

GENERAL TERMS AND CONDITIONS OF SALE & DELIVERY

VALID FROM 01/01/2017

Article 1 - Definitions

1. 'XSPlatforms': XSPlatforms B.V., or the group company listed as contracting party in the agreement.
2. 'Buyer': the natural person, legal entity and/or (joint) venture that has entered into an agreement with XSPlatforms for the supply of goods and/or services by XSPlatforms and/or any other performance. If more than one party acts as a buyer, each of them shall be jointly and severally liable with respect to XSPlatforms.
3. 'Parties': XSPlatforms and Buyer.
4. 'Goods': an item or a property right.
5. 'Services': items, as well as services, including, but not limited to maintenance, advice and inspection.
6. 'In writing': by means of a document signed by both Parties or by means of a letter, fax or email message or any other technical means agreed by the Parties.
7. 'Website': all web domains registered by XSPlatforms including, but not limited to, www.xsplatforms.com, www.facadexs.com, www.suspendedxs.com, www.scaffoldxs.com, www.fallprotectionxs.com and related domain names.

Article 2 - Applicability

1. Where these general terms and conditions of sale and delivery (the 'General Conditions') form part of offers and agreements for the performance of services and/or supplies of goods by XSPlatforms, all provisions of these General Conditions shall apply between the Parties, except where the parties, by agreement, have explicitly provided otherwise in writing. A reference by the Buyer to its own purchase or other terms and conditions is explicitly rejected by XSPlatforms.
2. These General Conditions may be published by, inter alia, printing them on (the back of) stationery, in a quotation, order confirmation, email or on the Website.
3. If XSPlatforms does not explicitly disclose these General Conditions, they shall nevertheless be fully binding.
4. If XSPlatforms does not require strict compliance with these General Conditions, this shall not mean that they do not apply or that XSPlatforms would waive the right to demand strict compliance in the future or under similar circumstances.
5. XSPlatforms is not responsible for misunderstandings, delays or information and statements that are incorrectly communicated, where these concern XSPlatforms and Buyer, due to the use of any communication tool between XSPlatforms and Buyer, or between XSPlatforms and third parties, unless this is due to intent or gross negligence by XSPlatforms.

Article 3 - Offer

1. Any offer made by XSPlatforms is free of obligation, even if a term of acceptance is specified and/or even if the Buyer has accepted the offer.
2. Each offer is based on the performance of the agreement by XSPlatforms under normal circumstances and during normal working hours.
3. Each offer made by XSPlatforms is based on the information provided by the Buyer. The Buyer guarantees the correctness, completeness and accuracy of the information, documentation and goods delivered to XSPlatforms, even if they originate from third parties.
4. All information, images, dimensions, colours, weights, quantities, and other specifications listed in an offer, quotation, etc. of XSPlatforms, shall always be considered approximations and are binding on XSPlatforms only if expressly stated.

