



General Terms and Conditions

November 2007

Article 1

DEFINITIONS

Seller	KORDIA B.V., the private company with limited liability incorporated under the law of the Netherlands.
Buyer	the natural person or legal person, acting in the capacity of its occupation or business, or the legal successor or successors thereof, which concludes an Agreement with Seller.
Agreement	the Agreement under which the Seller delivers products to the Buyer. The General Terms and Conditions form part of the Agreement.

Article 2

GENERAL

- 2.1. These General Terms and Conditions apply to all offers made by Kordia and to all agreements concluded between Kordia and a buyer and to the performance of thereof.
- 2.2. The Buyer has read these General Terms and Conditions and accepts the applicability thereof to the Agreement.
- 2.3. These General Terms and Conditions apply to the Agreement, the creation thereof, the offer or offers and to any legal acts preceding these and to any Agreements concluded between Seller and Buyer at a later date.
- 2.4. Any general terms and conditions observed by the Buyer are hereby explicitly rejected. The Buyer may only invoke derogation or supplementary clauses in respect of the Agreement if these have been accepted in writing by the Seller.
- 2.5. These General Terms and Conditions may be unilaterally amended by the Seller.
- 2.6. If any of the provisions contained in these General Terms and Conditions or in the Agreement is declared invalid or is unenforceable, the remaining provisions shall remain fully effective. The parties shall replace the invalid provision with a valid provision in accordance with the objective and scope of the Agreement, which provision shall be as similar as possible to the invalid provision.

Article 3

OFFERS/AGREEMENT

- 3.1 Offers are without engagement unless they include a deadline. If an offer is an offer without engagement and this offer is accepted by the Buyer, Kordia is at liberty to revoke the offer within two working days after the acceptance has been received. Offers by the supplier are made without any engagement. The supplier is at liberty to revoke the agreement within 48 hours of receiving the acceptance.
- 3.2 An agreement is created when the Buyer returns the signed non-amended offer to the Seller, either in writing or by e-mail. On receiving the offer the Seller shall send the Buyer an order confirmation within a reasonable term either by e-mail or in writing.

Article 4 PRICES

- 4.1 All prices are exclusive VAT and any additional expenses such as transport. The price to be paid is the price stipulated in the offer and/or the order confirmation and on the invoice.
- 4.2 The Seller's prices are based on the level of, for example, wages, wage costs, social security contributions and government levies, freight charges, insurance premiums, raw material prices, auxiliary materials, exchange rates of foreign currencies and all other expenses valid on the date of the offer or the agreement. If the costs associated with one or more of these factors increase the Seller is at liberty to unilaterally raise the price in line with this increase.
- 4.3 If the Buyer places an order without a price being agreed beforehand, this order will be executed at the price charged by the Seller on the day that the goods ordered by the Buyer arrive, plus any additional expenses, regardless of any previous deliveries that have been made.

Article 5 DELIVERY AND DELIVERY PERIOD

- 5.1 Stated delivery periods shall never be deemed to be deadlines, unless explicitly agreed otherwise. In the event of late delivery Kordia must first be issued a written notice of default.
- 5.2 The delivery location is the Kordia plant. On delivery, the risk stipulated in art. 7:10 of the Dutch Civil Code is transferred to the Buyer.
- 5.3 If the Buyer fails to take delivery of the ordered products on the agreed date and at the agreed location, the risk of any loss in quality caused by storage shall be borne by the Buyer. The ordered products are available for the Buyer and are stored at the Buyer's expense and risk. Kordia reserves the right not to execute orders if the Buyer has failed to pay for previous orders within the agreed term of payment. Kordia is not liable for any damage incurred by Buyer as a result of this non-delivery.
- 5.4 Delivery shall be made in accordance with the method of delivery agreed in the most recent version of the Incoterms. Unless explicitly agreed otherwise the delivery method is "Ex Works".
- 5.5 Without prejudice to that provided in article 5.4 delivery is completed: a) at the moment the goods are made available to the carrier for transport, if the Seller and the Buyer have agreed that the goods are to be transported to an address stated by the Buyer, and in all other cases; b) at the moment the Seller informs the Buyer that the goods are ready for transport. In the latter case the Buyer must collect the goods from the Seller or from an address stated by the Seller within seven (7) days of being informed that the goods are ready for transport; failure to do so entitles the Seller to store the goods or to have the goods stored at the Buyer's expense.
- 5.6 Deviations in the size of the delivery of up to 10% are possible in respect of the quantities stated in the Agreement between the Buyer and the Seller.
- 5.7 If a sample or model has been supplied to the Buyer this shall be deemed as being an indication only of the actual items to be delivered and not a true representation, unless it has been explicitly agreed that the goods to be delivered will be the same as the model or sample.
- 5.8 The goods delivered or to be delivered by the Seller may differ in colour, colour combination, size and quality from the Agreement. This does not give the Buyer the right to suspend its obligations pursuant to the Agreement.
- 5.9 The delivery period stated by the Seller is indicative and does not represent a deadline. Deviations within reasonable limits are permitted and shall not form grounds for claiming damages and/or dissolving the Agreement.

