



General Terms and Conditions Spijkstaal

These general terms and conditions enter into effect on 1 April 2022 and are filed with the Chamber of Commerce in Rotterdam under number 59941359.

A) GENERAL TERMS AND CONDITIONS

Clause 1 Definitions

In these General Terms and Conditions, the following terms are understood to mean the following:

GTC	: this set of general terms and conditions.
Days	: all calendar days.
Spijkstaal	: Spijkstaal International B.V. or Spijkstaal Rental B.V.
Other Party	: anyone who enters into a lease, purchase agreement, service agreement or other agreement with Spijkstaal to which these general terms and conditions have been declared applicable. If multiple legal entities jointly enter into an agreement with Spijkstaal, all obligations on the part of the Other Party, or Other Parties, will be joint and several.
Vehicle(s)	: tow tractors, AGV tow tractors, electric burden carriers, electric commercial vehicles and/or other electric vehicles and related vehicles – including second-hand vehicles – leased, delivered, made available, used, etc. by Spijkstaal in the context of the Agreement.
Services	: all services to be performed or provided by Spijkstaal in the context of the Agreement with the Other Party, including, but not limited to, transporting, storing and transferring goods, assembly and disassembly work and the deployment of employees of Spijkstaal to operate leased Vehicles.
Agreement	: any agreement in which respect Spijkstaal acts as lessor/seller/service provider.

Clause 2 Applicability

- 2.1 These GTC apply to all offers and quotations issued by Spijkstaal, agreements entered into by Spijkstaal and any further agreements ensuing therefrom and/or related thereto, unless explicitly agreed otherwise in writing.
- 2.2 The applicability of any other general terms and conditions, including the general terms and conditions invoked by the Other Party, is expressly excluded.
- 2.3 These GTC consist of a part A) General Terms and Conditions, a part B) General Terms and Conditions of Lease, a part C) General Terms and Conditions of Sale and Delivery and a part D) General Terms and Conditions of Service. Depending on the nature of the Agreement, the General Terms and Conditions as included in B), C) and/or D) apply in addition to the General Terms and Conditions as included in A).
- 2.4 In the event of any inconsistencies between these GTC and the Agreement the Agreement will prevail. If the general terms and condition as included in B), C) and/or D) apply to a part or the entirety of the Agreement, these terms and conditions will take precedence over the general terms and conditions as included in A), to the extent that these contradict the general terms and conditions as included in A). If the general terms and conditions as included in B), C) and/or D) apply, they will apply in parallel to the part of the Agreement to which they relate. These GTC and the Agreement can only be deviated from by means of agreement signed by both parties.
- 2.5 If these GTC have been translated, summarised, or only a part has been declared applicable, the Dutch version of the complete text of the GTC will be decisive for the interpretation of the substance and purport of the GTC.

Clause 3 Offers and conclusion of the Agreement

- 3.1 All quotations and offers, including brochures and price lists, issued by Spijkstaal are without any obligation and the information included therein – including prices, dimensional and weight specifications, illustrations and drawings – are non-binding, unless they explicitly state otherwise.
- 3.2 An Agreement is concluded through written confirmation by Spijkstaal or through performance of the Agreement by Spijkstaal.

- 3.3 Oral promises by and agreements with Spijkstaal's employees are not binding upon Spijkstaal until and in so far as Spijkstaal has confirmed such in writing.

Clause 4 Payment

- 4.1 The Other Party will pay the lease price and other amounts owed under the Agreement in full, without any suspension, discount or deduction, within the term agreed in that respect in the Agreement or within the payment term included in the invoice and, if no term has been agreed or the invoice does not include a term, within **14 days after the invoice date.
- 4.2 The lease amount in the event of a lease, or the fee for services if the term within which the services will be provided lasts longer than one month, will be invoiced on a monthly basis, unless expressly agreed otherwise in writing.
- 4.3 The Other Party's right to set off its claims against Spijkstaal is excluded, unless Spijkstaal has gone bankrupt.
- 4.4 If the Other Party has not fulfilled its payment obligations in full within the agreed payment term, or within **14 days after the invoice date (as stipulated in paragraph 1 of this clause), the Other Party will be in default automatically as a result of the mere fact that the stipulated or aforementioned term has lapsed. Therefore, no further notice of default will be required from Spijkstaal. As soon as the Other Party is in default in respect of any payment, all claims of Spijkstaal against the Other Party will become immediately due and payable and the Other Party will also be in default in respect of those claims without notice of default being required.
- 4.5 Each time the Other Party fails to pay an amount under the Agreement promptly on the due date, the Other Party will owe Spijkstaal an immediately due and payable interest of 2% per month on the amount owed, unless the statutory commercial interest is higher, in which case the statutory commercial interest will be charged, as from the due date of the amount. When calculating the interest, each part of a month will count as a full month with a minimum of EUR 100 per month. At its discretion, Spijkstaal may choose not to charge the interest owed by the Other Party to the Other Party. This, however, will not affect Spijkstaal's rights pursuant to this clause.

Clause 5 Costs and default

- 5.1 In all cases in which payment has not been made within the agreement payment term, or within **14 days after the invoice date (as stipulated above) and in which Spijkstaal has sent or cause the sending of a demand, notice of default or writ, or in the event of proceedings to compel the Other Party to perform their obligations, the Other Party will owe Spijkstaal compensation for extrajudicial costs incurred, with a minimum of EUR 75. The costs will be calculated based on the following table:
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|-----------------------------------|-------|
| on the first EUR 2,500 | 15 % |
| on the excess up to EUR 5,000 | 10 % |
| on the excess up to EUR 10,000 | 5 % |
| on the excess as from EUR 10,000 | 1 % |
| on the excess as from EUR 200,000 | 0.5 % |
- 5.2 If the extrajudicial costs actually incurred by Spijkstaal exceed the amount owed by virtue of the calculation above, Spijkstaal's actual costs will be charged.
- 5.3 If Spijkstaal is the prevailing party in a legal action, all other costs incurred by Spijkstaal in connection with this legal action, such as the costs of the proceedings and attorney's fees, will be fully borne by the Other Party, in addition to the extrajudicial costs incurred by Spijkstaal.
- 5.4 The Other Party must submit any complaints and/or objections against an invoice within fourteen days after receipt of the invoice in question, on pain of forfeiture of all rights. If the Other Party does not send any complaints within the term referred to above, the Other Party will be deemed not to have any complaints and/or objections and to have agreed to the invoice and the amount stated therein.

