

Cetem Containers B.V.  
Westgeulstraat 6  
3197 LD Rotterdam-Botlek  
KvK reg. no 24373990  
BTW no. NL 814301010B01

## **General Terms and Conditions of Cetem Containers B.V.**

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### **ARTICLE 1. GENERAL**

1. These general terms and conditions, referred to below as the 'Cetem Conditions', apply to all offers, quotations and order confirmations made by Cetem Containers B.V., referred to below as 'Cetem', and to all agreements Cetem concludes and to all activities to be carried out by Cetem.
2. Cetem is the party who uses the Cetem Conditions. The other party is referred to as the 'Customer'. The Customer is the party giving the order to carry out activities and/or the party entering into an agreement with Cetem, including the group companies of this party or entities otherwise affiliated with this party.
3. If an agreement has been concluded to which the Cetem Conditions apply, the Cetem Conditions shall also apply to any subsequent offers, quotations and order confirmations submitted by Cetem to the same Customer and to any agreements concluded with the same Customer.
4. The provisions of the Cetem Conditions may only be varied in writing, signed by persons being authorised to bind the company according to the Commercial Register. The provisions of any written and signed contract concluded between Cetem and the Customer shall prevail over the provisions of the Cetem Conditions.
5. If a provision or part thereof of the Cetem Conditions is null and void or nullifiable, this will not have an effect on the validity of the other provisions or parts thereof.
6. The Cetem Conditions relate to all activities to be carried out by Cetem, including, but not limited to, the following activities: handling, storage, repair, sale, rental or lease, freight forwarding and transport of Containers. The term 'Container' has the meaning of a container or (multiple) containers, units and other container applications, including their interior, parts, inventory and installations and all related products and materials.
7. The applicability of other terms and conditions, including the general terms and conditions used by the Customer, is explicitly rejected, unless these conditions have been explicitly accepted by Cetem in writing.

### **ARTICLE 2. OFFERS AND PRICE CHANGES**

1. Offers and quotations made in oral form are free of obligations. Written offers and quotations only apply during the term for acceptance as specified in the submitted offer or quotation.
2. Cetem may rely on the data, information, drawings etcetera provided by the Customer when making an offer or quotation.
3. Offers submitted by Cetem will only be binding if the Customer has signed the most recent submitted offer by providing its name, signature and company stamp and after returning such signed offer to Cetem. Offers submitted earlier are automatically cancelled at the moment and until that time the offer submitted earlier applies, if any.
4. The offer or quotation shall state the specifications and guarantees (if any) relating to the activities to be performed by Cetem.
5. The prices referred to in the offer are exclusive of VAT and packaging.

6. Turnover tax and any other charges, levies, duties and taxes will only be included in the prices quoted by Cetem if this is expressly mentioned. Nevertheless, Cetem is entitled to pass on to the Customer all charges, taxes, duties and levies relating to the agreement.
7. Unless explicitly stated otherwise in writing by Cetem, the offer or quotation of Cetem do not relate to (the costs of):
  - a. earthwork, pile driving, cutting, breaking, foundation work, cementing, carpentry, plastering, painting, wallpapering, repair work or other constructions work;
  - b. connecting gas, water, electricity or other infrastructural facilities;
  - c. preventing or limiting damage to any goods present on or near the work site;
  - d. removal of materials, building materials or waste; and
  - e. travel and accommodation expenses.
8. If, after acceptance of the offer or quotation by the Customer, it takes longer than fourteen (14) before the agreement is performed, Cetem will be entitled to charge to the Customer any price and rate changes, which have taken place in the meantime.
9. If, after acceptance of the offer or quotation submitted by Cetem, any cost-increasing circumstances arise or come to light, including an increase in energy costs or any change in prices or rates due to (changed) legislation or regulations, Cetem shall be entitled to adjust the agreed price in accordance with the cost-increasing circumstances and the Customer shall be obliged to pay this adjusted price. Cetem shall notify the Customer of such price adjustment in advance, in order for the Customer to decide whether it wishes to terminate the agreement or not. In the event that the Customer terminates the agreement, Cetem is entitled to charge the Customer for all costs incurred by Cetem until the moment that the Container will be collected from Cetem's premises, whichever moment is the later.

