

## **General Terms for Sales, Delivery and Orders of BSM Factory B.V.**

### **Article 1 - definitions**

1. BSM: the private limited company BSM Factory B.V., having its registered seat and offices in Borculo and registered with the Trade Register under company number: 71722637, and/or all affiliated companies or partnerships.
2. Client: the party contracting BSM's services.
3. Supervisory officers: employees of or on behalf of BSM, who never perform any operational or repetitive work. The employees hired by BSM do not serve as supervisors, unless the Client expressly proves otherwise.
4. Civil Code: The Dutch Civil Code.
5. Supply: the legal supply within the meaning of the Civil Code.
6. Delivery: the actual delivery to or for the benefit of the Client.
7. Workable conditions: The conditions - including but not limited to weather conditions - under which BSM is able to perform the agreed services or duties or to deliver or supply goods.
8. In writing: "in writing" also encompasses communication by electronic means, within the meaning of the Civil Code (e.g. e-mail, text messages, social media, etc.), or by fax or any other means of communication.

### **Article 2 - applicability and precedence**

1. These terms apply to all offers, quotes, agreements or other services made by or concluded with BSM, including all orders or agreements relating to or arising from the agreement concluded with BSM, within the meaning of Article 4.1.
2. BSM denies the applicability of any General Terms and Conditions adopted by the Client and expressly rejects such terms and conditions.
3. The invalidity, voidability or nullity of one or more provisions in these Terms does not affect the legal validity of the remaining provisions. Such provisions are subject to legal conversion under Section 3:42 of the Civil Code.
4. In the event of deviation from one or more provisions of these Terms, the remaining provisions will remain fully in force. Deviations from these Terms are only valid if such has been agreed in writing between BSM and the Client.
5. The applicability of the Vienna Convention (United Nations Convention on Contracts for the International Sale of Goods) to any legal relationships in the broadest sense of the word between BSM and the Client is expressly excluded.
6. In situations where one or more provisions or rules are mutually inconsistent, the following order of precedence will apply: agreements/order confirmations prevail over manuals/installation guides, and the latter prevail over these Terms. Alternatively, BSM will be able to invoke the applicable provision which is most favourable for BSM.
7. If the Client is a consumer, mandatory consumer law will prevail. All this only and exclusively applies insofar as the provisions of the agreement or these General Terms - or a particular part or article thereof - should conflict with this. The remaining parts which are admissible will then remain fully in force.

### **Article 3 - offers, quotes, prices, additional work and trial installations**

1. All offers, price lists and quotes from BSM are always non-binding, even when they specify a period for acceptance. Offers and quotes do not apply to subsequent orders, and BSM is not obliged to subsequently supply goods ordered and supplied or services performed previously.
2. All prices stated in quotes, price lists or offers are subject to change (also with regard to typing, printing or typesetting errors) unless expressly agreed otherwise in writing. All quoted prices or offers are net. They do not include VAT, import duties, other taxes, levies and charges, costs of loading and unloading and transportation or costs incurred in connection with the delivery, packaging costs, storage costs, assembly/dismantling and installation costs, unless expressly stated or agreed otherwise.
3. When a composite quote is provided, BSM is never obliged to perform or deliver some of the products or services listed therein and the Client cannot derive any rights from the (part) prices provided by BSM.
4. BSM has the right to pass on increases in things such as wages, raw material prices, fuel costs, transport costs, storage costs, assembly/dismantling

costs, exchange rates, insurance premiums and government levies (including taxes, import duties, etc.) which arise after the quote or offer has been made to the Client for those works, services or deliveries that BSM is still to perform at the moment when those increases take effect.

5. If the Client wants any change or modification to be made to the agreed work or if BSM has carried out any such changes (including at the very least, but not restricted to, a different colour, different pattern, different material or turning direction, different wood type, different or modified construction or changes to the technical or aesthetic execution, etc.), BSM is entitled to charge an increased price for this in accordance with the customary rates at BSM or - in the absence of these - in accordance with the market rates at the time when those changes are made. Reduced work only applies insofar as BSM has agreed to it in writing. The provisions of Sections 7:752(2) and 7:752(3), 753(1), 7:754 and 7:764 of the Civil Code do not apply.
6. The amounts listed in quotes and agreements are based on the performance of duties on regular working days. Work to be carried out by or on behalf of BSM after hours (after 6pm) and on Saturdays is subject to an increased rate of 150%, and a rate of 200% of the standard rate applies to work carried out on Sundays and public holidays.
7. All (other) work not described in the quote or in the agreement concluded with the Client will also be carried out by BSM on the basis of retrospective costing or charged to the Client as additional work.
8. If BSM is to furnish the goods to be supplied to the Client with fabric or any other covering (such as leather, artificial leather, etc.) BSM is entitled to charge additional costs or additional work for fabrics and materials that are hard to work in accordance with paragraph 5.
9. BSM is prepared to arrange a trial installation at the Client's request, subject to BSM's agreement. A trial installation means that BSM lends the goods (including accessories, etc.) required by the Client to the Client in a space of the Client's choosing and made available by the Client during a pre-agreed period so that the Client can view the products concerned in the right context and assess them. In his capacity as a borrower, the Client will be responsible for the use, theft, loss, etc. of the goods provided during the trial installation, and the Client will ensure at all times that those goods are and remain identifiable and traceable as being the property of BSM, in the absence of which the Client will be liable - without prior notice of default - for a fine of €1,000 per breach, payable at once, to be supplemented with a fine of €500 per day for every day that the breach continues, without prejudice to BSM's right to compliance and/or additional damages.

