

MAG45

■ industrial supply solutions
a solar group company

General Terms and Conditions of Sale and Service

Version June 2020

The Reference in
Integrated Supply



1 Applicability

- 1.1 These general terms and conditions of sale shall apply to all our quotations, offers, agreements however named and all obligations arising therefrom.
- 1.2 Conditions or agreements contrary to these general terms and conditions shall only be effective in as far as they are confirmed by us in writing.
- 1.3 Any general terms and conditions used by the client shall not apply and are hereby explicitly rejected and declared inapplicable.
- 1.4 In these general terms and conditions of delivery, the following definitions shall be used:
 - Goods: the goods and services supplied by MAG B.V., amongst others spare part categories like mechanical, electrical, pneumatics, (cutting) tools, and personal protection. Basically all materials required to keep production running;
 - MAG45 B.V., supplier;
 - Client: that person or company to whom or which the above-mentioned quotation is addressed, and which purchases or has purchased Goods from MAG45;
 - Service: the undertaking of work to be performed on behalf of MAG45.

2 Quotations

- 2.1 Our quotations and offers shall be valid for eight days or as much longer or shorter a time as stated therein, but shall always be totally non-binding. Such quotations and offers shall form an invitation to enter into negotiations. They can be withdrawn by us within 30 (thirty) working days of receipt of their acceptance unless otherwise agreed in the quotation itself.
- 2.2 In the case of international transactions, MAG45 shall reserve the right to refer to the Incoterms and to declare them applicable in the latest amended version passed by the International Chamber of Commerce.

3 Agreement/orders

- 3.1 If an order is placed by the client without a prior quotation from us, an agreement shall only arise if the order is confirmed in writing within eight days of receipt or the order is actually carried out. If the agreement is entered into in writing, it shall be effective at the day on which MAG45 signs the contract.
- 3.2 If the Client takes delivery of the goods, this shall in any case count as agreement with these Terms and Conditions and as confirmation of order. Additional arrangements shall require the written approval of MAG45. Additional arrangements made verbally shall not be legally valid. Even a custom of a temporary nature shall not constitute any customary law or change to the Agreement.
- 3.3 All work performed by or on behalf of MAG45 in consultation with the client during performance of the agreement, whether or not laid down in writing, which is over and above the work explicitly set forth in the contract or order confirmation shall be considered to be extra work.
- 3.4 Verbal undertakings by and agreements with employees of MAG45 shall only be binding on MAG45 after and in as far as they are confirmed in writing by a legal representative of MAG45



- 3.5 In addition, based on the Client's order, MAG45 shall deliver goods that includes the specifications to be complied with and the agreed dimensions and tolerances. In all cases, the information contained within the goods is crucial to the delivery of goods and to the specification agreed upon by contract relating to the item to be supplied.
- 3.6 Changes to the specification shall only be considered to have been agreed upon when a new good has to be delivered and which is countersigned, and when an amended order confirmation has been sent. In addition, the standards included in the order confirmation and Good shall be considered to have been agreed.

4 Prices

- 4.1 All prices are exclusive of additional costs, levies, packagings, charges and costs in connection with extra work and transportation etc. They are also exclusive of BTW (Dutch value added tax) and are based on delivery ex works, unless agreed otherwise.
- 4.2 Unless agreed otherwise in writing, MAG45 shall reserve the right in respect of goods not yet delivered to change selling prices, discounts and terms and conditions of sale without prior warning, at least if they arise from governmental measures or regulation if the period between the price being agreed and delivery is more than six week. The prices, discounts and terms and conditions, which are valid on the date of delivery, shall apply.
- 4.3 In case of a material change under article 4.2, the Client shall have the right to cancel the agreement concluded between the parties, provided that it has not yet been carried out in fact, within 8 days after being notified of these changes by means of a recorded delivery letter addressed to MAG45, unless the changes are to the benefit of the client.
- 4.4 If taxes, levies or import duties, which will increase prices, are introduced or changed by any government measure, or other government measures are effected after the agreement is concluded which result in an increase in the cost of the goods to be delivered and/or services to be performed by MAG45 to or for the Client, MAG45 shall have the right to pass on this cost increase or the changes even if it had been agreed that the price would be fixed.
- 4.5 The agreement includes MAG45's entitlement to invoice extra work performed by it separately, as soon as it is familiar with the amount to be invoiced. The terms of paragraphs 1 and 2 of this article apply accordingly to the invoicing of extra work.

