

Hortilux Schröder B.V. – General Terms and Conditions

Article 1. Scope of application

- 1.1 These general terms and conditions shall govern all offers, quotations, legal acts and agreements of any nature whatsoever involving Hortilux Schröder B.V. (hereinafter referred to as "Hortilux") and a Client, as well as any undertakings given pursuant to same, even where a legal act does not result in or is not related to an agreement. Any derogation may only be agreed to with Hortilux in writing.
- 1.2 For the purposes of these terms and conditions "Client" is deemed to refer to any client or other party who enters or wishes to enter into an agreement with Hortilux or to whom the latter presents an offer or effects delivery or performance, as well as their legal successors.
- 1.3 For the purposes of these terms and conditions "Supplier" is deemed to refer to a person or business who provides services directly or indirectly for the purposes of executing an agreement between a Client and Hortilux. It is also deemed to refer to a manufacturer of products (or parts thereof) which Hortilux supplies for the purposes of executing an agreement between a Client and Hortilux.
- 1.4 In the event that any provision of these general terms and conditions is invalid or inapplicable for any reason whatsoever, the rest of these general terms and conditions shall continue to apply and the invalid provision shall be interpreted in such a manner that its purpose and purport shall be retained as far as possible. In the event that an such interpretation does not present a solution, Hortilux and a Client shall enter into consultation with each other to agree on new provisions to replace any invalid ones so as to ensure that the purpose and purport of the original provisions are retained as far as possible.
- 1.5 Hortilux shall at all times be entitled to amend these general terms and conditions. An amendment shall come into effect one (1) month after it is announced.
- 1.6 The application of any form of general terms and conditions on the part of a Client is explicitly rejected. Any procurement or other terms and conditions which a Client declares to be applicable shall not be binding on Hortilux, unless the latter consents to them in writing. Such consent may not be deduced from the fact that Hortilux fails to refute a statement made by a Client to the effect that the latter does not consent to Hortilux's terms and conditions and declares their own terms and conditions to be applicable.

Article 2.3. Offers

- 2.1 All offers shall be free of obligation.
- 2.2 Although the documents constituting part of an offer made by Hortilux (such as technical specifications, drawings, calculations and so forth) shall be as accurate as possible, they shall not be binding.
- 2.3 Any prices cited in an offer shall be based on delivery "FCA" (Free Carrier) at Hortilux's warehouse based in Heeg or Monster in the Netherlands in accordance with Incoterms 2010. Such prices shall be exclusive of value added tax and packaging.
- 2.4 In the event that a Client does not accept an offer made by Hortilux, the latter shall be entitled to charge that Client for all of the costs which it has incurred for the purposes of presenting that Client with an offer and the Client shall be required to pay those costs within fourteen (14) days after the relevant invoice date.
- 2.5 An offer shall have a term of validity of fourteen (14) days, unless Hortilux gives notice otherwise.

Article 3. Intellectual property rights

- 3.1 Unless otherwise agreed in writing, Hortilux shall retain copyright and all other intellectual property rights to any offers made or designs, images, drawings, samples and other models, software and the like.
- 3.2 The rights to the data referred to in Clause (1) of this article shall remain Hortilux's property irrespective of whether or not a Client has been charged for their production. Without Hortilux's prior, written, explicit consent such data may not be copied, used or exhibited to other parties. A Client shall be liable to pay Hortilux a penalty, payable with immediate effect of EUR 25,000.00 for each contravention of this clause. Such penalty may be sought in addition to compensation pursuant to the law.
- 3.3 When first requested to do so, a Client shall be required to return any data referred to in Clause (1) of this article which has been supplied to them by a deadline stipulated by Hortilux. In the event of a contravention of this clause, that Client shall be liable to pay Hortilux a penalty, payable with immediate effect, amounting to EUR 1,000.00 per day. Such penalty may be sought in addition to compensation pursuant to the law.
- 3.4 A Client shall indemnify Hortilux against any claim made by a third party in relation to intellectual property rights to materials or data supplied by that Client which are used for the purposes of executing the relevant contract.
- 3.5 In the event that a Client supplies data storage media, electronic files or software and so forth, they shall warrant that such media, files or software are free of viruses and defects.