### **Article 4 - conclusion of the agreement and subsequent changes**

1. The agreement between BSM and the Client will not be effective until 1) the Client has accepted in writing BSM's offer or quote without any deviations and/or without any reservations, or 2) BSM has confirmed the Client's telephonic or written order to the Client in writing, 3) a written agreement has been signed and initialled as agreed by BSM and the Client, or 4) BSM has started the execution of the assignment for which by its nature no written confirmation or agreement within the meaning of items 1-3 is made, in which case the invoice sent subsequently by BSM serves as the written confirmation which correctly sets out all the agreements in full. As long as the agreement has not been concluded in a manner as specified in the previous sentence, BSM is entitled to withdraw or amend the offer or quote.
2. If a withdrawal or amendment as described in paragraph 1 of this article leads to BSM's making a new offer or providing a new quote, the provisions of Article 3 and paragraph 1 of the present article will apply mutatis mutandis.
3. If the Client's letter of acceptance contains reservations or changes to the offer or quote or if reference is made to alternative (general) terms and conditions, the agreement will - notwithstanding the previous paragraphs - not be effective until BSM has also confirmed to the Client in writing that it agrees to this in full, completely and without reservation.
4. Changes to concluded agreements and deviations from these General Terms after this conclusion will only apply if they have been agreed in writing between BSM and the Client.
5. BSM is entitled to charge increases as described in article 3 paragraph 4 which occur after the conclusion of the agreement as described in paragraph 1 to the Client.
6. If the agreement within the meaning of this article is concluded with multiple Clients, they are all jointly and severally liable with respect to BSM.

## **Article 5 - quality, description, responsibilities and order confirmation**

1. BSM undertakes to the Client to supply the goods or services with the description, quality and quantity described in the agreement within the meaning of Article 4.1. In assessing whether BSM is in breach of contract, the aesthetic value of the product will not be taken into account. BSM will only perform design, engineering work and all other or alternative work other than the manufacture and supply of goods on the basis of a best-efforts obligation.
2. The Client is obliged to notify BSM in writing of any changes or additions immediately or within 24 hours of the conclusion of the agreement, in the absence of which the agreement will serve as the basis for BSM's obligation(s) to the Client within the meaning of Article 5.1.
3. If the Client makes any changes or additions to the order confirmation or agreement within the meaning of Article 5.2, the provisions of Article 4.3 will apply mutatis mutandis.
4. Samples, images, drawings, measurements, prototypes, trial installations or models shown to the Client (either before or after making the offer or quote) are merely provided for indicative or general representational purposes without the need for the goods to be delivered or services to be performed by BSM to be identical to them.
5. The Client can derive no rights from any statements made by BSM about (technical) product specifications and information as specified on the websites, catalogues, price lists, images, drawings, standard sheets or other informative documents, unless the same information is contained in the concluded agreement and the contrary is expressly stated therein.
6. BSM accepts no responsibility or liability whatsoever for any colours, patterns, turning directions, wood types, materials, designs, sketches, specifications of capabilities and all other (product) specifications in the broadest sense of the word, plans, diagrams, etc. created, provided and/or prescribed by or on behalf of the Client to BSM. The Client will indemnify BSM at the first request against claims filed by third parties on those grounds, expressly including claims based on intellectual property rights.
7. Materials or goods provided by or on behalf of the Client must be supplied to BSM carriage paid and must be provided by the Client with adequate markings indicating that they are the property of the Client (such as the Client's name and address, etc.).
8. Obtaining advice from BSM, including advice about the possible uses of the goods supplied or to be supplied by BSM or about the use of those goods as proposed by the Client (or the Client's customer), never relieves the Client of its own responsibility or liability for this.
9. Unless the opposite expressly arises from the order confirmation or agreement within the meaning of Article 4.1, BSM is never responsible or liable for the purchase or choice of particular goods by the Client (including, but not limited to, choice of colours, patterns, turning directions, wood types, materials, etc.), nor does BSM give any guarantees in this regard, nor for the Client's proposed use for the goods it has purchased.
10. Minor deviations in quality, colour, surface structure, design, weight, size, construction, finish, technical or aesthetic execution etc. of the goods supplied by BSM will never result in a breach of contract or any non-compliance on BSM's part. This is all the more important since BSM usually works with natural products such as wood, leather, wool, etc. The aforementioned minor deviations do not constitute any grounds for the Client to dissolve the concluded agreement (either in full or in part), nor do they justify a reduction in the purchase price due for it or an entitlement to any other form of compensation, nor does it entitle the Client to replacement or repair or give the Client grounds for not cooperating with the supply/delivery or installation of the goods in question.
11. BSM is permitted at all times - without the need for prior consultation or approval from the Client - to have the concluded agreement executed in full or in part with the aid of third parties engaged by it, or to assign its rights or obligations under the agreement concluded with the Client to a third party.
12. BSM merely guarantees that the goods supplied by it will comply with and be in accordance with the technical specifications as described in the packaging, in the manual/user guide or in the agreement or confirmation provided by BSM.
13. BSM does not guarantee and accepts no responsibility or liability for the functional performance of the goods supplied or work/services performed

by it, or for the Client's proposed use thereof. This is because the functional performance is (partly) dependent on and/or mainly determined by multiple variables over which BSM has no influence, or did not have any influence, including (but not limited to): type of surface or substrate, climatological and other factual conditions relating to the space(s) or location(s) where the goods concerned will actually be used or applied by the (actual) end-user, whether after a trial installation as described in Article 3.9 or otherwise.