Article 4 - Agreement

1. If the agreement is entered into in writing, it will come into effect on the date the contract is signed by XSPlatforms or on the date of dispatch of the written order confirmation by XSPlatforms.
2. Additional work is considered everything XSPlatforms in consultation with the Buyer, whether recorded in writing or not, delivers and/or installs during the performance of the agreement exceeding the quantities explicitly stated in the contract or order confirmation, or if more activities than explicitly set out in the contract or order confirmation are performed.
3. Oral commitments and agreements with XSPlatforms employees shall bind XSPlatforms only to the extent that they have been confirmed in writing by an employee who holds authority to sign on behalf of XSPlatforms.
4. If an agreement is concluded using electronic forms of communication, the absence of an original signature does not alter the binding force of the agreement. The Buyer will not dispute the applicability of the validity of these General Conditions due to the fact that the offer and/or acceptance has been made by electronic means.
5. If XSPlatforms enters into an agreement with a Buyer consisting of two or more persons and/or legal entities, each of these (legal) persons shall be jointly and severally liable for compliance with the obligations in respect of XSPlatforms arising from that agreement.
6. XSPlatforms reserves the right to engage third parties at the expense and risk of the Buyer for the performance of the agreement entered into with the Buyer if this is reasonably required.
7. XSPlatforms reserves the right to terminate the agreement without judicial intervention in whole or in part, if the Buyer applies for a moratorium, if bankruptcy of the Buyer is applied for or announced, if the Buyer fails to perform its obligations under this agreement; if the assignment cannot or can no longer be performed or if the Buyer is negligent in providing information and/or goods and/or services that XSPlatforms requests or requires from the Buyer within the scope of the concluded agreements and/or if the performance of the agreement is in breach of applicable government regulations.
8. If the agreement is terminated by XSPlatforms on one of the grounds stated in Article 4 paragraph 7, the Buyer shall automatically pay XSPlatforms a fee for internal costs incurred and lost profits of 20% of the agreed fee, with a minimum of EUR 500. Furthermore, the Buyer shall reimburse all other costs incurred by XSPlatforms for the preparation and/or performance of its obligations, as well as any other loss suffered by XSPlatforms. Insofar as XSPlatforms (based on the aforementioned grounds) were to terminate the agreement between the Parties, he shall not be obliged to pay any compensation or damages on any account whatsoever.
9. The Buyer may not transfer this agreement and the rights and obligations arising therefrom to a third party without the prior written consent of XSPlatforms.

Article 5 - Price

1. The prices quoted by XSPlatforms are exclusive of turnover tax and other government taxes payable on sales and delivery and based on delivery Ex Works according to the Incoterms applicable on the day of offer, except insofar as provided otherwise in these General Conditions. 'Works' is understood to mean the company premises of XSPlatforms in Gorinchem, the Netherlands.
2. If one or more cost price factors show an increase after the conclusion of the agreement - including as a result of foreseeable circumstances - XSPlatforms shall be entitled to adjust the price accordingly.

3. Under the agreement, XSPlatforms is authorised to separately charge any costs relating to additional work, as soon as it is aware of the amount to be charged. The rules set out in paragraphs 1 and 2 of this article shall apply by analogy to the calculation of additional work.
4. If XSPlatforms has to make new drawings, calculations, descriptions, models or tools, etc., for any repeat orders, related costs will be charged.
5. The packaging is not included in the price and will be charged separately. Packaging is not taken back.
6. If XSPlatforms has agreed to assemble/install goods, the price calculated shall include assembly/installation and operational delivery of the product at the location specified in the offer and including all costs, except for those costs which are not included in the price according to the preceding paragraphs or which are referred to in article 10. Costs made due to weather conditions in which it is impossible to work will be charged.
7. If XSPlatforms provides advice orally, in writing or by means of tests or samples regarding the (technical) application, this advice is provided to the best knowledge of XSPlatforms, but this advice shall only be considered a non-binding instruction. XSPlatforms does not guarantee the accuracy of the relevant advice.
8. The advice shall not release the Buyer from the obligation to inspect the goods and/or services delivered by XSPlatforms with respect to suitability for the intended application. The application, use and processing of the goods delivered fall within the scope of the Buyer or his customer base; XSPlatforms accepts no liability in this regard.

Article 6 – Drawings, calculations, descriptions, models, tools, etc., Intellectual Property.

1. The information stated in catalogues, images, drawings, dimensions, etc., shall be binding only if and insofar as these are expressly included in a contract signed by the parties or an assignment confirmation signed by XSPlatforms.
2. The offer made by XSPlatforms, as well as the drawings, calculations, software, descriptions, models, tools, marketing materials, methods, advice, patents and the like it has made or provided, continue to be the property of XSPlatforms, irrespective of whether any fee has been charged for these. XSPlatforms continues to be exclusively entitled to the information inherent in any of these or on which the manufacturing, assembly and/or and construction methods, products and the like are based, even if a fee has been charged for these. The Buyer warrants that said information will not be copied, shown to any third parties, disclosed or used, without the written permission of XSPlatforms, except in the performance of the agreement.
3. In the event of a breach of a provision of paragraph 2 of this article, the Buyer shall pay a penalty of EUR 10,000 per breach and for each day the breach continues, including part of a day, irrespective of the other rights XSPlatforms may claim (whether or not for the benefit of its licensors), for example, an injunction, or for the payment of compensation.
4. The Buyer shall indemnify XSPlatforms against any claim from its customers based on the allegation that the goods and services developed by XSPlatforms infringe third-party intellectual property rights.

