

1. Definitions

Unless otherwise apparent from the context, the words and expressions written with a capital letter in these general terms and conditions are defined words and expressions which have the following meanings assigned to them:

Offer	Every offer by Famateq to conclude an Agreement;
Services	All services, additional services and/or work, technical or otherwise, of any nature whatsoever, performed by Famateq, in the broadest sense;
Famateq	Famateq B.V. (with its registered office in Yerseke and its principal place of business at Ostrea 6, 4401 PG Yerseke, listed in the Commercial Register of the Chamber of Commerce under number 75427001, hereinafter referred to as 'Famateq'), being the user of the Terms and Conditions;
Goods	The Goods to be delivered by Famateq based on the Agreement to or for the benefit of the Client, being items of property and/or property rights;
Agreement	All Agreements between the Parties concerning the provision of Services and/or delivery of Goods by Famateq to the Client;
Party/Parties	Famateq and the Client jointly or each of them individually;
in Writing/Written	By letter, fax, electronic message or bailiff's notification;
Terms and Conditions	These general terms and conditions of Famateq;
Client	The natural person(s) and/or legal entity or entities to whom Famateq makes an Offer for the delivery of Goods and/or provision of Services and/or with whom Famateq concludes an Agreement;
Work	The result of the Services provided by Famateq, including Goods and the delivery of Goods.

2. Applicability

- 2.1. These Terms and Conditions are applicable to all Offers and Agreements, including all undertakings, of any nature whatsoever, arising from the performance of the Agreement, as well as all agreements arising therefrom or based thereon.
 - 2.2. If the Terms and Conditions have applied to any Agreement, they will automatically apply to any future Agreement concluded between the Parties, without this having to be agreed separately between the Parties, unless the Parties have expressly agreed otherwise in Writing with respect to the relevant agreement.
 - 2.3. The applicability to any Agreement of any general or specific terms and conditions applied by the Client is expressly rejected by Famateq, unless and after Famateq has expressly declared in Writing that the relevant terms and conditions apply to an Agreement. Under no circumstances does acceptance in this manner of the applicability of the Client's terms and conditions to an Agreement result in the tacit applicability of these terms and conditions to any Agreement to be concluded in the future.
 - 2.4. In case of invalidity or annulment by the Client of one or more provisions of the Terms and Conditions, the remaining provisions of the Terms and Conditions will continue to apply in full. The Parties will consult each other on replacing the invalid or voided provision of the Terms and Conditions by a provision which is valid or not voidable and which approaches the content and purport of the invalid or voided provision as closely as possible.
 - 2.5. In so far as an Agreement differs from one or more provisions of the Terms and Conditions, the provisions of the Agreement will prevail. The remaining provisions of the Terms and Conditions will in that case continue to apply in full.
 - 2.6. If any translations have been made of these Terms and Conditions, the version in the Dutch language will prevail over the version(s) in any other language.
- 3. Offers**
- 3.1. Unless expressly stated otherwise, an Offer is without obligation and is valid during the term stated in the Offer. If the Offer does not state a term for acceptance, the Offer will in any case lapse fourteen (14) days after the date stated in the Offer.
 - 3.2. An Offer accepted by the Client within the term of validity may be withdrawn by Famateq within five (5) working days of the date of receipt of the acceptance by Famateq, without this resulting in any obligation on the part of Famateq to compensate the Client for any loss incurred by the latter as a result.
 - 3.3. Famateq may confirm an assignment given by the Client by means of a confirmation of the assignment. If the Client does not object within fourteen (14) days of receiving the confirmation of the assignment, the assignment as described in the confirmation will be deemed accepted.
 - 3.4. If the Client provides Famateq with information, drawings and suchlike for the purpose of making an Offer, Famateq may assume that these are accurate and base its Offer on these documents. The Client indemnifies Famateq against any third-party claims relating to the use of drawings and suchlike provided by or on behalf of the Client.
 - 3.5. A price list or other overview containing prices in a general sense provided by Famateq to the Client cannot be regarded as an Offer.

