

## GENERAL TERMS AND CONDITIONS OF DELIVERY AND PAYMENT OF TERBERG FEYTER IBERIA SL

Version of March 2026

### §1 General

#### 1 DEFINITIONS AND INTERPRETATION

1.1 In these General Terms and Conditions, the capitalized terms shall have the following meaning:

<b>Terberg:</b>	Terberg Feyter Iberia SL, Contractor of the Agreement.
<b>General Terms and Conditions:</b>	the general terms and conditions of delivery and payment of Terberg Feyter Iberia SL (version March 2026).
<b>Third Party Terms and Conditions:</b>	the general terms and conditions of the supplier/suppliers of Terberg in the context of the performance of the Agreement as detailed in the Agreement.
<b>Services:</b>	the services to be provided by or on behalf of Terberg under the Agreement.
<b>Distributor:</b>	the natural or legal person Terberg has concluded a distribution agreement with, under which this natural or legal person is entitled to sell Products, Terberg Connect and Vehicles to third parties for its own account.
<b>Intellectual Property Rights/ IP:</b>	means patents, utility models, trade marks, service marks, logos, trade names, internet domain names, registered designs, rights to unregistered designs, copyright (including rights in computer software) and moral rights, database rights, semi-conductor topography rights, rights in know-how, trade secrets and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in any country, territory or part of the world together with all or any related goodwill.
<b>Client:</b>	the other party to the Agreement with Terberg.
<b>Agreement:</b>	the written agreement between the Parties concerning the manufacture and/or the sale and delivery of Vehicles and/or

Products and/or the provision of Services.

**Parties:** the Client and Terberg, jointly or individually.

**Products:** the products to be manufactured and/or sold and to be delivered by or on behalf of Terberg as described in the Agreement, other than Vehicles.

**Results:** the results of the provision of a Service by or on behalf of Terberg.

**Terberg Connect:** means every combination of services and software thus referred to by Terberg, offered by Terberg to the Client as a Service.

**Terberg Data:** has the meaning as defined in Article 16.3.

**Terberg IP** has the meaning as defined in Article 16.1.

**Vehicles:** the vehicles to be manufactured, processed and/or sold and delivered by or on behalf of Terberg, as described in the Agreement.

1.2 Unless otherwise provided in the General Terms and Conditions or in the Agreement:

- a. All references to the singular shall mean the plural and vice versa;
- b. the terms and data stated in the General Terms and Conditions and in the Agreement are indicative.

1.3 In the event of a conflict between the provisions of the General Terms and Conditions, the Agreement and any Third Party Terms and Conditions, the documents shall in principle have the following priority: the Agreement, the General Terms and Conditions, the Third Party Terms and Conditions. In the event that the Third Party Terms and Conditions contain a more favourable clause for Terberg in respect of a particular subject than the General Terms and Conditions, Terberg may invoke this more favourable clause.

## 2 APPLICABILITY

2.1 The General Terms and Conditions apply to the Agreement, our offers, quotations, transactions, other agreements and all resulting obligations. They also apply to all subsequent offers, quotations, transactions and agreements made to, or concluded respectively, with the same other party, irrespective of whether they are related to, or follow on from, existing quotations or agreements concluded.

- 2.2 Terberg expressly rejects any reference by the Client to, and therefore also the application of, any general (purchase) conditions or clauses from the Client, under whatever name.
- 2.3 In the event that one or more provisions of the General Terms and Conditions are or will be void or annulled, the other provisions shall continue in full force and effect. The Parties then will consult to agree on replacing the provisions that are void or annulled or have been voided or annulled, with new provisions, taking into consideration, to the extent possible, the purpose and intent of the original provision.

### **3 QUOTATIONS**

- 3.1 Offers and quotations are without obligation and must always be considered as a whole.
- 3.2 Each offer made by Terberg is based on the performance of the Agreement by Terberg or third parties engaged by Terberg, under normal circumstances and during normal working hours.
- 3.3 When preparing the quotation, Terberg may assume that the information provided by the Client is correct and that it can base its quotation on this information.

### **4 FORMATION OF THE AGREEMENT**

- 4.1 The Agreement is concluded at the moment:
- a. that an order from the Client has been confirmed in writing by a person authorized to do so by Terberg.
  - b. when Terberg has requested the Client to return a signed copy of the order confirmation to Terberg, as proof of agreement, and this has not be effected within seven calendar days of the date of dispatch and Terberg has not received a written statement to the effect

that the Client does not allow Terberg to commence performance of the Agreement and Terberg actually performs the Agreement.

- 4.2 If more than one Vehicle is listed on one order this will be considered to be an order for each Vehicle separately.
- 4.3 Terberg reserves the right – even after confirmation of the order by Terberg – to revoke acceptance of the order within five working days, without being obliged to pay any compensation to the Client.
- 4.4 Additional and/or deviating clauses, agreements and arrangements shall only be deemed to have been agreed between the Parties if they have been expressly confirmed in writing by an authorized representative of Terberg.

## **5 THIRD PARTY TERMS AND CONDITIONS**

- 5.1 If Terberg makes use of third parties in the performance of the Agreement, in whatever form, Third Party Terms and Conditions may also apply to the Agreement.
- 5.2 In the event that, in the in the context of the performance of the Agreement, parts are outsourced to third parties on the basis of Third Party Terms and Conditions that are more disadvantageous to Terberg than the General Terms and Conditions, with regard to this outsourced part, the Client cannot enforce these stricter conditions against Terberg.

## **6 PRICES**

- 6.1 The prices to be paid by the Client for the Vehicles, the Products and/or the provision of the Services are stated in the Agreement. All prices apply to delivery FCA (location still to be agreed in the Agreement) on the basis of the Incoterms 2020. The prices are exclusive of turnover tax and other levies and/or government levies applicable to the (delivery of the) Products, unless expressly stated otherwise in writing.
- 6.2 Prices may be adjusted at any time in case of an increase in the cost price of materials, raw materials, consumables and parts, including price increases due to changes in exchange rates, import duties, import taxes and the like and in case of an increase in the wages, salaries, social security costs and government charges. This also applies if the increase is due to unforeseen circumstances. The foregoing also applies if, contrary to the previous paragraphs, it has been agreed by the Parties that the price will be fixed. The price increase will be paid by the Client at the next payment (in instalments). The foregoing cannot lead to cancellation of the order placed or to termination of the Agreement by the Client.
- 6.3 Terberg shall always inform the Client as soon as possible if and to the extent that Terberg will exercise the right granted in the previous paragraph to implement price increases.

6.4 A compound quotation does not oblige Terberg to carry out any part of the Agreement against a corresponding part of the stated price.

## **7 PAYMENT**

7.1 Unless expressly agreed otherwise in writing, if the Client collects the Products at Terberg's location, payment shall be made immediately upon delivery, at the offices of Terberg or in advance by payment into a bank account as specified by Terberg. In all other cases, payment will be made within thirty (30) calendar days of the invoice date.