Article 7 - Delivery time

1. The delivery period shall commence on whichever of the following dates is the latest:
 - a. the date the agreement is formed;
 - b. the date XSPlatforms receives the documents, information, permits and so forth necessary to carry out the assignment;
 - c. the date the formalities necessary for commencing the work are fulfilled;
 - d. the date XSPlatforms receives what must be paid in advance under the agreement before the work commences.
2. If a date or week of delivery is agreed upon, the term of delivery shall be the period between the date the agreement is entered into and the date or the end of the week of delivery.

3. The term of delivery is based on the working conditions at the time the agreement is entered into and on timely delivery of the materials necessary for performing the work ordered by XSPlatforms. If any delay might occur due to change in the said working conditions, for which change XSPlatforms is not to blame, or because materials timely ordered for the performance of the work are not delivered on time, the term of delivery will be prolonged for as long as necessary.
4. With regard to the term of delivery the goods are deemed to be delivered when they are ready for testing, if testing on the premises of XSPlatforms has been agreed upon, and in other cases when they are ready for shipment, in each case after the Buyer has been given notice in writing and without prejudice to the obligation of the Buyer to fulfil possible assembly/installation obligations.
5. The delivery times stated by XSPlatforms are best adapted to the circumstances prevailing at the time of conclusion of the agreement. They are not binding or final. XSPlatforms may deliver in parts or delay delivery of certain parts to deliver them at the same time as other parts.
6. Without prejudice to other clauses in these General Conditions regarding prolongation of the term of delivery, the term of delivery is prolonged for the duration of the delay which arises on the side of the Buyer when it has failed to meet any obligation arising from the agreement or has not cooperated as could be demanded from him with respect to the performance under the agreement.
7. Delay in delivery shall not entitle the Buyer to terminate the agreement in whole or in part, unless such delay exceeds 16 weeks or XSPlatforms indicates that the delay will exceed 16 weeks. In the case of such delay or indication, the Buyer shall be entitled to terminate the agreement by notice in writing to XSPlatforms and shall, where appropriate, be entitled to reimbursement of any part of the purchase price already paid and to compensation for the damage it has suffered, which compensation shall however not exceed 10 per cent of the agreed price for the goods to be delivered. Unless the Buyer exercises the aforementioned right to terminate the agreement, delay in delivery - for whatever reason- shall not entitle the Buyer to perform work or to have work performed under the agreement without the Court's leave.

Article 8 – Transition of risk and ownership

1. As soon as the goods have been delivered in accordance with the definition of article 7, paragraph 3, the Buyer bears the risk for all direct and indirect loss that may occur on or on account of these goods, except insofar as the loss is the result of the intent or conscious recklessness of persons that are members of the management of XSPlatforms. If the Buyer remains in default for accepting the goods after having received a notice of default, XSPlatforms will be entitled to charge any resulting costs to the Buyer.
2. Without prejudice to the last paragraph and the provisions of Article 7 paragraph 4, the ownership of the goods passes to the Buyer only when all debts of the Buyer to XSPlatforms for deliveries or work, including interest and costs, have been paid for in full to XSPlatforms.
3. Where appropriate, XSPlatforms shall have the right of unhindered access to the goods. The Buyer shall lend all assistance to XSPlatforms in order to afford XSPlatforms the opportunity to exercise its retention of title pursuant to paragraph 2 by taking back the product, dismantling included if necessary.
4. Furthermore, the retention of title applies in the event XSPlatforms has any claims against the Buyer relating to the Buyer breaching one or more of its obligations to XSPlatforms, including collection costs, interest and fees. As long as ownership of the delivered goods has not yet been transferred to the Buyer, the Buyer may not use, consume, sell, pledge or grant to any third party any other right, except in the ordinary course of business of the Buyer. Delivered goods that have become the property of the Buyer through payment and other goods that are available to XSPlatforms, are used as security for the claims XSPlatforms might have against the Buyer on any account whatsoever (retained pledge without ownership). At the first request of XSPlatforms, the Buyer shall undertake to cooperate in the establishment of a pledge on claims that the Buyer acquires at any time due to the resale of goods to its own buyers.