4. Formation of agreements

- 4.1. With due observance of the other provisions contained in the Terms and Conditions, an Agreement will only be effected:
 - (a) by acceptance of an Offer by the Client;
 - (b) by a Written confirmation of an assignment given by the Client, either orally or in Writing, other than on the basis of an Offer;
 - (c) by the actual performance by Famateq of an assignment given by the Client.
- 4.2. The Agreement replaces all previous proposals, correspondence, arrangements and other communication between the Parties that took place before the Parties concluded the Agreement, however much these may differ from or be in conflict with the Agreement.
- 4.3. At Famateq's request, for the purpose of making an Offer the Client must provide the information (drawings, photographs) required to assess and verify the information on which the Offer is based, as made known by Famateq. Famateq may assume that this information is accurate and base its Offer on this information. The Client indemnifies Famateq against any third-party claims relating to the use of drawings, photographs and suchlike provided by or on behalf of the Client.
- 4.4. Amendments and/or additions to the Agreement will only be valid after they have been accepted by Famateq in Writing. Famateq will not be obliged to accept any amendments and/or additions to an Agreement and is entitled to demand that a separate Agreement be concluded in this respect. Famateq is entitled to pass on to the Client any expenses incurred in connection with the amendments and/or additions.
- 4.5. Famateq is entitled to engage third parties for the provision of the Services, to which the Client agrees in advance.
- 4.6. Undertakings by and agreements with employees or representatives of Famateq are only binding on Famateq vis-à-vis the Client if and in so far as these undertakings and/or agreements have been confirmed to the Client in Writing by an authorized representative of Famateq.

5. Prices and rates

- 5.1. Prices stated in an Offer or Agreement are in euros and, unless explicitly stated otherwise, are exclusive of packaging and transport costs and other costs of shipping, import documents, insurance including transport insurance, travel time and travel and subsistence expenses, and are exclusive of turnover tax and/or any other government-imposed levies, of any nature whatsoever.
- 5.2. If the Client gives an assignment to Famateq without explicit agreement on a price, the assignment will be carried out at the rates applicable at Famateq at the time of the performance of the Agreement, irrespective of any Offers made or prices charged earlier.
- 5.3. In the event that four (4) months have passed since the date on which the Agreement was concluded and Famateq has not yet completed performance of the Agreement, Famateq will be entitled to pass on to the Client any price increases as a result of cost-increasing circumstances, at the discretion of Famateq. These increases will be paid together with the invoice for the work to which the cost-increasing circumstances relate, and must

in any case be paid with the payment of the final invoice for the particular assignment to which the cost-increasing circumstances relate.

- 5.4. Cost-increasing circumstances are circumstances (i) of such a nature that, when the Agreement was concluded, the possibility of them occurring could not be taken into account, (ii) that cannot be attributed to Famateq, and (iii) that increase the costs of the Work.
- 5.5. If Famateq is of the opinion that cost-increasing circumstances have occurred, it must inform the Client thereof as soon as possible in Writing or electronically.

6. Payment

- 6.1. Famateq will send the Client an invoice for the Services provided or to be provided and/or the Goods to be delivered by Famateq.
- 6.2. Payment must be made within fourteen (14) days of the invoice date, unless agreed otherwise in Writing. Payments must be made into the bank accounts specified by Famateq. The moment of payment will be deemed to be the moment at which Famateq receives confirmation from its bank that the amount concerned has been credited to its account.
- 6.3. If payment of an invoice has not been made in full within the stipulated period, the Client will immediately be in default by operation of law, without any further notice of default being required, and from the due date of the invoice concerned will be liable to pay interest of 1% per month, or statutory commercial interest if this is higher, part of a month being counted as a full month. In addition, all extrajudicial collection costs will be payable by the Client, which costs are hereby set in advance by the Parties at a minimum of 15% of the outstanding claim, with a minimum of €150, without prejudice to Famateq's right to claim the actual extrajudicial collection costs if this amount is higher.
- 6.4. If the Client is in default of payment of any invoice, all other outstanding invoices will also be immediately due and payable without notice of default being required.
- 6.5. Payments made by the Client will be used first to settle costs and interest due, and then to settle the outstanding invoices which have remained unpaid the longest, even if the Client states that a particular payment is to settle a different invoice.
- 6.6. Without prejudice to mandatory statutory provisions, the Client does not have the right to suspend its payment obligations to Famateq and/or set them off against payment obligations of Famateq to the Client.
- 6.7. Famateq is entitled to set off all claims against the Client against any amounts owed by Famateq to the Client or to persons or legal entities affiliated to the Client.
- 6.8. All of Famateq's claims against the Client will become due and payable immediately and Famateq will be entitled to suspend its obligations in the following cases:
 - (a) if after the conclusion of the Agreement circumstances have come to Famateq's attention that give it good reason to fear that the Client will not fulfil its obligations, which is entirely at Famateq's discretion;
 - (b) if on conclusion of the Agreement Famateq requested the Client to provide security for fulfilment as referred to in Article 6.9 and this security is not forthcoming or is insufficient;