<p>Clause 6 Dissolution, bankruptcy or suspension of payments Other Party</p> <p>6.1 Spijkstaal has the right to dissolve and/or terminate the Agreement with immediate effect, without judicial intervention and without being required to pay any compensation, under the following circumstances:</p> <ul style="list-style-type: none"> - if the Other Party goes bankrupt, the Other Party applies for or is granted a suspension of payments, or the Other Party otherwise loses free disposal over its company and its assets. In that case, any amounts still owed will become immediately claimable by Spijkstaal; - if third parties have levied attachment on a Vehicle owned by Spijkstaal, whether under retention of title or not; - if the predominant or other control over the Other Party's company is transferred to a third party, either directly or indirectly, and/or such changes are adopted in respect of the control that this affects the Other Party's creditworthiness in Spijkstaal's opinion; - if the Other Party fails to perform its obligations under the Agreement properly, even after it has received a demand to that effect from Spijkstaal which includes a term to still perform its obligations. <p>Clause 7 Delay, suspension and force majeure</p> <p>7.1 Spijkstaal has the right to suspend performance of its obligations under the Agreement if it is temporarily impeded from performing its obligations as a result of force majeure or a change in circumstances that reasonably could not have been foreseen at the time of entering into the Agreement and that is beyond of its control.</p> <p>7.2 Force majeure or circumstances that could not be foreseen by Spijkstaal and that are beyond its control include the circumstance that the Vehicle is lost as a result of, for example, theft or fire, weather conditions, road blocks, strikes, work stoppages, business interruptions, illness of employees and import or trade restrictions.</p> <p>7.3 If performance of the Agreement by the Other Party and/or Spijkstaal is permanently impossible, or if a temporary impossibility to do so has lasted more than six months, the Other Party and Spijkstaal may dissolve the part of the Agreement pertaining to the obligations that have not been, or can no longer be, performed. The Other Party and Spijkstaal will in any event not be entitled to compensation of the loss incurred or to be incurred as a consequence of the dissolution, except the loss incurred or to be incurred in connection with the Other Party's obligation to pay the agreed amounts for the products and services that have been delivered.</p> <p>7.4 Furthermore, Spijkstaal has the right to suspend performance of its obligations under the Agreement with immediate effect if:</p> <ul style="list-style-type: none"> - Spijkstaal, Spijkstaal's agents or other third parties engaged by Spijkstaal for the performance of the Agreement are exposed to – or are at risk of being exposed to – hazardous substances, such as asbestos; - the situation at the location where the Agreement must be performed does not comply with current legislation and regulations, such as the Dutch Working Conditions Act (<i>Arbeidsomstandighedenwet</i>); - the Other Party's equipment for the performance of the Agreement does not comply with statutory requirements; - during the performance of the Agreement, the weather conditions are such that Spijkstaal believes that it is impossible to perform the Agreement in a safe manner and Spijkstaal has no choice but to cease its activities; - a government institution or the World Health Organization has issued a negative travel advice for the location where the Agreement is to be performed – which was either unexpected at the time the Agreement was entered into or could not be excluded – or the location is deemed unsafe for other political or other reasons and/or impossible or difficult to access for Spijkstaal or the third parties engaged by Spijkstaal for reasons referred to above. <p>Clause 8 Intellectual Property</p> <p>8.1 Spijkstaal reserves all intellectual property rights in respect of all quotations and offers, issued designs, images, working and other drawings, sketches and calculations. These documents or data will remain Spijkstaal's property and may not be copied, provided to third parties or used in any other way without Spijkstaal's express written permission.</p> <p>8.2 All drawings, descriptions, models, tools and the like created by Spijkstaal on the instructions of the Other Party will remain the property of Spijkstaal, which also holds any copyrights in this respect.</p> <p>8.3 The Other Party will not copy, disclose to third parties or otherwise publish or use any data concerning the construction or implementation method used, designed or proposed by Spijkstaal without Spijkstaal's express written permission.</p>	<p>8.4 The Other Party may not remove brands, marks or trade names affixed by Spijkstaal or make them illegible.</p> <p>Clause 9 Technical and Other Advice, and Designs</p> <p>9.1 If Spijkstaal gives technical or other advice or creates designs, such as the elaboration of static calculations, assembly calculations and construction drawings, and if Spijkstaal inspects buildings, performs checks and conducts discussions on the Other Party's behalf, whether or not in the context of the lease or sale of a Vehicle, Spijkstaal will be entitled to charge the Other Party separately for these activities, unless agreed otherwise in the Agreement.</p> <p>9.2 When drawing up quotations and performing the Agreement, Spijkstaal may and will assume that the information provided by the Other Party is correct. If it becomes apparent that this information is not correct, the Other Party will be liable for the ensuing consequences, including costs or extra costs to be incurred, delays, damage or loss and the like.</p> <p>Clause 10 Proof</p> <p>10.1 Regarding the scope of the obligations – financial and otherwise – on the part Spijkstaal and the Other Party pursuant to the Agreement, Spijkstaal's administrative data will be decisive, unless the Other Party can provide evidence to the contrary.</p> <p>Clause 11 Applicable law and competent court</p> <p>11.1 The Agreement and all agreements and obligations related thereto or ensuing therefrom are governed by Dutch law.</p> <p>11.2 The competent court in Rotterdam has exclusive jurisdiction to adjudicate any disputes ensuing from or related to the Agreement concluded between the Other Party and Spijkstaal – including disputes regarding the existence or validity thereof – unless Spijkstaal prefers to apply the statutory rules on jurisdiction.</p> <p>B) TERMS AND CONDITION OF LEASE</p> <p>Clause 12 Lease price and adjustments thereof</p> <p>12.1 The Agreement is entered into for the lease price stated in the Agreement. The lease price for motorised vehicles is based a 40-hour working week of five days of eight hours per day and is stated in euros, unless stated otherwise.</p> <p>12.2 The lease price also includes the fee for leasing the Vehicle. Only if specifically agreed in the Agreement, the lease price will also include compensation for the cost of any additional services and insurance taken out. The stated or agreed lease price is exclusive of VAT and other government levies owed, unless explicitly stated otherwise. If it is agreed that Spijkstaal will arrange for the transportation of the Vehicle, the lease price will not include the costs related to transportation and the like either. Spijkstaal may charge the cost items and/or levies referred to above in full in addition to the lease price.</p> <p>12.3 Unless the Agreements includes a different additional costs scheme, any changes to or exceeding of the maximum number of hours of use of the Vehicle provided for in the Agreement may give rise to an interim adjustment of the total or other lease price. The additional hours, determined on the basis of the registration of the hour counter on the Vehicle, will be charged at the rate, or the additional rate, per hour of operation stated in the Agreement.</p> <p><i>Long-term lease</i></p> <p>12.4 If the lease lasts longer than one year, the lease price will be adjusted on an annual basis based on the change in the monthly price index figure according to the Consumer Price Index (CPI) series all households (2006 = 100), as published by Statistics Netherlands (CBS). The adjusted lease price will be calculated in accordance with the following formula:</p> <p>“the adjusted lease price is equal to the lease price on the date of the first lease period, multiplied by the index figure for the calendar month falling four calendar months before the calendar month in which the lease price is adjusted, divided by the index figure for the calendar month falling sixteen calendar months before the calendar month in which the lease price is adjusted.”</p> <p>12.5 If it becomes apparent after conclusion of the Agreement that costs associated with the performance of the Agreement incurred by Spijkstaal increase as a result of amendments in the laws and regulations or other causes beyond Spijkstaal's control, Spijkstaal may increase the lease price.</p> <p>12.6 The provisions of this Clause also apply to the costs or additional costs for adjustments, interim revisions, additions and/or extensions of the</p>
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	Agreement, regardless of whether the aforementioned costs for adjustments, revisions, additions and/or extensions have been recorded in writing.	16.3	The Other Party may only allow the Vehicle to be used by persons of whom it can be demonstrated that they have the required expertise and qualifications to use the Vehicle. These persons must comply with all requirements for use imposed by law. If use of the Vehicle requires permits, certificates and the like, these persons must have these. The Other Party will bear any costs related thereto.