7.2 Any reliance of the Client on set-off and/or discount is excluded.

7.3 Any objections against the amount of an invoice submitted by Terberg and/or the (manner of) performance of the Agreement by or on behalf of Terberg does not entitle the Client to suspend its payment obligation.

7.4 Terberg's full claim under the Agreement is immediately due and payable in full, if:

- a. a payment term has been exceeded by the Client;
- b. if the Client applies for a (provisional) suspension of payment, if for the Client a (provisional) suspension of payment is applied for or if a (provisional) suspension of payment is granted to the Client;
- c. if the Client files a petition for liquidation, the liquidation of the Client is petitioned for, or if the Client is declared to be in liquidation;
- d. the Client is placed under guardianship;
- e. assets of the Client are seized;
- f. the Client fails to fulfil any obligation towards Terberg;
- g. the Client proceeds to discontinue, liquidate or transfer its business or a substantial part thereof. This also includes the event that the Client brings its business into a company, already existing or to be incorporated, or proceeds to change the objectives of its business.

7.5 Terberg undertakes obligations on the assumption that the Client is sufficiently creditworthy. If it should turn out that the Client's financial situation, in Terberg's opinion, involves risks, Terberg may at any time cancel the order in question, unless the Client immediately upon request of Terberg provides further security, to Terberg's satisfaction. An irrevocable bank guarantee that can be called up immediately on request from a banking institution with a good reputation will in any case be considered to be sufficient security. The foregoing also applies if the Client has stipulated credit. In the event of a cancellation as referred to above, Terberg shall not be obliged to pay any damages, for whatever reason.

7.6 This security must be such that Terberg's claim and any interest and costs thereon must be adequately covered and that Terberg will be able to realize it without any hindrance and without any difficulty. An irrevocable bank guarantee that can be called up immediately on request from

a banking institution with a good reputation will in any case be considered to be sufficient security.

- 7.7 In the event of overdue payment, without a notice of default being required, the Client must immediately pay a contractual interest of 1% per month on the outstanding amount, from the due date of the payment term up to and including the payment date. A partially completed month is treated as a full month for the purpose of calculating interest.
- 7.8 Payments made by the Client shall firstly be applied to pay any interest and costs due, then to due and payable claims in respect of which no valid retention of title can be claimed and finally to invoice claims due that have been outstanding the longest. The above applies regardless of whether the Client states when making the payment that the settlement regards a particular (invoice) claim.

## **8 PERFORMANCE OF THE AGREEMENT**

- 8.1 Terberg is entitled to determine the manner in which the agreed performance is carried out, as well as the location where and the time when the agreed performance by or on behalf of Terberg will be carried out, unless the Parties expressly agree otherwise in writing.
- 8.2 If during the performance of the Agreement, it appears that minor deviations are necessary or desirable, Terberg may adjust the (performance of) the Agreement accordingly. These deviations will be communicated to the Client to the extent possible. If the deviations are of such a nature that a price adjustment is indicated, this price adjustment will take place after consultation.
- 8.3 Terberg reserves the right to change the construction design of the Vehicle and/or the Product without prior notice, provided that such a change does not affect the agreed function of the Vehicle and/or the Product. Terberg also reserves the right to change the action plan for the provision of the Service without prior notice, provided that such a change does not affect the agreed Results desired by the Client.
- 8.4 Additional costs caused by changes to the contract after the order confirmation by Terberg are entirely at the expense of the Client. In that case, the delivery time will be changed accordingly.
- 8.5 Terberg's policy is aimed at continuous improvement and development of its products and services. Therefore, Terberg reserves the right to make technical changes to the Vehicles, Products and/or Services, at any time and without reservation, without the Client being able to object to this and without the Client being able to assert claims of any kind whatsoever.
- 8.6 Terberg is always entitled, without notification to the Client, to be assisted by third parties when carrying out the work and/or to have the work – in part – carried out by third parties. In the event that work is carried out by third parties engaged by Terberg in the context of the performance of the Agreement, at the location of the Client or at a location indicated by the Client, the Client

at its own expense and risk shall provide the facilities reasonably required by (the employees of) the third parties. In the event that, in the context of the performance of the Agreement, parts are outsourced to third parties on the basis of terms and conditions that are more strict than the General Terms and Conditions, with regard to this outsourced part, Terberg can enforce these stricter conditions against the Client.

- 8.7 If Terberg concludes the Agreement with two or more (legal) persons, each of these (legal) persons is jointly and severally liable for the complete fulfilment of the obligations arising from the Agreement for them.

## **9 WARRANTY CONDITIONS**

- 9.1 Terberg provides a warranty on its newly delivered Vehicles and/or Products delivered by Terberg, for a maximum period of twelve (12) months of the date of handing over/delivery within the meaning of Article 25 and 28 respectively, with (in the case of Vehicles), a maximum number of 2,000 operating hours from the date of handing over/delivery within the meaning of Article 25 and 28 respectively, whereby the first limit reached is decisive. This warranty applies only to the first purchaser/owner of the Vehicle and/or the Product, which is the Client.
- 9.2 Unless expressly agreed otherwise in writing, no warranty is given on used Vehicles delivered by Terberg other than due to hidden defects at the time of delivery by or on behalf of Terberg.
- 9.3 When there is a concurrence between the purchase of a Vehicle and/or Product and/or its manufacture, the warranty period shall commence at the moment that the commissioning has been carried out by a partner selected by Terberg.
- 9.4 Terberg gives no warranty for inspections, advice and similar services provided by it.
- 9.5 Terberg only provides a warranty for defects that are exclusively caused by faulty manufacture, faulty construction or faulty material.
- 9.6 Terberg does not give any warranty for defects that occur in, or are wholly or partly the result of:
- a. improper use, or use not in accordance with the nature and/or normal intended purpose of the Vehicle and/or Product;
  - b. natural wear, use of unsuitable fuels or lubricants and/or overload;
  - c. maintenance not performed or performed incorrectly by or on behalf of the Client;
  - d. maintenance performed with parts other than Terberg original parts;
  - e. the application of any government regulation relating to the nature or quality of the materials used;
  - f. parts of the Vehicle and/or Product supplied to Terberg by a third party, insofar as that third party has not provided Terberg with a warranty or the warranty provided by the third party has expired;
  - g. cases in which the cause is not clear in Terberg's opinion.