### **ARTICLE 3. HANDLING**

1. 'Handling' shall have the meaning of the loading and unloading of a Container from a means of transport to the premises of Cetem and vice-versa.
2. In addition to the Cetem Conditions, the Rotterdam Stevedoring Conditions 1976 apply to all handling activities performed by Cetem. These conditions are attached to the Cetem conditions and form an integral part thereof.
3. In the event of any discrepancy between the provisions of the Cetem conditions and the provisions of the Rotterdam Stevedoring Conditions 1976, the provisions of the Cetem Conditions shall prevail.

### **ARTICLE 4. STORAGE**

1. 'Storage' shall have the meaning of the keeping of goods, including, but not limited to, a Container, of the Customer at the premises of Cetem, whether or not in exchange for payment, and whether or not for a fixed or indeterminate period of time.
2. Cetem is entitled to store the goods of the Customer in the open air, also before, during and after repair and/or other activities to be performed by Cetem, unless expressly otherwise agreed in writing.
3. The storage shall start on the day that the goods are delivered by or on behalf of the Customer and shall end on the day that the goods are collected by or on behalf of the Customer. For this purpose, part of a day shall count as a full day. The storage rates charged by Cetem shall apply to storage by Cetem.
4. In addition to the Cetem Conditions, the Dutch Warehousing Conditions (FENEX, 1995) apply to all storage activities performed by Cetem. The Dutch Warehousing Conditions are attached to the Cetem Conditions and form an integral part thereof.
5. In the event of any discrepancy between the provisions of the Cetem Conditions and the provisions of the Dutch Warehousing Conditions, the provisions of the Cetem Conditions shall prevail.

## **ARTICLE 5. REPAIR**

1. 'Repair' shall have the meaning of any activities relating to the repair, maintenance, cleaning, modification, adjustment and/or inspection of a Container.
2. In the event that Cetem is to be considered a 'contractor of work' within the meaning of Article 7:750 of the Dutch Civil Code, the applicability of the Articles 7:750 up to and including 7:764 of the Dutch Civil Code is hereby explicitly excluded.
3. In the event the Container in relation to which the repair activities are being carried out, or had to be carried out, perishes or is lost due to a reason for which Cetem is not liable pursuant to these Cetem Conditions, before the work has been performed or completed, Cetem shall be entitled to charge the Customer a proportional part of the agreed price on the basis of the work already performed and the costs already made.

## **ARTICLE 6. SALE**

1. In the event Cetem sells a Container to a Customer, the delivery shall take place 'Ex Works' at Cetem's premises, in accordance with the Incoterms 2020.
2. The risk, in terms of responsibility and liability, in relation to the Container shall transfer to the Customer at the moment of delivery, being the moment that Cetem has made the Container available at its premises or at another place designated by Cetem.
3. In the event Cetem nevertheless arranges for transport of the Container that will take place after the moment of delivery, the risk during transport in relation to the Container shall be borne by the Customer.
4. In the event Cetem conducts any other activities in relation to the Container after delivery of the Container, including, but not limited to, handling, repair and storage, the risk in relation to these activities shall be borne by the Customer.
5. The prices and rates quoted by Cetem in an offer or quotation are based on delivery Ex Works, in accordance with the Incoterms 2020. The prices are exclusive of VAT and any other taxes, charges or costs unless expressly stated otherwise on the offer or quotation.
6. Unless Cetem expressly stated otherwise in writing, the full purchase price must be paid by the Customer prior to the delivery of the Container.
7. All Containers delivered by Cetem will remain Cetem's exclusive property until the moment on which the Customer has fulfilled all its obligations resulting from or in connection with the agreement with Cetem, including, but not limited to, payment of the full purchase price.
8. Cetem shall not offer any guarantee in respect of the Container sold by Cetem, unless explicitly stated otherwise in the offer or quotation or in any other way in writing by Cetem.
9. There may only be a 'lack of conformity' if the Container sold by Cetem to the Customer does not comply with the specification or any other descriptions included in the offer or quotation.
10. If the Customer resells the Container, it shall do so in its own name and for its own risk and account. The Customer shall never be entitled to represent Cetem as an agent or otherwise, unless Cetem explicitly agreed thereupon in writing.
11. In the event Cetem sells a Container to the Customer that has been modified or repaired by Cetem within the meaning of Article 5 of the Cetem Conditions, the provisions of Article 5 of the Cetem Conditions shall apply in addition to the provisions of this Article 6.

