

**GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF PROMESE LOGISTICS
FOR THE RETAIL TRADE**

1. GENERAL

- 1.1 The present General Terms and Conditions of Sale and Delivery ("Terms and Conditions") shall apply to all offers, agreements and deliveries of the private company with limited liability Promese Logistics B.V. ("Logistics"). The most recent version of said Terms and Conditions shall always apply.
- 1.2 The Terms and Conditions shall be sent to the Buyer for no consideration at the Buyer's first request to that effect. The Terms and Conditions can also be consulted at the url www.promese.eu.
- 1.3 In the present Terms and Conditions, the following shall be understood to be:
- a) Agreement: the agreement to have Products delivered to the Buyer by Logistics on behalf of the Client(s), each change or supplement thereto, as well as all (legal) acts in preparation and/or execution of the Agreement
 - b) Buyer: the customer from whom Logistics accepts Orders with the consent of the Client(s) concerned;
 - c) Client(s): each and every natural person or legal entity who or that instructs the sale and distribution of Products to the Buyer via Logistics;
 - d) Credit Limit: the maximum amount (inclusive of VAT) a Buyer shall owe Logistics at any point in time for the purchase of logistic services from Logistics, which said maximum amount shall be periodically reconsidered for each Buyer by Logistics;
 - e) Logistics: the private company with limited liability Promese Logistics B.V., having its registered office in Eindhoven, listed in the Trade Register under file number 17062755, as well as its legal successors under general or singular title that acts as seller on behalf of the Client(s) of all the Products to be delivered by it with the consent of the Client(s);
 - f) Order: the assignment given by the Buyer to Logistics;
 - g) Products: all the goods delivered or goods to be delivered by Logistics in execution of the Agreement that are not the property of the Client(s);
 - h) Right of Return: a clause agreed upon between the Buyer and the Client(s) pursuant to which the Buyer can exchange or return goods to the Client(s) in certain circumstances. The aforementioned circumstances shall not include manufacturing faults of the Products.
- 1.4 In order to avoid any misunderstanding, it shall be laid down that Promese will act as mandatory of its Client(s). Unless otherwise explicitly agreed upon, the rule shall apply that regardless whether Promese acts in its own name or in the name of the Client(s), the economic entitlement as well as the economic risk shall be with the Client(s). To the extent claims of Promese or amounts owed to Promese are referred to in the present Terms and Conditions, they shall refer to Promese in its capacity as mandatory of the Client(s); said claims and/or amounts shall accrue to the Client(s) in the legal and economic sense.
- 1.5 Unless otherwise explicitly agreed upon, the present Terms and Conditions shall apply to all offers, orders, order confirmations, arrangements, services and all agreements of any kind whatsoever resulting therefrom.
- 1.6 The Buyer shall accept the applicability of the present Terms and Conditions by the mere fact that a request for information is put in and/or Logistics is requested to submit an offer. General uniform or specific general terms and conditions (of purchase) of a (potential) Buyer, shall be explicitly rejected by Logistics in all cases, including in the event the other party refers to the latter general terms and conditions in a request to Logistics to submit an offer.
- 1.7 If one or more stipulations of the present Terms and Conditions is / are wholly or partially null and void or is / are nullified for any reason whatsoever, the other stipulations of the present Terms and Conditions shall remain in full effect and the Buyer and Logistics shall consult each other in order to agree on new stipulations that replace the null and void stipulations and/or the nullified stipulations, whereby the purpose and

- the tenor of the null and void stipulation and/or the nullified stipulation, shall be observed to the maximum possible.
- 1.8 Logistics shall be entitled to lay down unilaterally deviating and/or supplementary conditions for certain categories of Products. Such deviating and/or supplementary conditions shall at all times be submitted to the Buyer prior to the moment any agreement comes into being.
 - 1.9 In the event the present Terms and Conditions are translated, the text of the Dutch version exclusively, shall be and remain decisive in the event of any contradiction.

2. ACCEPTANCE OF CUSTOMERS AND ORDERS

- 2.1 The Agreement between Logistics and the Buyer shall only come into being when the Client has approved to the acceptance of the Buyer and the Order and when the Order has been confirmed in writing to the Buyer by Logistics.
- 2.2 The Client shall independently determine to which potential customers the Products agreed upon shall be delivered via Logistics and on which conditions (starting orders, discounts, prices and the like).
- 2.3 The Buyer shall undertake to observe the conditions he has agreed upon directly with the Client, in the absence of which Logistics shall be entitled at the first request of the Client to that effect, to cease the delivery of Products.