Clause 13	Lease period		
13.1	The lease will be entered into for the period as agreed in the Agreement and will be entered into for periods of days, weeks and/or months, unless agreed otherwise.	16.4	The Other Party will not use the Vehicle outside the location as described in the Agreement, unless agreed otherwise.
13.2	The lease price agreed in the Agreement will still have to be paid if the Vehicle has been signed off or returned earlier than agreed, unless Spijkstaal and the Other Party have made other arrangement in this regard in writing or Spijkstaal decides that only the lease price for the Vehicle for the shorter period will be charged, in which case any price discount for the previously agreed longer lease period will lapse.	16.5	When the Vehicle is not being used, the Other Party will be required to keep it in a dry place which is closed to third parties and to take all preventive measures to prevent damage, use and misuse by third parties, such as joyriding, vandalism and theft. In that case, any keys to the Vehicle must be removed from the ignition. Breaches of this clause result in an immediately due and payable penalty of EUR 2,500 per day for each day that the breach continues. All this without prejudice to Spijkstaal's right to claim full compensation ensuing from the breach of this clause.
13.3	If the Other Party does not use the Vehicle during the term of the Agreement, even if this is, for example, the result of cold weather-related downtime or pre-determined holidays, this will be at the risk and expense of the Other Party. The above does not affect the Other Party's payment obligations, unless (i) the Other Party is hindered for an unreasonably long period, such as at Spijkstaal's discretion, or unless (ii) Spijkstaal grants the Other Party a lease freeze, during which period the Other Party will not be charged any lease amount, such also at Spijkstaal's discretion.	16.6	The Other Party will (if applicable): <ul style="list-style-type: none"> - charge the Vehicle's batteries and ensure that the Vehicle is cleaned on a regular basis at its own expense; - check daily whether the Vehicle works properly and safely; - check daily the levels of lubricating oil, hydraulic oil, coolant, antifreeze and brake fluid, all other lubricants and fluids of the Vehicle in the appropriate reservoirs and compartments and top them up where necessary at its own expense; - check daily the tire pressure and condition of the Vehicle's tires and, to the extent necessary, restore the tires to the prescribed pressure; - check daily whether the operating hours counter works; - check daily the status of the warning and signalling systems, wiring, tubes, cooling systems, air systems, fluid systems and the like; - inspect weekly the water level of the traction battery and, if necessary, refill it with distilled water after charging; and - immediately report any deviations to Spijkstaal in writing.
Clause 14	Security Deposit		
14.1	Spijkstaal may require the Other Party to pay a security deposit as a security for the proper performance of its obligations under the Agreement. Any security deposit stipulated in the Agreement must be paid when the Agreement commences, or when the lease commences. The security deposit will be set off against the last lease instalment or repaid to the Other Party upon the end of the agreed lease period, provided that the Vehicle has been returned to Spijkstaal in the condition it was in when it was made available to the Other Party.		
Clause 15	Delivery of the leased Vehicle		
15.1	The Vehicle will be delivered to the Other Party and made available at the agreed location. If no specific location is agreed, the Vehicle will be delivered to and made available at Spijkstaal's business site.	16.7	At Spijkstaal's first request, the Other Party will make the Vehicle available for inspection and/or other than daily maintenance. In that context, the Other Party gives Spijkstaal its permission in advance to enter the Other Party's buildings and premises, or the buildings and premises where the Vehicle will be.
15.2	If a specific location is agreed to which the Vehicle will be delivered and made available, the Other Party and Spijkstaal will arrange who will arrange for the delivery and removal of the Vehicle upon the conclusion of the Agreement. The Other Party will bear any delivery and removal costs.	16.8	Any repairs and/or installations of replacement parts by or on behalf of the Other Party are only allowed with Spijkstaal's express prior written permission. If Spijkstaal has not given its permission for this, the Other Party will bear the related costs, without prejudice to Spijkstaal's right to claim full compensation if the Other Party has caused damage.
15.3	If Spijkstaal arranges for the delivery and removal of the Vehicle, the Other Party will guarantee that the location is readily accessible. Spijkstaal determines the exact place where the Vehicle will be placed at the location. If the Vehicle cannot be delivered to the location because said location is insufficiently accessible, Spijkstaal will be entitled to charge the transportation costs incurred and lost lease amounts to the Other Party.	16.9	In the event of theft of, damage to or imminent damage to the Vehicle, or if the Vehicle has a defect, the Other Party will notify Spijkstaal in writing and by telephone without delay – and at the latest within two working days – and will limit the damage as much as possible. In the event of theft, the Other Party will report this to the police without delay and send the original of the official report to Spijkstaal. If use of the Vehicle results in a safety risk, the Other Party must cease the use of the Vehicle until it has been checked and, if necessary, repaired.
15.4	Spijkstaal has the right to deliver a different Vehicle than the Vehicle leased by the Other Party, provided that Spijkstaal deems this Vehicle to be suitable for the Other Party's purpose. Spijkstaal has the right to exchange this Vehicle for the Vehicle which the parties had agreed to in principle. Spijkstaal is not liable for any damage and/or loss and/or costs incurred by the Other Party ensuing from the Vehicle's features, or the lack thereof.		
15.5	Upon delivery of the Vehicle, the Other Party will sign in acknowledgement of the correct and complete delivery and condition of the Vehicle. If the Other Party did not have the opportunity to sign in acknowledgement of the correct and complete delivery, and was therefore unable to indicate that there were inaccuracies or imperfections, or if the Vehicle was delivered without the Other Party being present, the Other Party must check the Vehicle and report any damage and/or defects to Spijkstaal in writing before the commencement of the use of the Vehicle and at the latest within 24 hours after the commencement of the lease. If the Other Party fails to report damage and/or defects within the aforementioned term, the Vehicle will be deemed to have been delivered to the Other Party correctly and in full, and the Other Party will be deemed to have received the Vehicle in a properly maintained state, clean and without any damage and/or defects.	Clause 17	Spijkstaal's obligations
Clause 16	Use of the Vehicle and the Other Party's obligations		
16.1	The Vehicle and the use of the Vehicle will be at the Other Party's risk and expense as from the time of delivery at the designated location.	17.1	Spijkstaal warrants that it delivers reliable, high-quality Vehicles. Spijkstaal, in turn, is free to lease Vehicles from a third party. If Spijkstaal has leased the Vehicle from a third party, any warranty issued will never exceed the warranty obligation of this third party in respect of Spijkstaal and the recourse offered by this third party.
16.2	The Other Party will treat the Vehicle with due care, take all possible preventative and other measure to protect the Vehicle against theft, misuse by third parties (e.g. joyriding and vandalism), damage and the like, and only use the Vehicle in line with its intended use, without overloading the Vehicle in doing so, all this with due observance of the operating and maintenance instructions as well as all applicable statutory safety and other regulations.	17.2	At the Other Party's request, Spijkstaal will, in turn, give advice regarding the Vehicle and/or the use of the lease Vehicle. All advice given by Spijkstaal is given to the best of its abilities. Spijkstaal is in no way liable for the consequences of advice given by it or on its behalf.
		17.3	Spijkstaal will bear the costs of normal or other maintenance of the Vehicle, except minor or other repairs as set out in Clause 16.6. If the Vehicle requires maintenance during the lease period, the Other Party will make the Vehicle available for the normal or other maintenance to be performed by Spijkstaal in a clean state. The Other Party will make the vehicle available to Spijkstaal without interruption during the regular or other maintenance in a space suitable for this maintenance.
		17.4	If the Other Party has informed Spijkstaal of an observed defect in the Vehicle, Spijkstaal will arrange for repair or replacement of the Vehicle as soon as reasonably possible. If it is not possible to repair the Vehicle in the short term, Spijkstaal will make a replacement Vehicle available which is as much equivalent as possible, if and to the extent that a replacement Vehicle is available. All this does not apply in the event of careless or inexpert use, wilful misconduct and/or negligence on the part of the Other Party.

