation is not subject to a separate license agreement, such sale of Products implies, subject to the provisions set forth herein, the non-exclusive and non-transferable license to Buyer under **Idtool international B.V.** IPR:
- a. to use said software and/or documentation in conjunction with the Products as supplied by **Idtool international B.V.** and of which **Idtool international B.V.** has identified in writing that such software and/or documentation can be used in or in conjunction with such Products, as required to enable Buyer to make the normal and intended use of Buyer's Products; and
 - b. to make and distribute copies of the software and/or documentation, either in electronic or hardcopy format, only as shall be reasonably necessary to enable Buyer to make the normal and intended use of Buyer's Products.
- 9.7 **Idtool international B.V.** hereby represents and warrants that **Idtool international B.V.** is the owner of the Products and of **Idtool international B.V.** IPR related thereto, or otherwise has the right to grant to Buyer the rights set forth in this Agreement. As the sole remedy for Buyer, in the event any breach or threatened breach of the foregoing representation and warranty, **Idtool international B.V.** shall, at its option, either:
- (a) procure, at **Idtool international B.V.** expense, the Product and the right to use it,
 - (b) replace the Product, or any part thereof that is in breach, with a Product of comparable functionality that does not cause any breach, or
 - (c) refund to Buyer the full amount of any fees paid by Buyer to **Idtool international B.V.** for the relevant Product(s), with no further liability.
- 9.8 If an **Idtool international B.V.** IPR infringement action is commenced or threatened against **Idtool international B.V.** so as to any Product and **Idtool international B.V.**, as a result, chooses to discontinue the sale of the Product in any region where Buyer uses this product, Buyer shall discontinue the use of said product in this region immediately upon receipt of a written notice from **Idtool international B.V.**
- 9.9 **Idtool international B.V.** shall indemnify Buyer from and against any loss, damage, liability or expense (including, but not limited to reasonable attorney's fees) incurred by or awarded against Buyer, to the extent that it is based upon a claim that the Product, as provided by **Idtool international B.V.** to Buyer under this Agreement and used within the scope of this Agreement, infringes any Netherlands patent or copyright, or incorporates any misappropriated trade secrets. **Idtool international B.V.** obligations to Buyer under this Article 9.9 shall only be valid provided that Buyer
- (a) promptly notifies **Idtool international B.V.** in writing of the claim; (b) grants **Idtool international B.V.** sole control of the defense and settlement of the claim, provided that **Idtool international B.V.** will not settle a pending matter without first notifying Buyer; and (c) provides **Idtool international B.V.** with all assistance, information and authority required for the defense and settlement of the claim.

- 9.10 **Idtool international B.V.** shall have no indemnification obligation for any claim of infringement or misappropriation to the extent that it results in whole or part from:
- (a) modification to the Product made by a party other than **Idtool international B.V.**
 - (b) failure of Buyer to use an updated or modified Product provided by **Idtool international B.V.** to avoid a claim of infringement or misappropriation; (c) combination of the Product with other systems, products, processes or materials to the extent that such claim would have been avoided without such combination use of the Product; or
 - (d) compliance by **Idtool international B.V.** with designs, plans or specifications furnished by or on behalf of Buyer.
- 9.11 Buyer shall indemnify **Idtool international B.V.** from and against any loss, damage, liability or expense (including, but not limited to all attorney's fees) incurred by or awarded against **Idtool international B.V.**, to the extent that it is based upon a claim that Buyer's products, systems, materials or software, infringe any property rights or incorporate any misappropriated trade secrets. Buyer's obligations to **Idtool international B.V.** under this Article 9.11 shall only be valid provided that **Idtool international B.V.**:
- (a) promptly notifies Buyer in writing of the claim; (b) grants Buyer sole control of the defense and settlement of the claim; and (c) provides Buyer with all assistance, information and authority required for the defense and settlement of the claim.
- 9.12 The foregoing states **Idtool international B.V.** entire liability and obligation to Buyer and Buyer's sole remedy with respect to any actual or alleged infringement of any intellectual property rights of any kind.

Article 10 – Confidentiality

- 10.1 Buyer acknowledges that all technical, commercial and financial data disclosed to Buyer by **Idtool international B.V.** is the confidential information of **Idtool international B.V.** Buyer shall not disclose any such confidential information to any third party and shall not use any such confidential information for any purpose other than as agreed by the parties and in conformance with the purchase transaction contemplated herein.

Article 11 – Compliance with laws

- 11.1 Each party hereto represents that it is duly authorized to enter into the Agreement and represents that with respect to its performance hereunder, it will comply with all applicable federal, state and local laws, including export or import controls or restrictions.
- 11.2 If the delivery of Products under the Agreement is subject to the granting of an export or import license by a government and/or any governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or

import control laws or regulations, **Idtool international B.V.** may suspend its obligations and Buyer's rights regarding such delivery until such license is granted or for the duration of such restriction and/or prohibition, respectively, and **Idtool international B.V.** may even terminate the Agreement, without incurring any liability towards Buyer. By accepting **Idtool international B.V.** Offer, entering into any Agreement and/or accepting any Products, Buyer agrees that it will not deal with the Products and/or documentation related thereto in violation of any applicable export or import control laws and regulations.