5 Payment

- 5.1 The Client shall pay the sums due to MAG45 under the agreement within 30 days as of the invoice date unless otherwise agreed. Should delivery be made in parts, MAG45 shall be able to invoice each part separately. MAG45 shall also be entitled to submit advance payment invoices. Extra work shall be paid for as soon as this is invoiced to the Client.
- 5.2 Payment(s) must be made to our office or to a bank account to be specified by MAG45 in the Netherlands and in euro unless written notification has been given that payment must be in another currency.
- 5.3 Payments by the Client made to MAG45 shall be primarily meant to settle the costs owed, then interest, and then will be deducted from the oldest outstanding claim, even if the Client indicates that the payment refers to a later invoice.



- 5.4 After the expiry of the period prescribed in the invoice and no payment is received by MAG45, the Client is in default without having the obligation to send a notice of default. An interest of 1.5 % per month is due on the outstanding amount by the Client to MAG45, without prejudice to our further rights.
- 5.5 If and when MAG45 sends an invoice before the termination of the Contract, then MAG45, after the expiry of the period prescribed in the invoice, she is entitled to terminate the Contract immediately and cease its activities under the Contract with immediate effect.
- 5.6 Complaints concerning invoices must be made within 8 days after the receipt of the respective invoice.
- 5.7 Both the judicial and extrajudicial costs related to the enforcement and collection of payments due by the Client to MAG45 and not received in time, shall be borne by the Client. The compensation in respect of extrajudicial collection costs is set at least at 15% of the principal amount due and owed, without prejudice to our right to claim higher real damages.
- 5.8 MAG45 is at all times entitled to demand security from the Client for all amounts due by the Client pursuant to the contract and reserves therefore the right to demand a documentary credit or another sound form of (payment) guarantee, including in the event of outstanding invoices, solely at its discretion.
- 5.9 Offsetting, retention, reduction or postponement of the payment obligation shall not be permitted unless MAG45 has acknowledged the counterclaim unconditionally and unambiguously in writing.

6 Delivery

- 6.1 MAG45 shall deliver CPT (Incoterms) to the customer, no transport insurance included.
- 6.2 Delivery times stated shall never be deemed to be firm dates, but shall serve as an indication. Should the stated delivery date be exceeded, MAG45 shall not be in default until written notice of default has been given.
- 6.3 The delivery time is based on the circumstances prevailing at the time of conclusion of the agreement and on punctual delivery of goods supplied to MAG45. If a delay occurs which is beyond the control of MAG45 as a consequence of a change in circumstances, unpunctual delivery of goods ordered and failure on the part of the client to meet any of its obligations under the agreement or to provide any co-operation required of the client with regard to performance, the delivery date shall be extended by the period of the delay if necessary.
- 6.4 Exceeding the delivery time shall not give the Client the right to cancel, terminate or dissolve the agreement in whole or in part, except in the case of gross negligence or intention on the part of MAG45.
- 6.5 If the parties, instead of specifying the date for delivery, have specified a period of time within which delivery shall take place, such period shall start to run as soon as the Contract is entered into and all agreed preconditions to be fulfilled by the Client have been satisfied, such as official formalities, payments due at the formation of the contract and securities.
- 6.6 If MAG45 anticipates that it will not be able to deliver the Product at the time for delivery, he shall forthwith notify the Client thereof in writing, stating the reason and, if possible, the time when delivery can be expected. If MAG45 fails to give such notice, the Client shall only be entitled to compensation for any additional costs which it incurs and which it could have avoided had it received such notice, in the event of MAG45's negligence or fault.