3. DELIVERY (PERIOD)

- 3.1 Delivery period shall be understood to be the terms stipulated in the Agreement within which the Products have to be delivered.
- 3.2 Delivery periods shall only be given approximately and shall only be indicative.
- 3.3 Exceeding the delivery period, including but not exclusively, exceeding the term due to complications during the transport of the Products, shall not entitle the Buyer to any kind of damages, including but not exclusively, consequential damage, nor to non-compliance with any obligation resulting from the present Agreement or another agreement linked to it, nor to the dissolution of the Agreement.
- 3.4 If Products cannot be delivered from stock, Logistics shall forthwith notify the Buyer thereof in writing. Logistics shall put Products that cannot be delivered from stock, on statement if the Buyer so wishes. The Buyer shall have the right to cancel Products put on statement unless the Products concerned were ordered especially for the Buyer ("special import") or unless the Buyer and Logistics have agreed on specific conditions (of delivery) with respect to the Products concerned. Products on statement can be cancelled by Logistics without prior notification, which will not give rise to any right to any kind of damages on the part of the Buyer.
- 3.5 Logistics shall take care of the transport of the Products to the Buyer. The way of delivery of the Products shall be determined by Logistics and shall be communicated to the Buyer in writing.
- 3.6 The Buyer shall bear the transport costs. The Buyer can ask Logistics for the current rates. The Products shall be deemed to have been delivered at the moment the Products are made available to the Buyer by Logistics. The Buyer shall only be allowed to pick up the Products at Logistics' with the explicit consent in writing to that effect of Logistics and entirely for the Buyer's risk and account.
- 3.7 If the Buyer chooses "express delivery" of Products, the extra charges shall be for the Buyer's risk and account. The Buyer shall have to notify Logistics in due time and in writing an "express delivery" is being chosen.
- 3.8 In the event Logistics delivers the Products to be delivered to the Buyer on condition of "cash on delivery" and the Buyer refuses for any reason whatsoever to pay the Products upon delivery resulting in the fact that the Products are shipped back to Logistics, Logistics shall be entitled to charge all the corresponding costs to the Buyer, with a minimum of EUR 20.- (twenty Euro) per return shipment.
- 3.9 Without explicit consent to that effect in writing of Logistics, the Buyer shall not be allowed to export all or part of the Products to countries that are not a part of the European Economic Area.

4. DELIVERY OF AUDIO REPRODUCTIONS

- 4.1 Supplementary to the stipulations of article 3 of the present Terms and Conditions with respect to deliveries of Products by Logistics to the Buyer in general, the following conditions shall apply to the delivery of audio reproductions.
- a) The Buyer shall not be allowed to directly or indirectly occupy himself with the rental of audio reproductions delivered by Logistics.
 - b) The Buyer shall undertake to include a clause in accordance with article 4.1.a and article 4.1.b of the present Terms and Conditions in each and every agreement the Buyer enters into with any third party, by virtue of which said agreement the Buyer uses, other than to the consumer, and trades in audio productions for his own non-commercial purposes.
- 4.2 If the Buyer fails to comply with the stipulations of article 4.1, the stipulations of article 8.2 shall apply.
- 4.3 The present article 4 shall equally apply to all the audio reproductions put on the market by the Buyer or by companies affiliated with the Buyer and that are the same as or similar to the audio reproductions that have been or are marketed in The Netherlands by Logistics.