Clause 18 Termination of the Agreement

- 18.1 An Agreement that is entered into for a specified period ends by operation of law as soon as the specified period has elapsed.
- 18.2 After the lease period has ended, the Other Party must make the Vehicle available or return the Vehicle in the condition it was in when it was made available to the Other Party, in the manner indicated in the Agreement.
- 18.3 If the agreed lease period has expired without the Agreement having actually been terminated by the Vehicle being made available to Spijkstaal or the Vehicle being returned, the Agreement will be tacitly renewed for an indefinite period of time under the same conditions.
- 18.4 If the Agreement is entered into for an indefinite period of time, the Agreement can be terminated by notice or by signing off the Vehicle, with due observance of a notice period of one working day, unless expressly agreed otherwise in writing.
- 18.5 If, in the opinion of Spijkstaal, the Vehicle is not returned in a clean state at the end of the lease period (e.g. the Vehicle is covered in paint splatters, mud or dirt), Spijkstaal will be entitled to clean the Vehicle or have it cleaned at the Other Party's expense.

Clause 19 Sanitation Statement

- 19.1 If the Vehicle is exposed to, or could have been exposed to, substances or conditions posing a risk to human beings or the environment as a result of or during the use of the Vehicle by the Other Party, the Other Party must submit a sanitation statement (or a similar statement to the effect that the Vehicle is completely free of hazardous substances and the like) from a competent, independent body. The Other Party will bear the costs of such an inspection, the issuance of the sanitation statement and, if applicable, the cleaning of the Vehicle. Substances or circumstances that could pose a risk to human beings or the environment include, but are not limited to, asbestos and nuclear radiation. Spijkstaal determined which independent or other body will be engaged, the requirements to be set for the inspection to be performed and whether the inspection performed and the sanitation statement issued are sufficient.
- 19.2 Until Spijkstaal is in possession of a sanitation statement which satisfies the requirements set by Spijkstaal, the lease of the Vehicle will continue and the Spijkstaal will not remove, or will not be able to remove, the Vehicle.

Clause 20 Damage and the Other Party's liability

- 20.1 Even if the Other Party is not at fault, the Other Party is liable for all damage or loss caused by or to the Vehicle during the lease period, including loss, embezzlement, theft, disposal, damage, fire and total loss of the Vehicle. The Other Party is required to take all possible measures that could prevent or limit damage or loss.
- 20.2 The Other Party fully indemnifies Spijkstaal against all third-party claims for compensation in connection with the Vehicle, or the use of the Vehicle, by or on behalf of the Other Party.
- 20.3 If damage is caused to or with or by the Vehicle, the Other Party must notify Spijkstaal of this in writing without delay. The Other Party is fully liable for all damage or loss incurred by Spijkstaal as a consequence of the Other Party's failure to perform its duty to report.
- 20.4 If Spijkstaal makes a driver available, this driver will work under the full responsibility of and at the risk of the Other Party. The other paragraphs of this clause will remain in full force and effect.

Clause 21 Spijkstaal's liability

- 21.1 If Spijkstaal fails to make the Vehicle available on the agreed commencement date of the lease, the Other Party will not owe any lease amount until the date on which the Vehicle has been made available to it.
- 21.2 If Spijkstaal has failed attributably in the performance of the Agreement, Spijkstaal will be given the opportunity to rectify that failure. The obligation to rectify failures is limited to repairing or replacing the Vehicle, as described in Clause 17.4.
- 21.3 Spijkstaal's liability in connection with any failure in the performance of the Agreement is limited to the obligation to rectify any failures described in the previous clause.
- 21.4 Spijkstaal will never be liable for damage or loss, except if and in so far as the damage or loss incurred was caused by wilful misconduct or gross negligence on the part of Spijkstaal itself or executive officers to be equated with Spijkstaal. Except in the event of wilful misconduct on the part of Spijkstaal itself, Spijkstaal's liability for loss due to delay, damage to property in the care, custody or control of, but not owned by the insured, damage to cargo and loss of profit, consequential loss or indirect loss is always excluded.
- 21.5 In all cases in which Spijkstaal is still required to pay compensation, despite the provisions of this clause, this compensation will never exceed the amount paid to Spijkstaal or a third party under the relevant insurance agreement. Furthermore, without prejudice to the other provisions of this

clause, Spijkstaal's obligation to pay compensation will always be reduced to the amount for which Spijkstaal has leased the Vehicle to the Other Party (the lease price), or a maximum amount of EUR 25,000 if the aforementioned amount is higher than this amount.