- 6.7 Claims for damages on account of non-fulfilment of obligations or delay shall be insomuch excluded. If the obstruction continues for more than one month, or in the event of possible shutdown of the business of MAG45 or that of its suppliers, or in the event of force majeure circumstances, MAG45 shall have the right to withdraw from the Agreement.
- 6.8 Insofar as this has not been expressly ruled out, MAG45 shall have the right to make part deliveries if this is not unreasonable for the Client. Calls for on-demand deliveries, and specifications for individual part deliveries must, if possible, be submitted at equal intervals and in equal quantities, and in time, so that it is possible to manufacture and supply the goods in accordance with the rules and within the periods agreed upon by contract.
- 6.9 If, despite written warning, calls for on-demand deliveries, and specifications are not forthcoming as agreed by contract or at successive call times, MAG45 will have the right, at the end of three months, to decide the quantities and dates of the part deliveries within an appropriate period itself, without prejudice to its statutory rights relating to compensation and cancellation.
- 6.10 The Goods shall be deemed to have been delivered at the time of delivery or - if an acceptance test has been agreed on - after written acceptance by the Client. If the Client and MAG45 have agreed on an acceptance test, the Client shall subject the Goods to the test procedure no later than 8 days after their delivery.
- 6.11 In the event of immaterial defects and/ or insignificant faults which do not or hardly affect the intended use of the Goods, the Goods shall be deemed to be accepted regardless of these faults. MAG45 shall remedy such faults as quickly as possible.

7 Transfer of risk and title

- 7.1 The risk shall pass to the Client at the point that the goods leave the premises of MAG45 or the site designated by MAG45, or when, at the contractually agreed upon time, the Client is informed that the goods are ready for collection.
- 7.2 The Client shall bear the risk of all direct and indirect damage which might be sustained by or caused by the Goods from the moment of delivery onwards, except in so far as such damage is to be attributed to gross negligence/intention on the part of MAG45 Title shall not be transferred until payment has been made in full in accordance with article 5.
- 7.2 The Client shall be obliged to provide the assistance and co-operation necessary and required by MAG45 in order for or on behalf of MAG45 to perform the delivery service immediately, explicitly including the obligation to accept and take delivery of the goods purchased.
- 7.3 Acceptance shall be deemed to have been refused if ordered goods are offered to the Client for delivery but delivery has proved to be impossible or the Client has refused to take delivery of the goods. The Client shall immediately be in default as a result of that without further notice of default; consequently the risk of loss and damages, etc. shall be transferred to the Client.
- 7.4 The costs arising from refusal of acceptance shall be for the account of and at the risk of the Client, without prejudice to our other rights in the matter of this fault on the part of the Client. The costs stated explicitly include reasonable payment for storage based on the normal local rates, as well as insurance costs if this is regarded as appropriate.

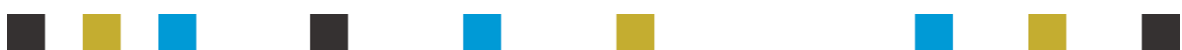


8 Installation/service

- 8.1 If MAG45 and the Client conclude a service contract for the goods, the date commences at the time of delivery of the goods as stipulated in article 7. The service shall be carried out during MAG45's working days during MAG45's normal working hours.
- 8.2 The Client shall be responsible for the proper and timely provision of all facilities, requirements and if necessary, specifications, and shall provide for the conditions which are needed for the installation/servicing of the product and/or proper operation of the goods after installation, except if and in as far as these are undertaken by or on behalf of MAG45. If this latter is done by MAG45 on the basis of data and/or drawings supplied for the purpose, MAG45 shall be solely responsible for the execution but not for the design, drawings, specification and compliance with health and safety regulations applicable to the product etc. and shall therefore not be liable for any faults, damages and costs however named arising therefrom.
- 8.3 Without prejudice to the terms of paragraph 1, the Client shall always ensure for his own account and at his own risk that the installation/service work can be carried out during normal working hours and that all facilities required under government regulations or by agreement and for the use of the equipment are available before installation/servicing, all necessary health, safety and preventive measures have been taken and are applied, as well as the measures required for the goods to satisfy the applicable government regulations on installation/service.
- 8.4 Damage and costs incurred as a result of failure to meet the conditions set forth in this article or failure to meet them in time shall be for the account of the Client.