5. DELIVERY OF AUDIOVISUAL REPRODUCTIONS

- 5.1 Supplementary to the stipulations of article 3 of the present Terms and Conditions with respect to deliveries by Logistics to the Buyer in general, the conditions set out in the present article 5 shall apply to the delivery of audiovisual reproduction(s).
- 5.2 The conditions set out in the present article shall apply to all agreements between Logistics and the Buyer under which audiovisual reproduction(s) are delivered by Logistics and the Buyer acquires both the right (on conditions to be referred to hereinafter) to sell them on and to rent them out. The conditions of the present article shall therefore not apply to agreements between Logistics and the Buyer under which Logistics makes audiovisual reproduction(s) available for rental exclusively and under which the ownership remains with Logistics or a third party.
- 5.3 The sale or rental of the audiovisual reproduction(s) by the Buyer shall only be allowed for showing in domestic circle (i.e. the family circle or circle of friends as referred to in article 12 section 4 of the Dutch "Auteurswet" (The Netherlands Copyright Act) and article 22 of the Belgian "Auteurswet" (Copyright Act). Therefore, it shall not be allowed to use or make the audiovisual reproduction(s) available for:
- a) public showing, such as showing within the context of a society, school or company or showing in a cinema or a television broadcast or in catering businesses, and;
 - b) making copies (duplications) of the works recorded on the audiovisual reproductions and/or of the cover.
- 5.4 The Buyer shall guarantee he will not use or have the audiovisual reproduction(s) used in violation of the stipulations of the present article 5 the Buyer shall undertake to impose the same prohibition on his customers. The Buyer shall guarantee that all the carriers he puts on the market, shall be provided with the "Warning" affixed to the audiovisual reproduction(s).
- 5.5 The notion "Warning" as referred to in article 5.4, shall be understood to mean the following:
*"All rights reserved. Subject to the consent of the parties entitled to the works, films, performances and phonograms recorded on the present image carrier, copying, renting out, lending out and public showing, shall be forbidden.
The present warning shall be supplemented by one of the texts hereinafter;
'ONLY INTENDED FOR SALE' or 'ONLY INTENDED FOR RENTAL'"*
- 5.6 The Buyer shall furthermore see to it – to the best of his knowledge and ability – that the user of the audiovisual reproduction(s) refrain from any showing other than showing in the domestic circle. If the Buyer is aware or must be aware of or suspects at any rate any unauthorised use of the audiovisual reproduction(s) by third parties, the Buyer shall be under the obligation to forthwith notify Logistics thereof in writing.
- 5.7 The Buyer shall only acquire the consent to rent out an audiovisual reproduction delivered to the Buyer, if it is stated on the reproduction concerned and on its box that

is intended for rental and if the corresponding invoice states that a tape intended for rental is concerned. The consent to rent out the audiovisual reproduction cannot be passed on to a third party without explicit consent in writing to that effect of Logistics. Logistics shall guarantee that it has the authority to grant consent to rent out the audiovisual reproduction(s) with respect to the audiovisual reproduction(s) it offers for rental.

- 5.8 The Buyer shall guarantee Logistics that he shall sell, rent out or use or make the audiovisual reproduction available in any other authorised manner in the form in which Logistics has delivered them. The Buyer shall furthermore guarantee not to introduce any change to the audiovisual reproduction(s), the inlay cards or the packaging of the audiovisual reproduction(s), nor to replace them by other inlay cards or packaging means or similar means of expression, all this on penalty of an immediately due an payable penalty not subject to moderation of EUR 1,000.- (one thousand Euro) per changed reproduction, without the need for any notice of default.
- 5.9 The Buyer shall furthermore guarantee that he shall impose the stipulations of article 5.6 on the third parties to which he, in his turn, sells, rents out, etc., the audiovisual reproduction(s) and this equally on penalty of an immediately due an payable penalty not subject to moderation of EUR 1,000.- (one thousand Euro) for each individual violation per copy, regardless the right of Logistics to claim the excess damage sustained by it, on top of said penalty, without the need for any notice of default.
- 5.10 Logistics shall reserve the right to cease all further deliveries of audiovisual reproductions to the Buyer in the event the Buyer acts in violation of the stipulations of the present article 5.
- 5.11 The Buyer shall be under the obligation to give Logistics all the information that contributes, may contribute at any rate, to the establishment of compliance with the stipulations of the present article 5.

6. DELIVERY OF BOOKS

- 6.1 Supplementary to and/or contrary to the stipulations of the present Terms and Conditions, the conditions set out in the present article 6, shall apply to the delivery of books. To the extent the conditions set out in the present article 6 are in conflict with the other stipulations of the present Terms and Conditions, the stipulations of the present article 6 shall prevail.
- 6.2 Contrary to the stipulations of article 3.5, 3.6 and 3.7, books shall be delivered as an "express delivery" whereby the Buyer shall have the choice between "next day delivery" or "mail delivery", if and to the extent the conditions of a shipment by mail item are met,. The Buyer shall have to inform Logistics in writing of his choice in due time. The transport costs shall be for the Buyer's risk and account.
- 6.3 The books shall be deemed to have been delivered the moment the Products are made available to the Buyer.
- 6.4 Contrary to the stipulations of article 7, the prices and other costs shall be laid down in further arrangements to be made between Logistics and the Buyer.
- 6.5 Logistics shall be entitled to report to a Buyer that the latter has reached or is about to reach the Credit Limit that applies to him. The case ensuing as well as in the event there is serious and demonstrable doubt on the part of Logistics about the possibility to collect debts from the Buyer, Logistics shall be entitled to suspend the performance of the Agreement until the Buyer has furnished satisfactory security for the payment of the amounts he owes.
- 6.6 To the extent Promese and the Buyer agree that the provision of logistic services is for the risk and account of the Buyer, the conditions as laid down in enclosure 1 with the present Terms and Conditions, shall apply.