- 9.7 Any claim under the warranty shall lapse if changes have been made to the Vehicle and/or Product without Terberg's written consent, which, in Terberg's opinion, may affect its normal operation or reliability. The same applies if parts other than the original parts supplied by Terberg are fitted within the warranty period.
- 9.8 If the performance of the Agreement (partly) consists of the processing, installation and/or assembly of material supplied by the Client, Terberg warrants only the soundness of the work carried out during the warranty period.
- 9.9 In the event of a warranty it is Terberg's decision to determine whether repair or replacement will be carried out. The Client may not demand repair or replacement from Terberg if the costs thereof are disproportionate to the Client's interest in repair rather than compensation.
- 9.10 The warranty does not extend beyond repair or replacement during normal working hours. Article 25.3 applies to the repair and/or replacement. All additional costs that exceed the several obligations as referred to in the previous paragraph will be charged to the Client. The Parties include under the foregoing, but not exclusively:
- a. costs of performing or simultaneously performing necessary maintenance, including those for the materials required;
  - b. costs of towing, use of replacement vehicle, fuels, lubricants, filters;
  - c. costs for disassembly and assembly / installation and additional repair costs as a result thereof.
- 9.11 With regard to the parts that are replaced - whether or not defective - the Client is obliged to transfer ownership to Terberg.
- 9.12 In case of replacement of complete components Terberg reserves the right to claim compensation for the time and/or kilometres that the defective component has lasted.
- 9.13 There is no new warranty period for replaced/repared (parts of) Vehicles and / or Products, on the understanding that only the remaining period can be claimed.
- 9.14 Costs of repairs outside the Netherlands, which have been carried out with Terberg's express written permission, shall be reimbursed up to, but not exceeding the costs that would have been incurred if Terberg had carried out the repairs itself.
- 9.15 For all materials, including parts, purchased by Terberg from third parties, the warranty given by Terberg shall never exceed the warranty that Terberg itself receives from its suppliers with respect to those materials.
- 9.16 A claim under the warranty does not suspend the (payment) obligations of the Client with regard to the goods delivered, the goods previously delivered or the goods yet to be delivered. The possible existence of warranty obligations of Terberg also does not give the Client the right to defer payment.

- 9.17 In case of an order for repair, correction, replacement and/or delivery of whatever nature, Terberg must be notified in writing in advance of any claim under the warranty or any warranty arrangements. The foregoing shall apply under penalty of forfeiture of all warranty claims for the Client.
- 9.18 The Client is obliged – under penalty of forfeiture of all warranty claims in this regard – to notify Terberg, in writing and stating reasons, of any defect found in the Vehicle, the Product or the Results of the Service as soon as possible, but in any event within fourteen calendar days after detection, or at least after the time at which that defect could reasonably have been detected.
- 9.19 No appeal can be made against a decision by Terberg regarding the warranty.
- 9.20 The Client shall fully cooperate with Terberg if Terberg carries out work to fulfil its warranty obligations under this article.
- 9.21 The Client only has the authority to invoke any warranty after, in Terberg's opinion, it has fulfilled all its obligations towards Terberg in a proper manner.
- 9.22 No warranty is given for repair, overhaul and maintenance work and similar services performed by Terberg outside the warranty.

## **10 LIABILITY**

- 10.1 Terberg's liability is limited to its warranty obligations as described in Article 9, except in the event of intent or deliberate recklessness on the part of Terberg or its managerial employees.
- 10.2 If a more extensive liability is assumed, the following applies:
- a. for direct damage, Terberg's maximum liability shall be the amount or amounts paid by Terberg's insurer in the relevant case and if no payment is made, the invoice value of the Vehicle and/or the Product or Service that caused the damage claimed.
  - b. for damage other than direct damage, including but not limited to consequential damage, damage due to stoppage or delay in the business of the Client as a result of any defect in a delivered Vehicle, Product or Service or late delivery, Terberg's liability is expressly excluded and insofar as a more extensive liability is assumed, limited to the amount or amounts paid out by Terberg's insurer in the relevant case and if no payment is made, the invoice value of the Vehicle and/or Product or Service that caused the damage claimed.

The limitations and exclusions of Terberg's liability mentioned in this Article do not apply in the event of intent or deliberate recklessness on the part of Terberg or its managerial employees.

- 10.3 If, as a result of a placed order, Vehicles and/or Products are cared for, driven, etc., and repaired at Terberg, the condition always applies that Terberg shall not be liable in any way for theft, loss, destruction or any damage whatsoever, except in so far as it appears that there is intent or deliberate recklessness on the part of Terberg or its managerial employees.

- 10.4 The client indemnifies Terberg, its employees and any third parties engaged by Terberg in the context of the fulfilment of its obligations under the Agreement or any related agreements or acts, against any claims from third parties for compensation for (alleged) damage incurred, caused by or otherwise related to the performance delivered by Terberg under the Agreement, unless Terberg, in case the damage would be incurred by the Client, could not invoke limitation of its liability.
- 10.5 The Client shall indemnify and hold Terberg, its employees and any third parties engaged by Terberg in the performance of its obligations under the Agreement or any related agreements or acts harmless, against any claims from third parties due to product liability as a consequence of a defect in a Product which has been delivered by the Client to a third party and which consisted (partly) of Products delivered by Terberg, unless and to the extent that the Client proves that the damage was caused by the Products delivered by Terberg.
- 10.6 In addition to paragraph 10.4 and 10.5, the Client is obliged to compensate all costs incurred by Terberg as a result of a claim from a third party as referred to in the previous paragraph. The Parties include under the foregoing, but not exclusively, the costs incurred by Terberg for legal assistance and the loss suffered by Terberg. Terberg shall inform the Client as soon as possible of any claim relating to the infringement of rights of a third party that is brought against Terberg. At Terberg's request, the Client shall take on the defence or settlement of the claim without any costs for Terberg. Notwithstanding the foregoing, the Client shall, on behalf of Terberg, reserve the right for Terberg to participate independently or as an intervening party in the negotiations and/or proceedings, at the expense of the Client, in order to ensure the protection of its rights.
- 10.7 Terberg's liability for auxiliary persons is excluded, with the exception of cases of intent or deliberate recklessness on the part of Terberg or its managerial employees. Without prejudice to the foregoing, the limitations and exclusions contained in this Article and all other limitations and exclusions of liability referred to in the Agreement and the General Terms and Conditions also apply in favour of all natural and legal persons Terberg makes use of for the performance of the Agreement.
- 10.8 The Client can no longer invoke a defect in a Vehicle, a Product or in Results of a Service if it has not informed Terberg in writing of the defect within fourteen (14) calendar days after discovering the defect or after it reasonably should have discovered the defect.
- 10.9 If the assembly and/or the installation of the Vehicle and/or Product is not part of the Agreement or another agreement between the Parties, but Terberg does provide help and assistance of any nature whatsoever during assembly and/or installation, this shall be at the risk of the Client.