5. The goods that have been delivered under retention of title are carefully kept by the Buyer and are always recognisable as property of XSPlatforms; the Buyer shall keep an overview of the specification and shall provide this to XSPlatforms at first request. The Buyer shall insure the goods against common risks for the period of the retention of title. The Buyer hereby authorises XSPlatforms on behalf of the Buyer to (implicitly) pledge to itself as additional security to claims of XSPlatforms against the Buyer all claims on insurance companies pursuant to the insurances within the meaning of Article 239, Book 3 of the Dutch Civil Code.
6. If the Buyer fails to meet its payment obligations to XSPlatforms, or if XSPlatforms has good reason to believe that the Buyer will fail to meet those obligations, XSPlatforms shall be entitled to revoke any supplier credit and take back all goods supplied subject to retention of title and the Buyer shall provide free access to the space where the goods are located. After taking back the goods, the Buyer will be credited for their market value (based on the purchase price), up to a maximum of the original purchase price, less costs incurred by XSPlatforms in taking back the goods.
7. XSPlatforms reserves the right at all times (including before delivery) to make a request for (partial) payment or for the Buyer to furnish security for the purchase amount by means of a bank guarantee, an irrevocable documentary credit or similar document, transfer of claims or otherwise. If the Buyer, at first request, fails to furnish a fixed security, the Buyer is deemed to be in default in respect of payment of the purchase amount as well as in respect of acceptance of the services and/or goods provided. In that case, XSPlatforms shall have the right to (partially) terminate or suspend the agreement without judicial intervention, irrespective of its right to claim full compensation.

Article 9 – Assembly/installation

1. If the parties have agreed that XSPlatforms shall assemble/install the good to be delivered, the Buyer is responsible to XSPlatforms for performing correctly and on time all installations, provisions and/or conditions necessary for the erection of the good to be assembled/installed and/or for the correct operation of the good in assembled/installed state on time. This shall not apply if and insofar this performance is done by (order of) XSPlatforms according to data and/or drawings made or presented by (order of) the latter.
2. Without prejudice to the provisions in paragraph 1, the Buyer shall, if the parties have agreed that XSPlatforms shall assemble/install the good to be delivered, in any case see to it at its own expense and risk that:
 - a. the employees of XSPlatforms can commence and continue their work during normal working hours from the moment they arrive at the place of assembly/installation and, moreover, if XSPlatforms deems it necessary, outside of normal working hours provided that the Buyer has been notified in time;
 - b. suitable accommodation and/or all provisions under government regulations, the agreement and common use will be available to the employees of XSPlatforms;
 - c. the access routes to the place of installation are suitable for the required transport;
 - d. the assigned place of erection is suitable for storage and assembly/ installation;
 - e. the required lockable storage areas for materials, tools and other items are made available;
 - f. the necessary and usual workmen, auxiliary tools, auxiliary and industrial materials (fuels, oils and greases, cleaning and other small materials, gas, water, compressed air, electricity, steam, heating, lighting, etc. included), and the usual measuring and testing instruments of the company of XSPlatforms are in the right place at the disposal of the Buyer on time and free of charge;
 - g. all necessary safety and precautionary measures have been taken and shall be maintained, and that all measures have been taken and shall be maintained in order to satisfy the appropriate government regulations with respect to assembly/installation;

h. the dispatched goods are at the right place at the beginning of and during the assembly/installation.