- (c) in the event that the Client's insolvency or suspension of payments is applied for or if the Client is declared bankrupt or put into liquidation, or, in so far as the Client is a natural person, if the Debt Restructuring (Natural Persons) Act (*Wet Schuldsanering Natuurlijke Personen, WSNP*) is declared applicable to him;
 - (d) in the event of situations as referred to in Articles 15.1, **Fout! Verwijzingsbron niet gevonden.** and 15.2.
- 6.9. Famateq will be entitled at all times, based on its assessment of the Client's creditworthiness, to demand security or full or partial advance payment to ensure compliance with all payment obligations, whether due and payable or not. If and as long as the Client fails to provide the security demanded or to make a full or partial advance payment, Famateq will be authorized to suspend its obligations.

7. Client's Obligations

- 7.1. Unless agreed otherwise, the Client will ensure that Famateq will have timely access to:
 - (a) the information and approvals (such as permissions under public and private law) required to set up the Work, if necessary in consultation with Famateq;
 - (b) the building, the site or the water in which or on which the Work must be carried out;
 - (c) sufficient facilities for the supply, storage and/or removal of building materials and auxiliary materials;
 - (d) facilities for connecting electrical machines, lighting, heating, gas, compressed air and water.
- 7.2. Unless agreed otherwise, the Client will provide the required electricity, gas and water.
- 7.3. When performing the Agreement, Famateq may assume that any information, drawings and suchlike provided to it by the Client are accurate and complete.
- 7.4. Except with Famateq's permission, the Client will not be permitted to perform work or have work performed by third parties before the day on which the Work is deemed to have been completed.
- 7.5. While the Services are being provided the Client is responsible for a safe working environment for Famateq's staff. The Client also guarantees that at the moment Famateq starts providing the Services, the site will be obstacle-free and that it will be possible to commence work immediately. If the working environment is unsafe, the Client will be liable for any damage or loss incurred by Famateq, its staff or any third parties engaged by it. Without prejudice to the above, the Client indemnifies Famateq against any third-party claims.
- 7.6. Without Famateq's prior Written permission, the Client is not permitted to transfer its rights and obligations under the Agreement to a third party before the day on which the Work is deemed to have been completed.
- 7.7. To protect the software made available in the context of the Services and the Work, the Client is obliged to provide a form of security (other than that already installed by Famateq) that meets the security specifications agreed in Writing between the Parties. If the Agreement does not contain a description of the security, the security must comply with a level that is not unreasonable in view of the state of the art, the sensitivity of the software, data

and the costs involved in making the security arrangements. The Client indemnifies Famateq against any third-party claim relating to the software.

- 7.8. If the Client fails to comply with one of its obligations, Famateq will be entitled to suspend all its obligations towards the Client until such time that the Client has complied with this obligation, or to terminate the assignment in unfinished condition, provided that Famateq has notified the Client in advance in Writing or electronically of these consequences of its noncompliance. The provisions of the preceding sentence do not affect Famateq's right to compensation of damage or loss, costs and interest.

8. Delivery time

- 8.1. The delivery time stated by Famateq in the context of an Agreement is always an indication and may therefore never be considered a strict deadline, unless explicitly agreed otherwise in Writing between the Parties. Under no circumstances does exceeding an agreed delivery time give entitlement to compensation.
- 8.2. The delivery time stated by Famateq commences as soon as agreement has been reached on all details, including technical details, all necessary information and suchlike is in the possession of Famateq and all conditions necessary for the performance of the Agreement have been met.
- 8.3. When determining the delivery time Famateq assumes that it will be able to perform the assignment in the circumstances existing at the time of concluding the Agreement.
- 8.4. If the circumstances are different to those known to Famateq at the time of concluding the Agreement, Famateq may extend the delivery time by the amount of time required to perform the Agreement in the changed circumstances. If, as a result of the above, the work cannot be fitted into Famateq's schedule, it will be carried out or completed as soon as Famateq's schedule permits.
- 8.5. In case of a suspension of obligations by Famateq on account of a shortcoming by the Client, the delivery time will be extended by the duration of the suspension. If, as a result of the above, the work cannot be fitted into Famateq's schedule, it will be carried out or completed as soon as Famateq's schedule permits.
- 8.6. If an agreed delivery period for the Goods, or a delivery period that has been extended based on Article 8.5 of these Terms and Conditions, has been exceeded, Famateq will only be in default if it has received a Written notice of default from the Client giving it two (2) months to deliver and still fails to comply within this period of time. In the event of termination, the Client will not be entitled to compensation unless the period of time referred to above has been exceeded as a result of intent or gross negligence on the part of the management of Famateq and/or its managing employees.