## **ARTICLE 7. RENTAL / LEASE**

1. If there is a separate rental contract in place between Cetem and the Customer, the rental or lease of a Container shall be governed by this contract. The Cetem Conditions shall apply in addition to the provisions of the rental contract. In the event of any discrepancy between the provisions of the Cetem Conditions and the provisions of the rental contract, the provisions of the rental contract shall prevail. In case there is no separate rental contract in place, the following terms and conditions shall apply to the rental or lease of Containers.
2. The Customer shall use the Container in a proper manner and maintain the good condition thereof. During the lease period all costs and risks relating to the proper use, maintenance,

- cleaning, repair or replacement of (parts of) the Container are for the account of the Customer.
3. For the duration of the lease period, the Customer shall arrange and maintain an adequate insurance cover with a reliable insurance company covering:
    - a. all risk of loss or damage from any cause whatsoever to any and all Containers in the possession of the Customer;
    - b. public liability including contractual liability and property damage for limits not less than EUR 2,500,000;
    - c. the Customer's contractors and cargo liability,and naming both Cetem and the Customer as policyholder. The insurance premium shall be for the account of the Customer.
  4. The Customer is not allowed to modify the Container other than within the context of maintenance thereof.
  5. The Customer shall ensure that stickers or signs confirming Cetem's ownership of the Container are visibly attached to the Container at all times.
  6. Without the written consent of Cetem, the Customer shall not be permitted to perform any legal acts with respect to the Container, including, but not limited to, their transfer or encumbrance.
  7. The Customers shall pay to Cetem a compensation for the lease of the Container, which shall consist of a fixed daily compensation and handling charges, as specified in the offer/quotation from Cetem.
  8. On termination of the agreed lease period, the Customer shall immediately return the Container to Cetem, clean and in the same condition as the Container was on commencement of the lease, subject to normal wear and tear and ageing. In this context, the Customer will be assumed to have received the Container in good condition without defects on commencement of the lease.
  9. Upon their return, the Container shall be inspected by Cetem. Containers that went on lease "new" shall be inspected on the basis of the prevailing standards of the Institute of International Container Lessors (the "IICL Standards"). B grade or food grade containers shall be inspected on the basis of Cargo Worthy standards.
  10. In the period of time between the end of the agreed lease period and the moment the Container is brought back in the factual possession of Cetem, the Customer shall be:
    - a. liable for any damage to the Container. If Cetem is not able to freely dispose of the Container, any damages resulting from this situation are for the account and risk of the Customer; and
    - b. obliged to compensate Cetem the amount of compensation as specified in paragraph 7 of this Article.
  11. Return to other off-hire locations shall only be possible upon previous written agreement between Cetem and the Customer. In case of return to other locations, further quantity restrictions may apply.
  12. The Customer is not at any time allowed to deliver the Container to a third party (including a potential new lessee) unless such delivery has been accepted by Cetem and agreed in writing between Cetem, the Customer and the third party.
  13. In the event that Cetem does not accept delivery to a third party, the Container concerned will remain on lease to the Customer in accordance with these Cetem Conditions.
  14. Upon redelivery of the Container, Cetem will provide the Customer with the repair estimates, including:
    - a. the necessary repairs to the redelivered Container in accordance with the applicable IICL Standards or Cargo Worthy Standards;
    - b. the estimated costs of such repairs.
  15. The Customer shall authorise repair in accordance with Cetem's report within five (5) calendar days from the date of provision of the repair estimates by Cetem.

16. In case the Customer fails to authorise the repair of the Container within ten (10) calendar days of notification of the repair estimates in regard thereto, then Cetem shall deem that the Customer has authorised same and will be entitled to proceed with repair of the Container and the Customer shall pay the cost thereof.
17. In the event of actual loss or constructive or economic total loss of a Container, Cetem will be entitled to determine a reasonable replacement value. Upon payment of the applicable replacement values by the Customer, the title and ownership of the Container concerned shall pass from Cetem to the Customer.