9 Retention of title

- 9.1 Title to the goods supplied shall only pass to the Client once the Client has settled in full all amounts owing to MAG45 on account of deliveries or services, including interest and costs. If retention of title is not accepted/ applicable under the rule of law of Client's place of business, the legal title is in conformity with the objective and parties' intention of retention of tile under Dutch law will apply to the contract.
- 9.2 Until full payment is made, the Client shall not be authorised to pass on the goods to third parties for their use, to hire them out, pledge them, transfer title or otherwise to dispose of them or encumber them. The Client shall, however, be entitled to sell and to deliver the Goods in accordance with their purpose to third parties in the context of its normal business activities.
- 9.3 MAG45 shall be entitled to take possession of the Goods delivered under retention of title if the Client does not meet its obligations towards MAG45, does not meet them in full or does not meet them in time, or if there are reasonable grounds for the assumption that the Client will not meet its obligations towards MAG45, will not meet them in full or will not meet them in time. The Client hereby irrevocably and unconditionally authorises MAG45 to enter its sites, premises and buildings for this purpose.
- 9.4 The Client shall be obliged to insure the Goods properly and adequately, in any case against the risks of theft, damage and loss. The Client shall not be permitted to pledge any claims on its insurance company under insurance policies such as referred to in this paragraph to third parties or to use them as security (in the broadest sense of the term) for third parties. Payments in respect of damages to or loss of the Goods referred to in this article shall replace the goods in question. The Client shall provide MAG45 with all the co-operation it desires upon MAG45's first demand so that such payments are made to us or in order to establish security on our behalf on such a payment - including in the form of a pledge.



- 9.5 In the event that the Goods are linked with other Goods or are processed – whereby the processing is in any case carried out for MAG45 – the Client shall provide MAG45 with adequate security in the form of a pledge or any other (equal) security valid pursuant to the laws of place of Client’s business, on the worked or processed Goods. If, and insofar as, the value thereof is lower than the value of the delivered Goods, the Client shall provide MAG45 with a similar pledge on other goods to cover the difference.
- 9.6 If the rights of MAG45 are infringed by third parties, such as through pledging, the Client must inform MAG45 of this immediately. The Client shall bear all costs incurred by MAG45 as a result of this information.
- 9.7 The Client shall henceforth transfer to MAG45 the claims against third parties that have arisen as a result of the sale of delivered (worked or processed) goods. At the first request of MAG45, the Client must, in the event that it has defaulted on payment, provide information about the assignment to third parties, and must provide MAG45 with the documents required in order to claim its rights with regard to attachment by garnishment and to provide the necessary information. Until the authorization to do so is revoked, the Client may, and must, recover the debts assigned to MAG45. This recovery authorization shall in any case be revoked without express cancellation if the Client suspends payment.
- 9.8 The security due to MAG45 shall only be used to cover its debts. If the value of the security due exceeds the debts by more than 25%, MAG45 must, if so requested by the Client, release the security, at its option, that exceeds this amount.
- 9.9 If the Client fails to make payment on the due date, MAG45 shall have the right, after specifying an appropriate deadline, to dissolve the Agreement, to enforce assigned debts, or to demand that delivered or pledged goods be surrendered, and to enforce this, or have this enforced upon the Client, at any time. The Client shall also expressly grant MAG45 access to its storage spaces for the purposes of collecting these goods. The Client shall in that case no longer have any right to ownership of the Goods.
- 9.10 The Client must reimburse MAG45 for all expenses arising from taking possession of the separate property again, as well as the damage arising in addition.