14. The Client is fully liable for any damage suffered by BSM employees employed at the Client's premises during or in connection with the performance of the work, expressly including damage as a result of death or physical injury, consequential loss and loss within the meaning of Section 7:658(4) of the Civil Code. The Client will indemnify BSM at the first request against claims filed by employees on those grounds.
15. The Client is responsible for and guarantees the presence and validity of any required permits, exemptions, etc. in the broadest sense of the word, and all associated costs will be (exclusively) at the Client's expense and risk.
16. At BSM's first request, the Client is obliged without delay and without charging costs to provide the necessary and required cooperation, which expressly includes: (1) providing free access to locations or buildings in the broadest sense of the word, (2) providing sufficient and suitable (parking) space for loading and unloading, (3) providing electricity, water, heating, a crane, lift or other means of transport which complies with all safety requirements and regulations, in the absence of which BSM will be entitled to charge the Client for additional work or the associated extra costs or extra hours.
17. BSM accepts no responsibility or liability for stoppages related directly or indirectly to work to be performed by third parties or goods to be supplied/delivered by third parties.
18. BSM is not liable for any loss caused by death or physical injury, consequential loss or loss incurred in any way which is related to the materials or components for further processing or assembly provided by or on behalf of the Client, or for the inadequacy thereof, regardless of whether BSM or third parties have processed or treated these, unless there was intent or gross negligence on the part of BSM or its supervisory officers. The Client indemnifies BSM completely against all claims for compensation for loss filed by employees of the Client, BSM or third parties.
19. With regard to the goods supplied or work performed by BSM, BSM is never obliged to offer the Client guarantees (in the broadest sense of the word) that go beyond what the suppliers or manufacturers of the goods concerned guarantee to BSM.
20. With regard to the third parties engaged by BSM, BSM cannot be bound to more and BSM will not be liable with respect to the Client for more than the obligation to which the engaged third party concerned can be bound with respect to BSM.
21. BSM reserves the right to identify its products - either digitally or otherwise - at all times.

## **Article 6 - delivery times, supply, delivery/handover and RISK**

1. The deadlines specified by BSM do not constitute hard deadlines. The simple expiry of these deadlines does not result in BSM being in breach of contract, and does not entitle the Client to dissolve the agreement. In such cases, prior proper and written notice of default is required, which specifies a minimum period of 30 working days, which period also applies if the Client holds BSM to be in breach of contract on the grounds of any other shortcoming.
2. Supply will take place ex-works from BSM or from the third party/parties engaged by BSM, unless expressly agreed otherwise in writing.
3. The supply and delivery referred to in paragraph 2 are deemed to have taken place at the moment that the goods to be delivered are ready for the Client in BSM's stock/storage warehouse or in the store/storage warehouse of the third party/parties engaged by BSM, once BSM has notified the Client of this fact in writing or otherwise.
4. From the moment within the meaning of paragraph 3, the delivered goods will be deemed to be under the Client's control, and said goods will be at the Client's expense and risk from that moment.
5. If delivery does not take place in accordance with the provisions of paragraph 3, the goods will be delivered to the agreed place(s) in the manner stipulated in the quote or order confirmation or agreed subsequently in writing by the parties. The goods to be delivered will not be insured by BSM during transportation and those goods will already be

at the Client's expense and risk at this point. The Client should take out insurance to mitigate transportation risk. BSM will determine the method of transportation and/or choose the carrier. The carrier's consignment note/shipping note/delivery documents will serve as proof of delivery or of the Client's refusal to accept the goods.

6. If delivery takes place in accordance with the provisions of paragraph 5, the cost of delivery - including but not limited to the transportation costs - will be fully borne by the Client and the provisions of the preceding paragraphs of this article apply mutatis mutandis.
7. If the goods to be delivered cannot be delivered or cannot be delivered on time in accordance with the provisions of paragraph 5 for reasons not attributable to BSM - outside the situations described in Article 8.1 - BSM is entitled to store or commission the storage of these goods at the Client's expense and risk, possibly at a third party's premises.
8. BSM is entitled to deliver in instalments (partial deliveries) and also to invoice the Client separately for these instalments.
9. BSM is entitled to send goods to the Client cash-on-delivery at all times. If the Client refuses to pay when the goods arrive at the destination, BSM is entitled to dissolve the agreement.
10. If BSM requires further information or documents from the Client or third parties in order to properly meet its obligations, the period referred to in paragraph 1 will only commence at the moment when BSM has received all the requested information or documents.
11. Handover or supply/delivery will take place after BSM has completed the work or the goods. The Client will in any case have accepted the work or the goods and they will be deemed delivered and sound as soon as the Client or the actual end-user commences the actual use of the goods produced or delivered by BSM.