- 21.6 Any claim against Spijkstaal, except those claims which Spijkstaal has expressly acknowledged in writing, will lapse by the mere expiry of twelve months after the claim in question arose.
- 21.7 Terms and conditions limiting, excluding or establishing liability, which can be invoked against Spijkstaal by suppliers or agents of Spijkstaal in connection with items or services delivered, can also be invoked by Spijkstaal against the Other Party.
- 21.8 The Other Party indemnifies Spijkstaal and its employees against any claim by third parties in connection with the performance of the Agreement by Spijkstaal to the extent those claims exceed or differ from the claims which the Other Party can pursue against Spijkstaal.

Clause 22 Insurance

Vehicle damage insurance

- 22.1 Unless the Other Party has indicated in writing that it will take out sufficient vehicle damage and other insurance, by virtue of which the Vehicle is insured against damage, theft, fire and the like on the basis of the purchase value of the Vehicle and Spijkstaal has consented to this, Spijkstaal will insure the risk related to Vehicle damage and other risks. Spijkstaal will charge the related costs to the Other Party in addition to the net lease price. Spijkstaal has the right to adjust these costs and/or the excess annually if it is confronted with legal or other changes and/or situations in which the damage caused by (a) lessee(s) and/or Other Party that give cause to do so. Furthermore, in case of damage, the excess in case of damage applicable at that time will be for the account of the Other Party. Spijkstaal will provide an overview showing the amount of the applicable excess upon first request. Cover for damage as a result of wilful misconduct or gross or other negligence is excluded under the vehicle damage insurance policy and other insurance policies taken out by Spijkstaal.
- 22.2 The vehicle damage insurance policy and other insurance policies taken out by Spijkstaal as referred to in the previous paragraph do not apply if the Other Party has used the Vehicle outside of the lease period or after the Other Party has signed off the Vehicle or the use thereof. In addition, the insurance does not apply if the Other Party sublets or lends the Vehicle or otherwise puts it at the disposal of a third party, unless Spijkstaal has given its prior written consent.
- 22.3 If the Other Party has indicated in writing that it will take out adequate vehicle damage insurances, the Other Party must take out vehicle damage insurance which insures any damage to the Vehicle under conditions that are beneficial to Spijkstaal before the commencement of the lease or the use of the Vehicle. The Other Party must be able to submit an insurance statement or policy.

Motor Insurance Liability Act

- 22.4 If and in so far as applicable, Spijkstaal, as a standard, has taken out insurance against statutory liability as referred to in and in accordance with the requirements of the Dutch Motor Insurance Liability Act for the Vehicle (*Wet Aansprakelijkheid Motorrijtuigenverzekering*). This insurance does not cover damage to property of the user of the Vehicle (Other Party) and/or damage to property under supervision. Except for the excess due in case of damage under the aforementioned insurance, Spijkstaal will not charge the Other Party any extra costs in this respect. Spijkstaal will provide an overview showing the amount of the applicable excess upon first request.

Liability insurance

- 22.5 During the term of the Agreement, the Other Party must take out and maintain liability insurance with a cover of at least EUR 2,500,000 (two million five hundred thousand euros) per event with regard to property damage and of at least EUR 5,600,000 (five million six hundred thousand euros) with regard to personal injury caused by any act or omission of the Other Party.

The cargo

- 22.6 The Other Party is aware of the fact that Spijkstaal never insures any cargo to be transported and that Spijkstaal is not liable for any damage to the cargo on any grounds whatsoever. The Other Party is at all times responsible for taking out insurance for the cargo.
- 22.7 The Other Party is aware of the fact that Spijkstaal will never insure property damage and personal injury and the ensuing consequential loss incurred by the driver of the leased Vehicle, regardless of the cause. The Other Party must take out such insurance itself.
- 22.8 If there is no cover under the aforementioned insurance policies, or if an insurer does not pay out or compensate the full damage or loss because the Vehicle was used improperly and/or inexpertly, or because of wilful misconduct or gross or other negligence or deliberate recklessness on the

part of the Other Party, the Other Party will be liable in full for the damage or loss and will be required to compensate the damage or loss itself.

22.9 The Other Party must assess whether the Vehicle can be used safely and without causing any damage at the location where the Other Party performs its work. The Other Party is furthermore responsible for properly parking and stopping the motorised Vehicle before, during and after the work, and observing local traffic rules in doing so. Avoidable damage, such as damage to pavements, sidewalks, lawns, roofs, façades and the like are excluded from insurance cover and must therefore be compensated by the Other Party itself.

Clause 23 Ownership of the Vehicle and subletting

23.1 The Vehicle will remain Spijkstaal's property at all times. If a sticker, panel or other indication has been affixed to the Vehicle which shows that Spijkstaal owns the Vehicle, the Other Party will not be allowed to remove this.

23.2 Anything that is affixed to the Vehicle by on behalf of the Other Party that has not been removed by the Other Party at the end of the lease will become the property of the Vehicle's owner. Spijkstaal has the right to arrange for the removal of anything that has been installed or affixed and that has not been removed by the Other Party, at the expense of the Other Party.

23.3 The Other Party does not have the right to dispose of, pledge or otherwise encumber the Vehicle, or to sublet the Vehicle to third parties or to allow them to use it, without Spijkstaal's prior written consent.

Clause 24 Transfer of rights and obligations; third-party clauses

24.1 Spijkstaal has the right to transfer its rights and obligations under the Agreement and the title to the Vehicle to a third party, and to pledge any claim of Spijkstaal against the Other Party to a third party, as security for the payment of all amounts which this third party can claim or may claim from Spijkstaal. The Other Party hereby declares that it will agree to such a transfer and/or pledge.

24.2 Notwithstanding the existence of this Agreement, the Other Party will surrender the Vehicle to the third party upon first request if the third party demands the surrender of the Vehicle on the basis of Spijkstaal's failure to perform its obligations in respect of the third party. The Other Party may not invoke any right of retention in this regard. As a result of this demand, this Agreement will be dissolved with immediate effect by operation of law. The aforementioned surrender must take place at the offices of the third party or at a location specified by the third party.

24.3 If the third party wishes to continue the use of the Vehicle by the Other Party, the Other Party will be obliged, at the first request of the third party, to enter into a lease agreement with the third party for the remaining term of the agreement and under identical conditions.

24.4 The Other Party and Spijkstaal exclude the applicability of Articles 7:226 and 7:227 of the Dutch Civil Code.

24.5 Spijkstaal is at all times permitted to have the lease performed by third parties, in full or in part, or to procure the Vehicle from third parties. If a claim is filed against these third parties regarding the lease or the Vehicle in which respect they were engaged by Spijkstaal, this clause provides that such third parties may invoke all the provisions of these GTC, including specifically the provisions relating to the exclusion or limitation of liability.

24.6 The third-party clauses in this clause cannot be revoked.

Clause 25 Operational and financial lease

25.1 If and in so far as the Other Party and Spijkstaal agree that the Agreement is intended to allow the Other Party to use the Vehicle, there will be an operational lease. Spijkstaal will remain the legal and beneficial owner of the Vehicle regardless of whether the Other Party has the right or the obligation to purchase the Vehicle or the title thereto upon the expiry of the Agreement.