3. Damages and costs that arise because the conditions stated in this article have not been fulfilled on time or at all are the liability of the Buyer.
4. With regard to time for assembly and installation, article 7 applies accordingly.
5. The Buyer guarantees the timely acquisition and maintenance of all permits for XSPlatforms, as well as the legal permissions required for the activities to be performed.

Article 10 - Inspection and acceptance tests

1. The Buyer shall inspect the good at the latest within 7 days after delivery as stated in article 7 paragraph 4 or - if assembly/installation has been agreed upon - at the latest within 14 days after assembly/installation. If this term passes without written and specified notification of well-founded complaints, the goods are assumed to have been accepted.
2. If acceptance tests have been agreed upon, the Buyer shall, after delivery as stated in article 7 paragraph 4 or, if assembly/installation has been agreed upon, after assembly/installation, afford XSPlatforms the opportunity to perform the necessary preparatory tests and to apply those improvements and modifications which XSPlatforms considers necessary. The acceptance tests shall be performed immediately upon request of XSPlatforms in the presence of the Buyer. If the acceptance tests have been performed without specified and well-founded complaints, and if the Buyer does not meet said obligations, the product is assumed to have been accepted.
3. The Buyer shall make the necessary facilities, including those referred to in article 9, paragraph 2 sub f, as well as representative samples of materials to be processed in sufficient quantities, on time, free of charge and in the right place available to XSPlatforms for the acceptance tests and for any related tests, in order to simulate the circumstances of use of the product anticipated by the parties to the greatest extent possible. If the Buyer fails to fulfil this, paragraph 2, the last sentence, shall apply.
4. In the event of minor shortcomings, in particular those that hardly or do not at all influence the anticipated use of the product, the product will be assumed to have been accepted despite these shortcomings. XSPlatforms shall remedy such shortcomings as yet, as soon as possible.
5. Without prejudice to the guarantee obligations of XSPlatforms, the acceptance according to the preceding paragraphs will exclude any claim of the Buyer for shortcomings in the performance of XSPlatforms.

Article 11 - Payment

1. Payment for the goods and/or services provided by XSPlatforms shall be made within 14 days of the invoice date into the bank account designated by XSPlatforms, unless otherwise indicated by XSPlatforms. XSPlatforms may use electronic forms of communication to send its invoice.
2. Payments are made in euros unless otherwise stated.
3. All payments shall be made without any deduction, suspension or setting-off in the manner to be decided by XSPlatforms.
4. Payment of additional work shall occur once the Buyer has been charged for this.
5. Payments from the Buyer shall always be used first to pay interest due resulting from delay and judicial and extrajudicial collection costs, and are subsequently deducted from the oldest outstanding claim.
6. If the Buyer fails to pay within the period agreed upon, the Buyer is considered in default by operation of law and XSPlatforms may without any notice of default charge interest, counting from the expiry date, at a rate of 3 points above the legal interest in force in the Netherlands, within the meaning of Article 119a and Article 120, Book 6 of the Dutch Civil Code, as well as all judicial and extrajudicial costs in connection with the claim.
7. During the default period, the Buyer shall owe outstanding interest due to delay of 1.5% per month or part of a month. Each time after the end of the year, the amount on which interest is calculated for delay is increased with the interest due for that year.

8. In the case of extrajudicial and judicial collection activities, the Buyer shall owe, in addition to the principal and interest due to delay, the actually incurred collection costs (of lawyers, bailiffs, including internal costs) and procedural costs. If these costs are not paid on time, they are provisionally paid, in advance of determining the actual costs, up to an amount of 15% of the unpaid invoice, with a minimum of EUR 250.
9. If the Buyer is in default with respect to any payment, XSPlatforms may unilaterally suspend performance without notice and may also terminate the agreement without judicial intervention.