7. PRICE

- 7.1 Deliveries shall be made at the price applicable at the moment the Order was placed by the Buyer, whereby Logistics shall reserve the right to periodically modify the price as a result of modified quotes by the Client(s) who has (have) given Logistics instructions

regarding the provision of services concerning the sale and distribution of the Product(s).

- 7.2 All prices shall be net prices in cash, without discount and/or other levies, duties, excises, costs and extra charges, owed at the time of delivery of the Products.
- 7.3 With regard to deliveries of Products in respect of which the Buyer does not have the right to rent them out and whereby the transport method has been determined by Logistics, the transport costs Logistics will charge to the Buyer, shall amount to 0.25% of the net value of the invoice per shipment, with a minimum of Euro 2.- and a maximum of Euro 20.-.
- 7.4 With regard to deliveries of Products in respect of which the Buyer has the right to rent them out exclusively and whereby the transport method has been determined by Logistics, the transport costs Logistics will charge to the Buyer, shall amount to EUR 5.50 per shipment, to the extent the net value of the invoice of the delivery amounts to less than EUR 140.-. If the net value of the invoice equals or exceeds EUR 140.-, the delivery shall be made "carriage paid".
- 7.5 With regard to deliveries of Products in respect of which the Buyer does not have the right to rent them out and whereby the transport method has been determined by Logistics, the cash on delivery charges Logistics will charge to the Buyer, shall amount to 2% of the net value of the invoice per shipment, with a maximum of Euro 5.75 per shipment.
- 7.6 All prices and/or rates shall be in Euro and exclusive of VAT, copyrights potentially owed and taxes, levies and charges potentially imposed by government or semi-government bodies, unless otherwise explicitly agreed upon in writing.

8. INVOICING AND PAYMENT

- 8.1 Logistics shall send the Buyer an invoice for the Products Logistics has delivered on the day concerned, on working days excluding public holidays. Logistics shall send the Buyer an invoice for the services provided in the previous month, within five (5) days after expiry of the calendar month.
- 8.2 The Buyer shall pay an invoice within thirty (30) days from the date of invoice into a bank account stated by Logistics, in the absence of which the Buyer shall be in default without any written notice of default and shall owe the statutory commercial interest increased by 2% for each day or part thereof that payment remains forthcoming, commencing on the expiry date of the invoice up to and including the day of payment in full.
- 8.3 Complaints about damage, shortcomings and/or manufacturing faults, shall not suspend the Buyer's obligation to pay.
- 8.4 In addition to the principal and the interest for overdue payment, all the costs, both judicial and extrajudicial costs shall be payable by the Buyer, Logistics incurs to collect its claim as well as to safeguard its rights, to be increased by a statutory commercial interest to be increased by an interest of 2%. Judicial costs shall in any case be understood to include the statements of expenses of lawyers, experts and all those Logistics has instructed to assist with the collection and/or whom Logistics has instructed to conduct proceedings in this respect, even though the statements of expenses concerned are potentially higher than the amount the Court in the proceedings has budgeted due to costs at the expense of the party ruled against. Extrajudicial costs shall in any case be understood to include the statements of expenses and bills of expert (legal) advisors, debt-collection agencies, bailiffs and all those Logistics has instructed to assist with the collection out of court.
- 8.5 Logistics shall have the right to only deliver, at its own discretion, on condition of payment in advance or payment in cash or furnishing security or on conditions that deviate from those set out in the present article 8. The corresponding costs shall be for the Buyer's account. In the event of payment in cash, the payment shall be deemed to have been made the moment Logistics has actually received the payment from the Buyer.

- 8.6 Payments by the Buyer shall be made without any discount or set-off, unless otherwise explicitly agreed upon in writing. The Buyer shall never be entitled to suspend the payment of any invoice or to set it off against any claim on Logistics.
- 8.7 If the Buyer is in default, applies for suspension of payments, is bankrupt, ceases his business (activities) or if Logistics has any serious doubt that the Buyer shall be able to comply with his obligations in a proper and timely manner, the claims Logistics has on the Buyer shall be immediately due and payable.
- 8.8 Logistics shall at all times be entitled to demand security for compliance by the Buyer with the latter's (financial) obligations vis à vis Logistics, if Logistics has good grounds for fearing that the Buyer shall not comply with his obligations to pay or shall not comply with them in a timely manner. If the Buyer fails to furnish security, Logistics shall have the right to stop the (further) execution of the Agreement(s) until the demanded security has been furnished.
- 8.9 Payment by the Buyer at an earlier point in time, shall primarily serve to pay the interest owed by the Buyer and the collection costs incurred by Logistics and subsequently to pay the longest outstanding claims, even if the Buyer states that the payment relates to an invoice of a later date.