#### **Article 7 - requirement for sureties**

1. If, at any time, reasonable doubt exists/arises on BSM's part about the Client's solvency or ability to pay, BSM will be entitled to suspend the delivery within the meaning of Article 6 or the execution of work still to be performed until such time as the Client has provided BSM with adequate surety for compliance with its (payment) obligations.
2. The decision as to whether the sureties offered by the Client within the meaning of paragraph 1 are adequate is at BSM's discretion. The Client is liable for any loss suffered by BSM as a result of this delayed delivery.
3. The Client is obliged, at BSM's first request, to provide insight (in the broadest sense of the word) free of charge into published reports, annual reports, annual statements of account and into all assets which are available for recovery.
4. If BSM has made a request to the Client within the meaning of paragraph 3, the Client is also obliged to notify BSM in writing of any changes in the assets as soon as possible thereafter.
5. If the Client fails in any way to provide adequate sureties as described in paragraph 1 or fails to provide adequate insight into the assets as described in paragraphs 3 and 4, BSM will be entitled to dissolve the agreement and the Client will be liable for a fine of €250 per day, payable in full at once, for every day that the Client remains in breach of contract, without prejudice to BSM's right to compliance or additional damages. The statutory commercial interest on the fine will be due on demand, in full.
6. If BSM dissolves the agreement as described in paragraph 5, the Client will be obliged to return to BSM any goods that have already been delivered within one week of the dissolution of the agreement. As long as the (returned) goods have not been received by BSM, they will remain at the Client's expense and risk.

#### **Article 8 - storage, suspension and right of retention**

1. If the Client refuses to accept the supplied/delivered goods or refuses to cooperate with their delivery, BSM is entitled to store these goods at the Client's expense. The Client will be notified of the goods' having been placed in storage by BSM in writing or otherwise as soon as possible thereafter. Stored goods within the meaning of the first sentence are deemed to have been delivered/supplied to the Client and will be at the Client's risk from the moment they are placed in storage.
2. If BSM chooses to apply the provisions of paragraph 1, both the invoice relating to the storage costs and the invoice relating to the delivered goods will be payable in full at once. After the Client has been notified within the meaning of paragraph 1 of this article, BSM is entitled to charge a fine of €450 per day for every day that the Client refuses to actually accept the

goods that are awaiting delivery. BSM is entitled to demand both compliance with all payment or acceptance obligations and the fine which is already payable, without prejudice to BSM's right to additional damages. The statutory commercial interest on payable fines is due on demand.

3. BSM is entitled to suspend its obligation to release the stored goods until such time as the payable invoices and the payable fine within the meaning of Article 8.2 have been paid in full by the Client and also until such time as all BSM's payable claims arising from previous or subsequent agreements or any other reason have been paid, expressly including all claims from BSM arising from the Client's breach of contract or failure to comply properly.
4. If BSM has the Client's goods in its possession as described in the preceding paragraphs for other reasons, BSM is also entitled to suspend its obligation to release those goods until such time as the Client has complied with all the payable claims that BSM has against the Client under the provisions of this article or otherwise.
5. The right of retention accruing to BSM under this article also remains in force if circumstances arise as described in Article 13.4 of these Terms.
6. BSM is also entitled to suspend the supply/delivery of goods or exercise its right of retention in accordance with the provisions of the preceding paragraphs of this article if the Client otherwise fails to meet its obligations to BSM on any grounds, or if the Client should be liable with respect to BSM on any other grounds.
7. Without prejudice to all other rights accruing to BSM, BSM is entitled to dispose of the stored goods freely and at the Client's expense and risk, and also to offset any income from the sale of these goods against everything which the Client owes to BSM on any grounds, if the Client refuses to accept the delivered goods or refuses to cooperate with their delivery.

#### **Article 9 - non-attributable shortcoming**

1. The agreed period for the supply of goods or the performance of services or work by BSM will be extended by the period during which BSM is prevented by force majeure from meeting its obligations.
2. Force majeure on BSM's part exists if, after the agreement within the meaning of Article 4 has been concluded (and also after the moment of enforceability), BSM is prevented from meeting one or more obligations under the concluded agreement or the preparation thereof due to the following things, which may occur either domestically or abroad: war, threat of war, civil war, civil commotion, acts of war and/or terrorism, fire, water damage, flooding, strikes, sit-downs, lockouts, import and export impediments, government measures, defects in plant, equipment, machines or other tools in the broadest sense the word, faults or defects in computers, software or hardware, in the Internet, intranet or network, in servers or at hosting companies, faults in the supply of power, delays during transportation, unworkable conditions, illness, incapacity for work or loss of personnel (for an indefinite period or otherwise), all within the business of BSM, the Client or third parties from whom BSM must acquire the required materials, raw materials or personnel in full or in part, and with storage or during transportation, either by BSM or by others, and also all other causes beyond BSM's control or risk and facts and conditions due to which BSM cannot reasonably be required to meet its obligations.
3. Only if force majeure delays the provision of services or the supply by more than three months will both BSM and the Client be entitled to consider the agreement terminated and effect the dissolution of the agreement by means of a written notice of termination addressed to the other party. The agreement will be deemed to be terminated at the moment that the written notice of termination referred to in the second sentence has reached the other party. In such cases BSM is only entitled - without prejudice to the provisions of the paragraphs that follow - to reimbursement of the costs which it has incurred up to the moment when the notice of termination has reached the other party.
4. If the supply or remaining services to be supplied by BSM are delayed by more than three months as a result of force majeure, the Client will nevertheless be obliged to pay BSM the relevant agreed fee/invoices for the goods or services that have already been supplied or provided by BSM and for that part of the work or goods that can no longer be finished or prepared for delivery as a result of said force majeure, up to the moment when the force majeure took effect.