Article 4. Advice and information provided

- 4.1 A Client may not derive any rights from advice or information that they receive from Hortilux if it does not relate to the contract concerned.
- 4.2 In the event that a Client supplies data, drawings, specifications and the like to Hortilux, the latter may assume that they are complete and correct for the purposes of its offer and when executing the relevant agreement. A Client shall bear any risks involved and be liable for any loss occasioned by any error or defect in drawings, calculations, instructions, specifications and structures that they have supplied.
- 4.3 A Client shall indemnify Hortilux against any claim made by a third party in relation to the use of any advice, drawings, calculations, designs, materials, samples, models and the like supplied by or on behalf of that Client.

Article 5. Delivery time and period of execution

- 5.1 A delivery time and/or period of execution shall be deemed to have been decided on by Hortilux by way of an estimate and shall under no circumstances be deemed to represent a material deadline.
- 5.2 When deciding on a delivery time and/or period of execution, Hortilux shall assume that it is capable of executing the relevant contract in the circumstances of which it is aware at that point in time.
- 5.3 A delivery time and/or period of execution shall only commence once agreement is reached on all commercial and technical details, and all of the requisite information, final and approved drawings, and the like are in Hortilux's possession, the agreed payment (or instalment) has been received and the conditions which are necessary for the execution of the relevant contract have been satisfied.
- 5.4 a. In the event that circumstances exist other than those Hortilux was aware of when it decided on a delivery time and/or period of execution by way of an estimate, it may extend such delivery time and/or period of execution by the time that it requires to execute the relevant contract under those circumstances. Where it is impossible to fit any work in Hortilux's schedule, it shall be carried out as soon as that schedule allows.
b. Should there be any question of excess work, the delivery time and/or period of execution shall be extended by the time which Hortilux requires to supply (or arrange for this to be done) the relevant materials and parts, and to carry out such excess work. Where it is impossible to fit any excess work in Hortilux's schedule, it shall be carried out as soon as that schedule allows.
c. In the event that there is any question of Hortilux's obligations being suspended, the delivery time and/or period of execution shall be extended by the duration of that suspension. Where it is impossible to continue any work in Hortilux's schedule, it shall be carried out as soon as that schedule allows.

- d. Where it becomes impossible to work due to the weather, the delivery time and/or period of execution shall be extended by the delay which occurs as a result and, in the event that the work then cannot fit in Hortilux's schedule, it shall be carried out as soon as that schedule allows.
 - e. Where delivery by a Supplier is delayed, the delivery time and/or period of execution shall be extended by the delay which occurs as a result and, in the event that the work then cannot fit in Hortilux's schedule, it shall be carried out as soon as that schedule allows.
- 5.5 A Client shall have a duty to pay any costs which Hortilux incurs as a result of any delay of the delivery time and/or period of execution referred to in Clause (4) of this article.
 - 5.6 Under no circumstances shall a failure to meet a delivery time and/or period of execution confer entitlement to compensation or cancellation on the relevant Client.

Article 6. Passing of risk

- 6.1 Delivery shall occur FCA (Free Carrier) from the Hortilux warehouse in Heeg in accordance with Incoterms 2010. Any risks associated with materials shall pass at such time as delivery is made to the relevant Client. Any risks associated with labour for the works supplied shall pass at such time as the works are handed over or the relevant Client puts them into service.
- 6.2 Irrespective of what is stipulated in Clause (1) of this article, a Client and Hortilux may agree that the latter will assume responsibility for transport. In this case the Client concerned shall bear the risks associated with storage, loading, transport and unloading. A Client may insure itself against such risks.
- 6.3 Where a trade-in occurs and the relevant Client holds the asset which is to be traded in in their possession in anticipation of the delivery of the new assets, that Client shall bear any risks associated with the asset that is to be traded in until such time as they have placed it in Hortilux's possession. Should a Client be unable to supply an asset that is to be traded in in the condition in which it found itself at the time when the relevant agreement was concluded, Hortilux may cancel that agreement.