Article 12 - Guarantee

1. Without prejudice to the following restrictions, XSPlatforms guarantees the quality of the goods it has delivered (such goods not being a service) as well as the quality of the materials used and/or delivered for the goods, insofar as it concerns defects in the delivered goods that cannot be detected at inspection or acceptance tests respectively, of which the Buyer proves that these have arisen within 6 months after delivery under article 7 paragraph 4, solely or mainly as a direct consequence of a defect in the construction applied by XSPlatforms or due to inadequate workmanship or use of bad materials.
2. Paragraph 1 applies by analogy to defects that cannot be detected at inspection or acceptance tests respectively caused solely or mainly by poor assembly/installation by XSPlatforms. If XSPlatforms performs assembly/installation of the goods, the term of guarantee of 6 months referred to in paragraph 1 shall become effective on the day the assembly/installation has been completed by XSPlatforms, whereas in that case the term of guarantee ends in any case when 12 months after delivery under article 7 paragraph 4 have passed.
3. The defects falling under the guarantee referred to in paragraphs 1 and 2 will be removed by XSPlatforms by repair or replacement of the defective part, whether or not in the premises of XSPlatforms or by mailing a part for replacement, this always at the discretion of XSPlatforms within a reasonable term. All costs that go beyond the sole obligation as described in the preceding sentence, including but not limited to, costs of transport, costs of travelling and accommodation and costs of disassembly and assembly/installation are at the expense of the Buyer. A new guarantee period of 6 months shall apply for repaired parts and parts in replacement, provided that any guarantee shall expire as soon as 12 months have passed since delivery within the meaning of article 7 paragraph 4 or, where the provisions of paragraph 2 are applicable, as soon as 18 months have passed since such delivery.
4. With respect to repair, revision and maintenance work and similar services performed by XSPlatforms outside any guarantee obligation and unless otherwise agreed, a guarantee is only given for the quality of the performance of the activities ordered, for a period of 6 months. Under this guarantee XSPlatforms has the sole obligation in the case of defects to perform work again, insofar as this proves to be defective. In that case the second full sentence of paragraph 3 shall apply accordingly. In such case a new guarantee period of 6 months shall apply, except that any guarantee shall expire as soon as 12 months have passed since the original work concerned.
5. No guarantee is given with respect to inspections, advice and similar services by XSPlatforms.
6. In any case not included in the guarantee are defects which arise from or are completely or partly caused by:
 - a. not taking into account the operating and maintenance instructions or other than anticipated normal use;
 - b. normal wear and tear;
 - c. assembly/installation or repair by the Buyer or by third parties;
 - d. the application of any government regulation regarding the nature or quality of the materials used.
 - e. used materials or items respectively used in consultation with the Buyer;
 - f. materials or items which the Buyer has given to XSPlatforms to be processed;
 - g. materials, items, methods and constructions insofar applied at explicit instruction of the Buyer, together with materials and items delivered by or on account of the Buyer;

- h. parts XSPlatforms has received from third parties, insofar as the third party has not given any guarantee to XSPlatforms or the guarantee provided by the third party has expired.
7. If the Buyer does not, does not adequately or does not timely meet an obligation resulting from the agreement entered into with XSPlatforms or an agreement related to it, XSPlatforms is not held to any guarantee - under any denomination - for any of these agreements. If the Buyer proceeds to or has someone proceed to any dismantling, repair or other work concerning the good without prior written approval from XSPlatforms, every claim resulting from the guarantee ceases to exist.
8. Complaints for defects shall be made in writing as soon as possible after discovery of the defects, yet at the latest within 14 days after the term of guarantee has expired. Exceeding these terms results in expiration of every claim against XSPlatforms relating to these defects. Legal proceedings should be instigated within 1 year after timely complaint failing which the right will lapse.
9. If XSPlatforms replaces parts/goods to fulfil its obligations under the guarantee, the replaced parts/goods become property of XSPlatforms.
10. Returns are at the expense and risk of the Buyer, and the Buyer must also prove that goods have been returned.
11. If returns set out in paragraph 10 of this article are not notified in time or are considered unfounded, or where the costs have not been paid in advance, XSPlatforms shall be entitled to refuse the goods.
12. XSPlatforms shall store the goods that have been returned too late or, if it buys the goods elsewhere, storage shall be at the expense and risk of the Buyer. Approval or acceptance of the returned goods can never be at the expense of those measures.
13. Alleged neglect on the part of XSPlatforms to fulfil its obligations of guarantee does not relieve the Buyer from its obligations which arise from any agreement with XSPlatforms.