#### **Article 10 - liability, indemnity and guarantee**

1. BSM is only liable for loss suffered by the Client or third parties which is directly and exclusively the result of a shortcoming attributable to BSM, but not until BSM is in breach of contract. BSM is only in breach of contract after BSM has been given prior written notice of default, BSM has been given a minimum period of ten (10) working days to remedy the shortcomings and BSM has failed to remove/resolve the shortcomings concerned within that period. All this is subject to the provisions of this article. Insofar as BSM may be liable or can be held liable for loss outside of breach of contract, regardless of the cause, the restrictions as described in the following paragraphs of this article will also apply.
2. Only those losses for which BSM is insured or should reasonably have been insured in view of the customary practices in BSM's industry and for which the insurance company pays out qualify for compensation. In such cases BSM may retain the policy excess. In such cases, the following restrictions and situations in which there is at the very least no attributable shortcoming within the meaning of paragraph 1 apply, and BSM's liability will be restricted at all times (even in cases where BSM may be liable outside of breach of contract), regardless of whether the loss is insured or the insurance company pays out, as follows:
  - a) BSM is never liable for damage or defects in or caused by the goods supplied/delivered by BSM arising from: the use (injudicious or otherwise) or the possible unsuitability of those goods themselves or from incorrect installation by parties other than BSM, and the use of specific goods, materials, parts or constructions which are prescribed by or on behalf of the Client - whether or not contrary to the relevant regulations - or have been provided by the Client to BSM or to third parties engaged by BSM;
  - b) BSM is never liable for any loss suffered by the Client or third parties which arises directly or indirectly from the advice provided verbally or in writing by or on behalf of BSM or arising from the omission or failure on the part of BSM or its supervisory officers to take the right precautions in good time;
  - c) in the case of information provided verbally by or on behalf of BSM or information contained in the manual/user guides, BSM is never liable for any loss arising from misunderstandings or misinterpreted information;
  - d) in the event of liability under this article, BSM is never obliged - except in situations where the sum paid out by BSM's insurance company less the deduction of the policy excess is higher - to pay compensation worth more than the net invoice value of the relevant service(s) provided or goods supplied, up to a maximum of €5,000 per loss-causing event and a maximum of €25,000 per calendar year. In such cases a series of successive events or losses will be treated as (having been caused by) one loss-causing event.
  - e) loss of profits or consequential loss (including but not limited to loss as a result of business disruption, other expenses, loss of business/loss suffered or lost profits and similar) do not qualify for compensation, whatever the cause. Consequential loss also covers all pecuniary loss or any other disadvantage caused by goods or systems supplied/delivered or work performed by or on behalf of BSM to other goods or persons, as well as claims filed by third parties, regardless of the grounds, loss which is suffered outside Europe, loss to goods left in another party's care, loss relating to mechanical damage, loss relating to surfaces and discolouration, damage to or loss relating to the environment, emissions, pollution, decontamination, damage caused by slow-working/penetrating processes, loss relating to environmental protection or environmental regulations or the failure to comply (properly) with that protection or those regulations by BSM and/or the Client. If so desired, the Client should insure itself against this sort of loss;
  - f) the amount to be paid by BSM in compensation will be reduced if the price or fee to be paid by the Client is small in comparison to the extent of the loss suffered by the Client.
3. The Client is obliged to indemnify BSM and the third party/parties engaged by BSM against any claim from third parties for compensation of loss resulting from the use or application of the supplied goods or work performed.
4. If the Client fails to meet, properly and in good time, one or more obligations arising from the agreement concluded with BSM or from these General Terms, the Client will be held to be in breach of contract - without further notice of default - and will be fully liable for any and all loss suffered by BSM and the third party/parties engaged by it as a result, without prejudice to BSM's other rights and powers under the law or under these General Terms and Conditions. The provisions of paragraph 3 apply mutatis mutandis.
5. If BSM gives a guarantee to the Client, this will never constitute a reversal of the burden of proof. The Client must continue to prove that BSM is in breach of contract within the guarantee period and/or that BSM is or can be held liable for losses under any guarantee, in which case BSM's liability will be restricted in accordance with the provisions of this article and of these General Terms.
6. BSM only and exclusively guarantees that: (1) the goods supplied by it or work performed by it correspond to the specifications agreed which apply under the concluded agreement and (2) the supplied goods were manufactured of sound materials and in accordance with the requirements of good craftsmanship (being a reasonably competent designer and manufacturer of wooden furniture acting in a reasonable manner). Unless expressly agreed otherwise in writing, BSM never gives guarantees beyond what is specified above. Guarantees specified here are given to the Client for a maximum period of two years, calculated from the date of invoicing.
7. A guarantee is never given or lapses at any time if a ground for guarantee exclusion applied by or on behalf of BSM applies and/or manifests itself. The following guarantee exclusions always apply. They may apply to a particular product, regardless of any supplementary exclusions:
  - a) any form of improper use;
  - b) treatment or repairs carried out by the Client of third parties, performed without BSM's prior written agreement;
  - c) deterioration as a result of external factors or external circumstances beyond BSM's control;
  - d) normal wear and tear as a result of correct use (all wear and tear as a result of excessive or improper use is excluded);
  - e) the failure to (properly) follow instructions given or provided by or on behalf of BSM;
  - f) claims relating directly or indirectly to glass, textile, leather, marble and varnish;
  - g) the occurrence of non-conformity as a result of new or amended regulations which took effect after the date of delivery/supply.
  - h) Specific goods, materials, designs, methods, constructions etc. which have been provided to BSM by or on behalf of the Client or have been prescribed for further processing or treatment by BSM;
  - i) Materials or parts which BSM has obtained from third parties, but only if and insofar that party or those third parties does/do not provide a guarantee to BSM;
  - j) Compliance or non-compliance with all applicable laws and regulations relating to the actual use or the Client's proposed use of the goods supplied by BSM, expressly including (but not limited to) all legislation relating to working conditions. The Client will remain exclusively responsible and liable for this itself. It will also remain responsible and liable for any claims filed by third parties relating to the use of these goods (including personal injury claims and similar).
8. Repairs carried out within the guarantee period do not extend this period.
9. If BSM grants a guarantee claim and it is brought correctly, BSM's obligations will not extend beyond the repair or replacement of the relevant goods or services free of charge, and BSM's liability for any loss will be restricted in accordance with the provisions of this article. Replaced products or parts will become/remain the property of BSM.
10. During the period that the Client is in breach of contract (whether it is accountable for the breach or not) with regard to any obligation arising from the agreement concluded with BSM, BSM is not obliged to give a guarantee or suspend guarantee obligations for a fixed or indefinite period, without thereby becoming liable to pay compensation to the Client in any way.