9. COPYRIGHTS / PIRACY

- 9.1 The Buyer shall not in any way be entitled to any copyright to the Products to be delivered and/or delivered that are recorded on (image and/or sound) material. The Buyer shall explicitly be prohibited to transfer the aforementioned material in any way whatsoever subject to an immediately due and payable penalty not subject to moderation of € 5,000.- (five thousand Euro) per image carrier and/or sound carrier, regardless the right of Logistics to claim the excess damage sustained by it, on top of said penalty, all this without the need for any notice of default.
- 9.2 The moment Logistics becomes aware of the fact that the Buyer apparently occupies himself, in the opinion of Logistics at any rate, or has occupied himself with trading in or otherwise exploiting sound carriers and/or image carriers on which recordings are reproduced, without the Buyer being able to demonstrate that he has obtained consent for said reproduction from the producer concerned and the artist concerned,
- a) Logistics shall be entitled to forthwith cease all deliveries to the Buyer and to keep them ceased, and;
- b) the Buyer shall owe Logistics an immediately due and payable penalty not subject to moderation of EUR 5,000.- (five thousand Euro) per violation, all this without prejudice to all the other rights of Logistics, including – but not limited to – the right to damages and/or to take legal action against the Buyer, potentially on penalty of an astreinte, without the need for any notice of default.
- 9.3 The Buyer shall guarantee Logistics and the organisations that combat piracy of which Logistics and/or the Client(s) are affiliates, that he shall not be involved, directly or indirectly, in any form of piracy, such as the unlawful duplication or publishing of works protected by copyrights as well as the rental of and trading in audiovisual reproductions on which recordings are reproduced, in violation of article 5., without having obtained the consent of the producer concerned or the artist concerned for said reproduction, publishing or rental, all this on penalty of an immediately due and payable penalty not subject to moderation of € 5,000.- (five thousand Euro) per violation without the need for any notice of default.
- 9.4 In the event the Buyer is in any way involved in piracy or the suspicion arises that this is the case, Logistics shall be entitled to forthwith cease all deliveries to the Buyer.

10. COMPLAINTS

- 10.1 To the extent the Client(s) and the Buyer have agreed on a Right of Return, Logistics shall execute the return procedure agreed upon between the Client(s) and the Buyer. Logistics shall at all times be entitled to ship back the Products returned by the Buyer under the Right of Return, to the Client(s).
- 10.2 The Buyer shall have to inspect the delivered Products forthwith upon delivery for potential defects and report them as soon as possible but not later than within two (2)

- weeks after receipt of the Products to Logistics using the return advice form, if shortcomings are concerned (code D) and/or the delivery of a wrong product (code C / D) and/or a product that was not ordered (code B), and within 180 days after receipt of the Products if quality defects (code A) have been noticed and the delivery with the Right of Return (code F) and the Products concerned, is not deleted from the catalogue of the Client(s) in accordance with the return procedure agreed upon with the Client(s) and the Buyer, all this on at the risk of forfeiting all rights.
- 10.3 The Buyer shall have to file complaints regarding transport damage with Logistics in writing within 48 hours after receipt of the Products.
- 10.4 Return shipments shall be for the risk and account of the Buyer.
- 10.5 The Buyer shall have to present the Products for transport by Logistics in accordance with the instructions given by Logistics.
- 10.6 Logistics shall reserve the right to refuse and/or not to execute return shipments as well as the corresponding crediting, if circumstances that came to the knowledge of Logistics after the Agreement was concluded, give Logistics good grounds for fearing that the Client will not comply with obligations resulting from said return shipments and the corresponding crediting, or will not comply with said obligations completely or in due time.
- 10.7 The proof of the timely filing as well as of the correctness of the complaint, shall be on the Buyer. The Buyer shall be held to render Logistics every assistance to the inquiry into the alleged defects.
- 10.8 Products taken receipt of can only be returned by the Buyer to Logistics, if said Products are accompanied by a return confirmation to be sent to the Buyer by Logistics. The Products to be returned shall have to be returned to Logistics in the same condition and packaging as the one the Buyer received them in. The Buyer shall make sure that the Products will be returned within ten (10) days after receipt of the return confirmation by Logistics, all this at the risk of forfeiting all rights.
- 10.9 If Logistics finds a complaint pursuant to the present article 10 to be justified, the rule shall apply that Logistics has to replace the Products without charging any costs in this respect. If the Products cannot be replaced or if Logistics does not opt for replacement of the Products, Logistics shall credit the Buyer's account with the purchase price of the returned Products. The Buyer shall not be entitled to any additional damages.
- 10.10 Reliance on the present article 10 shall not be suspend the Buyer's obligation to pay. Logistics shall not be held to handle any complaint filed by the Buyer if the Buyer fails to comply with it in a complete manner or in due time.
- 10.11 Audiovisual Products that are exclusively intended for rental purposes can be exchanged for no consideration in the event of a quality defect, within one (1) month from the date of invoice. If the quality defect is reported later than one (1) month from the date of invoice, the Buyer shall have the right to have it exchanged against payment of EUR 16.- (sixteen Euro) exclusive of VAT.