#### **ARTICLE 8. FREIGHT FORWARDING AND TRANSPORT**

1. In the event Cetem organises carriage by inland waterways (barge), road, sea or rail for the Customer, which carriage is performed by a third party, Cetem will always act as a freight forwarder (*expediteur*) and never as a carrier, unless Cetem explicitly stated otherwise in writing.
2. The Convention on the Contract for the International Carriage of Products by Road, Geneva 1956, as amended by the Protocol to the Convention on the Contract for the International Carriage of Products by Road, Geneva 1978 ('CMR Convention') shall apply to all international and domestic transport activities performed by Cetem itself, unless the transport activities are governed by another mandatorily applicable convention or regime.

#### **ARTICLE 9. ADVICE, DESIGNS AND MATERIALS**

1. The Customer cannot derive any rights from advice and information obtained from Cetem if these do not directly relate to the order.
2. The Customer is responsible for the drawings, calculations and materials it supplies or prescribes and for their suitability.
3. The Customer shall indemnify Cetem against any claim from third parties relating to the use of drawings, calculations, samples, models, etcetera supplied by or on behalf of the Customer.
4. The Customer may at its own expense examine or arrange for the examination of the materials that Cetem wishes to use for the performance of the activities. If the Customer does not approve of the use of the materials, it shall provide Cetem with other materials, at the Customer's expense, and Cetem shall not be liable for any delay caused or costs incurred.

#### **ARTICLE 10. PERIOD OF PERFORMANCE**

1. Cetem shall be entitled to determine or to specify the period during or moment on which the activities will be performed by Cetem (the 'period of performance'). Unless expressly agreed otherwise in writing, these periods and moments are indicative only and non-binding.
2. The period of performance commences once Cetem and the Customer have reached agreement on all technical details, once all necessary data, final and approved drawings etcetera are in the possession of Cetem, once the agreed payment or instalment has been received by Cetem and the other necessary conditions for repair has been fulfilled.
3. Provided that the performance of the activities fits into Cetem's schedule, the period of performance shall be extended by such period that is needed to be able to perform the activities, in the event of:
  - a. circumstances that differ from the circumstances that were known to Cetem when it set the period of performance in accordance with paragraph 1 of this Article;
  - b. additional work such as in the event extra materials or parts are needed;
  - c. suspension of the activities and/or obligations by Cetem; and in the event of
  - d. Force Majeure circumstances within the meaning of Article 11 of these Cetem Conditions.

4. The Customer is obliged to pay all costs incurred by Cetem as a result of the delay affecting the period of performance as referred to in this Article.
5. If the period of performance is exceeded, this will in no event entitle the Customer to compensation of damages or termination of the agreement between the Customer and Cetem.

#### **ARTICLE 11. PERFORMANCE OF THE ACTIVITIES**

1. The Customer shall ensure that all licenses, exemptions and other administrative documents necessary to perform the activities by Cetem are obtained in time. The Customer is obliged to send Cetem a copy of these documents upon Cetem's first demand.
2. The Customer shall provide Cetem with any data, information, specifications, drawings, calculations, materials, devices and other data that are relevant to or required for the performance of the activities and the Customer shall ensure that Cetem receives such data in time, accurately, correctly and completely.
3. The Customer shall ensure that Cetem can carry out its activities without interruption and at the agreed time and that, when executing work at a location other than Cetem's own premises, Cetem has access to the required facilities, including, but not limited to, gas, water, electricity, heating, lockable and dry storage rooms, and any other facilities required by legislation and regulations regarding health and safety work environments.
4. The Customer is obliged to take out an adequate insurance for the risks referred to in this Article. Upon Cetem's first demand, the Customer shall send Cetem a copy of the relevant insurance policy and proof of payment of the premium. In the event of any damage or loss, the Customer shall report this to its insurer without delay.
5. If the carrier used by the Customer refuses to sign a receipt for the number or technical condition of the Container before leaving Cetem's premises, Cetem shall not be liable for possible deviations in the number and/or the technical condition of the Container. The number and/or technical condition as referred to in Cetem's records shall be deemed to be correct.
6. If there are any unworkable conditions, Cetem may postpone, at its sole discretion, the period or moment on which the activities will be performed by Cetem. Unworkable conditions shall include unworkable weather conditions, such as precipitation, wind and frost, and all other conditions, which may cause an unsafe working situation or a situation during which the activities cannot be carried out properly.