#### **Article 11 - complaints**

1. Complaints refer to: the Client invoking the fact that the goods or systems delivered by BSM or work performed do not comply with the concluded agreement, including visible defects and defects which are not immediately visible in the supplied goods or performed services.
2. The Client is obliged at delivery in accordance with Article 6.5 or following the installation of goods processed by BSM, including packaging and manuals/user guides, to count and check for external shortcomings, damage, flaws and other visible defects (including but not limited to

incorrect colour and other visually observable shortcomings in the finish, etc.) immediately upon delivery or after processing by BSM, and to indicate these shortcomings on the CMR consignment note or in the case of the processing of materials to notify BSM of them in writing without delay, and also to check as soon as possible thereafter for defects which are not immediately visible before storing, supplying, installing or otherwise using the goods in question. Goods that are used or installed by or on behalf of the Client are deemed to have been delivered/supplied by BSM free of visible defects at the very least.

3. If delivery takes place in accordance with Article 6.2 or Article 6.3, the Client is obliged to carry out the checks described in paragraph 2 of this article within 24 hours after BSM has issued a notification - in writing or otherwise - within the meaning of Article 6.3 to the Client or after the goods have been released to the Client ex-works.
4. The Client must notify BSM in writing of any complaints arising from the checks for visible defects within the meaning of paragraphs 2 and 3 of this article within 24 hours after delivery and within seven days after installation/processing of materials by BSM, providing a clear description of the defects or complaints. BSM is not required to consider complaints as described in the first sentence which are submitted after the relevant period (24 hours or seven days) has passed.
5. For defects in the delivered goods or performed services which are not (immediately) visible to the eye, the Client must submit complaints to BSM in writing within 24 hours after the Client has become aware of these defects or could reasonably have been expected to have become aware of them. The provisions of the final sentence of paragraph 4 apply mutatis mutandis.
6. Defects which are not (immediately) visible to the eye within the meaning of the preceding paragraphs are: defects as a result of construction, specification and design errors not prescribed by or on behalf of the Client itself which mean that the goods supplied or services provided by BSM do not comply with the agreement within the meaning of Article 4.1 or with the applicable technical specifications and which were not visible within the period specified above in paragraphs 2 to 5.
7. Complaints which are submitted to BSM in time (and in the correct manner) will not give the Client the right - insofar as is possible - to suspend or offset payment of the purchase price/charge, nor the right to dissolve the concluded agreement in full or in part.
8. If BSM declares the complaints to be justified, BSM will only be liable with respect to the Client in accordance with the provisions of Article 10.
9. Any legal claims and pleas based on submitted complaints must be brought by the Client within one year after the complaint in question has been submitted to BSM, on penalty of loss of this right.

#### **Article 12 - payment and invoices**

1. Unless the parties have expressly agreed otherwise in writing, payment must be made within 14 days of the date of invoicing to a bank or girobank account specified by BSM, at BSM's discretion.
2. The Client must submit any objections or complaints about invoices sent by BSM to BSM in writing within five (5) days after the date of invoicing, specifying reasons, in the absence of which the correctness and the liability for the invoice will be deemed to have been established.
3. The Client is not entitled to deduct any amount for an alleged counterclaim from the payments.
4. The payment by the Client is not completed until the full amount due is credited to the bank or girobank account specified by BSM or - if payment in cash has been agreed - until such time as the full amount has been paid to BSM. The Client is in breach of contract without the need for notice of default from the first day after the agreed or applicable payment period has ended.
5. From the first day that the Client is in breach of contract under the preceding paragraphs of this article, it will then be liable for the statutory commercial interest in force at that time on the amount due with regard to goods delivered or stored for every month or part thereof by which the due date is exceeded.
6. If the Client does not fulfil its payment obligations in time or in full and is consequently in breach of contract, BSM is entitled to dissolve the agreement without judicial intervention. In that case the Client will be liable for the loss suffered by BSM, including lost profits.
7. If BSM proceeds to extrajudicial measures when the Client is in breach of contract, expressly including demands for payment, further payment

reminders or debt recovery measures taken by or on behalf of BSM, the costs of these measures will be payable by the Client. The extrajudicial costs will be at least 15% of the invoice amount with a minimum of €150. If BSM incurs judicial collection costs, these will be fully payable by the Client.