Article 7. Price changes

- 7.1 Hortilux may pass on an increase due to any changes in cost price determining factors which occur after the relevant agreement has been concluded to the Client concerned.
- 7.2 A Client shall have a duty to pay any price increase referred to in Clause (1) of this article at any of the following points in time, such to be determined at Hortilux's discretion:
a. when that price increase occurs;
b. simultaneously with the payment of the principal sum;
c. together with the next agreed instalment.

Article 8. Force majeure

- 8.1 In the event that Hortilux is prevented from executing an agreement (or continuing to do so) due to force majeure, it shall be entitled to cancel all or part of the relevant agreement (with immediate effect) by means of a written notice to this effect in the absence of any judicial intervention and without any obligation to provide compensation subject to Hortilux's entitlement to payment by the relevant Client for any performance which Hortilux had already effected before there was any question of a situation of force majeure, or to suspend the execution of that agreement (or its continued execution). In the event of such suspension Hortilux shall as yet be entitled to cancel all or part of the relevant agreement.
- 8.2 Hortilux shall also be entitled to invoke force majeure in the event that the circumstances which prevent its compliance (or further compliance) occur after it should have complied with its obligations.
- 8.3 Amongst other things, force majeure is deemed to refer to circumstances where suppliers, contractors working for Hortilux or transporters whom it has engaged fail to comply with their obligations or to do so on time, the weather, earthquakes, power failures, losses, the theft or loss of equipment or materials, import or trade restrictions, road blockades, strikes or work stoppages affecting it or its Suppliers or any non-compliance on the part of the latter as a result of which Hortilux cannot (or can no longer) reasonably be expected to comply with its obligations.

Article 9. Scope of the work

- 9.1 A Client shall be required to ensure that all permits, exemptions and any other rulings which are required for the performance of the work are obtained on time. When first requested to do so by Hortilux, a Client shall have a duty to send it a copy of the aforementioned documents.
- 9.2 The price of any work shall not include:
a. the costs incurred for earthmoving, piling work, chopping, demolition, foundation work, masonry, carpentry, stucco work, painting, wallpapering, repairs or other construction work;
b. the costs incurred for connecting gas, water, electricity or other infrastructural facilities;
c. the costs incurred to prevent any damage from being inflicted on items present where the work is carried out or to limit same;
d. the costs incurred for the removal of building or other materials, or waste;
e. travel and accommodation expenses.
- 9.3 A Client shall be responsible for applying for the connection of any installation to the electricity network of the relevant public utility or the various public transmission networks. The relevant Client shall be liable for the connection fees.

Article 10. Changes to the work

- 10.1 A change to the work may at any rate result in excess work or a work shortfall where:
a. a change is made to the design or specifications;
b. the information supplied by the relevant Client does not correspond to the actual situation;
c. there is a derogation of more than 10% from the estimated quantities.
- 10.2 Excess work shall be calculated on the basis of those cost determining factors which are applicable when that excess work is carried out. A work shortfall shall be calculated on the basis of the cost determining factors which were applicable at the time when the relevant agreement was concluded.
- 10.3 A Client shall have a duty to pay the price of any excess work referred to in Clause (1) of this article at any of the following points in time, such to be determined at Hortilux's discretion:
a. when that excess work occurs;
b. simultaneously with the payment of the principal sum;
c. together with the next agreed instalment.
- 10.4 Should the sum of the work shortfall exceed that of the excess work, Hortilux may charge the relevant Client 10% of the difference as part of the final bill. This clause shall not apply in the case of a work shortfall which is due to a request made by Hortilux.

Article 11. Performance of the work

- 11.1 A Client shall have a duty to facilitate the performance of the work subject to conditions which comply with the legally stipulated safety requirements and other government regulations.
- 11.2 A Client shall ensure that Hortilux is able to perform its work without disruption and at the agreed time, and that it obtains access to all the facilities which it requires when carrying out that work, such as:
a. gas, water and electricity;
b. heating;
c. a dry, lockable storage room;