9. Contract variations

- 9.1. Changes in the Work will in any case result in contract variations if: a. there is a change in the Agreement, the design, the specifications, the contract documents or the conditions governing the performance; b. the information provided by the Client is contrary to the actual situation; c. the quantities deviate, or d. the amounts deviate from the provisional sums. Provisional

sums are amounts stated in the Agreement, that are included in the contract sum and that are designated for a. purchasing materials or parts; b. purchasing materials or parts and processing these; c. carrying out work which on the date the Agreement was drawn up had been insufficiently accurately determined and which must be specified in greater detail by the Client.

9.2. Contract extras are calculated on the basis of the price-determining factors applicable at the time the contract extras are carried out. Contract reductions are set off on the basis of the price-determining factors that applied at the time the Agreement was concluded.

9.3. In the event of changes required by the Client to the Agreement or to the conditions governing the performance, Famateq may only claim an increase of the price if it has informed the Client in good time of the need for an increase arising from such changes, unless the Client should have been aware of this necessity of its own accord.

10. Mode of delivery

10.1. The risk of the Goods to be delivered to the Client will pass to it ex Famateq's warehouse or the warehouse of any third party engaged by Famateq (i.e. Ex Works, as included in the most recent version of ICC Incoterms).

10.2. Unless agreed otherwise, the transfer of ownership will only be effected once the purchase price of the Goods has been paid. Famateq is at all times entitled to suspend the transfer of ownership and the delivery of the Goods until the purchase price of the Goods has been paid in full.

10.3. Famateq fulfils its obligation to deliver by making the Goods available to the Client on the agreed date at its warehouse or at the warehouse of a third party engaged by Famateq. The delivery document signed by or on behalf of the Client and/or the relevant appendices of the carrier will constitute conclusive proof of delivery by Famateq of the Goods stated in the delivery document and/or the relevant appendices.

10.4. An offer for delivery by Famateq of the Goods ordered to the Client will be considered equivalent to the delivery of these Goods. If the Client refuses to accept the Goods offered for delivery, Famateq will store the Goods concerned at the expense of the Client for a period of three (3) months after the date of offering, at a location to be decided by Famateq. After the expiry of this period Famateq will no longer be obliged to keep the Goods available for the Client and will be entitled to sell the Goods to a third party or to dispose of them in any other way. The Client, however, will remain obliged to comply with the Agreement by taking possession of the Goods concerned at Famateq's request at the agreed price and is also obliged to compensate Famateq for the loss arising from the Client's initial refusal to accept the Goods concerned, including storage and transport costs.

11. Completion

11.1. Famateq will notify the Client when it considers the Work to be completed. The completed Work must be inspected by the Client within eight days of the day referred to in the preceding sentence.

The Client will inform Famateq in Writing of the date of inspection at least three working days in advance.

11.2. If the inspection does not take place within the period referred to in the first paragraph or if Famateq has not received a date and time for the inspection within five days of the date considered as the completion date, Famateq may send the Client a new request to inspect the Work within eight days. If the Client fails to comply with this request, the Work is deemed to have been approved on the eighth day following the dispatch of that letter.

11.3. Within three working days of the inspection the Client will inform Famateq in Writing whether or not the Work delivered has been approved. If the Work delivered has not been approved, together with the notification that the Work delivered has been rejected the Client will send supporting information about the aspects of the Work delivered that in its opinion have not been delivered as agreed by the Parties. If Famateq does not receive a notification as referred to in the preceding sentence within the stipulated period, the Work delivered will be deemed to have been approved.

11.4. Provided they do not preclude the use of the Work, minor defects will not constitute a reason to withhold approval. Famateq is obliged to remedy the defects referred to in this paragraph as soon as possible.

11.5. The above provisions in this Article 11 will equally apply to a reinspection after approval has been withheld.

11.6. In the event of a reinspection, any defects other than those reported to Famateq in accordance with Article 11.3 may only constitute a reason to withhold approval again if they have arisen after the first inspection.