8. BSM always has the right to demand surety for the payment from the Client or demand payment in advance, both before and after the agreement is concluded. Article 7 applies mutatis mutandis.

#### **Article 13 - retention of title**

1. All goods delivered or still to be supplied will remain the property of BSM until the Client has paid the agreed price and has met its other obligations under this article - arising from agreements concluded previously or subsequently with BSM - in full.
2. Without prejudice to the provisions of paragraph 1, the Client is entitled to sell on and supply the goods supplied to it with retention of title to one or more third parties as part of its normal business activities.
3. In the event that the Client sells the goods as described in paragraph 2, the Client is obliged to establish a silent right of pledge for the benefit of BSM at BSM's first request on all receivables arising from the sale.
4. If the Client is in breach of contract under Article 12 or if the Client fails to actually accept the goods as outlined in Article 8, title to the goods will be retained until the interest under Article 12.4, the fine or the storage costs under Article 8.2 or the extrajudicial costs under Article 12.7 have also been paid in full.
5. If BSM has also performed work to be paid under the concluded agreement, the delivered goods will remain the property of BSM until such time as the Client has (also) paid all the associated claims which are still outstanding, including claims for non-compliance and partial non-compliance.
6. As long as title has not passed to the Client as a result of the preceding paragraphs, the Client will not be entitled to sell any of the goods delivered to it, to pledge them to third parties or otherwise encumber them with third-party rights, except in the situation as described in paragraph 2.
7. From the moment that the Client is in breach of contract under Article 12 or otherwise, or from the moment BSM is given good grounds for fearing that the Client will be in breach of contract, BSM is entitled to recover the goods delivered to the Client, without prior notice of default. The Client is obliged to return these goods without delay at BSM's first request and to provide the necessary/required cooperation for this, expressly including the provision of free access to locations or buildings in the broadest sense of the word. The costs relating to the recovery of the goods, including the costs of transport, will be borne by the Client in full.
8. Following a recovery within the meaning of paragraph 7, the Client will be credited for the market value, which will never be higher than the original agreed price, less the costs relating to the recovery.
9. If the Client creates a new item out of or partly out of the goods referred to in this article and acquires the full title to this item, or if a community of ownership arises on the new item of which the Client is part, the Client is obliged to grant BSM a non-possessory right of pledge on that item at BSM's first request. The foregoing is subject to the relevant statutory establishment requirements within the meaning of Section 6:237(1) of the Civil Code as further surety for all BSM's claims against the Client which are not covered under the retention of title on the basis of this article. The costs of establishing the right of pledge referred to in the first sentence will be borne by the Client, unless expressly agreed otherwise in writing.
10. The provisions of paragraph 9 of this article apply mutatis mutandis to delivered goods whose title has passed to the Client, in accordance with the provisions of the preceding paragraphs of this article.
11. As long as title to the delivered goods has not yet passed to the Client but the Client has gained actual control over them, the Client is obliged to ensure during that period that these goods remain in the same condition and quality as at the time of delivery and to ensure that these goods are and remain identifiable for the purpose of BSM's title.
12. The obligation referred to in paragraph 11 applies mutatis mutandis in the situation as described in Article 8.1, in the absence of which the Client is obliged to compensate BSM for any resultant loss suffered by BSM.
13. The Client is obliged to insure the delivered goods within the meaning of paragraph 11 of this article against fire, explosion, water damage and theft, and to make the relevant insurance policies available to BSM at the first request, in the absence of which the Client will be obliged to compensate BSM for any resultant loss suffered by BSM.

14. The Client is obliged to pledge all entitlements or receivables from the insurer arising from the insurance policies referred to in paragraph 13 to BSM at BSM's first request, all this being subject to the relevant statutory establishment requirements as specified in Section 6:239(1) of the Civil Code, as further surety for all BSM's claims against the Client which are not covered under the retention of title on the basis of this article. The costs of establishing the right of pledge referred to in the first sentence will be borne by the Client, unless expressly agreed otherwise in writing.
  15. The provisions of paragraph 14 of this article apply mutatis mutandis to the Client's receivables from one or more of its customers or other third parties.
3. In the cases described in paragraphs 1 and 2 of this article, any claim BSM has against the Client will be payable in full at once.