11. RETENTION OF TITLE

- 11.1 All Products delivered by Logistics within the framework of the Agreement, shall remain the property of the Client(s) up to the moment the Buyer has paid all the amounts due to Logistics regarding the consideration for the Products delivered or to be delivered by Logistics to the Buyer by virtue of the Agreement as well as by virtue of all other agreements concluded with the Buyer, as well as the claims regarding the failure to perform such agreements. Notwithstanding the retention of title, the Buyer shall be allowed to sell the Products within the framework of his normal business activities. However, normal business activities shall not be understood to be closing-down sales, sales at dumping prices and the like.
- 11.2 If and the moment the Buyer is in default with the compliance with one or more of his obligations or acts in violation of the stipulations set out hereinafter, Logistics shall be entitled to recover the Products delivered as referred to in the present article 11, as the property of Logistics without judicial intervention and the Buyer shall have to render every assistance to said recovery. All the costs of recovering the Products encumbered by a retention of title, shall be for the account of the Buyer. If the Buyer refuses to

render every assistance to said recovery of the Products despite a warning to do so, the Buyer shall be in default in this respect and shall forfeit an immediately due and payable penalty of € 500.00 (five hundred Euro) for each day he is / continues to be in default in this respect, whereby part of a day shall be put on a par with a full day.

- 11.3 The Buyer shall undertake to pledge the claims on third parties resulting from the sale of the delivered Products to Logistics by way of security for the claims of Logistics on the Buyer.
- 14.1 The Buyer shall be under the obligation to properly insure the Products and to keep them properly insured against the usual risks until Logistics has been paid in full. The same shall also apply to transport risks if the Buyer has received delivery of the Products "ex warehouse Logistics" with the consent of Logistics. If Products get lost / destroyed, they shall be deemed to have been substituted by insurance money. Upon the first request to that effect of Logistics, the Buyer shall assign his rights pursuant to the insurance policy, to Logistics.

12. LIABILITY / DAMAGES

- 12.1 Logistics shall not be liable for any damage, both direct and indirect, including but not limited to, trading loss, consequential damage, damage to movable and immovable goods (of third parties) or people by any cause whatsoever on the part of the Buyer or the third party (third parties) in connection with the Products delivered by Logistics, unless the damage has arisen as a consequence of intent or gross negligence on the part of Logistics.
- 12.2 In the event Logistics is held liable despite the stipulations of the present article 12, to compensate any damage, the liability for the compensation shall be limited to the level of the amount of the transaction that is involved with the individual transaction or maximum to the payment to be made by the insurer of Logistics if the value of the transaction exceeds the amount to be paid by the insurer.
- 12.3 The Buyer shall indemnify Logistics against any claim lodged by any third party in respect of damage that is the consequence of the Products delivered by Logistics.

13. FORCE MAJEURE

- 13.1 Each and every obligation of parties to perform the Agreement, shall be suspended for the duration of the period during which it is impossible to perform the Agreement or to perform it properly, due to circumstances of force majeure. Parties shall notify each other of certain situation as soon as possible.
- 13.2 In this respect, force majeure shall be understood to be: each and every unforeseen and/or or foreseeable circumstance or not, beyond the will of a party due to which the other party can no longer demand in reason that the Agreement be performed.
- 13.3 Force majeure shall in any case be concerned, but not exclusively, in the event of fire, flooding, industrial action, epidemics, (civil) war, riots, floods, water damage, terrorism, government measures, the unavailability (non-timely availability) of permits, trade embargos, labour unrest, power cuts, interruptions of operations, transport difficulties, unforeseen technical complications, breach of contract by or delays on the part of the suppliers and subcontractors and unavailability or overdue or insufficient availability of materials, transport, fuel, energy and labour force.
- 13.4 If the performance of the Agreement has been suspended for three (3) months or the moment it becomes a certainty that it will last three (3) months, either party can claim by registered mail that the Agreement either be adjusted to the circumstances, or be dissolved taking effect immediately (for the part concerned), without the parties being held to reciprocally pay damages.
- 13.5 If the moment the force majeure took effect Logistics had already complied with part of its obligations agreed upon, Logistics shall be entitled to separately and prematurely invoice the activities already carried out and the Buyer shall have to pay said invoice as if a separate transaction were concerned