#### **ARTICLE 12. CHANGES TO THE WORK**

1. Changes to the work will result in additional work (*meerwerk*) or less work (*minderwerk*) if:
  - a. there is a change in the design, specifications or contract documents;
  - b. the information provided by the Customer is not complete, correct or accurate;
  - c. the actual quantities differ by more than 10% from the estimated quantities.
2. Additional work is calculated on the basis of the price-determining factors that apply at the time that the additional work is being performed. Less work is settled on the basis of the price-determining factors that applied at the time the agreement was concluded.
3. The Customer is obliged to pay the price of the additional work as referred to in this Article at one of the following moments, at Cetem's discretion:
  - a. if the additional work occurs;
  - b. at the same time as payment of the principal sum;
  - c. within the next agreed payment term.
4. If the sum of the less work exceeds the sum of the additional work, Cetem may charge 10% of the difference to the Customer.

### **ARTICLE 13. FORCE MAJEURE**

1. Cetem shall be entitled to suspend performance of its obligations if Cetem is temporarily prevented from performance of its obligations by circumstances that characterise as 'Force Majeure'. Force Majeure shall include, but shall not be limited to, any act of God, earthquake, flood, high water levels, heavy weather conditions, such as a storm with a wind-force of 7 or more on the scale of Beaufort, fire, explosion, acts of terrorism or vandalism, war, armed conflict, strike or similar labour action, civil unrest, riot, rebellion, nuclear reaction, vandalism, border blockades, closures or blockades of ports, roads, inland waterways, railway lines, shunting areas, yards, terminals, people trying to gain access to containers or to means of transport, loss or theft of tools or materials, attachments or seizures of Containers by third parties or the authorities, import or trade restrictions, computer breakdowns, cyber-attacks and cybercrime, failure or non-performance by suppliers, subcontractors or any other party engaged by Cetem, or any other circumstance that Cetem could not have avoided and the consequences of which it could have not prevented.
2. Cetem shall be entitled to terminate the agreement if performance is permanently impossible for longer than four (4) consecutive weeks.
3. The Customer shall not be entitled to claim for compensation of damages or losses resulting from the suspension or termination by Cetem because of Force Majeure.

### **Article 14. DELIVERY AND CLAIMS**

1. The Container shall be deemed to have been delivered complete and in good condition if:
  - a. the Customer has implicitly or explicitly approved the Container verbally or in writing;
  - b. the Container has been collected or used by or on behalf of the Customer, which is deemed to include the removal of the Container from the premises of Cetem by or on behalf of the Customer. If the Customer uses part of the work, that part shall be deemed to have been delivered;
  - c. the Customer does not give notice of any damage, loss, lack of conformity or defects within the time limits as specified in these Cetem Conditions; and/or
  - d. the Customer gives notice of any damage, loss, lack of conformity or defects within the time limits as specified in these Cetem Conditions but this notice relate to minor defects or missing parts which can be repaired or supplied within 48 hours on normal working days.
2. Receipt and delivery will be confirmed by means of an I/R receipt by or on behalf the Customer.
3. Upon redelivery and/or transfer of a damaged Container, provided that the redelivery of the Container was previously notified, an I/R receipt will be supplied, with the notification 'damaged', upon receipt of which the party or person collecting the Container, may leave the premises. The Customer will receive a damage report (damage estimation) at a later stage.
4. In the event of an exchange of containers and the Customer retains the Container to be exchanged pending delivery of the new Container, the risk in relation to the Container to be exchanged remains with the Customer until the Customer has placed this Container in the possession of Cetem. If the Customer cannot deliver the Container to be exchanged in the same condition it was in when the agreement was concluded, Cetem may terminate (*ontbinden*) the agreement.
5. At the time of delivery, but in no event later than two (2) working days after delivery, the Customer can inspect the Container and check whether the quantity and/or quality of the Container comply with the specifications as specified in the offer or quotation, and, in the event that a Container has been transported by or on behalf of Cetem and that Container contains cargo, to also inspect the cargo and check whether its quantity and quality are in order. The inspection shall be at the risk and expense of the Customer.