## **11 FORCE MAJEURE**

- 11.1 Force majeure includes, but is not limited to:

- a. any unforeseeable interruption of regular business operations in Terberg's company or in the company of a third party from which Terberg procures goods or services;
- b. apparent changes since the conclusion of the Agreement in the actual circumstances which directly or indirectly affect the cost factors or delivery options;
- c. default and/or shortcomings, whether or not attributable, by or at the suppliers and/or subcontractors of Terberg and/or carriers;
- d. fire, strikes or lockouts, machine breakdowns, roadblocks, work stoppages, epidemics, pandemics or any other civil emergency (such as COVID-19 or any mutation thereof) riots or uprising, war, terrorism, loss or theft of machinery and equipment, government measures, including export, import or transit restrictions, including but not limited to the consequences of Brexit;
- e. frost or other weather conditions and the consequences thereof affecting the performance of the Agreement by or on behalf of Terberg; and
- f. all other circumstances which are of such a nature that it can no longer be demanded from Terberg that it is bound under the Agreement.

## **12 OBLIGATIONS OF THE CLIENT**

- 12.1 The Client shall ensure that Terberg is provided in a timely, correct and complete manner, with all data, materials, information, procedures and instructions, which Terberg indicates are required or, of which the Client in fairness should understand that they are required for the performance of the Agreement. If the information necessary for the performance of the Agreement is not provided to Terberg in time, Terberg has the right to suspend performance of the Agreement and/or to charge the Client the extra costs arising as a result of the delay, in accordance with the current rates.
- 12.2 In the event that Terberg or the third parties engaged by it work at a location designated by the Client, the Client guarantees that Terberg or the third parties engaged by it:
- a. can carry out their work at the agreed times and as undisturbed as possible; and
  - b. have the necessary facilities at their disposal, such as an accessible place for parking and loading and/or unloading a delivery vehicle, water, electricity, gas, heating and a lockable dry storage space; and
  - c. are able to use all facilities prescribed by the local Working Conditions Act and regulations.
- 12.3 Performing tests and assessing whether the instructions of the Client meet the legal standards are the responsibility of the Client. The Parties may only deviate from the foregoing expressly in writing.

- 12.4 The client is responsible for all drawings, calculations and designs it makes available to Terberg for the performance of the Agreement. The client indemnifies Terberg against all claims of third parties with regard to the drawings, calculations and designs made available by it.
- 12.5 The Client is responsible for the functional suitability of all materials prescribed by it or on its behalf.

### **13 RIGHT OF RECOVERY AND RIGHT OF RETENTION**

- 13.1 Terberg is entitled to recover the delivered goods in their entirety in case of non-payment of the purchase price, regardless of the ratio between the part of the purchase price that has been paid and the part that has not been paid and regardless of whether or not the delivered goods can be divided.
- 13.2 Terberg remains entitled to recover a Vehicle and/or Product, it is determined that the Vehicle and/or Product is/are no longer in the same condition. By 'the same condition', Parties mean that there is no question of a passing of ownership under property law to a third party, by operation of law, with regard to the Vehicle and/or the Product due to, inter alia, confusion, specification, becoming a component part of, accession or another form of deformation of the Vehicle and/or the Product.
- 13.3 Terberg's acceptance of commercial paper is not considered a legally valid payment.
- 13.4 Terberg is entitled to retain all goods in its possession from or on behalf of the Client, until the Client has fulfilled all its obligations towards Terberg. If Terberg loses control of the goods that are included under this right, Terberg is entitled to claim these goods as if it were the owner.

### **14 TERMINATION OF THE AGREEMENT**

- 14.1 In principle, the Agreement has the duration as stipulated in the Agreement. If the Agreement qualifies as a continuing performance contract and the duration has not been stipulated therein, the Agreement has been concluded between the Parties for an indefinite period of time.
- 14.2 All provisions of the Agreement or the General Terms and Conditions which by their content are intended to have effect between the Parties even after termination or expiry of the Agreement, remain in force between the Parties even after the termination or expiry. These obligations, inter alia, include but are not limited to, the obligation of confidentiality referred to in Articles 9, 10 and 17.
- 14.3 If the Parties have agreed that the Agreement is to be implemented in phases, Terberg may suspend the implementation of those parts that form part of a subsequent phase until the Client, at the request of Terberg, has approved of the results of the preceding phase in writing.

- 14.4 Unlike Terberg, the Client is not entitled to suspend its obligations arising from the Agreement, if the Client is of the opinion that Terberg fails to fulfil its obligations from the Agreement, or insufficiently fulfils these obligations. In the event of, inter alia, but not exclusively, a dispute between the Parties concerning a specific completion/delivery of a Vehicle, a Product and/or Results of a Service, the amount of the price or the correctness of an invoice, Terberg has the right, without prejudice to its other rights and remedies, to suspend its obligations under the Agreement on the grounds of reasons provided to the Client.
- 14.5 If and insofar Terberg is unable to fulfil its obligations under the Agreement, in whole or in time, due to force majeure as referred to in article 11, it is entitled, without judicial intervention and without being liable for damages, to (partially) terminate the relevant Agreement in question, or to (partially) suspend the obligations under the Agreement for a reasonable period of time.
- 14.6 In addition to the cases regulated by law, the Parties have the right to terminate the Agreement, in whole or in part, with immediate effect:
- a. if the other Party applies for a (provisional) suspension of payment, if for the other Party a (provisional) suspension of payment is applied for or if a (provisional) suspension of payment is granted to the other Party;
  - b. if the other Party files a petition for liquidation, the liquidation of the other Party is petitioned for, or if the other Party is declared to be in liquidation;
  - c. if the business operations of the other Party have been terminated;
  - d. if a substantial part of its assets is seized at the expense of the other Party and this has a material adverse effect on the performance of the Agreement, or if the other Party should therefore no longer be deemed capable of fulfilling its obligations under the Agreement.
- 14.7 Without prejudice to the previous paragraph and its legal rights to terminate the Agreement, Terberg is entitled to (partial) termination, whereby the Client is deemed to be in default by operation of law, or (partial) suspension:
- a. in the event of a failure of the Client to perform an obligation which – if default has not already occurred by operation of law – has not been remedied within ten (10) working days after a notice of default.
  - b. if circumstances occur that according to Terberg are of such a nature that (partial) fulfilment, or the maintenance of (part of) the Agreement is impossible or can no longer be demanded of Terberg according to standards of reasonableness and fairness, also including but not limited to the situations referred to in article 11 (force majeure).
- 14.8 If one of the Parties proceeds to termination on the basis of this Article or based on the law there are no obligations created to reverse the performance already received by them. The

payment obligations between the Parties still outstanding at that time will become immediately due and payable from the date of termination.

- 14.9 Both in the event of suspension of its obligations by Terberg and termination of (or notice to terminate) the Agreement by a Party, Terberg has the right to immediately demand payment of the materials and other items purchased and/or reserved for the performance of the Agreement and of the part of the obligations already fulfilled by Terberg; all this for the value to be attributed to the above in all reasonableness. Terberg is entitled to the full price agreed if the circumstances that led to the end of the Agreement are attributable to the Client.
- 14.10 If Terberg proceeds to suspend it is entitled to have the materials and other items, purchased and/or reserved for the performance of the Agreement, stored at the expense and risk of the Client. The above also applies in the event that Terberg proceeds to (partial) termination of the Agreement and the Client has not yet taken possession of the aforementioned goods, on the understanding that Terberg may choose to destroy or sell the goods at the expense of the Client, instead of having the goods stored.