11.7. The assignment will be deemed to have been delivered or completed on the date and at the time that the Work has been approved or, if this moment is earlier, when the Client has notified Famateq accordingly.

11.8. The assignment will also be deemed to have been delivered and/or approved when the Client puts the Work into use.

12. Defects

12.1. If the Parties fail to reach agreement on the question whether or not there is a defect, an independent expert will be engaged. The expert will be appointed by Famateq in consultation with the Client. Unless agreed otherwise, the relevant costs will be borne by the party that, for the most part, fails in its claim.

12.2. Complaints of any nature whatsoever relating to the performance of an Agreement by Famateq or to the delivery of a Work and/or Goods, do not suspend the Client's payment obligation and may only be communicated to Famateq in Writing.

12.3. A claim concerning Services provided and/or Goods delivered by Famateq cannot affect Services already provided or yet to be provided and/or Goods already delivered or yet to be delivered, even if these Services and/or Goods have been or will be provided or delivered in the performance of the same Agreement.

13. Guarantee

13.1. Famateq does not provide any guarantee for the Goods delivered. Only the applicable manufacturer's guarantee applies to Goods delivered, for which the manufacturer is responsible.

The Client cannot enforce any claims against Famateq in this respect.

- 13.2. Famateq gives a guarantee of one (1) year for the Services provided and the Work, unless otherwise agreed in the Agreement. The guarantee contained in this Article 13.2 only applies to defective parts, not being a defect or defective parts arising from the normal course of business of the Client (including but not limited to wearing components).
- 13.3. Famateq will not be obliged to provide the guarantee referred to in Article 13.2 or perform any other work in the context of a complaint or non-conformity as referred to in Article 11 if:
- (a) it cannot be established that the defect has arisen due to a fault in the Goods delivered or Services provided or that the defect arose during the performance of the Services;
 - (b) defects to the Goods delivered and/or Services provided (including the Work) were not reported to Famateq in Writing within a reasonable period after having been discovered or after they reasonably could have been discovered;
 - (c) the defects to the Goods or to the Work are the result of normal wear and tear, improper use, incorrect use or causes other than defective materials or manufacture of the Goods and/or the Work;
 - (d) the cause of the defect cannot be found;
 - (e) not all instructions given for the use of the Goods or after performance of the Services and other specifically applicable guarantee regulations have been strictly and fully complied with;
 - (f) it concerns failures that are entirely or partially the result of government regulations concerning the manufacture or the quality or nature of the materials used;
 - (g) during the guarantee period the Client, on its own initiative, has made changes and/or repairs to the Goods delivered or the items of property for which the Services have been delivered or has arranged for third parties to do so;
 - (h) the failure is the result of information provided by the Client or instructions given by or on behalf of the Client;
 - (i) no regular maintenance has been performed during the guarantee period.

14. Expiry periods

- 14.1. Legal actions and other powers of the Client, for whatever reason, with respect to Famateq in connection with Services provided and/or Goods delivered will lapse twelve (12) months following delivery, or on the date on which Famateq has ceased its activities if no delivery has taken place.
- 14.2. If within the term stated in Article 14.1 a Written claim has been lodged by the Client with Famateq in connection with Services provided and/or Goods delivered by it, any legal action of the Client in this respect will also lapse if within a term of six (6) months after receiving the relevant Written claim no legal action has been brought against Famateq before the court that is competent pursuant to Article 21 of these Terms and Conditions.

15. Termination and notice of termination

- 15.1. If the Client fails to fulfil all or part of one or more of its obligations under the Agreement, the Client will be in default by operation of

law and Famateq will have the right to terminate all or part of the Agreement unilaterally by means of a Written notification to the Client, without any notice of default or judicial intervention being required, and/or to suspend its obligations under the Agreement, without Famateq being obliged to pay any compensation and without prejudice to any rights accruing to Famateq, including the right to full compensation. All claims which Famateq may have or acquire against the Client in these cases will be due and payable immediately and in full.