6. The Customer is obliged to give written notice to Cetem of any damage, loss, lack of conformity or presence of any defects relating to a Container or its cargo immediately after the inspection as referred to in paragraph 5 of this Article, but in no event later than five (5) working days after delivery, subject to lapse of any of its rights to claim in respect of this Container or cargo.
7. In the event that the Customer gives notice of any damage, loss, lack of conformity or defects within the meaning of paragraph 6 of this Article, the Customer shall give Cetem the opportunity to remedy the lack of conformity or to perform repair work or to carry out an inspection in relation to a Container within a reasonable period, unless the extent of the repair work is in no proportion to the extent of the lack of conformity or defect.
8. In the event that the Customer proves that Cetem is liable for the damage, loss, lack of conformity or defects in accordance with these Cetem Conditions, the remedy or repair work or inspection as mentioned in paragraph 7 of this Article shall be at Cetem's expense. In all other cases, these shall be at the Customer's expense.
9. Cetem shall in any event not be liable for any damage, loss, lack of conformity or defects that are a consequence of:
  - a. normal wear and tear;
  - b. deterioration in quality due to storage;
  - c. injudicious use;
  - d. maintenance that is not or not properly carried out by the Customer or a third party;
  - e. installation, fitting, alteration or repair carried out by the Customer or a third party;
  - f. use of materials, choice of materials or method of repair prescribed and/or supplied by or on behalf of the Customer; and/or
  - g. emergency repair(s) carried out by Cetem at the request of the Customer.
10. In the event the Customer does not collect the Container at the agreed time or place for delivery, the Customer shall be obliged to pay a penalty to Cetem in conformity with the agreed storage price as mentioned in the quotation per calendar day that the Container is not being collected from the day the Container is available for collection at the agreed time and place for delivery, in addition to compensation of any costs incurred by Cetem in relation to the non-collection of the Container.

#### **ARTICLE 15. LIABILITY AND INDEMNIFICATION**

1. In so far as no other liability regime applies pursuant to Articles 3, 4 and 6 of these Cetem Conditions, including the RSC 1976, the Dutch Warehousing Conditions and the CMR Convention as referred to in those Articles, the liability of Cetem towards the Customer is limited to EUR 5,000 for each incident or series of incidents resulting from the same cause, up to a maximum aggregate amount of EUR 50,000 for each Customer per calendar year, unless the Customer proves that the damage or loss was the direct result of wilful intent or gross negligence on the part of Cetem and/or its management. Cetem shall not be liable for any damage, loss or defects caused during or by the sale of the Container(s) or caused by the Container(s) sold or to be sold by Cetem, or for any damage, loss or defects that relate to the repair activities carried out by Cetem within the meaning of Article 5 of these Cetem Conditions, unless the Customer proves that such damage, loss or claim was the direct result of wilful intent or gross negligence on the part of Cetem and/or its management, or if there are any (hidden) defects of which Cetem was aware at the moment of delivery of the Container, but Cetem did nonetheless not disclose to the Customer.
2. Unless the Customer proves that the damage or loss was the result of wilful intent or gross negligence on the part of Cetem and/or its management, Cetem shall never be liable for:
  - a. any damage or loss other than damage to or loss of Containers, such as consequential loss or damage, including loss of profit or turnover and loss due to business interruption; and/or for



- b. damage or loss resulting from circumstances characterising as Force Majeure within the meaning of Article 13 of these Cetem Conditions.
3. The period of liability of Cetem commences at the time that Cetem, its employees or auxiliary person become in effective control of the Container and ends at the time that Cetem, its employees or auxiliary persons lose the actual effective control of the Container.
4. The Customer shall be liable for and is obliged to indemnify and compensate Cetem with respect to any and all costs, liabilities, fines, payments, import/export and other duties, toll charges, customs levies, taxes, damage, loss, third party claims or any other claims incurred by or imposed on Cetem, its employees or auxiliary persons in connection with the activities carried out, for whatever reason, including, but not limited to, as a result of information or data incorrectly passed on by the Customer to Cetem, as a result of technical specifications that have been changed, as a result of damage caused by the Container or any other property of the Customer, or as a result of cargo residues, whether or not visible, in the Container, including any radiation and gases. The aforementioned indemnification obligation exists irrespective of whether such claim is the result of a fault in the performance on the part of Cetem, its employees or auxiliary persons, unless the Customer proves that such claim is the direct result of wilful intent or gross negligence on the part of Cetem and/or its management.
5. The Customer shall be liable for and is obliged to indemnify and compensate Cetem for any claim submitted by a third party to Cetem in connection with the agreement concluded between Cetem and the Customer, in so far as the claim exceeds the liability of Cetem under the Cetem Conditions, including the applicable liability regimes as referred to therein.
6. All claims of the Customer against Cetem shall lapse by the mere expiry of a period of twelve (12) months, unless Cetem and the Customer have agreed in writing on an extension of the time limit. The aforementioned period commences: i) in the event of a total loss or damage to the Container, or any other defect, complaint or claim in (direct) relation to the Container or its cargo, on the day on which the Container and/or its cargo will be or should have been delivered by Cetem to the Customer or ii) in case of all other claims on the day on which the claim becomes due and payable.