14. TERMINATION OF THE AGREEMENT

- 14.1 Logistics shall have the right to either terminate each Agreement and to claim the goods delivered back as its property, or to claim any amount the Buyer owes Logistics in its entirety or to claim damages from the Buyer, by the mere fact that one of the circumstances listed hereinafter arises and without the need for any judicial intervention or notice of default, if:
- a) the Buyer fails to comply with any of his obligations vis à vis Logistics or fails to comply with it in a timely or proper manner and has not remedied the shortcoming within fourteen (14) days from the moment Logistics has sent the Buyer a written notice of default;
 - b) the Buyer is declared bankrupt or a request to that effect has been filed, suspension of payments has been filed for or granted, application of the debt rescheduling arrangement has been filed for or granted;
 - c) a prejudgement attachment is made on or execution is levied on all or parts of the Buyer's assets;
 - d) force majeure as referred to in article 13 lasts longer than three (3) months;
 - e) the financial position of the Buyer entails risks in the opinion of Logistics, unless the Buyer furnishes sufficient security upon the first warning of Logistics and to the satisfaction of Logistics;
 - f) the Buyer is dissolved or wound up and a merger or a demerger (split-off) takes place;
 - g) the data provided to Logistics by the Buyer prove to be inconsistent with the actual situation.

15. INSPECTION

- 15.1 Throughout the term of the Agreement, the Buyer shall grant Logistics and/or the organisations referred to in article 8.3 access to all the rooms where Products are or shall be stored, for inspection.
- 15.2 The inspections referred to in article 15.1 may be carried out at any point in time during a working day. Logistics shall inform the Buyer in writing of an intended inspection not later than five (5) working days prior to the inspection concerned, whereby Logistics shall state the purpose of the inspection, the work method, the location(s) where the inspection will be carried out and the number of persons that will be present on the part of Logistics.

16. APPLICABLE LAW / COMPETENT COURT

- 16.1 Dutch law exclusively, shall apply to the Agreement between Logistics and the Buyer and all the agreements resulting therefrom, with the exclusion of the applicability of the Vienna Sales Convention 1980 (CISG).
- 16.2 All disputes relating to or in connection with an offer, assignment, agreement, or engagement, shall in the first instance have to be settled by the competent Court in the District of 's-Hertogenbosch. However, Logistics shall be entitled but never obligated to submit any dispute to the Court in the place of residence of the Buyer or of any other party involved in the dispute. Logistics shall furthermore reserve the right to summon the Buyer to appear before another designated Court if Logistics is of the opinion that the Buyer is held to indemnify Logistics.

17. MISCELLANEOUS

- 17.1 The Buyer shall not be entitled to assign or delegate his rights or obligations by virtue of the Agreement without prior consent in writing to that effect of Logistics. Logistics shall not refuse its consent on unreasonable grounds.
- 17.2 If Logistics has concluded one Agreement with two or more (legal) persons, each of said (legal) persons shall be jointly and severally liable for the full performance of the obligation that results for them from said Agreement. The conclusion of one Agreement with two or more (legal) persons shall equally be concerned when Logistics is requested to forward deliveries and/or invoices to affiliated companies. The latter shall then also be deemed to have bound themselves jointly and severally. Upon the first request to

that effect, said (legal) persons shall sign a statement in which they confirm that they have bound themselves jointly and severally for the fulfilment of the obligations by virtue of the Agreement.

- 17.3 Information provided and advice given by Logistics, shall be of a general nature and without any obligation. The Buyer himself shall be responsible for the implementation of the advice given by Logistics.
- 17.4 The party that has picked the means of communication used, shall bear the risk for any misunderstanding, corruption, delay or improper receipt of assignments and communications in the interaction between the Buyer and Logistics due to the use of mail, telephone, telefax or any means of communication whatsoever.

ENCLOSURE 1 SUPPLEMENTARY TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES FOR THE DELIVERY OF BOOKS PURSUANT TO ARTICLE 6.6 OF THE TERMS AND CONDITIONS

General

- a. If Logistics and the Buyer have agreed that the provision of logistic services for the delivery of books shall be for the Buyer's account in accordance with article 6.6 of the Terms and Conditions, the supplementary Terms and Conditions listed hereinafter shall apply.
- b. Logistics and the Buyer shall agree in writing which services Logistics shall provide within the framework of the provision of logistic services on the instructions of the Buyer.