- d. those facilities stipulated pursuant to the Working Conditions Act [Arbowet] and related regulations – for instance, a Client shall, amongst other things, ensure the timely presence of safe, appropriate auxiliary equipment for the vertical or horizontal relocation of any heavy parts required for the work, and that the place where the work is to be carried out is accessible, including the access road to the work site.
- 11.3 A Client shall bear any risks associated with and shall be liable for any harm occasioned by loss, theft, fire and damage to property belonging to Hortilux, the Client and any other party, such as tools, materials intended for the work or equipment used for the work which is or are located at the site where the work is carried out or at another agreed place.
 - 11.4 A Client shall have a duty to take out appropriate insurance against the risks referred to in the foregoing clauses of this article. Furthermore, a Client shall be required to take out insurance covering the operational risks associated with the equipment which is to be used. When first requested to do so, a Client shall be required to send Hortilux a copy of the relevant insurance policy (or policies) and proof of payment of the premiums. In the event of any loss the relevant Client shall have a duty to report this to their insurer immediately to have it handled further and settled.
 - 11.5 A Client shall be required to ensure that any work which is to be carried out and/or deliveries which are to be made by other parties that do not constitute part of Hortilux's work, occurs or occur in such a manner and at such a time that the performance of Hortilux's work is not delayed as a result. Should any delay nevertheless occur as provided for in this article, the relevant Client shall be required to notify Hortilux of this immediately.
 - 11.6 In the event that the commencement, performance and/or progress of the work is delayed due to circumstances for which the relevant Client is responsible, which includes but is not confined to the obligation stipulated in the foregoing clauses of this article, that Client shall be required to compensate Hortilux for any loss which it suffers as a result.

Article 12. Handover of the works

- 12.1 The works shall be deemed to have been handed over in the following cases:
a. once the relevant Client has approved the works;
b. in the event that the relevant Client has put the works into service. Where a Client puts part of the works into service, that part shall be deemed to have been handed over;
c. in the event that Hortilux has given the relevant Client written notice that the work has been completed and that client fails to give written notice within fourteen (14) days as to whether or not the works have been approved;
d. should the relevant Client fail to approve the works because of minor defects or missing parts which it is possible to repair or supply within thirty (30) days and which do not prevent the works from being put into service.
- 12.2 In the event that a Client does not approve the works, they shall have a duty to notify Hortilux of this in writing, stating the reasons for this. A Client shall be required to afford Hortilux another opportunity to hand over the works.
- 12.3 A Client shall indemnify Hortilux against any claim made by another party for damage inflicted on any part of the works that has not been handed over which is due to the use of any part of the works that has already been handed over.

Article 13. Liability

- 13.1 Under no circumstances shall Hortilux have a duty to provide compensation for a loss that has been suffered directly or indirectly pursuant to or due to defective goods, services or work supplied or performed by Hortilux, the relevant Client and/or any other party, or the failure of any goods and/or services supplied or to be supplied by Hortilux, the Client and/or any other party to function or to do so properly or on time, except in the case of a willful act or omission or gross negligence on the part of Hortilux.
- 13.2 In the event that Hortilux is not entitled to rely on Clause (1) of this article, its duty to provide compensation on any legally stipulated grounds whatsoever shall be confined to the loss against which it is insured pursuant to an insurance policy taken out by or in behalf of it but under no circumstances shall it exceed the amount which is paid out pursuant to that insurance in the relevant case.
- 13.3 Should Hortilux not be entitled to rely on the limitation stipulated in Clauses (1) and (2) of this article, its liability for compensation shall remain confined to no more than 15% of the total contract fee (exclusive of VAT). Where an agreement makes provision for parts or part deliveries, its liability for compensation shall be confined to no more than 15% of the contract fee payable for that part or part delivery (exclusive of VAT).
- 13.4 The following shall not qualify for compensation:
a. consequential loss whatsoever may have caused it. "Consequential loss" is deemed to refer to, amongst other things, a delay of the delivery time for goods and services, any loss due to the disruption of business or lost productivity, loss of earnings, transport costs and/or travel and accommodation expenses. A Client may insure itself against such loss if possible;
b. damage to property held in custody. "Damage to property held in custody" is deemed to refer to, amongst other things, any damage that is inflicted on property on which work is performed or which is located within the vicinity of the site where work is carried out as a result of or during the performance of that work. A Client may insure itself against such loss if required;
c. any loss due to a deliberate act or omission, or willful recklessness on the part of Hortilux's assistants or non-supervisory subordinates; and/or
d. loss due to the disruption of business (disruption of business, loss of earnings, and the like).
- 13.5 Hortilux shall not be liable for any damage inflicted on materials supplied by or on behalf of a Client as a result of them not being treated properly.
- 13.6 A Client shall indemnify Hortilux against any claim made by a third party on the grounds of product liability due to a defect in a product which that Client has supplied to such third party and which consists of (or partly so) products and/or materials supplied by Hortilux. A Client shall have a duty to provide compensation for any loss which Hortilux suffers in this respect, including all of the costs involved in defending itself.
- 13.7 Hortilux shall not be liable for any harmonic current emissions, inrush peaks or other dirty power in a Client's electrical installation.
- 13.8 Hortilux shall not be liable for exceeding the contractual capacity which a Client has agreed on with its energy supplier and/or grid manager.
- 13.9 Hortilux shall not be liable for any harm caused to a Client or any other party by its staff and/or any Supplier engaged by it on any grounds or due to any cause whatsoever, except in the case of a culpable, deliberate act or omission, or gross negligence on the part of Hortilux. Under no circumstances shall its liability extend further than the cover provided by the relevant insurance taken out by Hortilux.
- 13.10 Hortilux shall not be liable for a loss of any nature whatsoever which occurs due to or is the result of the improper, careless or incompetence use of any goods supplied by Hortilux or their use for anything other than their normal purpose.