#### **ARTICLE 16. THIRD PARTIES**

1. Cetem is entitled to make use of third parties for the performance of all activities.
2. Any auxiliary persons, subcontractors, agents, representatives, employees or others who have received an order from, or who have been appointed or engaged by Cetem, shall each separately enjoy the same protection and be entitled to the same exclusions, exemptions and limitations of liability as apply to Cetem under these Cetem Conditions and under the agreement between the Customer and Cetem. In that event, any reference to 'Cetem' in the Cetem Conditions shall include a reference to such auxiliary persons, subcontractors, agents, representatives, employees or other persons.

#### **ARTICLE 17. PAYMENT AND DEFAULT**

1. Payment shall be made at the place of business of Cetem or by remittance to an account designated by Cetem.
2. Unless agreed otherwise, payment shall be made within fourteen (14) days of the date of invoice.
3. Without prejudice to the above provisions, payment shall be deemed to have been made in the first place to satisfy older claims which are still outstanding, irrespective of whether different payment instructions had been given.
4. The Customer shall submit complaints in respect of Cetem's invoices in writing within the payment deadline or within thirty (30) days, whichever is the shortest, subject to lapse of any of the Customer's rights to claim or complain in respect of the invoice.

5. The Customer shall be obliged, upon first demand by Cetem, to provide such security for the payment as Cetem deems sufficient for the payment. If the Customer fails to do so within the specified period, he shall be deemed to be in immediate default. Cetem shall in this case have the right to terminate the agreement and to recover its loss or damage from the Customer.
6. As soon as the Customer is in default with its payments obligations towards Cetem, Cetem is entitled to suspend its obligations towards the Customer, until the Customer has complied with all its obligations towards Cetem.
7. If the Customer remains in default towards Cetem during thirty (30) days, Cetem is entitled to terminate any and all agreements concluded with the Customer by merely giving notice in writing, without prejudice to Cetem's right to demand payment for the activities already carried out by Cetem, as well as compensation for damage or loss due to non-compliance in other respects.
8. The full claim for payment shall be immediately due and payable, and all the concluded agreements may be terminated without court intervention at Cetem's discretion, if:
  - a. a payment deadline has been exceeded;
  - b. the Customer has been declared bankrupt or has applied for a suspension of payments;
  - c. the property or accounts receivable of the Customer are seized;
  - d. the Customer (being a legal entity) is wound up or liquidated;
  - e. the Customer (being a natural person) is made the subject of a guardianship order or dies.
9. If payment has not been made within the agreed period for payment, the Customer shall immediately owe interest to Cetem. The interest shall be 12% per year or the statutory rate of interest, whichever is the higher. For the purpose of calculating the interest, part of a month shall be treated as a full month.
10. If payment has not been made within the agreed period for payment, the Customer shall owe Cetem all extra-judicial costs of recovery, subject to a minimum of EUR 150.-. The costs shall be 15% of the payment which is due. If the extra-judicial costs actually incurred exceed the amount as calculated above, the costs actually incurred shall be owed.
11. The Customer is not entitled to suspend or to set off any payment.