**Article 16 - intellectual property, copyright and publicity**

1. All goods, including materials and parts, which BSM or a third party/parties engaged by it make available to the Client for the execution of the agreement or which have been specifically produced for the benefit of the agreement with the Client (such as models, tools, dies, moulds, equipment, machines, images, drawings, specifications, plans, measurements, advertising or promotional material, etc.) will remain the property of BSM or the third party/parties at all times, regardless of whether the Client has been charged costs for these. BSM reserves the right at all times to recover these goods. In such cases the Client will be obliged to return these goods to BSM at its own expense at the first request. If BSM has not used the aforementioned materials for the benefit of the Client for more than two years, BSM has the right to destroy them.
  2. The Client must store the goods referred to in paragraph 1 separately and identify or mark them as being the property of BSM or the third party/parties.
  3. The Client is not permitted to establish or allow the establishment of any right of surety or other rights (restricted or otherwise) on the goods referred to in paragraph 1 for the benefit of third parties.
  4. The Client is not allowed to have the goods within the meaning of paragraph 1 used by or for third parties for or in connection with any purpose other than the execution of the agreement concluded between BSM and the Client. The goods referred to in paragraph 1 must only be used in accordance with the conditions or guidelines stipulated for this by BSM.
  5. The Client is obliged to notify BSM without delay of any legal actions or rights claimed by third parties with regard to the goods referred to in paragraph 1. The Client indemnifies BSM against claims by third parties as described in the first sentence and is liable for all loss BSM suffers or may suffer as a result of this.
  6. If any goods provided to the Client within the meaning of paragraph 1 need to be replaced or repaired, the Client will be obliged to compensate BSM for the associated costs.
  7. If the Client fails to observe any of the obligations arising from the preceding paragraphs, it is liable for a fine of €5,000 per breach, payable at once, plus €1,000 for every day that the breach continues, all without prejudice to BSM's right to compliance and additional damages. The statutory (commercial) interest on the fine is also payable in full at once.
  8. BSM has the right to destroy goods that have been provided or delivered to it by or on behalf of the Client after 12 months' uninterrupted possession/custody, unless the Client has notified BSM in writing before the end of said period that it wishes to recover the goods in question.
1. Without prejudice to the remaining provisions of these General Terms, BSM reserves the rights and powers which accrue to it under the Auteurswet (Copyright Act) or under any other legal regulation of rights relating to (international) intellectual property rights, particularly the rights relating to sketches, lithographs, photographs, drawings and models, (project) plans, reports, etc. designed or created by BSM, and such rights to the goods belonging to BSM as described in Article 14.
  2. All rights relating to the goods manufactured/provided by BSM, such as reports, advice, agreements, designs, sketches, drawings, software and similar, will be retained and held exclusively by BSM and are exclusively intended for the Client's use and may not be reproduced, published or shared with third parties by the Client without BSM's permission, unless the nature of the documents indicates otherwise.
  3. In the case of orders from the Client for the production or reproduction of goods or information or data provided by the Client which may be subject to third parties' intellectual property rights, the Client indemnifies BSM against all potential resultant claims by third parties.
  4. BSM is and remains entitled to depict the services it has provided along with the Client's name, brand, testimonial or other statement in catalogues, direct mail, publications or advertisements or to use them during trade fairs and exhibitions without the prior permission of the Client or third parties. BSM will not be liable to pay any compensation to the Client or a third party for the above.

**Article 17 - subcontracting**

If BSM (also) acts as a subcontractor or auxiliary within the meaning of Section 6:76 of the Civil Code, the following principles will always apply between BSM and the Client.

- a) BSM is never responsible for comments or statements made by or on behalf of the Client to its contracting party or the End-Client (including showing samples, etc.), particularly not with regard to the duties BSM is performing, has performed or will perform;
- b) BSM is never bound by any undertakings, guarantees, etc. given by or on behalf of the Client to its customer or the End-Client;
- c) If the Client's contracting party or a third party exercises any claims or entitlements against BSM relating to the agreement between the Client and its contracting party, the Client will indemnify BSM against this;
- d) If BSM can nonetheless be held liable for loss with respect to the Client's contracting party or a third party and if that liability exceeds the limitations specified in Article 10, the Client must still indemnify BSM or compensate BSM for the excess;
- e) The Client will never describe or identify BSM as being the manufacturer of goods without BSM's prior written permission, including in the sense of the national provisions concerning product liability (Civil Code Section 6:185 ff.);
- f) If the Client's contracting party or a third party files any complaints or reports any shortcomings with regard to goods supplied or services provided by BSM, the Client must always notify BSM of this in writing without delay and must always give BSM the opportunity to resolve these complaints or shortcomings itself first, in the absence of which the Client loses any claim or entitlement with respect to BSM;
- g) If the Client or its contracting party asks BSM to perform more work than the Client has contractually agreed with BSM, BSM is entitled to charge the Client additional work at the rates which are applicable at BSM or customary, within the meaning of Article 3.5.

**Article 18 - jurisdiction, governing law and competent court**

1. If the Client fails to meet, properly and in good time, one or more obligations arising from these General Terms and Conditions or from the agreement concluded with BSM, BSM is entitled to dissolve the agreement, or a part thereof that is still to be executed, without notice of default and without the need for judicial intervention, either in full or in part, and recover the goods that it has delivered, insofar as payment has not been received for these. This is without prejudice to BSM's right to compensation for any loss, lost profits and other loss which has arisen or will arise as a result of that breach of contract.
  2. The provisions of paragraph 1 apply mutatis mutandis in the event of: a suspension of payments, the application for or granting of a moratorium, a declaration of bankruptcy or a debt rescheduling arrangement being declared applicable, or liquidation of the Client's assets, or the Client's death, or if the Client loses the free disposal over its assets as a result of attachment or otherwise. If these circumstances should arise, the Client will be obliged to notify BSM of this in writing without delay.
1. The Dutch courts have exclusive jurisdiction.
  2. Agreements concluded between BSM and the Client are governed solely by Dutch law. Any disputes arising from the concluded agreements will also be settled according to Dutch law.
  3. If BSM and the Client disagree about the interpretation or scope of one or more provisions in the concluded agreement or in these General Terms, the Dutch version or translation of the agreement or of these General Terms will be decisive and definitive at all times.

4. The Dutch courts, including the cantonal court, in the district where BSM has its registered offices have exclusive competence to consider all disputes between BSM and the Client, unless expressly stipulated otherwise mandatorily by the law or international treaties.

These General Terms were filed with the registry of Gelderland district court in Zutphen on 2 July 2018 and registered there under filing number: /2018.