Article 13 - Liability

1. The liability of XSPlatforms is limited to the obligations guaranteed under article 12 of these General Conditions. If XSPlatforms has not fulfilled its obligations under article 12 of these General Conditions within a reasonable time, the Buyer may by notice in writing fix a final, appropriate time for fulfilment of the obligations of XSPlatforms. If XSPlatforms fails to fulfil its obligations within such final time, the Buyer may undertake or engage a third party to undertake necessary remedial works at the risk and expense of XSPlatforms. Where remedial works have thus been undertaken, reimbursement by XSPlatforms of reasonable costs incurred shall be in full settlement of the liabilities of XSPlatforms for the said defect, irrespective of the success of the remedial works, except that these costs shall not exceed 12% of the agreed purchase price for the delivered product.
2. Where the defect has not been successfully remedied, as stipulated in paragraph 1:
 - a. the Buyer is entitled to a reduction of the agreed purchase price of the delivered product in proportion to the reduced value of the product, provided that such reduction shall not exceed 15% of the agreed purchase price for the delivered product; or
 - b. where the defect is so substantial as to significantly deprive the Buyer of the benefit of the contract, the Buyer may terminate the agreement by notice in writing to XSPlatforms. In that case, the Buyer is entitled to compensation for the loss it has suffered up to a maximum of 12 per cent of the agreed purchase price for the delivered goods.
3. Save for intent or gross negligence of persons that are members of the management of XSPlatforms and save for the provisions in article 7 paragraph 6 and in this article paragraph 1 and 2, all liability of XSPlatforms for defects in the delivered good and in connection with the delivery, such as for loss resulting from delay in delivery and from non-delivery, for loss resulting from liability towards third parties, for trading loss, consequential and indirect loss and for loss resulting from any wrongful act or omission of (employees of) XSPlatforms, is excluded.
4. Therefore, XSPlatforms is also not liable for:
 - a. infringement of patents, licences or other rights of third parties;
 - b. loss, from whatever cause, of raw materials, semi-finished products, models, tools, and other items made available by the Buyer.

5. If XSPlatforms gives help and assistance of whatever kind at assembly/installation without having been assigned assembly/installation, this will be at the risk of the Buyer.
6. The Buyer is bound to indemnify or compensate XSPlatforms for all claims for damages made by third parties.
7. Any liability of XSPlatforms is limited to the loss that was foreseeable as a possible consequence of the act that requires compensation, up to a maximum amount equal to the amount that would be paid in the specific case under the liability insurance effected, plus the amount of the insurance excess under the policy conditions. The maximum insured amount is EUR 5 million per event, with a maximum of EUR 10 million per year. If, for whatever reason, no payment can be made under that insurance, any liability is limited to at most 12% of the price agreed for the delivered product.
8. XSPlatforms is not liable if the Buyer fails to immediately report the loss in writing and within 5 days after delivery in accordance with article 7 paragraph 4. All claims against XSPlatforms shall expire if the Buyer has failed to perform a proper inspection upon delivery and/or the Buyer is unable to prove that it has observed all the instructions for assembly, mounting, installation and/or use.
9. XSPlatforms stipulates that it shall invoke all the available lawful and contractual means of defence against the Buyer to deny liability on its own behalf and also on behalf of its subordinates and non-subordinates for whose actions the law deems it liable.
10. Subject to the other provisions of this article and the General Conditions, further possible (legal) claims shall be brought before the court no later than one year after delivery of the performance under pain of loss of rights.