25.2 If and in so far as the Other Party and Spijkstaal agree that Spijkstaal will finance the Vehicle, in which context Spijkstaal will act as a kind of credit provider and Spijkstaal will retain the legal ownership, while the Other Party will obtain the full beneficial ownership, there will be a financial lease.

25.3 In case of a financial lease, the general terms and conditions tailored for this specific situation applied by Spijkstaal will apply in addition to or in deviation from these GTC.

C) GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

Clause 26 Price

26.1 The Agreement is entered into for the price stated in the Agreement. Unless agreed otherwise in writing, the price quoted or agreed is exclusive of VAT or other government levies owed and is also exclusive of the costs of packaging, loading, transport, unloading, any goods in transit insurance or

other insurance, assembly and/or other services. Spijkstaal may charge the cost items referred to above in full, whether separately or not, in addition to the price.

26.2 If it becomes apparent after the conclusion of the Agreement that costs associated with the performance of the Agreement incurred by Spijkstaal increase as a result of amendments in the laws and regulations – for example tax increases or changed safety regulations – or other causes outside of Spijkstaal's control, Spijkstaal may increase the price.

Clause 27 Payment

27.1 As soon as the Other Party is in default in respect of their payment obligations, the Other Party will owe statutory interest on the total amount due without Spijkstaal being required to claim such interest payment. If payment is not made in euros, the Other Party will also be required to compensate the losses incurred by Spijkstaal as a consequence of a fall in the exchange rate of the currency in which payment is to be made compared to the euro. Spijkstaal will also be entitled to charge a credit penalty mark-up in connection with any credit insurance taken out by Spijkstaal.

27.2 Whether the Other Party makes partial payments or pays in instalments or not, Spijkstaal is at all times entitled to demand that the Other Party provide a bank guarantee in respect of what the Other Party owes Spijkstaal.

Clause 28. Delivery (delivery time, place, transfer of title and risk)

28.1 The delivery time is the period included in the Agreement, in which respect the delivery date is the release date as referred to in Clause 28.2. If no date or period is agreed, Spijkstaal will deliver the Vehicle within a period Spijkstaal deems reasonable. Spijkstaal is entitled to make partial deliveries. Each partial delivery is regarded as a separate delivery for the application of these terms and conditions.

28.2 Vehicles are delivered:

- by delivering the Vehicle to the Other Party or the party who takes delivery of the Vehicle on the Other Party's behalf if the Vehicle are collected by or on behalf of the Other Party;
- by delivering the Vehicle a carrier or third party if transportation is effected through a carrier or third party;
- by delivering the Vehicle to a destination designated by the Other Party if the transport is arranged by Spijkstaal. The Other Party is required to ensure that destination designated by it is easily accessible.

28.3 The risk regarding the Vehicle passes at the time of delivery.

28.4 If nothing is agreed regarding place of delivery of the Vehicle, the Vehicle will be delivered to Spijkstaal's warehouse or business site or a location to be designated by Spijkstaal.

28.5 Spijkstaal will observe the agreed delivery dates as much as possible. However these dates are indicative and can never be construed as deadlines. In addition, Spijkstaal has the right to adjust delivery dates – if necessary – if the delivery by Spijkstaal is dependent on the performance of third parties such as carriers and government bodies. If delivery dates are exceeded, this will never entitle the Other Party to compensation or the right not to perform or to suspend the performance of any obligation of the Other Party under the Agreement.

28.6 If the Other Party wrongfully refuses to accept the Vehicle or fails to collect them on time, Spijkstaal will be entitled to store the Vehicle at the Other Party's risk and expense. The Other Party bears the costs of storage and these are immediately due and payable.

28.7 If the Vehicle is wrongfully not accepted in time or are not collected in time, Spijkstaal will keep the Vehicle in storage for a maximum of 3 months. After three months, Spijkstaal will be entitled to freely make use of the Vehicle and take it back and/or sell it. This will not affect Spijkstaal's right to claim performance and/or compensation from the Other Party. If the Other Party has already paid for the Vehicle, Spijkstaal will credit the market value of the Vehicle, which amount cannot be higher than the purchase price charged to the Other Party, minus the storage and other costs and the possible amount in compensation.

Clause 29 Retention of title

29.1 All Vehicles delivered by Spijkstaal will continue to be its property until the moment of full payment of all that Spijkstaal is entitled to claim from the Other Party in connection with the Agreement and/or Agreements ensuing therefrom, including damage, loss, costs and interest – whether or not on account of a failure to perform on the part of the Other Party.

29.2 As long as the title to the Vehicle has not passed to the Other Party, the Other Party may not pledge the Vehicle, transfer the title thereto, or grant a third party any other right to it. If creditors of the Other Party levy attachment