Logistics

- c. Logistics shall provide the logistic services in accordance with the specifications and/or instructions given by the Buyer. The specifications shall be made available to Logistics together with the submission of the order form and shall form an integral part of the Agreement. Logistics shall not be liable for any damage on the part of the Buyer that has arisen as a consequence of the failure to provide the aforementioned specifications and/or instructions and or the overdue or incorrect supply of the aforementioned specifications and/or instructions.
- d. With respect to released Order(s) which are reported to Logistics on Monday, Tuesday and Wednesday before 01:00 PM and on Thursday before 01:30 PM, with the exception of public holidays, and which are not stopped by Logistics, the rule shall apply that 99% of the released orders shall be shipped out the same day.
- e. With regard to returns, the rule shall apply that in 90% of the cases, the Products shall be put in stock by Logistics at the latter's location and shall be credited within 48 hours. With regard to the return procedure, the document 'Return Procedure', which forms part of the present Supplementary Terms and Conditions, shall be referred to.

Customer Services

- f. Upon the Buyer's first request to that effect, Logistics shall carry out back-office activities for the Buyer. Orders arrive at the customer service department ("Customer Service"), which shall subsequently see to it that the Orders be processed and end up at the right departments.
- g. Logistics has a Customer Service department that can be reached by telephone to answer questions of the Buyer during regular working days from 08:30 AM until 05:00 PM with the exception of recognised public holidays.
- h. Logistics aims for the maximum availability of its Customer Service. Permanent availability shall, however, not be guaranteed.
- i. Logistics shall provide the customer services in accordance with the internal specifications and/or instructions that apply within Logistics. Logistics cannot be bound by standards the Buyer deems desirable within the framework of the provision of the customer services.
- j. The Buyer shall have to comply with the specifications and/or instructions given to him by Logistics.
- k. Logistics shall see to it that employees be available at the Customer Service department who also speak French and/or English in addition to Dutch.
- l. To the extent such be possible, Logistics shall see to it that questions to its Customer Services department be answered immediately but not later than within 24 hours from receipt of the question, provided a regular working day is concerned.
- m. With respect to all the released Order(s) which are reported to Logistics on Monday, Tuesday and Wednesday before 01:00 PM and on Thursday before 01:30 PM, with the exception of public holidays, and which are not stopped by Logistics, the rule shall apply that the released orders shall be shipped out the same day.

Transport

- n. Logistics shall reserve the right to contract transport out to third parties with which Logistics has concluded transport agreements.

- o. With regard to mail, the following service levels shall apply, unless they are deviated from by Logistics and the Buyer in writing:

General service level	World-wide, envelopes up to 2 kg, low speed, international mail, low service level
Transport company (preferred)	TNT, Spring, DHL Globalmail
Rates	Basic price + price per kg
Delivery times	Average delivery time (estimate): Europe 3 – 4 days; North America 5 – 7 days; Japan / Australia / New Zealand 7 days; Other world: 9 – 11 days.
Track & Trace	No
Signature for receipt	Possible in a limited number of countries for an additional charge. To be agreed.
Time deliveries	No
Performance	Not known
Damage	No guarantees
Incoterm	DDU
Fuel surcharge	No
NEA / UPU Index	Yes
Applicable Terms and Conditions	AVP (Algemeen Vervoer voor Partijen Buszendingen [General Transport for Batches of Mailbox Shipments])
Liability for loss / damage	No liability
Liability for delays	No liability

- p. With respect to the express delivery, the following service levels shall apply, unless deviated from in writing by Logistics and the Buyer:

General service level	Structured express network, quick transport, medium-heavy transport, world-wide, high service level
Transport company (preferred)	DHL, TNT, DPD, GLS
Rates	Per kg
Track & Trace	Yes
Signature for receipt	Yes, can be retrieved and for an additional charge.
Time deliveries	Yes, for certain countries and for an additional charge
Performance	97% on average
Damage	Sign off on CMR and report within 48 hours
Incoterm	DDU
Fuel surcharge	Yes
NEA / UPU Index	Yes
Applicable Terms and Conditions	AVC / CMR conditions, Physical Distribution Conditions, FENEX
Liability for loss / damage	Maximum amount per kg in accordance with the applicable terms and conditions
Liability for delays	Liability is limited to maximum the transport price agreed upon. Damages shall only be paid if the Client satisfactorily demonstrates that the damage was caused by delays.

- q. The Buyer shall be responsible for the information submitted to Logistics about the delivery of the Products. Logistics shall never be liable for any kind of direct and indirect

damage due to incorrect information, missing information or overdue information about the shipment of the Products.