10 Right of complaint

- 10.1 If the Client fails to meet its payment obligations, fails to meet them properly or fails to meet them on time, MAG45 shall be entitled to demand the Goods back in a written statement and thereby cancel the agreement with immediate effect within 6 weeks of the expiry of the payment period and within 60 days after the goods are stored by the client or by a third party on its behalf. The Client shall return the Goods to MAG45 at its own expense immediately upon the first written demand as referred to above.
- 10.2 In the case of partial payment, MAG45 shall either have the right to demand the return of the unpaid portion or a corresponding pro rata portion of the Goods, or to refund the payment already made and demand the return of the Goods with compensation for the costs, damage and interest sustained by MAG45 due to this non-performance, without prejudice to MAG45's further legal rights. The Client shall co-operate and provide the assistance necessary immediately with such written demands.



11 Guarantee

- 11.1 MAG45 shall guarantee that the Goods it supplies are manufactured of proper materials and are of good workmanship. Should faults nevertheless occur in the goods supplied by MAG45 as a result of manufacturing and/or material defects, MAG45 shall repair such faults or have them repaired, or make the parts needed for repair available (have them made available), shall replace the goods in question completely or pay a maximum of the invoice value of the goods, at its sole discretion. This guarantee shall apply for three months from delivery, unless explicitly agreed otherwise in writing. This guarantee does not apply to goods and items purchased by MAG45 which are processed or included in its product and no further guarantee shall be granted by MAG45 than granted by its supplier.
- 11.2 The Client must, at the risk of his rights lapsing, inspect the Goods delivered immediately after delivery for any defects, and as soon as a defect is discovered, but in any case within 10 days of delivery, inform MAG45 by registered letter. The Client may, if desired and at his own expense, carry out checks on the premises of MAG45, to confirm that the specification of the Goods is as agreed. However, this right shall not entail any restriction of the obligation to take delivery of the goods within the specified period.
- 11.3 Client must make known in writing any hidden defects and- or explicit deviation from contractual specifications within one month the defects were discovered, or at any rate the day by which the defects can reasonably have been discovered. If faults which are not evident in an acceptance test and which origins lie entirely or principally in improper installation of the product by MAG45, then article 11.1 applies thereto as well. If the Goods are installed by MAG45, the guarantee period of 3 months referred to in paragraph 1 shall commence from the date on which installation is completed by MAG45, provided that in this case the guarantee period shall always end at the point when 12 months from delivery in accordance with article 7 have elapsed.
- 11.4 If software is part of the good delivered, MAG45 cannot be held accountable for its functioning and Client has to rely upon the guarantee provided by MAG45's supplier. MAG45 shall assist Client in order to have the supplier of the software to remedy the operation of the program which may not be in conformity with the specifications. MAG45 is notified in writing within the period stated in article 11.4 at the costs of Client and to the best of its abilities, if and in as far as these faults are reproducible.
- 11.5 Complaints and/ or claims under this guarantee must be reported to MAG45 by registered letter within 10 days of a fault occurring. If a complaint is not made in time, all claims against MAG45 shall lapse. Legal claims in this regard must be instituted within one year as of a complaint which has been made in good time on penalty of cancellation. After the stated period of 10 days has lapsed, or in the cases described in Articles 11.2 and 11.4, the fully or partially processed Goods shall be considered to have been approved and accepted, and the liability of MAG45 in this respect shall therefore expire in full, unless the defect is only detectable by or in processing.
- 11.6 Acceptance by the Client shall, in accordance with the above, preclude any claim from the Client based on the failure of MAG45 to perform.
- 11.7 Deviations and differences in quality, colour, size and suchlike that are minor and/or usual in this sector can never give grounds for complaint.
- 11.8 If the afore-mentioned time limit has expired without any complaint(s) having being submitted about any defects that have been detected or could have been detected, which submission must be made in writing and must have been received by MAG45, the Goods are considered to have been accepted, and the Client to have waived all rights and powers belonging to him by law and under the agreement.