	on the Vehicle, this will be considered to be such a failure to perform in respect of Spijkstaal that this will give Spijkstaal the right to dissolve the Agreement. The Other Party is required to inform Spijkstaal without delay of any attachment that is levied on the Vehicle.	31.2	Complaints regarding other defects must be submitted within seven days after they become apparent, on pain of forfeiting any claim against Spijkstaal.
29.3	The Other Party is required to maintain the Vehicle owned by Spijkstaal with due care and diligence as long as the title to the Vehicle has not passed to the Other Party. The Other Party is required to insure the Vehicle against damage, including theft and fire and water damage.	31.3	Any right to an agreed warranty lapses if: <ul style="list-style-type: none"> - any instructions given by Spijkstaal, including instructions regarding storage, placement, testing, installation, inspection, maintenance and/or use, have not been followed; - the Vehicle has been used improperly or for a purpose that is not in line with the agreed or usual intended use; - the Other Party, or a third party that has not been engaged by Spijkstaal, has performed work on the Vehicle during the warranty period without Spijkstaal's permission; - the Vehicle has been damaged as a result of external causes, such as rain or other water, heating, fire, etc; - the Other Party has failed to perform an obligation towards Spijkstaal under the Agreement, or has failed to do so properly or on time.
29.4	If the Other Party fails in the performance of its payment obligations or the provisions of this clause, or Spijkstaal has good reason to fear that Spijkstaal will fail in the performance of those obligations, Spijkstaal will be entitled to take back the property delivered subject to retention of title and credit the market value of the Vehicle, which amount cannot be higher than the purchase price charged to the Other Party, to the Other Party. In such cases, the Other Party will be required to return the Vehicle at Spijkstaal's first request.		
Clause 30 Warranty and servicing			
30.1	Spijkstaal will only give warranties if and in so far as this has been expressly agreed in writing.	31.4	If Spijkstaal deems a complaint well-founded, Spijkstaal will have to choose to repair or replace the Vehicle within a reasonable period, credit the value of the Vehicle or address the complaint in a different suitable manner.
30.2	If and in so far as a warranty is agreed, Spijkstaal warrants – with due observance of the provisions set out in Clause 32 (Liability) regarding liability – the reliability of the Vehicle delivered by Spijkstaal towards the Other Party, in the sense that Spijkstaal will deliver a new Vehicle at no cost, repair the Vehicle in question at no cost or reasonably credit the invoice amount, in full or in part, to the Other Party, at Spijkstaal's discretion, if it becomes apparent during the warranty period there are structural or finishing defects, or defective materials, in the Vehicle and a complaint has been submitted in respect of this Vehicle in good time.	31.5	Spijkstaal will not consider complaints concerning minor and/or technically unavoidable deviations in quality, quantity, size, colour, finish, etc. to be well-founded, nor complaints that certain products have been removed from the product range.
30.3	If and in so far as a warranty is agreed, this warranty will never exceed the warranty obligation of Spijkstaal's supplier towards Spijkstaal and the recourse offered to Spijkstaal by this supplier. Spijkstaal will be discharged from liability in this respect if it transfers its claim against that third party to the Other Party. Warranty claims do cause the Other Party's payment obligation to be suspended.	Clause 32 Liability	
30.4	The agreed warranty in respect of the Vehicle does not apply if the defects were the result of: <ul style="list-style-type: none"> - normal wear and tear; - improper use or use that is not in line with the agreed or usual intended use; - the performance of improper maintenance or a failure to perform maintenance; - installation, assembly, alteration or repair by the Other Party or by third parties; - defects in or the unsuitability of items originating from or prescribed by the Other Party; - defects in or the unsuitability of materials or tools used by the Other Party. 	32.1	If Spijkstaal has failed attributably in the performance of the Agreement, Spijkstaal will be given the opportunity to rectify that failure. The obligation to rectify failures is limited to – at Spijkstaal's discretion – repairing or replacing the Vehicle or crediting the value of the Vehicle within a reasonable period.
30.5	Any right to an agreed warranty lapses if: <ul style="list-style-type: none"> - any instructions given by Spijkstaal, including instructions regarding storage, placement, testing, installation, inspection, maintenance and/or use, have not been followed; - the Other Party, or a third party that has not been engaged by Spijkstaal, has performed work on the Vehicle during the warranty period without Spijkstaal's permission; - the Vehicle has been damaged as a result of external causes, such as rain or other water, heating, fire, etc; - the Other Party has failed to perform an obligation towards Spijkstaal under the Agreement, or has failed to do so properly or on time. 	32.2	Spijkstaal's liability in connection with any failure in the performance of the Agreement is limited to the obligation to rectify any failures described in the previous clause.
30.6	No warranty will be given on: <ul style="list-style-type: none"> - Vehicles that are not new at the time of delivery; - the inspection and repair of Vehicles or other property of the Other Party; - parts in respect of which a factory warranty has been given. 	32.3	Spijkstaal will never be liable for damage or loss, except if and in so far as the damage or loss incurred was caused by wilful misconduct or gross negligence on the part of Spijkstaal itself or executive officers to be equated with Spijkstaal. Except in the event of wilful misconduct on the part of Spijkstaal itself, Spijkstaal's liability for loss due to delay, damage to property in the care, custody or control of, but not owned by the insured, damage to cargo and loss of profit, consequential loss or indirect loss is always excluded.
30.7	The Other Party is entitled to free servicing of the Vehicle to be delivered if and in so far as this has been agreed in the Agreement.	32.4	In all cases in which Spijkstaal is still required to pay compensation, despite the provisions of this clause, this compensation will never exceed the amount paid to Spijkstaal or a third party under the relevant insurance agreement. Furthermore, without prejudice to the other provisions of this clause, Spijkstaal's obligation to pay compensation will always be reduced to the amount stated in the Agreement, or a maximum amount of EUR 25,000 if the aforementioned amount is higher than this amount.
Clause 31 Complaints		32.5	Any claim against Spijkstaal, except those claims which Spijkstaal has expressly acknowledged in writing, will lapse by the mere expiry of twelve months after the claim in question arose.
31.1	The Other Party must inspect the Vehicle upon delivery and inform Spijkstaal in writing of any immediately discernible defect within seven days after delivery, on pain of forfeiting any claim against Spijkstaal.	32.6	Terms and conditions limiting, excluding or establishing liability, which can be invoked against Spijkstaal by suppliers or agents of Spijkstaal in connection with items or services delivered, can also be invoked by Spijkstaal against the Other Party.
		32.7	The Other Party indemnifies Spijkstaal and its employees against any claim by third parties in connection with the performance of the Agreement by Spijkstaal to the extent those claims exceed or differ from the claims which the Other Party can pursue against Spijkstaal.

Clause 33 Third-party clauses

- 33.1 All terms and conditions limiting, excluding or establishing liability, which can be invoked against Spijkstaal by suppliers, agents or other third parties of Spijkstaal in connection with items or services delivered, can also be invoked by Spijkstaal against the Other Party.
- 33.2 Spijkstaal is at all times permitted to deliver Vehicles – including, more specifically, the delivery of Services – by engaging third parties or by involving third parties in this delivery in full or in part. If a claim is filed against these third parties regarding the Vehicle – including the delivery of Services – for which they were engaged by Spijkstaal, such third parties may invoke all the provisions of these GTC, including specifically the provisions relating to the exclusion or limitation of liability. In addition, these third parties may invoke all defences that can be derived from the Agreement as if they were parties to the Agreement.

D) GENERAL TERMS AND CONDITIONS OF SERVICE

If services are provided, such as repair or maintenance work, assembly or disassembly work or other services, these general terms and conditions will also apply to the Agreement.

Clause 34 The price of repair and maintenance services and other Services

- 34.1 Repair and maintenance work to be performed for the Other Party by Spijkstaal and other Services may be performed in exchange for a fixed contract price, at an hourly rate (on the basis of execution of the work on the basis of a cost-plus contract) or in exchange for settlement in a different measurable and agreed unit. The stated or agreed price is exclusive of VAT and other government levies owed, unless explicitly indicated otherwise.
- 34.2 The Agreement for the performance of Services is based on performance under normal circumstances during normal working hours. Spijkstaal is entitled to charge the Other Party extra surcharges for overtime, work outside normal working hours and other special circumstances. If Services cannot be performed without interruption for reasons that are beyond Spijkstaal's control, or if they are delayed for other reasons, Spijkstaal will also be entitled to charge the ensuing additional costs at the rates applicable at that time. The Other Party will bear the additional costs ensuing from a change in safety regulations.
- 34.3 if, in the case of a fixed contract price, the Services deviate from the information provided by the Other Party and the contract price is based on this information, Spijkstaal will be entitled to charge the ensuing additional costs – plus a reasonable profit margin – to the Other Party.
- 34.4 If Services are provided more than once during a period of more than one year, Spijkstaal will be entitled to adjust the price annually in line with market conditions.