#### **ARTICLE 18. SECURITY**

1. If upon payment a dispute arises about the amount due or if for the determination of this amount a calculation is necessary which cannot be made on short notice, the Customer is obliged at Cetem's request to pay without delay the part of the amount being due and payable on which the parties have reached agreement and to provide security for the payment of the contested part or of that part of the amount which has not been determined yet, all this at Cetem's option.
2. Upon first demand by Cetem, the Customer will provide security for costs paid or to be paid by Cetem to third parties or government bodies and for other costs which Cetem incurs or may incur for the Customer, including freight charges, port charges, entitlements, levies and premiums.

#### **ARTICLE 19. RIGHT OF RETENTION AND RIGHT OF PLEDGE**

1. Cetem is entitled to refuse to hand over any Container(s), objects, documents and monies, which Cetem holds or will hold for whatever reason and with whatever destination, in respect of any party or person.
2. Cetem has a right of retention in respect of any and all Container(s), objects, documents and monies, which Cetem holds or will hold for whatever reason and with whatever destination, for all claims Cetem has or might have in the future against the Customer and/or the owner, also in respect of claims that do not relate to the Container(s), objects, documents or monies.

3. Cetem has a right of pledge on all Container(s), objects, documents and monies, which Cetem holds or will hold for whatever reason and with whatever destination, for all claims which Cetem has or might have in the future against the Customer and/or the owner.
4. Cetem may also exercise the right of retention and the right of pledge referred to in this Article for the amount the Customer still owes to Cetem in relation to previous orders or agreements.
5. The sale of Container(s), objects or documents in respect of which Cetem exercises a right of retention or a right of pledge will take place at the Customer's expense in the manner prescribed by law or privately if there is consensus.

#### **ARTICLE 20. TERMINATION**

If the Customer wishes to terminate the agreement for reasons other than Cetem being in default or in breach of its contractual obligations, and Cetem expressly agrees with the termination in writing, the agreement shall be terminated by mutual consent. The Customer shall in that case be liable for any damage, costs and loss incurred by Cetem, including, but not limited to, loss of profit.

#### **ARTICLE 21. INTELLECTUAL PROPERTY RIGHTS**

1. Unless agreed otherwise, Cetem retains all intellectual property rights in respect of offers made by him and of all designs, illustrations, drawings, models, test models, calculations, software, or any other objects or documents supplied by Cetem, irrespective of whether Cetem charges the Customer for the supply and production, and such objects and documents remain the exclusive property of Cetem at any time.
2. The data as referred to in paragraph 1 of this Article shall not be copied, used or shown to third parties without the explicit written consent of Cetem, subject to a penalty of EUR 5,000.- per infringement of this obligation.
3. The Customer must return the data supplied to him as referred to in paragraph 1 of this Article upon Cetem's first demand within the period specified by Cetem, subject to a penalty of EUR 1,000.- per day that the Customer does not return the data.
4. The penalties as mentioned in paragraph 2 and 3 of this Article are due to Cetem and may be claimed in addition to any other compensation of costs and damages.
5. The Customer shall indemnify and compensate Cetem with respect to any and all costs, liabilities and (third party) claims whatsoever incurred by Cetem, its employees or auxiliary persons because of any breach of the Customer's obligations in this Article.

#### **ARTICLE 22. CONFIDENTIALITY**

1. The Customer is obliged to keep confidential any and all data, information and documents relating to the agreement concluded with Cetem or by reason of the activities to be carried out by Cetem which he will come to have in his possession, except and in so far as there exists a statutory obligation to disclose, and in this respect, the Customer shall comply with all applicable regulations and privacy legislation.
2. The Customer is obliged to indemnify and compensate Cetem with respect to any and all costs, liabilities, fines, payments or other costs incurred by or imposed on Cetem, its employees or auxiliary persons, as a result of a breach of the obligations arising from paragraph 1 of this Article.

#### **ARTICLE 23. APPLICABLE LAW AND JURISDICTION**

1. Dutch law applies to all legal relationships between Cetem and the Customer, including to these Cetem Conditions.
2. The applicability of the Vienna Convention on Contracts for the International Sale of Goods (CISG) is explicitly excluded.

3. Any dispute howsoever arising from or in connection with agreements or offers to which the Cetem Conditions apply, shall be exclusively brought before the competent Court in Rotterdam, the Netherlands.
4. If mandatory law should preclude the exclusive nature of the jurisdiction clause of paragraph 3 of this Article, this jurisdiction clause will confer additional jurisdiction on the Court referred to hereinabove.