Article 14. Warranties and other entitlements (general)

- 14.1 Expired, see General Warranty Conditions
- 14.2 Should Hortilux fail to effect performance as agreed, it may elect to ensure that it does so or it may credit the relevant Client for a proportionate part of the invoice concerned. In the event that Hortilux elects to effect proper performance, it shall itself determine the manner in which and when this is to occur. Where the agreed performance consisted (partly or otherwise) of the treatment of materials supplied by a Client, that Client shall be required to supply new materials at their own risk and expense.

Hortilux Schröder B.V. – General Terms and Conditions

- 14.3 A Client shall be required to send Hortilux any parts or materials which the latter is to repair or replace.
- 14.4 A Client shall be liable for:
- all transport or shipping costs;
 - the costs involved in assembly and disassembly;
 - travel and accommodation expenses.
- 14.5 In all cases a Client shall be required to afford Hortilux an opportunity to remedy any defect or carry out the relevant treatment again within a reasonable period of time.
- 14.6 A Client may only invoke a warranty after they have complied with all of their obligations towards Hortilux.
- 14.7 a. No warranty shall be provided in the event that a defect is due to:
- normal wear and tear;
 - improper use;
 - breakage, mechanical damage, water damage, damage resulting from over- or under-voltage or pollution;
 - maintenance which has not been carried out or not appropriately;
 - installation, assembly, alterations or repairs carried out by the relevant Client or any other party;
 - any defective or unsuitable item sourced from or stipulated by the relevant Client;
 - any defective or unsuitable ancillary or other materials used by the relevant Client.
- b. No warranty shall be provided for:
- any item supplied that was not new at the time when it was delivered;
 - the inspection and repair of an item belonging to a Client;
- 14.8 The provisions of Clauses (2) to (7) of this article shall apply *mutatis mutandis* in the case of a Client's entitlements pursuant to default of performance, non-conformity or any other grounds whatsoever.
- 14.9 A Client may not assign any rights pursuant to this article and Articles 15 to 22.

Article 15. Conditions governing the applicability of warranties (in general)