11.9 All faults occurring in, or arising entirely or partly from, the following shall not be covered by the guarantee:

- * failure to observe instructions for use, operating instructions etc. or use other than that normally envisaged;
- * normal wear and tear;
- * assembly/installation or repair by third parties or the client without prior written permission from MAG45;
- * the application of any government regulation with regard to the nature or quality of materials used;
- * in accordance with article 4 of these terms and conditions, customized goods produced and delivered to designs, drawings or other instructions of the client, unless explicitly agreed otherwise;
- * materials or goods which have been supplied to MAG45 by the client for the processing or execution of an order, unless explicitly agreed otherwise;
- * materials and/or goods used in consultation with the client;
- * parts purchased by MAG45 from third parties, in as far as these third parties have not given MAG45 a guarantee;
- * recommendations made by MAG45, unless explicitly agreed otherwise;
- * processing by the client of the goods, unless MAG45 has stated a certain method of processing explicitly in its documentation, brochures etc. or has permitted such unconditionally and in writing.

11.10 If the Client fails to meet any obligation, fails to meet an obligation properly or fails to meet an obligation on time which it incurs on the grounds of the agreement concluded with MAG45 or under an associated agreement, MAG45 shall not be committed to any guarantee or compensation for damages - however named - with regard to the agreements.

11.11 If MAG45 replaces parts/goods in order to meet its guarantee obligations, the replaced goods or parts shall become its property.

11.12 Alleged non-performance by MAG45 of its guarantee obligations shall not release the Client from its obligations arising from any agreement concluded with MAG45, nor shall such non-performance give it the right to exercise any right of postponement.

11.13 No rights may be derived from the way in which samples or models are executed. The same shall apply to catalogues, photographs, pictures etc.

12 Infringement of third party rights

12.1 In the event that an order has to be carried out according to the Client's designs, drawings, samples or other instructions from the Client, the Client shall guarantee that in doing so no third party intellectual or industrial property rights or any other third party rights shall be infringed and all health and safety regulations are followed.

12.2 In the event that supply takes place based on the Client's drawings, samples or other information, such as specifications, from the Client, and in the event that in doing so patent, trademark, design rights, or other third party rights are infringed, the Client shall be liable for the damages and loss of profit suffered by MAG45 as a consequence thereof. MAG45 shall not be obliged to ascertain whether any third party indemnity rights apply.

12.3 The Client shall indemnify MAG45 against all third party claims relating to infringement of their intellectual or industrial property rights or other rights, arising from specifications or health and safety regulations whether or not for damages.



13 Liability

- 13.1 MAG45's accountability and responsibility is limited to the fulfilment of the guarantee obligations described in article 11, with due observance of the following. In the event of a breach of the contractual guarantees, the extent of accountability and liability shall, however, be limited to compensation for the expected damage that is specific and directly related to the agreement, to which these terms and conditions form part, and will never exceed the contractual amount for which MAG45 delivered the Goods to the Client under the respective agreement with the Client.
- 13.2 Apart from intention or gross negligence on the part of MAG45, any liability of MAG45 for direct or indirect, material or immaterial damage shall be ruled out, including but not limited to the following: loss of profits, consequential damages, as well as losses as a result of liability towards third parties. If this exclusion of liability for damages is not accepted under the principles of reasonableness, MAG45's liability for damages is always limited to the maximum amount under its insurance policy and which amount shall be paid by the insurance company in place.
- 13.3 MAG45 shall not be liable for:
- * Infringement of patents, licences and/or other rights of third parties as a consequence of the use of data supplied by or on behalf of the client;
 - * Loss of or damage to raw materials, semi-finished goods, models, tools etc. provided by the client, on any grounds whatsoever.
 - * defects arising out of materials provided or a design stipulated or specified by the Client;
 - * specifications made or provided by the Client.
- 13.4 The Client shall be obliged to indemnify MAG45 and hold it harmless in the matter of all claims of third parties for compensation for damages for which MAG45 has no liability under this agreement in its relationship with the client.
- 13.5 The Client is obliged to hold MAG45 harmless from any liability as a consequence of product liability legislation (articles 6:185 to 6:193 inclusive Dutch Civil Code), or liability as a consequence of similar foreign legislation whether or not based on EC directives in the matter of product liability for faulty products (PbEC, 7.10.85, no. L 210/29), unless under a non-appealable final judgement it is decided that gross negligence or intention exists on the part of MAG45, in which case the provisions for recourse of article 6:102 Dutch Civil Code apply.
- 13.6 If MAG45, without having the contract for installation, provides help and support of any kind whatsoever in installation work, this shall be at the risk and for the account of the Client only.