## **15 ADDITIONAL WORK**

- 15.1 Terberg is entitled to payment of the additional work it is instructed to do, in addition to the payments agreed in the Agreement. The Parties define additional work as all the work performed by Terberg in consultation with the Client, during the performance of the Agreement, outside the arrangements set out in the Agreement. In case of changes with regard to the Vehicle and/or the Product, there are in any case contract variations if:
- a. the design or the specifications are modified;
  - b. the information provided by the Client turns out to be incorrect.
- 15.2 The costs of additional work are calculated based on the value of the price-determining factors at the time the additional work is carried out. Article 6 applies mutatis mutandis to the calculation of the additional work.
- 15.3 Terberg is entitled to charge the additional work it carried out separately from other fees, as soon as Terberg knows the amount to be charged.
- 15.4 The provisions of the Agreement and the General Terms and Conditions apply to all the additional work performed by Terberg, to the extent that the Parties have not expressly agreed otherwise in writing.

## **16 INTELLECTUAL PROPERTY**

- 16.1 All Intellectual Property Rights arising out of or with respect to the Service(s), Products, Vehicles, Results and Terberg Connect, wherever and whenever created, are the sole and exclusive property of Terberg ("**Terberg IP**").

- 16.2 The offer made by Terberg and the drawings, designs, calculations, programmes, descriptions, models, tools, software and the like, including the Terberg IP vested therein, made or provided by Terberg will remain the property of Terberg, even if for this costs were charged to the Client. The same applies to the Intellectual Property Rights to the manufacturing and construction methods of Terberg and its products, as well as other Intellectual Property Rights resting on goods supplied by Terberg to the Client, including but not limited to the Products and Vehicles.
- 16.3 All data as well as all carriers of data (such as drawings, diskettes, etc.), other products or services made available by Terberg to the Client, or in production, processing or storage at the Client's location or manufactured by the Client, for Terberg or on its instructions, are the property of Terberg ("**Terberg Data**"), including all related industrial and Intellectual Property Rights. The Client shall provide the Terberg Data to Terberg at Terberg's first request.
- 16.4 Insofar as a transfer would still be required to obtain the ownership of the Terberg IP by Terberg as referred to in this article, Client hereby transfers and delivers to Terberg, where necessary in advance (*bij voorbaat*), all Terberg IP by signing the Agreement, which transfer and delivery Terberg accepts. If at any time a further deed or act is required to effectuate this transfer and delivery, the Client hereby irrevocably authorises Terberg and grants a power of attorney to Terberg to draw up such a written deed (or any other document with the purpose of transferring the Terberg IP to Terberg), to sign it on behalf of the Client and to also transfer/register or have transferred or registered the Terberg IP in the registers concerned, all of this without prejudice to the Client's obligation to render every assistance to this transfer/delivery immediately on Terberg's first request and without being able to attach conditions to it. The Client hereby waives, insofar as necessary also on behalf of his personnel, any so-called moral rights that may be vested in the Terberg IP, insofar as the regulations permit such a waiver.
- 16.5 Unless the Parties have expressly agreed otherwise in the Agreement:
- a. all Intellectual Property Rights to the Products developed under the Agreement rest exclusively with Terberg, its licensors or its suppliers;
  - b. the Client will only acquire a limited user right to the Intellectual Property Rights to the Products and/or the Services which is non-exclusive and non-transferable to third parties, only to the extent necessary to perform under the Agreement;
  - c. the Client is not permitted to make changes, modifications or improvements to Products, Services, Results, Terberg Connect and Vehicles including the Terberg IP vested thereon, or to link and/or integrate its own products or services to them.
- 16.6 A written and expressly separately agreed transfer of (a part of) the Intellectual Property Rights to the Client will never affect Terberg's right to achieve developments, to deliver products or provide Services for its own benefit or for the benefit of a third party that are similar or derived from those that have been or will be achieved, delivered or provided for the benefit of the Client.

- 16.7 All Terberg Data and goods as referred to in this article that come to the knowledge or possession of the Client, may only be used by the Client for the purpose for which they have been obtained by him for Terberg and/or the Agreement. The Client also warrants that those data and goods, except for the performance of the Agreement, will not be copied, shown to third parties and disclosed other than with Terberg's written permission.
- 16.8 The client fully indemnifies and holds Terberg harmless in respect of claims for damages from third parties, based on infringement of Intellectual Property Rights and Terberg IP, by using drawings, data, materials or parts and/or breach in the performance of obligations under the Agreement by Client.
- 16.9 After termination of the Agreement, the Client shall destroy or return to Terberg the Terberg Data, Terberg IP and/or goods mentioned in this Article that it or a third party possesses and received from the Client, at Terberg's discretion, with the exception of those Terberg Data, Terberg IP and/or goods the Client still needs for the further use of the Vehicle or other Products, or in the event that the Client has the Intellectual Property Right or a valid right of use with regard to those data and goods.

## **17 CONFIDENTIALITY**

- 17.1 The parties are obliged to maintain the confidentiality of all information that they obtain from each other in the context of the performance of the Agreement and of which they know or should reasonably know the confidential nature, expressly including, but not limited to, the content of the Agreement and the quotations. Violation of this provision as a result of an obligation arising from a statutory provision or a court decision shall not give rise to a claim for damages or termination for the benefit of the other Party.
- 17.2 If a Party is required to disclose confidential information pursuant to a statutory provision or a court decision, it shall immediately inform the other Party in writing of such obligation and shall enable the other Party to seek reasonable protection against such obligation or order and, if necessary, to cooperate in obtaining such protection.
- 17.3 Parties are not permitted to use the confidential information received from the other Party as referred to in paragraph 1 for purposes other than the fulfilment of their rights and obligations under the Agreement, the quotation or the General Terms and Conditions. Disclosure of said information to third parties is only permitted with the prior express written consent of the other Party.
- 17.4 At the first request of one Party and/or after termination or expiry of the Agreement, the other Party shall immediately:

- a. return to the other Party all copies, samples and extracts of the confidential information and all other physical media containing such confidential information; and
- b. delete or destroy (or cause to be removed or destroyed) all automated data containing confidential information.

17.5 The rights and responsibilities of Parties under this Article shall remain in effect for a period of two (2) years after the date of termination or expiration of the Agreement.