- 15.1 A warranty shall only apply:
- if the installation work has been carried out by third parties and has not been carried out under the responsibility of Hortilux, the delivered goods must be properly installed, and operates in accordance with the relevant electrical parameters, operating range and environmental requirements stipulated in the specifications, instructions, any document supplied with the consignment or in IEC standards;
 - provided that, where the installation work is carried out by the relevant Client, a certified low-voltage equipment inspector [Inspecteur Laagspanningsinstallatie] (ILS) inspects the relevant electrical installation and records their findings in an inspection report;
 - provided that a consignment has not been incorrectly used, misused or abnormally or improperly used contrary to any applicable standards, codes or instructions, including but not confined to any contained in the most recent electrical and/or safety and industry standards for the relevant region(s); and
 - provided that the relevant Client's installation is fitted with a timed meter which Hortilux deems to be durable. In the event that a complaint is submitted, the relevant Client shall be required to submit convincing evidence of the number of operating hours and circuits per day at Hortilux's request.
- 15.2 The term of the warranty on fixtures as stated in the General Warranty Conditions shall commence at the time when it is put into service or by no later than one (1) month after the fixtures have been supplied, whichever occurs first. The underlying principle in this respect is that Hortilux will supply any fixtures ordered by a Client within a period of two (2) months. In the event that a longer period is required in which to supply them, the warranty shall come into effect at the time when they are put into service or by no later than one (1) month after each part delivery.
- 15.3 The term of the warranty on parts which are not complete fixtures as referred to in Article 15.2 shall commence at the time when Hortilux supplies them.
- 15.4 The remaining term of the relevant warranty shall apply in the case of any fixtures or components which are replaced and/or work that is carried out.

Article 16. Warranty on electrical installations

Expired, see General Warranty Conditions.

Article 17. Warranty on 600 watt and 1,000 Watt model electronic fixtures

Expired, see General Warranty Conditions.

Article 18. Warranty on defective electronic ballasts and lamps

Expired, see General Warranty Conditions.

Article 19. Warranty on lamp light output

Expired, see General Warranty Conditions.

Article 20. Warranty on electromagnetic fixtures

Expired, see General Warranty Conditions.

Article 21. Warranty on defective electromagnetic lamps

Expired, see General Warranty Conditions.

Article 22. Warranties on fixtures with a LED light source

Expired, see General Warranty Conditions.

Article 23. Duty to submit a complaint

- 23.1 A Client may no longer invoke defective performance, if they fail to submit a written complaint to Hortilux in writing within fourteen (14) days after they discover or reasonably ought to have discovered the defect.
- 23.2 A Client shall submit a complaint concerning the level of an invoiced amount to Hortilux in writing by registered mail within the term of payment on pain of all rights ceasing to apply. Where a term of payment exceeds thirty (30) days, a Client shall be required to submit a complaint in writing by registered mail by no later than within thirty (30) days after the relevant invoice date.
- 23.3 A complaint concerning a warranty (manufacturer's warranty or otherwise) must be submitted to Hortilux in writing by registered mail within fourteen (14) days, subject to the proviso that Hortilux is reasonably able to lodge a complaint with the relevant manufacturer within the term of the warranty stipulated by the latter.

Article 24. Items not collected

- 24.1 Upon the expiry of the term of delivery and/or the period within which performance is to be effected, the relevant Client shall have a duty to collect the item or items which are the subject of the agreement at the agreed place.
- 24.2 A Client shall be required to provide every assistance which may reasonably be expected of them, so as to enable Hortilux to effect delivery.
- 24.3 Any items that are not collected shall be stored at the relevant Client's risk and expense.
- 24.4 In the event of a contravention of the provisions of Clause(s) 1 and/or 2 of this article, the relevant Client shall forfeit a penalty to Hortilux amounting to EUR 250.00 per day subject to a maximum of EUR 25,000.00. Such penalty may be sought in addition to compensation pursuant to the law.