14 Postponement and cancellation

- 14.1 If performance or execution of the agreement is prevented as a result of force majeure, MAG45 shall be entitled without judicial intervention either to postpone performance for no more than 6 months or to cancel the agreement entirely or partially, without being obliged to compensate for any damage. During the postponement period, MAG45 shall be authorised, and at the end of it shall be obliged, to perform the agreement or cancel/ dissolve it entirely or partially.
- 14.2 In the event of postponement and/ or cancellation/ dissolution under paragraph 1, MAG45 shall be entitled to demand immediate payment of the raw and other materials, parts and other items reserved, processed and manufactured by it for the performance of the agreement at the value which may reasonably be assigned to them. In case of cancellation under paragraph 1, the Client shall be obliged



to take possession of the items after payment of the above compensation, otherwise MAG45 shall be entitled to store these items for the account and at the risk of the Client or to sell them.

- 14.3 "Force majeure" in the sense of this article shall be understood to mean circumstances which entirely or partly prevent MAG45 from the performance of its obligation and which are outside the control of MAG45 or which circumstances are not attributable to MAG45. This shall include, among other things, industrial action, labour strikes, fire and other disruptions of MAG45's business as well as any obstructive circumstance which is not entirely dependent on the will of MAG45, such as failure to deliver or late delivery of goods or services which have been properly ordered in good time.
- 14.4 If the Client does not meet its obligations towards MAG45, or fails to perform, perform properly, or perform in time, or if there are reasonable grounds or a good reason for the assumption that the Client is not or will not be able to meet any of its obligations towards MAG45, as well as in the event of (a filing of) bankruptcy, (petition for) suspension of payments, if a receiver is appointed for the client or if its company is closed down, dissolved or liquidated or corresponding action or similar measure is taken under a law other than Dutch law, the Client shall be legally and immediately in default and we shall at our discretion and at its option be entitled to cancel/ dissolve the agreement entirely or partially or to postpone (further) performance of the agreement by ourselves, without any obligation to pay/compensate for damages and without prejudice to our further rights, without notice of default or judicial intervention being required. In such cases, we shall also be entitled to demand immediate payment of debts owed to us.
- 14.5 In the event of postponement under paragraph 4, the agreed price shall be payable immediately, after deduction of the instalments already paid and of costs saved by MAG45 as a consequence of the postponement, and MAG45 shall be entitled to have the raw and other materials, parts and other items, Goods, reserved, processed and manufactured for the performance of the agreement stored for the account and at the risk of MAG45.
- 14.6 In the event of cancellation/ dissolution under paragraph 4, the agreed price - unless a previous postponement has taken place - shall be payable immediately, after deduction of the instalments already paid and of costs saved by MAG45 as a consequence of the postponement, and the client shall be obliged to pay the sum described above. This also implies that he shall take possession of the items there included, otherwise MAG45 shall be entitled to have these items stored for the account and at the risk of MAG45 or to sell them.

15 Industrial and intellectual property/licence

- 15.1 MAG45 shall retain all intellectual property rights, also including know-how, with regard to the goods, software and materials provided, and the inventions, drawings and models contained within these, unless these rights pertain to third parties.
- 15.2 The Client shall not make any changes or additions to the goods and/or software or have such changes or additions made without the written consent of MAG45. The Client shall in such cases transfer the relevant rights to us, or shall transfer and deliver such rights to us immediately upon our first demand, unless it shall agree with us explicitly in individual cases that it is or shall remain the holder of the rights.
- 15.3 The right of title as well as all rights of intellectual and industrial property of all (computer) software which may be made available to the Client by MAG45, and accompanying user documentation shall rest with MAG45 or with a third party authorised by MAG45 to provide the software.