## **18 PROCESSING OF PERSONAL DATA**

18.1 Terberg collects data via the Vehicles that provide insight into the condition of the Vehicle. Terberg shares statistical information about the use of Vehicles with the Client, for the purposes included in Terberg's privacy statement, which can be found at <https://www.terbergspecialvehicles.com/en/privacy-policy>. Insofar as these data qualify as personal data within the meaning of the General Data Protection Regulation (hereinafter referred to as: "GDPR"), Terberg and the Client are controllers, responsible for the collection and provision of these personal data to Terberg. Terberg is not responsible for the processing of the personal data by the Client on the basis of the information Terberg provides to the Client.

18.2 Terberg processes the personal data in accordance with its privacy statement, which can be found by means of the hyperlink in Article 18.1. The Client is obliged to act in accordance with the GDPR and the Telecommunications Act and, to the extent necessary to comply with applicable legislation, to inform those involved and obtain their consent.

18.3 The Client shall provide information about Vehicles and users to Terberg as anonymously as possible, so that these data cannot be traced back to persons. If the Client receives a request from a controller within the meaning of Chapter III GDPR, such as a request for inspection, modification or deletion of personal data, the Client shall forward this request to Terberg without unreasonable delay and in any case within five working days. Terberg shall handle this request in accordance with the GDPR. The client shall provide the necessary cooperation so that a request from a controller in accordance with the GDPR can be dealt with by Terberg.

## **19 PENALTY CLAUSE**

19.1 For each violation of the provisions of articles 17 and 18, as well as for each day that the violation in question continues, the Client shall each time owe Terberg an immediately payable fine of € 50,000. This applies in addition to any obligation of the Client to pay compensation and to other rights of Terberg.

## **20 TERBERG CONNECT**

- 20.1 Insofar as Terberg provides access to Terberg Connect under the Agreement via a portal designated by Terberg or a third party engaged by it, this Article 20 applies to the provision of this service, in addition to the other provisions under these General Terms and Conditions.
- 20.2 Providing access to Terberg Connect is a standard service, i.e. Terberg offers and provides the service to all its customers in the same manner. The service is thus provided "as is". This means that the service has the possibilities of use as the Client finds them and which the Client accepts without question.
- 20.3 Terberg strives for reasonable availability of the service. However, Terberg is thereby dependent on the third parties it engages and limitations, defects and interruptions may occur and are not a shortcoming. Terberg shall make an effort to resume the service as soon as possible. Terberg shall also make an effort to meet promised deadlines and delivery dates, however, exceeding them does not immediately constitute a shortcoming.
- 20.4 Terberg may:
- a. change the service, for example by introducing new versions of the software of Terberg Connect;
  - b. replace the service before or during the Agreement with a service with similar functional characteristics;
  - c. temporarily decommission the service or have it decommissioned when Terberg deems this necessary for (the protection of) the security and/or the integrity of the service, carrying out necessary (preventive) maintenance, repairing a defect and/or remedying a malfunction or adapting or improving Terberg's computer systems and/or those of suppliers with which the service is provided.
- 20.5 Terberg shall limit interruptions and/or suspensions where possible and inform the Client as soon as possible of a planned interruptions and/or suspensions. However, Terberg shall not be liable if the Client suffers damage as a result of interruptions and/or suspensions the service.
- 20.6 Terberg provides telephone or email support, as agreed between the Parties.
- 20.7 The Client shall:
- a. use the service exclusively in accordance with the agreed method of use as described in these General Terms and Conditions;
  - b. use the service exclusively for the Client's internal business purposes;
  - c. not exploit the service for, or for the benefit of, third parties, such as, for example, by means of consultancy services or by means of granting sublicenses, unless Terberg has given written permission for this;

- d. only use the service with due observance of all reasonable instructions from Terberg and/or the third parties engaged by Terberg.
- 20.8 Insofar as the Client is a Distributor of Terberg, instead of article 20.7, the Client offers the service exclusively to its customers under the conditions of articles 20.7 and 20.13. The Client shall indemnify and compensate Terberg for any infringement by a customer of the Client of the provisions of articles 20.7 and 20.13.
- 20.9 The Client grants Terberg and the third parties engaged by it a right of use to all intellectual property rights of the Client and/or its customers insofar as Terberg and the third parties engaged by it must make use of it to provide the service.
- 20.10 If a third party approaches the Client with the assertion that the service infringes the intellectual property rights of that third party, Terberg shall indemnify the Client provided that the Client gives Terberg and/or the third party engaged by it control over the defence, does not make any promises to the third party in question and provides the necessary powers of attorney, information and cooperation to Terberg and/or the third party engaged by it to defend Terberg and/or the third party engaged by it, if necessary in the name of the Client, against these legal actions.
- 20.11 If, according to Terberg, the service or a part thereof infringes an intellectual property right of a third party, Terberg shall, at its expense, (i) adjust the services such that no further infringement is made, or (ii) obtain a licence for the infringing part, or if in Terberg's opinion the foregoing is not possible (iii) terminate the Agreement on the basis of reasonable conditions or costs, in which case Terberg shall repay the amounts paid in advance by the Client in proportion to the date of termination.
- 20.12 Terberg has no obligations with regard to an infringement of intellectual property rights other than those mentioned in this article.
- 20.13 Terberg Connect contains trade secrets of Terberg and/or third parties. The client is not entitled to inspect these data (or to have them inspected) in any way. The Client shall refrain from any action that aims to give third parties access to these trade secrets. In particular, the Client shall not, and not allow third parties to, extract information about or from Terberg Connect, for example about software, encryption, algorithms, security and/or code, in any way whatsoever, such as, but not limited to, decompiling or reverse engineering. The Client shall indemnify and compensate Terberg for any act contrary to the provisions of this article.
- 20.14 Client acknowledges and accepts that Terberg Connect only works in areas where there is network coverage of the third parties engaged by Terberg, including roaming partners. Terberg is not liable for lack of coverage or malfunctions in the network of the third parties it engages.
- 20.15 The Client acknowledges and accepts that Terberg is dependent on the provision of the service by third parties engaged by Terberg. Terberg is entitled to terminate the Agreement with respect

to the provision of the service, if the agreement between Terberg and the third party engaged by Terberg, for whatever reason, is terminated.

## **21 APPLICABLE LAW AND DISPUTE SETTLEMENT PROCEDURE**

- 21.1 The Agreement, the General Terms and Conditions, all offers, quotations, transactions and other agreements between the Client and Terberg and all resulting obligations are governed exclusively by Spanish law. The applicability of the Vienna Sales Convention is expressly excluded.
- 21.2 All disputes arising from or in connection with the Agreement, the General Terms and Conditions, Terberg's offers and quotations and/or other agreements between Terberg and the Client shall be settled by the competent court of Madrid, Spain.