Article 25. Payment

- 25.1 Payment shall be effected at the place where Hortilux has its registered office or shall be made into an account designated by Hortilux.
- 25.2 Unless otherwise agreed, payment shall occur as follows:
- in cash in the case of over-the-counter sales;
 - in the following instalments:
 - 15% when the order is placed;
 - 15% upon the commencement of the assembly of the coupling cables;
 - 20% when the first underground cables are supplied;
 - 50% before the supply of the fixtures;
 - within fourteen (14) days after the relevant invoice date.
- 25.3 In the event that a Client fails to comply with a duty to effect payment, they shall comply with a request from Hortilux for performance in lieu of payment of the agreed pecuniary sum.
- 25.4 A Client shall not be permitted to set off or suspend their claims against Hortilux, unless the latter is insolvent or the legally stipulated debt rescheduling procedure applies in relation to it.
- 25.5 Irrespective of whether or not Hortilux has effected the agreed performance in full, everything for which a Client is or will be liable pursuant to the relevant agreement shall fall due with immediate effect in the event that:
- a deadline for payment is not met;
 - an application for that Client's bankruptcy or a moratorium on payments for it is filed;
 - the Client's assets or claims are attached;
 - the Client's company is dissolved or liquidated;
 - the Client (being a natural person) applies for the application of the debt rescheduling procedure or to be placed in the care of a guardian, or dies.
- 25.6 In the event that payment is not effected by the agreed deadline for such payment, the relevant Client shall be liable to pay interest to Hortilux immediately. Such interest shall amount to 12% per annum but shall be equal to the legally stipulated interest rate should the latter exceed it. When calculating interest, part of a month shall be treated as a full month.
- 25.7 Hortilux shall be entitled to set off its debts owed to a Client against any claim which Hortilux or its associated businesses have against that Client. Furthermore, Hortilux shall be entitled to set off its claims against a Client against any debt which Hortilux or its associated businesses owe that Client. Hortilux shall be entitled to set off its debts to a Client against any claim against that Client's associated businesses. "Associated businesses" is deemed to refer to those businesses which constitute part of the same group in accordance with Section 2:24b of the Civil Code or an associated company under the terms of Section 2:24c of the Civil Code.
- 25.8 In the event that payment does not occur by the agreed deadline for such payment, the relevant Client shall be liable to pay Hortilux all extrajudicial expenses subject to a minimum of EUR 75.00. Those expenses shall be calculated on the basis of the following table (principal including interest):
- 15% of the first EUR 3000.00;
 - 10% of the excess to EUR 6000.00;
 - 8% of the excess to EUR 15,000.00;
 - 5% of the excess to EUR 60,000.00;
 - 3% of anything over and above EUR 60,000.00.
- The actual extrajudicial expenses incurred shall be payable should they exceed what follows from the aforementioned calculation.
- 25.9 Should Hortilux be held to be in the right in any judicial proceedings, the relevant Client shall be liable for all of the costs which Hortilux has incurred pursuant to those proceedings.

Article 26. Security and retention of title

- 26.1 Irrespective of the agreed terms of payment, when first requested by Hortilux a Client shall have a duty to tender security for payment which Hortilux deems to be appropriate. Should the Client fail to do so by the stipulated deadline, they shall be in default. In this case Hortilux shall be entitled to cancel the relevant agreement and to recover any loss from the Client concerned.
- 26.2 Hortilux shall retain ownership of any items supplied for as long as the relevant Client:
- fails or may fail to comply with their obligations pursuant to an agreement or these general terms and conditions;
 - fails to pay any amount payable pursuant to their failure to comply with the aforementioned agreements, such as compensation, a penalty, interest or costs.
- 26.3 As long as any items supplied are subject to retention of title, the relevant Client shall not be permitted to encumber or alienate them outside the normal conduct of their business.
- 26.4 Once Hortilux exercises its right to retain ownership, it may recover the items supplied. The relevant Client shall provide every assistance for this purpose.
- 26.5 Hortilux shall hold a pledge and lien on any item that it has or will have in its possession on any grounds whatsoever and in respect of all claims which it has or may have against a Client in relation to any party who requires it surrender.
- 26.6 After Hortilux supplies any item to a Client in accordance with the relevant agreement and that Client complies with their obligations, retention of title shall apply again in respect of such item in the event that the Client fails to comply with their obligations pursuant to an agreement subsequently concluded.
- 26.7 A Client shall have a duty to insure any goods that are subject to retention of title and that have been delivered against fire, explosion, water damage as well as theft, to keep them insured, and to present the relevant insurance policy for inspection when first requested to do so.
- 26.8 In the event that Hortilux cancels all or part of an order, it shall be entitled to recover that part of the relevant consignment which has not been paid for. Cancellation and/or recovery shall not affect Hortilux's entitlement to compensation.