- 5.10 The Seller reserves the right to deliver and invoice the ordered items in instalments. Unless explicitly agreed otherwise the mode of transport, dispatch, packaging etc. shall be determined by the Seller.
- 5.11 The Buyer bears the risks associated with the goods from the moment these are delivered in accordance with articles 5.4 and/or 5.5.
- 5.12 If the Buyer defaults with respect to taking delivery of the goods sold, the Buyer is obliged to pay the costs of storage incurred by the Seller. This shall not prejudice the Seller's right to dissolve the Agreement without further notice of default being required and to recover the damage incurred by it from the Buyer.
- 5.13 Delay in delivery, for whatever reason, shall not give the Buyer the right to suspend fulfilment of any obligations it has in respect of the Seller, to dissolve the Agreement or to claim damage compensation.

Article 6 **FORCE MAJEURE**

- 6.1 If delivery in accordance with the Agreement is impossible due to reasons of *force majeure* Kordia shall communicate this to the Buyer as soon as possible.
- 6.2 In the case of *force majeure* the Seller has the right to decide either to dissolve the Agreement without the authority of the court being required, or to suspend delivery until such time that the *force majeure* ceases, without the Buyer being entitled to claim any compensation in respect of damage or costs incurred from the Seller.
- 6.3 The Seller shall always be deemed to be in a situation of *force majeure* if, after the conclusion of the Agreement, it is fully and/or temporarily prevented from fulfilling its obligations pursuant to this Agreement or the preparation thereof, as a result of war, war damage, civil war, mobilisation, riots, acts of war, fire, water damage, flood, industrial action, plant occupation, lockout, import and export impediments, government measures, defective machinery, power cuts, late delivery of goods sold, necessary raw materials and/or auxiliary materials, both at the Seller's plant and at that of third parties whose goods and/or necessary materials or raw materials the Seller must involve partly or wholly in the executing order, and during storage or transport whether under its own management or not and as a result of all other circumstances out of the Seller's control, even if these were foreseeable at the time the Agreement was created.

Article 7 **QUALITY AND HEALTH**

- 7.1 Kordia bv provides no warranties, but it undertakes to adhere to any manufacturer's warranties in respect of goods delivered to it by third parties.

Article 8 **COMPLAINTS**

- 8.1 Complaints regarding observable defects to delivered goods must be communicated to Kordia in writing as soon as they are detected and always within eight days of delivery. In addition the Buyer or recipient of the goods must make a note of the complaint on the transport papers as confirmation that the defect existed on the date the goods were delivered.
- 8.2 Complaints regarding defects must be submitted in writing within eight (8) days after the delivery date as provided in article 5 on penalty of the lapse of all opportunities for the Buyer to file a claim. On the expiry of said term Seller shall be deemed to have fulfilled all its obligations correctly and it shall be assumed that the Buyer has received the goods in good condition, unless proved to the contrary by the Buyer. Complaints shall never entitle the Buyer to suspend its payments.
- 8.3 The validity of the complaints shall be assessed by the Seller within a reasonable term. If a complaint lodged by the Buyer in accordance with paragraph one of this article is upheld by the Seller, the Seller shall repair the defect detected by the Buyer free of charge or, at the Seller's discretion, instead of repairing the detected defect it shall award the Buyer a price discount to be determined by the Seller at a later time, and

the Buyer shall further not be entitled to claim any damage compensation or to suspend its payments owing to the Seller.