- 15.2. The Client will be in default by operation of law and Famateq will have the right, without any notice of default or judicial intervention being required, to terminate all or part of the Agreement, give notice of termination and/or suspend its obligations under the Agreement, at its discretion, if:
- (a) the Client is in liquidation or has been granted a suspension of payments;
 - (b) the Client has resolved to liquidate its business;
 - (c) the Client discontinues its business;
 - (d) the Client's business has been shut down;
 - (e) there has been a change in the direct or indirect predominant control of the Client's company or any comparable situation with respect to the Client's business;
 - (f) an attachment has been levied against the Client and this attachment is not lifted within thirty (30) days; or
 - (g) the Client can no longer be expected to comply with the obligation under the Agreement, at the discretion of Famateq.
- 15.3. Termination or notice of termination must take place by sending a Written notification to the Client.
- 15.4. In the event of termination or notice of termination on the basis of this article, Famateq will not be obliged to pay any compensation. In that case Famateq will retain the rights accruing to it, including the right to full compensation.
- 15.5. If one of the situations referred to in Article 15.2 occurs, all claims Famateq may have or acquire against the Client will be due and payable immediately and in full.

16. Liability and insurance

- 16.1. Famateq is liable for loss suffered by the Client due to any failure attributable to Famateq in the performance of the Agreement. Only the loss or damage against which Famateq is insured will qualify for compensation and only up to the amount paid out by the insurer in the case concerned.
- 16.2. If the loss or damage concerns defects to the Work, the Client must first give Famateq the opportunity to repair the damage, in which case Famateq undertakes to repair the damage within a reasonable period of time.
- 16.3. The following do not qualify for compensation:
- (a) financial loss, such as, but not limited to, trading loss, consequential loss, loss due to delay and loss of profits;
 - (b) damage to property in the care, custody or control of, but not owned by the insured (*opzichtschaade*), including damage caused by or during the performance of Work to items of property on which work is performed or which are located near the location where work is performed (the Client must take out adequate insurance in this respect, if required);

- (c) loss arising through acts or omissions of the Client or third parties contrary to the instructions issued by Famateq or in conflict with the Agreement and the Terms and Conditions;
- (d) loss caused directly by incorrect, incomplete and/or faulty information provided to Famateq by or on behalf of the Client;
- (e) loss due to or in connection with cybercrime (computer crime) committed against Famateq or a third party engaged by it, or cybercrime to which Famateq or a third party engaged by it has fallen victim, if Famateq is liable for this loss, which includes but is not limited to loss due to or in connection with: penetrating a computer system (computer intrusion) (Section 138ab of the Dutch Criminal Code), preventing access to or use of a computer system (Section 138b of the Dutch Criminal Code), destroying, damaging or rendering unusable any computer system or any telecommunications system, causing a disruption in the course or operation of such a system or frustrating a safety measure taken in respect of such a system (Sections 161(*sexies*) and 161(*septies*) of the Dutch Criminal Code), as well as unlawfully altering, deleting, disabling or rendering inaccessible data or adding other data to it and/or making data available or disseminating data intended to cause damage to a computer system (by self-replication (computer viruses)) (Section 350a of the Dutch Criminal Code).
- 16.4. In the event that:
- (a) Famateq's insurer does not pay out for the relevant loss,
- (b) and the relevant loss is not covered by the insurance, the compensation for loss will be limited to the invoice amount excluding VAT under the Agreement.
- 16.5. For the purposes of this article, a series of related loss-causing events will be considered as one event or claim.
- 16.6. Famateq is not liable for any damage caused by faulty processing of materials delivered by or on behalf of the Client. At the Client's request Famateq will perform the processing once again, using new materials delivered by and at the expense of the Client. This additional Work will be considered as contract extras.
- 16.7. The Client indemnifies Famateq against all third-party claims due to loss caused by or in connection with Services provided by and/or Goods delivered by Famateq, in so far as Famateq would not be liable towards the Client for such loss either.
- 16.8. Famateq is not liable for the items used by it in performing its Services and the Work, including but not limited to the performance of the software of the Work.
- 16.9. If the commencement or progress of the Work is delayed by factors for which the Client is responsible, the loss suffered and costs incurred by Famateq and third parties as a result will be compensated by the Client.
- 16.10. The Client is liable for damage to the Work and any loss and delays Famateq incurs as a result of work performed or deliveries made by the Client or by third parties engaged by it.
- 16.11. The limitations and/or exclusions of liability contained in this article also apply for the benefit of Famateq's staff and other persons or legal entities involved by Famateq in the performance of an Agreement.
- 17. Force majeure**
- 17.1. Force majeure is taken to mean a shortcoming in the performance of an Agreement which cannot be attributed to Famateq.
- 17.2. Force majeure as referred to in Article 17.1 includes in any case – therefore not exclusively – shortcomings as a result of: (a) problems in and/or serious disruptions to the production process at suppliers, including utility companies, (b) failure by third parties to deliver the necessary materials, (c) wilful misconduct or gross negligence of auxiliary persons, (d) strikes, (e) excessive sickness absence of personnel, (f) fire, (g) special weather conditions making it impossible to work, (h) government measures (both at national and international level), including import and export prohibitions and impediments, (i) war, mobilization, disturbances, riots, state of siege, (j) sabotage, (k) traffic congestion, (l) machinery breakdown, (m) transport delays and/or (n) a regional, national and/or international pandemic.
- 17.3. In the case of force majeure, Famateq has the choice of either suspending the performance of the Agreement until the force majeure situation has ceased to exist or, whether or not having originally chosen to suspend performance, terminating all or part of the Agreement. In either case the Client will not be entitled to any compensation. If the period in which Famateq is unable to comply with its obligations for reasons of force majeure lasts for more than thirty (30) days, the Client will also be entitled to terminate part of the Agreement (with respect to the future), with the proviso that Famateq, in accordance with Article 17.4 will be entitled to send an invoice for the work already performed. In case of partial termination there will be no obligation to compensate for loss, if any.
- 17.4. If Famateq has already met its obligations in part at the time the force majeure occurs or can only partially comply with its obligations, it will be entitled to invoice that part separately. The Client will then be obliged to pay this invoice as if it concerned a separate Agreement.
- 18. Retention of title**
- 18.1. All Goods and Works delivered will remain the exclusive property of Famateq until such time as the Client has complied with all its obligations arising from or in connection with an Agreement or Agreements, including claims relating to penalties, interest and costs.
- 18.2. In the event that Goods and Works are delivered to the Client in a territory other than the Netherlands, supplementary to the retention of title under Dutch law as referred to in Article 18.1, a retention of title as referred to in Article 18.1 under the law of the country concerned will also apply to the Goods and Works concerned, if and as soon as they are located in the territory of the country concerned, with the proviso that the remainder of the Agreement is exclusively governed by Dutch law as referred to in Article 21.
- 18.3. As long as the Goods and Works delivered are subject to retention of title, the Client may not encumber or sell these Goods outside its normal business operations.