Clause 35 Spijkstaal's obligations

- 35.1 Spijkstaal will observe all applicable government regulations, in particular safety regulations, and perform the Services and in accordance with the requirements of skilled professionalism.
- 35.2 Unless otherwise expressly agreed in the Agreement, all times, periods or timetables pertaining to the performance of the Services are estimates and never binding upon Spijkstaal.
- 35.3 Spijkstaal will heed the drawings and/or specifications and/or instructions provided to Spijkstaal by the Other Party and, in doing so, may rely on the accuracy, correctness and completeness of the documentation and information provided by the Other Party. If it becomes apparent that this information is not correct, the Other Party will be liable for the ensuing consequences, including costs or extra costs to be incurred, delays, damage or loss and the like.

Clause 36 The Other Party's obligations

- 36.1 The Other Party is responsible for or ensures at its own risk and expense that:
- a. any drawings and/or specifications and/or instruction based on which Spijkstaal will perform the Services have been verified and that the dimensions and other information stated therein have been checked;
 - b. the work related to, but not a part of, Spijkstaal's assignment or the Agreement was performed in a proper and timely manner;
 - c. the Other Party's own rules and instructions have been provided to Spijkstaal in good time and before the commencement of the work, failing which Spijkstaal will not be required to observe such rules or instructions;

- d. the place where the Services, more specifically the assembly and disassembly work, must be performed is accessible to Spijkstaal's means of transport;
- e. the Other Party possesses all permits for the Services to be performed;
- f. the Other Party observes all applicable government regulations, in particular safety regulation;
- g. light and power are available at a reasonable distance and that reasonable working conditions are present in the room in which work is to be performed;
- h. the work can be performed without any interruptions and hinderances and that no other work will be performed that would hinder it;
- i. suitable facilities will be present on-site for Spijkstaal and its employees at no cost;
- j. any levies and taxes owed, including municipal levies on encroachments in, on or above public land have been paid on time and that any mandatory facilities, such as road barriers and other barriers and lighting, have been installed.

- 36.2 If the Other Party fails to perform one or more of their obligations, in full or in part, this will be considered to be such a failure to perform on the part of the Other Party that this will give Spijkstaal the right to dissolve the Agreement. All damage or loss resulting from this for Spijkstaal will be entirely at the expense of the Other Party.

Clause 37 Delivery and Risk

- 37.1 If the Other Party does not make any comments during the delivery of the Vehicle or the completion of the repairs of Vehicle, the Other Party will be deemed to have approved the Vehicle and repairs or maintenance and the delivery will have taken place. The Other Party is required to report any defects to Spijkstaal afterwards without delay.
- 37.2 The Other Party is liable for damage to or loss of Vehicles and tools used for the performance of the Services belonging to Spijkstaal, unless there is wilful misconduct or gross negligence on the part of Spijkstaal itself or executive officers to be equated with Spijkstaal.
- 37.3 Spijkstaal is not liable for damage to buildings, unless there is wilful misconduct or gross negligence on the part of Spijkstaal itself or executive officers to be equated with Spijkstaal.

Clause 38 Termination of the Agreement

- 38.1 An Agreement that is entered into for a specified period ends by operation of law as soon as the specified period has elapsed.
- 38.2 If an in so far as the Agreement pertains to the performance of services for an indefinite period of time, the parties may terminate the Agreement by written notice. If and in so far as no notice period is agreed, the parties will observe a notice period of one month.
- 38.3 If and in so far as the parties have agreed that the Agreement may be terminated early by notice, Spijkstaal will be entitled to compensation of costs already incurred and loss resulting from lower capacity utilisation that has arisen and been demonstrated.

Clause 39 Liability and insurance

- 39.1 If Spijkstaal has failed attributable in the performance of the Agreement, Spijkstaal will be given the opportunity to rectify that failure. The obligation to rectify failures is limited to the performance of Services as agreed in the Agreement.
- 39.2 Spijkstaal's liability in connection with any failure in the performance of the Agreement is limited to the obligation to rectify any failures described in the previous clause.
- 39.3 Spijkstaal will never be liable for damage or loss, except if and in so far as the damage or loss incurred was caused by wilful misconduct or gross negligence on the part of Spijkstaal itself or executive officers to be equated with Spijkstaal. Except in the event of wilful misconduct on the part of Spijkstaal itself, Spijkstaal's liability for loss due to delay, damage to property in the care, custody or control of, but not owned by the insured, damage to cargo and loss of profit, consequential loss or indirect loss is always excluded. The Other Party is aware of the fact that Spijkstaal never insures cargo to be transported and that Spijkstaal is not liable for any damage to the cargo to be transported on any grounds whatsoever. The Other Party is at all times responsible for taking out insurance for the cargo to be transported.
- 39.4 In all cases in which Spijkstaal is still required to pay compensation, despite the provisions of this clause, this compensation will never exceed the amount paid to Spijkstaal or a third party under the relevant insurance agreement. Furthermore, without prejudice to the other provisions of this clause, Spijkstaal's obligation to pay compensation will always be reduced

to the amount stated in the Agreement, or a maximum amount of EUR 25,000 if the aforementioned amount is higher than this amount.

- 39.5 Any claim against Spijkstaal, except those claims which Spijkstaal has expressly acknowledged in writing, will lapse by the mere expiry of twelve months after the claim in question arose.
- 39.6 Terms and conditions limiting, excluding or establishing liability, which can be invoked against Spijkstaal by suppliers or agents of Spijkstaal in connection with items or services delivered, can also be invoked by Spijkstaal against the Other Party.
- 39.7 The Other Party indemnifies Spijkstaal and its employees against any claim by third parties in connection with the performance of the Agreement by Spijkstaal to the extent those claims exceed or differ from the claims which the Other Party can pursue against Spijkstaal.
- 39.8 If, in case of leased Vehicles, Spijkstaal makes a driver or other employees available, the aforementioned driver and/or other employees will work under the full responsibility and at the risk of the Other Party, unless expressly agreed otherwise in writing.

Clause 40 Third-party clause

- 40.1 Spijkstaal is at all times permitted to provide Services, either in full or in part, through the use of third parties. If a claim is lodged against these third parties – whether in the context of the Agreement or not – regarding the Services for which Spijkstaal has engaged them, such third parties may invoke all the provisions of these GTC, including specifically the provisions relating to the exclusion or limitation of liability. In addition, these third parties may invoke all defences that can be derived from the Agreement as if they were parties to the Agreement.
- 40.2 All terms and conditions limiting, excluding or establishing liability which can be invoked against Spijkstaal by third parties engaged by Spijkstaal, can also be invoked by Spijkstaal against the Other Party.