Article 27. Cancellation or termination of this agreement

- 27.1 A Client shall be deemed to be in default by operation of the law and their debt (or remaining debt) shall fall due immediately in the event that:
- the Client fails to comply with any obligation pursuant to the relevant agreement, in particular, to effect payment or fails to do so on time;
 - Hortilux has good grounds to fear that the Client will be in default and the latter fails to heed a written reminder – setting out those grounds – to declare that they will comply with their obligations within a reasonable period of time as stipulated in that reminder;
 - the Client files for bankruptcy, is declared bankrupt, enters into a judicial composition with the surrender of its assets, files an application for a moratorium on payments, their assets are attached and the attachment is not lifted within ten (10) days after that attachment is effected;
 - the Client proceeds or decides to close down or transfer their business or a significant part thereof, which is deemed to include bringing their business into a company which already exists or which is to be incorporated, or proceeds or decides to amend the objects of their business, or to dissolve it;
 - the Client, being a natural person, dies;
 - the Client is requested to tender security to ensure compliance with their obligations pursuant to the relevant contract when it is concluded and such security is not forthcoming or is inadequate.

- 27.2 In the cases referred to in Clause (1) Hortilux shall be entitled to do the following in the absence of any duty to provide compensation, subject to any rights which it holds, such as rights in relation to costs or interest already due and entitlement to compensation, and without the need for any notice of default or judicial intervention:
- to declare the cancellation of all or part of the relevant agreement by means of a written notice addressed to the relevant Client to that effect; and/or
 - to suspend all or part of its obligations pursuant to the relevant agreement; and/or
 - to immediately demand full payment of any amount owed by the relevant Client to Hortilux and/or to exercise any right to retain ownership that has been established.
- 27.3 In the event that an agreement is terminated or cancelled in any way whatsoever, the provisions governing non-disclosure, cancellation, termination, governing law and disputes shall continue to apply in full. Furthermore, Hortilux shall remain entitled to seek compensation for any loss that it has suffered.
- 27.4 In the event that a Client wishes to terminate the relevant agreement in the absence of any non-compliance on the part of Hortilux and the latter consents to this, that agreement shall be deemed to have been terminated with mutual consent. In that case Hortilux shall be entitled to compensation for any loss (financial or otherwise) which it has suffered, lost of earnings and expenses incurred.

Article 28. General

- 28.1 Subject to Hortilux's prior consent, any rights and/or obligations pursuant to an agreement governed by these terms and conditions shall not be transferable nor susceptible of assignment or encumbrance with a lien by or for a Client.
- 28.2 While an agreement is in effect and for two (2) years following its termination, the relevant Client shall not be permitted to offer any professional who has been involved in effecting performance within Hortilux or on its behalf direct, indirect, paid or unpaid work (pursuant to employment or otherwise) or to arrange for such work to be carried out subject to forfeiture of a penalty amounting to EUR 25,000.00 (twenty-five thousand euros) in the case of each occurrence plus a sum of EUR 1,000.00 (one thousand euros) for every day that such prohibition is contravened. Furthermore, Hortilux shall be entitled to recover any loss which it has suffered or may still suffer from the relevant Client.

Article 29. Governing law and competent court of law

- 29.1 Any legal relationship to which Hortilux is party shall be solely governed by and construed in accordance with the law of the Netherlands even where all or part of a contract is executed abroad or a party that is party to that legal relationship is domiciled there. The Vienna Sales Convention 1980 shall not apply. Neither shall any international arrangement apply whose exclusion is permitted.
- 29.2 Unless otherwise agreed, any dispute arising pursuant to or in relation to an agreement governed by these terms and conditions or these terms and conditions themselves and their interpretation or implementation shall be adjudicated by a competent court of law in The Hague, the Netherlands (where Hortilux has its registered office), or a court of law within whose jurisdiction the relevant Client has their place of residence, such to occur at Hortilux's discretion.

Article 30. Location and amendment of these terms and conditions

- 30.1 These terms and conditions may be requested from Hortilux and may also be downloaded from the latter's website (www.hortilux.nl).
- 30.2 The version which applied when the relevant legal relationship with Hortilux came into effect shall always be applicable.
- 30.3 The Dutch text of these general terms and conditions shall always be final for the purposes of their interpretation.