Article 12 – Assignment and setoff

- 12.1 Buyer is not allowed to assign or transfer the Agreement or any rights or obligations under the Agreement without the prior written consent of **Idtool international B.V.** Buyer hereby waives any and all rights to offset existing and future claims against any payments due for Products sold under the Agreement or under any other agreement that Buyer and **Idtool international B.V.** may have and agrees to pay the amounts hereunder regardless of any claimed offset which may be asserted by Buyer or on its behalf. **Idtool international B.V.** has the right to assign and transfer any rights or obligations under the Agreement without Buyer's consent.

Article 13 – Governing law and forum

- 13.1 Offers, Confirmations and Agreements are governed by and construed in accordance with the laws of the Netherlands.
- 13.2 All disputes arising out of or in connection with any Offer, Confirmation or Agreement shall first be attempted by Buyer and **Idtool international B.V.** to be settled through consultation and negotiation in good faith and a spirit of mutual cooperation. All disputes that are not so settled within a period of thirty (30) days from the date the relevant dispute first arose may be submitted to the courts of BREDA, the Netherlands, provided that **Idtool international B.V.** shall always be permitted to bring any action or proceedings against Buyer in any other court of competent jurisdiction.
- 13.3 The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any Offer, Confirmation or Agreement, nor any other international regulation the exclusion of which is permissible.
- 13.4 Nothing in this Article 13 shall be construed or interpreted as a limitation on either **Idtool international B.V.**' right under applicable law for injunctive or other equitable relief or to take any action to safeguard its possibility to have recourse on the other party.

Article 14 – Breach and termination

- 14.1 Without prejudice to any rights or remedies **Idtool international B.V.** may have under the Agreement or at law, **Idtool international B.V.** may, by written notice to Buyer, terminate with immediate effect the Agreement, or any part thereof, without any liability whatsoever, if:
- (i) Buyer fails to make payment for any Products to **Idtool international B.V.** when due;
 - (ii) Buyer fails to accept Products supplied hereunder;
 - (iii) any proceedings in insolvency, bankruptcy (including reorganization) liquidation or winding up are instituted against Buyer, whether filed or instituted by Buyer, voluntary or involuntary, a trustee or receiver is appointed over Buyer, or any assignment is made for the benefit of creditors of Buyer; or
 - (iv) Buyer violates or breaches any of the provisions of these Terms and Conditions and/or the Agreement.
- 14.2 Upon occurrence of any of the events referred to in article 14.1 under (i) through (iv), all payments to be made by Buyer under the Agreement shall become immediately due and payable.
- 14.3 In the event of cancellation, termination or expiration of any Agreement the terms and conditions destined to survive such cancellation, termination or expiration, which shall include without limitation Article 7, 8, 9 and 10, shall survive.

Article 15 – Changes in Product, Discontinuation of Product

- 15.1 **Idtool international B.V.** reserves the right to make at any time Product changes.
- 15.2 **Idtool international B.V.** reserves the right to discontinue sale of Products at any time. If however at any time during the term of an Agreement under which **Idtool international B.V.** sells and Buyer purchases Products on a regular basis, such regularly sold and purchased Products are to be permanently discontinued ("Discontinued Product"), **Idtool international B.V.** shall use its reasonable commercial efforts to give Buyer prior written notice of such discontinuance and shall use reasonable commercial efforts to accept last-time-buy orders for such Discontinued Product.

Article 16 – Severability

- 16.1 Any provision of an Offer, Confirmation or Agreement which is finally determined to be invalid or unenforceable in any jurisdiction shall be ineffective only to the extent of such invalidity or unenforceability, without invalidating or rendering unenforceable the remaining provisions, and any invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. A legally

invalid provision shall be replaced by an alternative valid provision which approximates as closely as possible in nature and scope to the legally invalid provision, on the terms of which parties shall consult further, if necessary.

Article 17 – Waiver

17.1 The failure on the part of **Idtool international B.V.** to exercise, or any delay in exercising, any right or remedy arising from any Offer, Confirmation or Agreement shall not operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy arising there from preclude any other or future exercise thereof or the exercise of any other right or remedy arising from any Offer, Confirmation or Agreement or from any related document or by law.

Article 18 – Notices

18.1 All notices and communications to be given under this Agreement shall be in writing and shall be deemed delivered upon hand delivery, confirmed facsimile communication, or three (3) days after deposit in the mail of the home country of the party, postage prepaid, by certified, registered, first class or equivalent mail, addressed to the parties at their addresses set forth on the Offer, Confirmations and/or Agreements.

Article 19 – Attorney's fees

19.1 Should a dispute arise from the subject matter of any Offer, Confirmation or Agreement, the prevailing party in any resulting litigation shall be reimbursed by the other party for any and all reasonable attorneys' fees and expenses incurred, unless otherwise provided in this Agreement.

Article 20 – Relationship of parties

20.1 The Parties hereto intend to establish a relationship of buyer and seller and as such are independent contractors with neither party having authority as an agent or legal representative of the other to create any obligation, express or implied, on behalf of the other.

Article 21 – Modifications and changes

21.1 **Idtool international B.V.** reserves the right to make any amendments or changes to these Terms and Conditions at any time. Such amendments, modifications and changes

shall have effect (1) to all Offers, Confirmations and Agreements referring to such amended or modified Terms and Conditions as from the date of such Offer, Confirmation or Agreement, and (2) to any existing Agreement thirty (30) days from notification of such amendments or modifications by **Idtool international B.V.** to Buyer, unless Buyer has notified **Idtool international B.V.** within such 30 days period that it objects thereto.