- 15.4 MAG45 shall grant to the Client a personal, non-exclusive, non-transferable right of use for the software contained in the Goods, if and insofar as she has acquired a licence to sub-license the software as indicated. The Client shall not be permitted to grant sub-licences, nor to process, modify, copy, imitate, cross-, reverse- or de-compile the software or to make it available to third parties under any title whatsoever or allow third parties to inspect them.
- 15.5 The licence shall end automatically as soon as the Client ceases to be the owner or user of the Goods for which the software was intended.
- 15.6 Without prejudice to the provisions of article 15.3, the Goods supplied do to the best of MAG45's knowledge not infringe Dutch patent rights of third parties. If nevertheless MAG45 is obliged to recognise that goods supplied by MAG45 infringe a Dutch patent, or if the Dutch courts find to this effect in a legal action against MAG45 in a non-appealable final judgement, MAG45 shall at its absolute discretion replace the goods concerned with goods which do not infringe the Dutch patent in question, or shall acquire manufacturing rights under the patent in question, or shall withdraw the goods concerned against reimbursement of the price paid for them, less normal depreciation, without obligation to make further compensation for damages, and also without MAG45 having to indemnify the Client in this matter in or out of court.
- 15.7 If an order has to be carried out according to designs, drawings or other instructions of the client, the client shall guarantee that no intellectual or industrial property rights or other rights of third parties are infringed thereby.
- 15.8 The Client shall indemnify MAG45 against all claims of third parties for infringement of their intellectual or industrial property rights in the sense of article 15.7, whether extending to compensation for damages or otherwise.

16 Data

All data and information obtained from Client whether verbally or in writing shall be applied for the execution of our order(s) only. All such data and information shall remain the property of MAG45 and if in written form shall be returned to Client immediately upon our first request, together with all copies thereof. All data and information shall be kept in strictest confidence by MAG45 and he or she shall not refer thereto nor to the fact that he supplies or has supplied us in any publications, advertisements or other verbal or written form unless with our prior written approval.

17 General terms

- 17.1 The Client shall not be entitled to transfer all or any rights and obligations under agreements subject to these terms and conditions to third parties without the prior written consent of MAG45.
- 17.2 References to articles in the agreement concluded by the parties and these general terms and conditions are included solely for reference purposes and shall not in any way determine, restrict or extend the content or interpretation of these terms and conditions. They shall not form part of these terms and conditions for any purpose whatsoever.



- 17.3 If one or more of the provisions of these terms and conditions of business should prove to be void or if for any reason whatsoever its performance cannot be demanded, the remaining provisions of these general terms and conditions shall remain in force notwithstanding and the parties shall consult with one another with regard to the void provision or the provision for which performance cannot be demanded concerning the way in which the best form can be given to the purport of the provision in question.
- 17.4 All disputes arising from or in connection with the offers and/or quotations submitted by MAG45 and/or agreements concluded with MAG45 shall in the first instance be solely decided by the District Court of Oost-Brabant, location 's-Hertogenbosch, except in matters under the jurisdiction of the subdistrict court.
- 17.5 All disputes between the parties with regard to intellectual property rights shall in the first instance be solely decided by the District Court of The Hague, except in matters under the jurisdiction of the subdistrict court.
- 17.6 Dutch law is solely applicable to all our quotations, offers, these general terms and conditions of sale, agreements and all obligations arising therefrom. The applicability of the 1980 Vienna Sales Convention and possible other international sales conventions is ruled out.
- 17.7 MAG45 is entitled to unilaterally amend these general terms and conditions and the latest version duly registered at the Trade register shall apply.