## **22 MISCELLANEOUS**

- 22.1 If Terberg for the performance of the Agreement has made goods available to the Client, the Client must return those goods within fourteen (14) calendar days after termination of the Agreement in their original condition, free of defects and in full.
- 22.2 The Client is not entitled to transfer any right and/or obligation under the Agreement or the General Terms and Conditions to third parties or to outsource to third parties, unless the Parties have expressly agreed otherwise in writing. In the event that the Parties have indeed expressly agreed otherwise in writing, the Client shall declare the General Terms and Conditions applicable to the relationship with the third party and, if necessary, invoke the General Terms and Conditions against that third party.
- 22.3 All judicial and extrajudicial (collection) costs reasonably incurred by Terberg to obtain payment of a claim against the Client shall be at the expense of the Client. The judicial and extrajudicial (collection) costs amount to at least 15% of the amount due with a minimum of € 75.00.
- 22.4 Any claim that the Client may bring against Terberg shall lapse after a period of six (6) months after the claim against Terberg has become due and payable, unless a legal action has previously been brought against Terberg in the matter.
- 22.5 In some cases Terberg makes a "Parts for regular maintenance" or "Recommended spare parts" list available. These documents are intended solely as parts overview and are explicitly not intended to be a maintenance instruction. For maintenance of a specific component, carefully read the component manual and follow the instructions of the supplier. All information and materials in these documents are intended for general information purposes. The information in these documents cannot be regarded as (complete) advice. Decisions based on the

information in these document are at the expense and risk of the user. Use of these documents implies acceptance of these terms and conditions and any amendments thereto. If you do not wish to accept these conditions, please do not use these documents. Terberg reserves the right to amend, modify and/or replace these documents and the information contained herein, in whole or in part without any notice being required. Therefore, please check the online version of these documents regularly for any changes or modifications. The information in these documents has been drawn up by Terberg as complete and accurate as possible. However, Terberg does not guarantee that the information and materials offered in these documents are up-to-date, complete and accurate, or free of defects, omissions and/or errors. Terberg further does not guarantee that such defects, omissions and/or errors will be corrected or removed. Furthermore, Terberg reserves the right to interrupt the availability of these documents at any time. Terberg is not liable for any damage whatsoever, direct and/or indirect, in any way caused by and/or arising from the use of these documents and/or information contained herein or the unavailability of these documents and/or the fact that certain information in these documents is incorrect, incomplete or not up to date.

## **§2 Purchase**

### **23 ORDERS**

- 23.1 The specifications, with which an order placed by the Client with Terberg must comply in order to qualify for acceptance, can be included in the Agreement.
- 23.2 Return shipments of the delivered goods can only take place after consultation and with written permission from Terberg. The Client cannot derive any rights of any kind from such permission.

### **24 DELIVERY PERIOD**

- 24.1 Terberg determines the delivery period in the Agreement on the basis of the facts and circumstances known to it at that time and based on the timely delivery to Terberg of the goods and services ordered and required for the performance of the Agreement.
- 24.2 The delivery time will be extended, if necessary, by Terberg:
- a. in the event of the occurrence of (new) facts and/or circumstances of which Terberg was not (yet) aware at the time of determining the delivery time, including but not limited to the consequences of the Brexit and (a mutation of) COVID-19;
  - b. if the information provided by the Client proves to be incorrect;
  - c. if timely delivery to Terberg of the goods and/or services ordered and required for the performance of the Agreement does not take place;
  - d. in the event that Terberg suspends its obligations; or
  - e. in the event of force majeure within the meaning of Article 11 on the part of Terberg.

- 24.3 In all cases, after extension of the delivery time, the work will be carried out by Terberg as soon as its planning reasonably allows, according to Terberg.
- 24.4 Stated delivery times shall never be regarded as strict deadlines. Stated delivery times are indicative and are without obligation, unless expressly agreed otherwise in writing when the Agreement was concluded.
- 24.5 If for any reason, the delivery time is exceeded, the Client or its legal successor/successors is/are not entitled to any form of compensation or any right to termination of the Agreement, in whole or in part, unless the Parties expressly agreed otherwise in writing. An exception to the above is where the Client incurs damage as a result of intent or deliberate recklessness on the part of Terberg or its managerial employees. The obligations of the Client will continue to exist in the aforementioned cases.
- 24.6 The delivery period shall only commence after Terberg has confirmed the order in writing and after all necessary data regarding the desired performance are in Terberg's possession.
- 24.7 In the event of exceeding delivery times by Terberg due to force majeure within the meaning of Article 11, Terberg reserves the right, at Terberg's discretion, to suspend performance of the Agreement or to terminate the Agreement (in part) without judicial intervention.

## **25 DELIVERY AND RISK**

- 25.1 Delivery is FCA (location still to be agreed in the Agreement) on the basis of the Incoterms 2020, unless the Parties have expressly agreed otherwise in writing. Costs and risk of transport shall be at the expense of the Client, with the exclusion of any liability for Terberg.
- 25.2 In the event of an exchange, return or replacement of the Vehicle and/or Product, the Client shall, at its own expense and risk, ensure that the Vehicle and/or Product in question is returned to Terberg's possession. Until the moment the Vehicle and/or Product in question has been returned to Terberg's possession, the Client shall bear the risk of this Product.
- 25.3 If the Parties, contrary to the provisions of the first paragraph, have agreed that Terberg will arrange the transport of the Vehicle and/or the other Products, the risk of storage, loading, transport and unloading remains at the expense of the Client.
- 25.4 The client is obliged to provide the cooperation necessary for the performance of Terberg. This cooperation shall be deemed to have been refused:
- a. if Terberg provides transport: when the Vehicles and/or other Products have been offered to the Client for delivery, but this has proved impossible;
  - b. if the Client provides transport: if the Vehicles and/or other Products are not collected by or on behalf of the Client on the agreed date.

In these cases, the Client shall be immediately in default without further notice of default. All costs incurred by Terberg as a result of this refusal shall be at the expense of the Client, without prejudice to Terberg's other rights with regard to this shortcoming. The aforementioned costs explicitly include a reasonable compensation for storage, related to the usual local rates. The Vehicles and/or Products that have not been purchased will be stored at the expense and risk of the Client.