8.4 The Seller shall only accept returned goods if and insofar as it has given its written prior consent to this return, and then only if these goods are delivered to the address stipulated by the Seller in the original packaging and in the condition in which the Seller delivered these goods to the Buyer. All costs associated with the return of goods are, unless otherwise agreed, for the account of the Buyer. If the value of the goods has fallen during the period between the purchase of the goods and the return of these goods, the purchase price shall be refunded on the basis of the economic value of the goods at the time the goods were received by the Seller.

8.5 Complaints must at least include a detailed and precise description of the defect.

8.6 On expiry of the said term the Buyer is deemed to have approved the delivery or the invoice and the Buyer's right to lodge a complaint shall lapse. The same shall apply if it appears that the delivered goods have been processed by or on behalf of the Buyer or if the acts stipulated by Kordia have not been taken into account or have been insufficiently taken into account.

Article 9 INTELLECTUAL PROPERTY RIGHTS

9.1 The Buyer shall neither remove nor change any distinguishing marks relating to the intellectual property rights of the owner.

Article 10 EXPORT CONTROL

10.1 The Buyer agrees to comply with all export laws, explicitly including European Union legislation and the United States Department of Commerce Export Regulations.

Article 11 LIABILITY

11.1 The total liability of the Seller in connection with the attributable failure to comply with the Agreement is limited to the compensation of the direct damage up to a maximum sum equal to the price stipulated in the Agreement (exclusive VAT).

11.2 The Seller shall not be liable in respect of indirect damage, including consequential damage, loss of profit, missed opportunities to realise savings and damage due to business delays, unless there is evidence of gross negligence or intention of the Seller, gross negligence or intention of the Seller's employees or of third parties engaged by the Seller.

Article 12 PAYMENT

12.1 Payments shall be made by deposits into or transferrals to a bank or giro account to be indicated by the Seller.

12.2 Unless otherwise agreed payment must be made within twenty one (21) days of the invoice date.

12.3 If the term stipulated in article 12.2 is exceeded the Buyer is in default by operation of the law and the statutory commercial interest provided for in article 6:119 a of the Dutch Civil Code plus 10 % is payable by the Buyer on the full invoice sum, with effect from the date upon which the purchase price was due and payable.

12.4 The Buyer is not authorised to settle any sum regarding a counterclaim entered by the Buyer against the Seller with the purchase price or to suspend any payments payable by the Buyer to the Seller.

12.5 If the Buyer is in default with respect to the Seller, the Buyer is obliged to fully reimburse all costs associated with the claim, including costs incurred both in and out of court, to the Seller. The out of court

expenses and any expenses incurred in court to be reimbursed by the Buyer shall be no less than 15% of the total sum due.

12.6 Each payment made by or on behalf of the Buyer shall be first used to pay any costs, damage and interest that are due and thereafter to settle the oldest claim.

12.7 If the Buyer fails to fulfil any obligations it has in respect of the Seller pursuant to the Agreement, related agreements or agreements concluded at an earlier or later date, or if the Seller can reasonably suspect that the Buyer shall not fulfil any of the obligations referred to above or that it will be unable to fulfil these obligations, the Seller is entitled: a) to require advance payment or substantial security for payment or to require immediate payment upon delivery in respect of all current agreements and agreements to be concluded in the future; b) to suspend the delivery (including the manufacture or the processing of goods intended for delivery), without prejudice to the Seller's right to demand simultaneous or later security to be furnished for payment; c) to dissolve the Agreement forthwith in full or in respect of that part that has not been performed, without the intermission of the court being required; d) to fully dissolve, forthwith, one or more or all of the current agreements in respect of which the Buyer is not in default, or to dissolve these insofar as they have not been performed, without the intermission of the court being required, and without prejudice to the Seller's right to demand full damage compensation.