Article 14 - Force majeure

In these General Conditions, 'force majeure' means every circumstance outside the control of XSPlatforms' - even if this could already be anticipated at the time the agreement was entered into - which impedes, either permanently or temporarily, the performance of the agreement, as well as all other circumstances such as war, threat of war, terrorism, civil war, riots, industrial action, lockouts, transport problems, strikes, sabotage, storm damage and/or other natural disasters, government measures, import and export restrictions, computer or telephone malfunctions, fire and other serious disruptions in the business of XSPlatforms or its suppliers.

Article 15 - Suspension and dissolution

1. If an agreement cannot be performed due to force majeure, XSPlatforms shall have the right either to suspend the performance of the agreement for at the most 6 months or to terminate the agreement in whole or in part, in either case without judicial intervention and without being held liable for damages. During the suspension XSPlatforms is authorised to and at the end of the suspension obliged to choose either for performance, if possible, or for complete or partial termination of the agreement.
2. In the case of suspension as well as in the case of termination pursuant to paragraph 1, XSPlatforms shall have the right to demand immediate payment of the raw materials, materials, parts and other goods it has purchased, reserved, processed and produced for the performance of the agreement, to the value which can reasonably be assigned to them. In the case of termination pursuant to paragraph 1, after payment of the amount due according to the preceding full sentence, the Buyer is bound to accept the goods included therein. Failing to do so will give XSPlatforms the right to store these goods at the expense of and for the risk of the Buyer or to sell or destroy these goods at the expense of the Buyer.
3. Where there is reasonable ground to fear that the Buyer is or will be unable or willing to fulfil its contractual obligations towards XSPlatforms and in the case of bankruptcy, suspension of payment, shutting down, liquidation or complete or partial transfer of the company of the Buyer, XSPlatforms shall have the right to require adequate securities for all contractual obligations of the Buyer (whether due or not) and to suspend the performance of the agreement as long as such securities have not been furnished. Failing such securities within a reasonable time set by XSPlatforms, XSPlatforms shall be entitled to terminate the

agreement in whole or in part. XSPlatforms shall have these rights in addition to its other rights under the law, the agreement and these General Conditions.

4. If the Buyer does not fulfil properly, on time, or at all any obligation under an agreement with XSPlatforms or any agreement related to the same, XSPlatforms shall have the right to suspend the performance of the agreement and/or to terminate the agreement.
5. In the case of suspension pursuant to paragraph 3 or 4, XSPlatforms shall have the right to store the raw materials, materials, parts and other goods purchased, reserved, processed and produced for the performance of the agreement at the Buyer's expense and risk. In the case of termination pursuant to paragraph 3 or 4, the preceding sentence is applicable accordingly, but XSPlatforms may then in addition to storage also choose to sell or destroy the goods at the expense of the Buyer. In the case of suspension or termination pursuant to paragraph 3 or 4, XSPlatforms shall be entitled to full compensation for damage, but shall not be held liable for any compensation for loss itself.

Article 16 - Disputes

Any dispute that may arise as a result of an agreement to which these General Conditions apply completely or partly, or as a result of further agreements which are a consequence of such an agreement, shall be settled by the competent Dutch court. If the law does not provide for a competent Dutch court, the dispute will be settled in the first instance by the District Court of Rotterdam (proceedings on the merits) or the preliminary relief judge of the District Court of Rotterdam (interlocutory proceedings) subject to the right of XSPlatforms to bring a dispute before any other competent court.

Article 17 – Applicable law

All agreements governed in full or in part by these General Conditions shall be interpreted according to Dutch law applying within the Kingdom of the Netherlands in Europe. The applicability of the Convention on the International Sale of Goods (Vienna Convention) is excluded, and any other existing or future regulation concerning the purchase of moveable goods, the effect of which may be ruled out between the Parties, shall not apply.