## **26 RETENTION OF TITLE**

- 26.1 Terberg retains ownership of a delivered Vehicle and/or Product; this retention of title applies:
- a. if the Vehicle and/or the Product is located in the Netherlands, a retention of title whereby the ownership of the Vehicle and/or Product only passes to the Client if all that the Client owes Terberg, under any agreement whatsoever, also pursuant to any claims based on failure to perform such an agreement, including interest and costs, has been fully paid to Terberg;
  - b. if the Vehicle and/or the Product is located outside the Netherlands, a retention of title whereby the ownership of the Vehicle and/or Product only passes to the Client if all that the Client owes Terberg under the Agreement, including interest and costs, has been fully paid to Terberg.
- 26.2 As long as Terberg retains title to the Vehicles and/or Products, the Client is not entitled to encumber the Vehicles and/or Products or to transfer ownership, whether or not in the normal course of business.
- 26.3 As long as ownership of the Vehicle and/or Product delivered by Terberg has not yet passed to the Client, Terberg shall be entitled to unhindered access to this Vehicle and/or Product.
- 26.4 In the event that third parties seize the Vehicles and/or Products delivered under retention of title or wish to establish or assert rights thereto, the Client must inform Terberg thereof as soon as possible.
- 26.5 If Terberg invokes its retention of title, it may repossess the Vehicles and/or Products in question from the Client, at the expense of the Client. The Client shall fully cooperate with the repossession. In the context of the aforementioned repossession, the Client hereby grants its unconditional and irrevocable permission to Terberg or third parties to be designated by Terberg, to enter all the locations where its properties are located. By invoking the retention of title, the Agreement shall be deemed to have been terminated, without prejudice to Terberg's right to claim compensation for damage, loss of profit and interest.
- 26.6 If and as soon as Terberg (no longer) can invoke its retention of title due to mixing, accession or deformation of the delivered Vehicle and/or Product, the Client must pledge the mixed or newly created goods to Terberg and pledge to Terberg (in advance) the claims the Client has obtained or will obtain from the resale of the mixed or newly created goods.

26.7 Terberg retains the undisclosed pledge on the Vehicles and/or Products it delivered, such as security for the payment of all existing and future claims of Terberg against the Client, including those regarding collection costs and interest.

## **27 DELIVERY AND ACCEPTANCE**

27.1 The weight or number of Vehicles and/or Products delivered shall exclusively be the weight or number stated on the delivery documents of Terberg or a third party engaged by Terberg, subject to proof to the contrary.

27.2 The Client is obliged to inspect the delivered Vehicles and/or Products, or have them inspected, immediately after receipt. At the first request of Terberg, the Client will grant access to and/or inspection of the quality control and monitoring data and inspection data within the Client's organization.

27.3 Further specifications regarding the delivery, receipt and acceptance of the Vehicles and/or Products may be included in the Agreement.

## **§ 3 Contracting work**

### **28 DELIVERY**

28.1 Terberg determines the delivery period in the Agreement on the basis of the facts and circumstances known to it at that time and based on the timely delivery to Terberg of the goods and services ordered and required for the performance of the Agreement. Sections 24.2-24.7 and 25.3 apply mutatis mutandis.

28.2 The Vehicle and/or the Product is considered to be delivered the moment one of the following events occurs; the first occurring event will be taken as a basis:

- a. the Client has approved the Vehicle and/or the Product in the condition in which it is at the moment that the Client has been notified in writing that the Vehicle and/or the Product has been completed ("as is"), with all visible and invisible defects;
- b. the Vehicle and/or the Product has been put into use by the Client;
- c. the Client has been notified in writing that the Vehicle and/or the Product has been completed, but the Client fails to approve the Vehicle and/or the Product within seven (7) calendar days of the date of this notification or reject the Vehicle and/or the Product with a written and specified notification containing well-founded complaints or, in the event that the Parties have agreed in the Agreement on an acceptance test by the Client or a third party designated by the Client, the Client has not approved the Vehicle and/or the Product in writing or rejected the Vehicle and/or the Product in writing and stating reasons within fourteen (14) calendar days of Terberg's notification that the acceptance test can be carried out; or

- d. the Client rejects the Vehicle and/or the Product on the grounds of minor defects or missing parts, that can be repaired or delivered within thirty (10) working days and do not reasonably prevent putting the Vehicle and/or the Product into operational or productive use. If this situation arises, Terberg will remedy the failure as soon as reasonably possible.
- 28.3 In the event of rejection of the Vehicle and / or the Product, the Client must immediately notify Terberg in writing, stating the reasons. Upon rejection of the Vehicle and/or the Product, the Client must give Terberg the opportunity to repair or redeliver the Vehicle and/or the Product. In the event of repair or new delivery, the previous paragraph shall apply mutatis mutandis.
- 28.4 The Client indemnifies Terberg against all claims from third parties in connection with damage to parts of the Vehicle and/or the Product that have not been delivered by Terberg, which is caused by use of the delivered part of the Vehicle and/or the Product by the Client.
- 28.5 Without prejudice to Terberg's warranty obligations, the acceptance of the Vehicle and/or the Product on the basis of this Article shall exclude any claim by the Client with regard to a failure in the performance of the Agreement by Terberg, unless there is a shortcoming on the part of Terberg as a result of intent or deliberate recklessness on the part of Terberg or its managerial employees.

## **29 ADDITIONAL OBLIGATIONS OF THE CLIENT**

- 29.1 If Terberg carries out work for the creation of the Vehicle and/or the Product at a location outside Terberg's company specified by the Client, paragraphs 4, 5 and 7 of Article 30 apply mutatis mutandis.

## **§ 4 Contract for Services**

### **30 SERVICES**

- 30.1 Terberg shall make every effort to perform the Services with care. Terberg shall perform the Services on the basis of an obligation to perform to the best of its ability.
- 30.2 Terberg is entitled to replace the person or persons engaged for the Services by another person or persons with the same or similar qualifications.
- 30.3 If Terberg performs the Services on the basis of the data to be provided by the Client, such data shall be prepared by the Client in accordance with the conditions set by Terberg and supplied at the expense and risk of the Client.
- 30.4 The Client is responsible for the correct and timely execution of all set-ups, facilities and/or conditions required for the performance of the Services by Terberg, unless the Parties have expressly agreed otherwise in the Agreement. The above does not apply if and to the extent that such performance is carried out by Terberg or third parties on the instructions of Terberg

only in accordance with drawings and/or data produced or provided by or on the instructions of Terberg.

- 30.5 Unless the Parties have expressly agreed otherwise in the Agreement, the Client shall ensure at its own expense and risk that Terberg's employees and/or third parties engaged by Terberg can commence their work as soon as they have arrived at the place of performance of the Service, and that they can continue to carry out their work during normal working hours and outside normal working hours if Terberg deems the latter necessary and has notified the Client of this in good time.
- 30.6 The Client is responsible for the correct use and/or the correct operation of the delivered goods.
- 30.7 In case damage occurs and/or costs are incurred because the paragraphs 3-6 of the conditions set out in this Article are not met or have not been met in time, this damage and/or costs shall be at the expense of the Client.

### **31 PRICE**

- 31.1 Terberg is entitled to the full price agreed between the Parties for the Service if the Agreement is terminated prematurely and this termination is attributable to the Client.

### **32 DELIVERY**

- 32.1 Article 28 applies mutatis mutandis to the delivery of the Results of a Service.

### **33 INSTRUCTIONS**

- 33.1 Terberg is not obliged to comply with instructions from the Client, unless an instruction, in Terberg's estimation, was issued in good time and was justified. An instruction can only be deemed to be in time and justified in case the instruction was issued before commencement of the work.
- 33.2 Terberg is entitled to charge costs to the Client, in addition to the price agreed for the Agreement, if Terberg decides to comply with an instruction and this will lead to costs incurred by Terberg not included in the price.