Article 13 DISSOLUTION

13.1 The Buyer is deemed to be in default:

- if the buyer fails to fulfil any obligation pursuant to the Agreement or fails to fulfil an obligation on time;
- the Seller has good reason to believe that the Buyer will fail to fulfil an obligation and the Buyer fails to comply with a written warning to declare its willingness to fulfil its obligation within a reasonable term stipulated in the warning;
- if the Buyer files for its own bankruptcy or is declared bankrupt;
- if the Buyer is granted suspension of payment;
- if part or all of the Buyer's assets are seized and this seizure is not withdrawn within 10 days of it being imposed;
- if the Buyer ceases or transfers its operations or a substantial part thereof, including the inclusion of the Buyer's capital in an existing company or a company that is to be formed, or implements or decides to implement amendments to the company's objectives or to dissolve the company;
- on the death of the Buyer, if this is a natural person.

13.2 In the event of the Buyer being in default, the Seller is, without incurring any obligations relating to damage compensation and without prejudicing the rights to which it is entitled, at liberty to declare the Agreement to be fully or partially dissolved by means of a written announcement to this end addressed to the Buyer.

13.3 In the event that the Agreement is terminated or dissolved in any way whatsoever the provisions relating to the dissolution/termination, applicable law and disputes shall remain in full force.

Article 14 TITLE RETENTION

14.1 The Seller retains the title to the goods delivered by it to the Buyer until such time that the Buyer has paid to the Seller all those sums payable by the Buyer to the Seller pursuant to: any existing or future deliveries of goods to the Buyer and any damage compensation owed by the Buyer to the Seller due to failure to comply with the Agreements relating to the purchase of goods, including interest and expenses as provided for in Article 7.

14.2 From the delivery of the goods until the date upon which payment is completed in full the Buyer shall store the goods for the Seller with due care and shall ensure that the goods are stored apart and are clearly distinguishable as originating from the Seller.

- 14.3 The Buyer is not entitled to process, dispose of or sell the goods in any way whatsoever without the written consent of the Seller beforehand.
- 14.4 The Buyer is obliged to store all goods sold and delivered to it by Seller separately in its office or plant and to ensure they are easily identifiable. The Seller is authorised to remove these goods or to have these goods removed at any time and to have them stored elsewhere if the Buyer has failed to (fully) fulfil its obligations in respect of the Seller or has failed to fulfil these on time, or if it is clear that the Buyer will not be able to (fully) fulfil its obligations in respect of the Seller or will not be able to fulfil these on time. This right exists in particular but not exclusively if the Buyer is granted suspension of payments, if it has filed for bankruptcy or been declared bankrupt or if the Buyer makes any repayment arrangement with one or more of its creditors.
- 14.5 The Buyer must notify the Seller forthwith if any third parties allege they have rights to the goods delivered by the Seller to the Buyer, if there are any sums still owing to the Seller. In this case the Seller is at liberty to remove the goods in question from the Buyer or to have these removed, and store them elsewhere.
- 14.6 If the Seller wishes to repossess the goods, the Buyer shall grant the Seller access to its office or plant for this purpose. The Buyer shall be liable for all costs associated with the repossession and storage of the goods. The Seller is only obliged to deliver the goods again after full payment has been made by the Buyer or if sufficient security is furnished in respect of the Seller's claims.

Article 15 **DISPUTES AND APPLICABLE LAW**

- 15.1 The law of the Netherlands only shall apply to all disputes regarding the Agreement concluded by the parties as well as to these General Terms and Conditions. All disputes arising between the Seller and the Buyer shall, insofar as is possible in accordance with mandatory rules of jurisdiction and barring any stipulation to the contrary, be heard by the competent court in the district within which the Seller has its registered office.
- 15.2 The applicability of the Vienna Sales Convention (United Nation's Convention on International Sales Agreements regarding movable goods) is explicitly excluded.

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