- 18.4. After Famateq has invoked its retention of title, it will be entitled to recover the Goods and Works delivered. The Client must allow Famateq to access the premises where the Goods are stored.
- 18.5. If Famateq cannot invoke its retention of title because the Goods and Works delivered have been mixed or deformed or have become a constituent element of other goods, the Client will be obliged to pledge the resulting new goods to Famateq or mortgage them.

Production tools

Unless stipulated otherwise in the Agreement, all items used by or on behalf of Famateq for the production, such as but not limited to dies, moulds, stamps, prototypes, special tools and drawings (the 'production tools') manufactured or purchased by Famateq for the Client, will remain the property of Famateq.

19. Confidentiality

- 19.1. Both parties are bound not to disclose any confidential information they have acquired from each other or from some other source within the context of their Agreement. Information is to be regarded as confidential if a Party has stated that it is confidential or if this follows from the nature of the information.
- 19.2. If Famateq is obliged, by virtue of a statutory provision or a court ruling, to disclose confidential information to third parties designated by the law or a competent court and Famateq is unable to claim a right of non-disclosure recognized or granted by the competent court in such a case, Famateq will not be obliged to pay any damages or compensation and the Client will not be entitled to terminate the Agreement.

20. Intellectual property rights

All intellectual and industrial property rights, including but not limited to copyrights and database rights, to the results of Services, including but not limited to copy, models, drawings, designs, technical descriptions, documentation, photographic recordings, films, information carriers, equipment and software (in object code and source code), data and databases, moulds and templates, which are the subject of and/or arise from and/or are used in the performance of the obligations under the Agreement between Famateq and the Client are vested in Famateq. If the aforementioned rights are not vested in Famateq, the Client will be obliged to cooperate with the transfer of the relevant right to Famateq at its request.

21. Applicable law and competent court

- 21.1. All Agreements concluded by Famateq, the formation of those Agreements and the choice of forum referred to below in Article 21.2 will be exclusively governed by Dutch law to the exclusion of the Vienna Sales Convention.
- 21.2. Any disputes between the Parties will be exclusively submitted to the Court of Rotterdam, Rotterdam location.